NORTHROP GRUMMAN

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Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce
14th Street and Pennsylvania Ave., NW
Washington, D.C. 20230

ATTN: Brian Baker
Director, Electronics and Materials Division
Office of National Security and Technology Transfer Controls

SUBJECT: RIN0694-AF64

Dear Mr. Baker:

Northrop Grumman Corporation (Northrop) wishes to thank the Department for the opportunity to comment on the subject proposed rule. Northrop supports the approach of the Administration to transfer from the U.S. Munitions List (USML) to the Commerce Control List (CCL) items that may be used in military applications and may have originally been designed for a military application, but that the President determines no longer warrant control on the USML, no longer have military uses, or are now used in military and commercial applications.

We have had discussions with Assistant Secretary Wolf and other Commerce Department personnel in the course of our review, and offer the following comments:

1) We believe it would be helpful for the Department to further clarify the "order of review" for items transitioning from the USML to the CCL, once the exporter is assured the items no longer remain subject to jurisdiction of the Department of State. As we understand from our conversation, if an item has transitioned to Commerce Department control, first order of review would be ".y" ECCNs for those "600 series" items enumerated within the CCL, then ".x" series ECCNs for those items specially designed for a commodity controlled by ECCN 3A611 or for an article controlled by USML Category XI but not enumerated on the USML. In implementation and training materials the Department creates we believe a decision tree illustrating this "order of review" methodology would be very helpful, particularly for small and medium size enterprises.

2) We recommend the following changes to the new Microwave ``monolithic integrated circuits" (MMIC) power amplifiers section 3A611.c

   a. Replace "**Note to paragraph .c.4: See ECCN 3A001.b.2.d for MMIC power amplifiers that are rated for operation at frequencies exceeding 31.8 GHz up to and including 37.5 GHz.**" With new subsection: c.**5. Rated for operation at frequencies exceeding 31.8 GHz up to and including 37.5 GHz and with an average output power greater than 0.1 nW ;**". This will be identical to

3A001.b.2.d but will differentiate the military heritage amplifiers. The current recommended 3A611.c.5 and 3A611.c.6 will become 3A611.c.6 and 3A611.c.7 respectively.

b. Replace "**Note 1 to paragraph c: See ECCN 3A001.b.2.f for MMIC power amplifiers that are rated for operation at frequencies exceeding 75 GHz**" with new subsection "c.**8. Rated for operation at frequencies exceeding 75 GHz with an average output power greater than 0.1 nW;**". There are significant Military applications at W-Band that might fall through the cracks and should still be controlled. Also there is significant research into usage of the spectrum above 100 GHz for various commercial, civil and military sensors, imaging and communication technologies and by leaving the frequencies open we run the risk of reduced export control of amplifiers design for these currently unidentified military applications.

3) We recommend the following changes to the new Discrete Microwave Transistor section 3A611.d Replace "**Note 1 to paragraph .d: See ECCN 3A001.b.3.e for discrete microwave transistors that are rated for operation at frequencies exceeding 75 GHz.**" with new section "d.**6. Rated for operation at frequencies exceeding 75 GHz with an average output power greater than 0.1 nW ;**". Higher frequency transistors are typically designed differently to achieve frequencies greater than 75 GHz. In particular above 100 GHz the structure of the transistor is tailored to the frequency. This addition would allow better export control on these new devices. There will still be an opening to ask for the transistors to be classified under 3A001.b.3.e via a CCATS, as most of these will probably originate as dual use, versus existing USML items transitioning to the CCL under the 600 series.

4) The Departments of Defense and Commerce should provide clarifying guidance to industry regarding relationship and processes for those items that would transition to the 600 series to adhere and obtain appropriate Department of Defense reviews for those items subject to U.S. Government classified DoD Instructions, including DoDI 5230.28. If an item is identified in 3A611.x. (or 3A611.f at a trusted foundry), will be subject to Department of Commerce and eligible for License Exception STA, if a specific export transaction meets the criteria for STA use. Eligibility to use the License Exception should incorporate requirement to assure appropriate Department of Defense reviews (separate from export licensing) are complete.

Northrop Grumman will be pleased to discuss these recommendations further. Please contact me, at (703) 280-4056, or beth.mersch@ngc.com to arrange for any discussions.

Sincerely,

Mary Elizabeth Mersch

Mary Elizabeth Mersch
Director, Export Operations