September 13, 2011

Timothy Mooney
Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce
14th St. and Pennsylvania Ave., NW, Room 2099B
Washington, DC 20230

RE: RIN 0694-AF17: Proposed Revisions to the Export Administration Regulations

Mr. Mooney:

We are pleased to respond on behalf of the Association of American Universities (AAU) and the Council on Governmental Relations (COGR) to the July 15, 2011 Federal Register Notice on Proposed Revisions to the Export Administration Regulations (EAR): Control of Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML).

AAU represents 59 leading U.S. public and private research universities and is devoted to maintaining a strong national system of academic research and graduate and undergraduate education. COGR is an association of over 180 U.S. research-intensive universities, affiliated hospitals, and research institutes that is specifically concerned with the impact of government regulations, policies, and practices on the performance of research conducted at its member institutions.

We fully support the Administration's export control reform initiative, as indicated in the letter we jointly submitted with other higher education associations to the Department of Commerce Bureau of Industry and Security (BIS) and the State Department in February of this year. We believe the reforms, if implemented appropriately, will facilitate compliance while reducing related costs and regulatory burdens for exporters including our member institutions.

We agree that the proposed rule will help increase efficiency and reduce costs by providing a construct for removing less militarily sensitive items from the USML to the more flexible licensing regime of the Export Administration Regulations (EAR). The proposed addition of the new "600" series to the Commerce Control List (CCL) to create a new "Commerce Munitions List" should enable a straightforward application of licensing policies, with the additional benefit of making some EAR license exemptions such as the Strategic Trade Authorization available for 600 series items. We also appreciate the careful definitions of "component" and "specially designed" in Section 772.1, which should be helpful in clarifying the status of 600 series items.

We are, however, concerned that the construct in the proposed rule does not indicate that certain existing ITAR license exemptions will continue to apply to transferred items. There are two current exemptions of particular relevance to our member institutions. One is the "bona fide" employee exemption for institutions of higher education provided by ITAR 125.4(b)(10). Some of our members have made considerable use of this exemption. We understand that the proposed rule does not itself transfer any items except for certain military

ground vehicles presently controlled under Category VII of the USML. However, as additional items are transferred under this construct, the lack of this exemption may become of concern.

The other exemption of concern is the existing "university exemption" for articles fabricated for research satellites provided by ITAR 123.16(b)(10). While this exemption currently is subject to significant restrictions, it has been of significant benefit in some cases to our member institutions engaged in space and satellite research. We understand that statutory authorization may be necessary for transfer of research satellites from the USML to the CCL, and that for that reason this may not be an immediate issue. However, we wanted to make BIS aware of the potential concern. We also urge BIS to consider including the bona fide employee exemption in the construct as the reform initiative proceeds.

We would be happy to provide more information or discuss these issues further. Again, we appreciate the opportunity to comment.

Sincerely,

Hunter R. Rawlings III
President
AAU

Anthony DeCrappeo
President
COGR