

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 133**

[Docket No. 1529; Amdt. No. 133-9A]

**Rotorcraft External-Load Operations; Technical Amendment****AGENCY:** Federal Aviation Administration, DOT.**ACTION:** Final rule; technical amendment.

**SUMMARY:** The FAA is correcting two regulatory cross-references. The pertinent section was not amended to reflect changes that were implemented in the final rule dated November 7, 1986 (Doc. No. 24550, 51 FR 40692, 40708).

**DATES:** This action becomes effective on November 25, 2016.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this action, contact Raymond T. Plessinger, General Aviation and Commercial Divisions, AFS-820, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-1100; email: [Raymond.Plessinger@faa.gov](mailto:Raymond.Plessinger@faa.gov).

**SUPPLEMENTARY INFORMATION:****Good Cause for Immediate Adoption Without Prior Notice**

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency for “good cause” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking.

Section 553(d)(3) of the Administrative Procedure Act requires that agencies publish a rule not less than 30 days before its effective date, except as otherwise provided by the agency for good cause found and published with the rule.

This document is correcting an error that is in 14 CFR part 133. This correction will not impose any additional restrictions on the persons affected by these regulations. Furthermore, any additional delay in making the regulations correct would be contrary to the public interest. Accordingly, the FAA finds that (i) public comment on these standards prior to promulgation is unnecessary, and (ii) good cause exists to make this rule effective in less than 30 days.

**Background**

On November 7, 1986, the FAA published a final rule (Doc. No. 24550, 51 FR 40692, 40708) that amended and updated the operations and maintenance requirements pertaining to rotorcraft and established a new Class D rotorcraft-load combination. The final rule created a new § 133.35, Carriage of persons. With the creation of § 133.35, the occupancy limitations cross-referenced in § 133.49(a) were moved from § 133.45(a) to § 133.35(a). The cross-reference in § 133.49(a) was not amended to reflect this change.

The final rule also amended § 133.45, Operating limitations, by removing paragraph (a). This resulted in paragraphs (b), (c), (d), and (e) to be redesignated as paragraphs (a), (b), (c), and (d), respectively. The cross-reference in § 133.49(b) was not amended to reflect these changes. In this final rule, the FAA failed to update the regulatory cross-references in § 133.49(a) and (b), based on the changes previously described. This technical amendment updates the cross-references in § 133.49(a) and (b), based on the 1986 final rule.

**Technical Amendment**

This technical amendment will correct the noted cross-references currently in § 133.49(a) and (b). Because this action results in no substantive change to part 133, we find good cause exists under 5 U.S.C. 553(d)(3) to make this technical amendment effective in less than 30 days and upon its publication in the **Federal Register**.

**List of Subjects in 14 CFR Part 133**

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

**The Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations as follows:

**PART 133—ROTORCRAFT EXTERNAL-LOAD OPERATIONS**

- 1. The authority citation for part 133 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701-44702.

- 2. Revise § 133.49 to read as follows:

**§ 133.49 Markings and placards.**

The following markings and placards must be displayed conspicuously and must be such that they cannot be easily erased, disfigured, or obscured:

(a) A placard (displayed in the cockpit or cabin) stating the class of rotorcraft-

load combination for which the rotorcraft has been approved and the occupancy limitation prescribed in § 133.35(a).

(b) A placard, marking, or instruction (displayed next to the external-load attaching means) stating the maximum external load prescribed as an operating limitation in § 133.45(b).

Issued under authority of 49 U.S.C. 106(g), 40113, 44701-44702 in Washington, DC, on November 16, 2016.

**Dale Bouffiou,***Acting Director, Office of Rulemaking.*

[FR Doc. 2016-28399 Filed 11-23-16; 8:45 am]

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**DEPARTMENT OF COMMERCE****Bureau of Industry and Security****15 CFR Parts 738, 742, 744, 748, and 774**

[Docket No. 160718621-6621-01]

RIN 0694-AH04

**Commerce Control List: Removal of Certain Nuclear Nonproliferation (NP) Column 2 Controls****AGENCY:** Bureau of Industry and Security, Commerce.**ACTION:** Final rule.

