January 28, 2013

Sent via email to: publiccomments@bis.doc.gov

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

Subject: RIN 0694-AF64

Proposed Rule - Revisions to the Export Administration Regulations (EAR): Control of Military Electronic Equipment and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML)

Dear Sir or Madam:

Thank you for the opportunity to provide comments on this proposed rule which describes how certain articles the President determines no longer warrant control under the USML would be controlled on the Commerce Control List (CCL). Those articles and the USML categories under which they are currently controlled are: Military electronics (Category XI) and certain cryogenic and superconductive equipment designed for installation in military vehicles and that can operate while in motion (Categories VI, VII, VIII, and XV). Military electronics and related items would be controlled by new Export Control Classification Numbers (ECCNs) 3A611, 3B611, 3D611, and 3E611 proposed by this rule. Cryogenic and superconducting equipment for military vehicles and related items would be controlled under new ECCNs 9A620, 9B620, 9D620, and 9E620. This proposed rule also would amend ECCNs 7A001 and 7A101 to apply the missile technology reason for control only to items in those ECCNs on the Missile Technology Control Regime (MTCR) Annex.

This is one in a planned series of proposed rules describing how various types of articles the President determines, as part of the Administration's Export Control Reform Initiative, no longer warrant USML control, would be controlled on the CCL and by the EAR. This proposed rule is being published in conjunction with a proposed rule from the Department of State, Directorate of

Defense Trade Controls, which would amend the list of articles controlled by USML Category XI. Please accept the following comments on behalf of TechAmerica.

New 3X611 Series of ECCNs

TechAmerica believes that including military electronics in this series that would naturally fall under other categories of the CCL were they not for military use would be confusing and should be included in their respective categories, such as Computers under Category 4, Telecommunications and Information Security under Category 5, and Sensors and Lasers under Category 6.

3A611.c

We note that Monolithic Microwave Integrated Circuits (MMICs) power amplifiers controlled under 3A001.b.2 have a higher operating frequency than the MMICs controlled under 3A611.c. Therefore, we suggest that ECCN 3A611.c operating frequencies be raised to at least 3.2 GHz.

3A611.d

We believe that the description under 3A611.d, "Discrete Radio Frequency Transistors" should be the same as 3A001.b.3 "Discrete Microwave Transistors." We also note that the Discrete Radio Frequency Transistors have a higher operating frequency than the Discrete Microwave Transistors controlled under 3A001.b.3. Therefore, we suggest that ECCN 3A611.d operating frequencies be raised to at least 3.2 GHz.

3A611.y

"Items of little or no military significance that would be controlled only for AT1 reasons." This entry may cause confusion with items already controlled under other categories and may increase controls on products previously classified as EAR99.

3D611

TechAmerica would like to suggest that ECCN 3D611 be revised to be consistent with the EAR interpretation of "use" in this section or should only control "development" and "production." If the intent is to control "use" technology then it must meet all 6 elements of "use". Otherwise, this may cause confusion in the interpretation and a roll-back from the Bureau of Industry and Security's (BIS) determination under Federal Register, Volume 71, No 104 of Wednesday, May 31, 2006.

3E611

This ECCN currently states it would impose controls on "technology" "required" for the "development," "production," operation, installation, maintenance, repair, or overhaul of commodities or software controlled by 3A611, 3B611, or 3D611 (except technology for

3A611.y, 3B611.y and 3D611.y), which would be controlled for AT1 reasons only. To be consistent with other EAR ECCN entries, this section should be rewritten to state…for the "development," "production," or "use….." Otherwise, this may cause confusion in the interpretation and a roll-back from BIS's determination under Federal Register, Volume 71, No 104, of Wednesday, May 31, 2006.

Thank you once again for the opportunity to provide comments on this proposed rule.

Sincerely,

Ken Montgomery
Vice President, International Trade Regulation