**SUMMARY:** The Bureau of Industry and Security (BIS) publishes this final rule to amend the Export Administration Regulations (EAR) to remove nuclear nonproliferation (NP) Column 2 license requirements from certain pressure tubes, pipes, fittings, pipe valves, pumps, numerically controlled machine tools, oscilloscopes, and transient recorders on the Commerce Control List (CCL). These changes are intended to revise the EAR controls on these items by making them more consistent with the export controls of other countries that manufacture these items and that, together with the United States, are participating countries in the Nuclear Suppliers Group (NSG). As a result of the changes made by this rule, some of these items are no longer listed under an Export Control Classification Number (ECCN) on the CCL. However, such items remain subject to the EAR under the designation EAR99. This rule also creates four new ECCNs to maintain anti-terrorism (AT) controls on certain affected commodities and related “software” and “technology.” All items subject to the EAR, regardless of whether they are listed on the CCL, may require a license for reasons described elsewhere in the EAR (*e.g.*, license requirements based on end-user/end-use

controls, embargoes, or other special controls).

**DATES:** This rule is effective November 25, 2016. However, “software” “specially designed” for the “development,” “production,” or “use” of items previously controlled under ECCN 3A292 will continue to be classified and licensed by BIS under the designation EAR99 through January 31, 2017. As of February 1, 2017, such “software” will be classified and licensed by BIS under ECCN 3D991.

**FOR FURTHER INFORMATION CONTACT:** Steven Clagett, Director, Nuclear and Missile Technology Controls Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Telephone: (202) 482-1641.

**SUPPLEMENTARY INFORMATION:** The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to make the controls that apply to certain pressure tubes, pipes, fittings, pipe valves, pumps, numerically controlled machine tools, oscilloscopes, and transient recorders on the Commerce Control List (CCL) (Supplement No. 1 to part 774 of the EAR) more consistent with the export controls of other supplier countries that, together with the United States, are participating countries in the Nuclear Suppliers Group (NSG). The NSG is a multilateral export control forum that currently consists of 48 participating countries. The NSG maintains a list of dual-use items that could be used for nuclear proliferation activities. The list is maintained in the Annex to the NSG’s “Guidelines for Transfers of Nuclear Related Dual-Use Equipment, Materials, Software, and Related Technology” (hereinafter the “NSG Annex”). NSG participating countries share a commitment to prevent nuclear proliferation and the development of nuclear-related weapons of mass destruction. In furtherance of that commitment, they have agreed to impose export controls on listed items. The NSG Guidelines and the Annex thereto are designed to ensure that nuclear trade for peaceful purposes does not contribute to the proliferation of nuclear weapons or related proliferation activities.

The amendments made by this final rule are based on a review by BIS of items controlled for nuclear nonproliferation (NP) reasons to destinations indicated under NP Column 2 on the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR). These amendments are designed to revise the NP controls in the EAR to be more consistent with the controls maintained by other NSG

participating countries, in accordance with the NSG Guidelines and the Annex thereto. As a result of the amendments made by this rule, exports, reexports, or transfers (in-country) of the following items no longer require a license for NP reasons to destinations indicated under NP Column 2 on the Commerce Country Chart: (1) Pressure tubes, pipes, fittings, and pipe valves previously controlled under ECCN 2A292; (2) pumps previously controlled under ECCN 2A293; (3) numerically controlled machine tools previously controlled under ECCN 2B290; and (4) oscilloscopes and transient recorders previously controlled under ECCN 3A292. The removal of NP controls from these items by BIS is consistent with the nuclear nonproliferation requirements of other NSG participating countries, none of which currently require a license for such items (for nuclear nonproliferation reasons), because the items are not listed in the NSG Annex.

Certain items continue to require a license for NP reasons to destinations indicated under NP Column 2 on the Commerce Country Chart (e.g., items controlled under ECCN 1A290, 1C298, 2A290 and 2A291, including related “software” and “technology” controls described elsewhere on the CCL). BIS believes that retaining NP Column 2 controls on these items is helpful in maintaining our commitments with respect to NSG Trigger List items and in clarifying questions of licensing jurisdiction with respect to the export controls administered by the Nuclear Regulatory Commission (NRC). Furthermore, BIS intends to periodically review the controls on these items to ensure that, to the extent practicable (i.e., within the limitations of U.S. foreign policy and nonproliferation objectives), they are consistent with the controls maintained by other NSG participating countries.

#### **Removal of ECCNs 2A292, 2A293, 2B290, and 3A292 From the CCL**

This final rule amends the EAR to reflect the controls currently described in the NSG Annex by removing ECCNs 2A292, 2A293, 2B290, and 3A292 from the CCL. Certain items previously controlled under ECCN 2B290 are no longer listed on the CCL and are designated as EAR99 (i.e., subject to the EAR, as described in Section 734.3(a), but not listed on the CCL). However, most of the items previously controlled by these ECCNs continue to be listed on the CCL under ECCNs that require a license for anti-terrorism (AT) reasons and, in one instance, for chemical/biological (CB) reasons, as well. Specifically, valves previously

controlled under ECCN 2A292.b that meet or exceed the technical parameters described in ECCN 2B350.g are now controlled under ECCN 2B350. These valves continue to require a license for CB reasons to destinations indicated under CB Column 2 on the Commerce Country Chart and for AT reasons to destinations indicated under AT Column 1 on the Commerce Country Chart. All other items previously controlled under ECCN 2A292 and all items previously controlled under ECCN 2A293 are now controlled under new ECCN 2A992 or 2A993, respectively, for AT reasons and continue to require a license to destinations indicated under AT Column 1 on the Commerce Country Chart.

Turning machines or combination turning/milling machines previously controlled under ECCN 2B290 that meet or exceed the technical parameters described in ECCN 2B991.d.1 are now controlled under ECCN 2B991 and continue to require a license for AT reasons to destinations indicated under AT Column 1 on the Commerce Country Chart. All other items previously controlled under ECCN 2B290 are now designated as EAR99 and, as such, no longer require a license for NP or AT reasons. However, any item that is subject to the EAR, whether or not it is listed on the CCL, may require a license for reasons described elsewhere in the EAR (e.g., the end-user/end-use controls described in part 744 of the EAR or the embargoes and other special controls described in part 746 of the EAR).

Oscilloscopes and transient recorders previously controlled under ECCN 3A292 are now controlled under new paragraphs .d through .g in ECCN 3A992. Although these items no longer require a license for NP reasons, they continue to require a license for AT reasons to destinations indicated under AT Column 1 on the Commerce Country Chart.

Prior to the removal of ECCNs 2A292, 2A293, 2B290 and 3A292 from the CCL, the items controlled thereunder required a license for NP and/or AT reasons to nine countries (i.e., Cuba, Iran, Iraq, Israel, Libya, North Korea, Pakistan, Sudan, and Syria). Currently, in addition to the license requirements that apply to most of these items under ECCN 2A992, 2A993, 2B350.g, 2B991.d.1, or 3A992 (as described above), a license from BIS continues to be required for exports, reexports, or transfers (in-country) involving any of these items to Cuba, North Korea, or Syria (see the embargoes and other special controls in part 746 of the EAR; also see Section 742.9 of the EAR with respect to AT controls on Syria). A

license from BIS also continues to be required for exports, reexports, or transfers (in-country) involving any of these items that are not designated as EAR99 to Iran (see Sections 742.8 and 746.7 of the EAR) or Sudan (see Section 742.10 of the EAR with respect to AT controls on Sudan). In addition, the Treasury Department's Office of Foreign Assets Control (OFAC) administers comprehensive trade and investment embargoes against Iran, Sudan, and Syria that include prohibitions on exports and certain reexport transactions involving these countries. Therefore, as a practical matter, the amendments made by this rule are likely to have a significant impact on license requirements only with respect to exports, reexports, or transfers (in-country) of items previously controlled under ECCN 2B290 and now classified as EAR99, or items now controlled on the CCL under new ECCN 2A992, new ECCN 2A993, ECCN 2B991, or ECCN 3A992 for AT reasons only, that involve the following destinations: Iraq, Israel, Libya, or Pakistan. In this regard, note that the EAR require a license to export or reexport to Iraq, or to transfer within Iraq, any item subject to the EAR if, at the time of the export, reexport or transfer, you know, have reason to know, or have been informed by BIS that the item will be, or is intended to be, used for a "military end-use" or by a "military end-user" (see Section 746.3(a)(4) of the EAR). Furthermore, as indicated above, a license is required under the EAR whenever a transaction is subject to any of the end-user/end-use controls described in part 744 of the EAR.

#### Conforming Amendments to the CCL

This final rule also amends the EAR to make several conforming changes to the CCL consistent with the removal of ECCNs 2A292, 2A293, 2B290 and 3A292, as described above. Specifically, this rule revises the Related Controls paragraph in ECCN 2A226 to reflect the removal of ECCN 2A292 from the CCL. This rule also revises the Technical Notes heading under CCL Category 2 subheading B ("Test," "Inspection" and "Production Equipment") and the Related Controls paragraphs in ECCNs 2B001, 2B201, and 2B991 to reflect the removal of ECCN 2B290 from the CCL. In addition, ECCN 2B350 is amended by revising the ECCN heading to reflect the removal of ECCN 2A292 from the CCL and by revising the Related Controls paragraph in ECCN 2B350 to reflect the removal of ECCNs 2A292 and 2A293 from the CCL (*i.e.*, by removing the references to ECCN 2A292 and 2A293 and referencing new ECCNs 2A992 and

2A993, respectively). As indicated above, the effect of removing the reference to ECCN 2A292 from the heading of ECCN 2B350, in conjunction with the removal of ECCN 2A292 from the CCL, is that valves previously controlled under ECCN 2A292.b that meet or exceed the technical parameters described in ECCN 2B350.g are now controlled under ECCN 2B350 and are subject to the license requirements described therein (*i.e.*, although NP controls no longer apply, a license continues to be required for these valves to destinations indicated under CB Column 2 and/or AT Column 1 on the Commerce Country Chart). Consistent with these changes, new ECCN 2A992 controls all items previously controlled by ECCN 2A292, except for valves that meet or exceed the technical parameters described in ECCN 2B350.g, which are specifically excluded from control under ECCN 2A992.b.

This rule also revises the heading of ECCN 2D290 by removing the references to ECCNs 2A292, 2A293 and 2B290 to reflect the removal of these ECCNs from the CCL. However, ECCN 2D290 continues to control "software" for the "development," "production," or "use" of items controlled by ECCN 2A290 or 2A291. As result of these changes, new ECCN 2D993 controls "software" for the "development," "production," or "use" of items that were previously controlled by ECCN 2A292 (except for valves that meet or exceed the technical parameters described in ECCN 2B350.g) or by ECCN 2A293 (these items are now controlled by new ECCNs 2A992 and 2A993, respectively). New ECCN 2D993 requires a license for AT reasons, only, to destinations indicated under AT Column 1 on the Commerce Country Chart. "Software" for the "development," "production," or "use" of valves previously controlled under ECCN 2A292.b, but now controlled under ECCN 2B350.g, is designated as EAR99. In addition, "software" "specially designed" or modified for the "development," "production," or "use" of items previously controlled by ECCN 2B290 is now designated as EAR99, except for "software" "specially designed" for the "development," "production," or "use" of turning machines or combination turning/milling machines previously controlled under ECCN 2B290.a that meet or exceed the technical parameters in 2B991.d.1. The latter is now controlled under ECCN 2D991 and continues to require a license to destinations indicated under AT Column 1 on the Commerce Country Chart.

This rule also revises the NP Column 2 and CB Column 2 controls paragraphs

in the License Requirements sections of ECCNs 2E001 and 2E002 by removing the references to ECCNs 2A292, 2A293, and 2B290 from the NP Column 2 controls paragraph and the reference to ECCN 2A292 from the CB Column 2 controls paragraph, to reflect the removal of ECCNs 2A292, 2A293, and 2B290 from the CCL. The effect of these changes, coupled with the addition of new ECCNs 2A992 and 2A993 to control items previously controlled under ECCN 2A292 or 2A293, respectively (except for valves previously controlled under ECCN 2A292.b that are now controlled under ECCN 2B350.g), is that "technology" for the "development" (ECCN 2E001) or "production" (ECCN 2E002) of equipment previously controlled under ECCN 2A292 or 2A293 continues to be controlled under ECCN 2E001 or 2E002, but for AT reasons only (*i.e.*, NP reasons for control no longer apply to this "technology"). "Technology" for the "development" or "production" of valves previously controlled under ECCN 2A292.b that meet or exceed the technical parameters described in ECCN 2B350.g continues to be controlled under ECCNs 2E001 and 2E002, respectively, for CB and AT reasons, but NP reasons for control no longer apply. In addition, "technology" for the "development" of "software" previously controlled by ECCN 2D290 that is "specially designed" or modified for the "development," "production," or "use" of items previously controlled by ECCN 2A292 or 2A293 (and now controlled by new ECCN 2A992 or 2A993, except for certain valves, as specified above) continues to be controlled under ECCN 2E001, but for AT reasons only (*i.e.*, NP reasons for control no longer apply to this "technology").

As a result of the aforementioned amendments to ECCNs 2E001 and 2E002, "technology" for the "development" (ECCN 2E001) or "production" (ECCN 2E002) of equipment previously controlled under ECCN 2B290 is now designated as EAR99. In addition, "technology" for the "development" of "software" previously controlled by ECCN 2D290 that is "specially designed" or modified for the "development," "production," or "use" of items previously controlled by ECCN 2B290 is now designated as EAR99.

ECCN 2E001 continues to control "technology" for the "development" of ECCN 2D290 "software" that is "specially designed" or modified for the "development," "production," or "use" of items controlled by ECCN 2A290 or 2A291, as well as "technology" for the "development" of equipment controlled

by ECCN 2A290 or 2A291. In addition, ECCN 2E002 continues to control “technology” for the “production” of equipment controlled by ECCN 2A290 or 2A291. This ECCN 2E001 and 2E002 “technology” continues to require a license to destinations indicated under NP Column 2 and/or AT Column 1 on the Commerce Country Chart.

This rule amends ECCN 2E290 by revising the heading of the ECCN to remove the references to ECCNs 2A292, 2A293 and 2B290 to reflect the removal of these ECCNs from the CCL and by revising the License Requirements section of the ECCN to remove the CB Column 2 controls paragraph that applied to valves controlled under former ECCN 2A292 that met or exceeded the technical parameters in ECCN 2B350.g. The effect of these changes, coupled with the addition of new ECCNs 2A992 and 2A993 to control items previously controlled under ECCN 2A292 or 2A293, respectively (except for valves previously controlled under ECCN 2A292.b that are now controlled under ECCN 2B350.g), is that “technology” for the “use” of equipment previously controlled under ECCN 2A292 or 2A293 is now controlled under new ECCN 2E993 for AT reasons only (*i.e.*, NP reasons for control no longer apply to this “technology”). “Technology” for the “use” of valves previously controlled under ECCN 2A292.b that meet or exceed the technical parameters described in ECCN 2B350.g is now controlled under ECCN 2E301 and requires a license to destinations indicated under CB Column 2 or AT Column 1 on the Commerce Country Chart.

As a result of the aforementioned amendments to ECCN 2E290, “technology” for the “use” of equipment previously controlled by ECCN 2B290 is now designated as EAR99, except for “technology” for the “use” of turning machines or combination turning/milling machines previously controlled under ECCN 2B290.a that meet or exceed the parameters in ECCN 2B991.d.1, which is now controlled under ECCN 2E991 and requires a license to destinations indicated under AT Column 1 on the Commerce Country Chart.

ECCN 2E290 continues to control “technology” for the “use” of

equipment controlled by ECCN 2A290 or 2A291. This ECCN 2E290 “technology” continues to require a license to destinations indicated under NP Column 2 and/or AT Column 1 on the Commerce Country Chart.

This rule also makes certain conforming changes in CCL Category 3 (Electronics) to reflect the removal from the CCL of ECCN 3A292 (oscilloscopes and transient recorders other than those controlled by ECCN 3A002.a.7 or .h), as described above. Specifically, this rule revises the Related Controls paragraph in ECCN 3A002 by removing the reference to ECCN 3A292 to reflect the removal of this ECCN from the CCL. The Related Controls paragraph in ECCN 3A002 continues to reference ECCN 3A992, which is amended by this rule to add new paragraphs .d through .g to control oscilloscopes and transient recorders previously controlled under ECCN 3A292.a through .d, respectively.

This rule also amends the heading of ECCN 3E001 by removing the reference to ECCN 3A292 (which is removed from the CCL by this rule) from the parenthetical list of CCL Category 3A ECCNs that are excluded from the scope of the “technology” controls described in ECCN 3E001. This change does not affect the scope of the controls described in ECCN 3E001, because ECCN 3A992, which is amended by adding new paragraphs .d through .g to control the oscilloscopes and transient recorders previously controlled under ECCN 3A292, continues to be excluded from the scope of ECCN 3E001 (CCL Category 3A ECCNs that are excluded from the “technology” controls in ECCN 3E001 are identified in the parenthetical immediately following the reference to Category 3A in the heading of ECCN 3E001).

Prior to the publication of this rule, “technology” for the “development,” “production,” or “use” of equipment controlled by ECCN 3A292 was controlled under ECCN 3E292. This rule removes ECCN 3E292 from the CCL, thereby eliminating the NP Column 2 license requirements that previously applied to the “technology” controlled under this ECCN. However, because this rule amends ECCN 3A992 by adding the oscilloscopes and transient recorders previously controlled under ECCN 3A292 in new paragraphs 3A992.d through .g (as described above),

“technology” for the “development,” “production,” or “use” of the items described in new 3A992.d through .g is now controlled under ECCN 3E991. Therefore, although NP Column 2 license requirements no longer apply to such “technology,” it continues to require a license for AT Column 1 reasons under ECCN 3E991.

Another consequence of the amendment of ECCN 3A992 to add certain oscilloscopes and transient recorders under new paragraphs 3A992.d through .g, is that ECCN 3D991, which includes certain “software” for general purpose electronic equipment described in ECCN 3A992, will also control “software” for the “development,” “production,” or “use” of oscilloscopes and transient recorders described in new 3A992.d through .g. However, such “software” will continue to be classified and licensed by BIS under the designation EAR99 through January 31, 2017. Effective February 1, 2017, such “software” will be classified and licensed by BIS under ECCN 3D991 and will require a license to destinations indicated under AT Column 1 on the Commerce Country Chart. This pending modification in the application of foreign policy controls under the EAR will be addressed in BIS’s “2017 Report on Foreign Policy-Based Export Controls,” which will be submitted to the Congress in January 2017.

The following table identifies the items (*i.e.*, commodities, “software,” and “technology”) and the corresponding ECCNs on the CCL (where applicable) that were affected by the amendments contained in this final rule, as described above. The removal of several ECCNs by this rule resulted in the designation of certain items as EAR99 (*i.e.*, subject to the EAR, but not listed on the CCL). In addition, other items were moved from ECCNs having both NP and AT controls to ECCNs controlled for AT reasons only. Items that previously were subject to both CB and AT controls, as well as NP controls, continue to be controlled on the CCL for both CB and AT reasons, but are no longer subject to NP controls. In one instance noted above, and in the table below, certain “software” previously designated as EAR99 will become subject to AT controls.

Items affected by this Rule	Previous EAR designation	Current EAR designation
Pressure tube, pipe, and fittings of 200 mm or more inside diameter suitable for operation at pressures of 3.4 MPa or greater.	ECCN 2A292.a	ECCN 2A992.

Items affected by this Rule	Previous EAR designation	Current EAR designation
Pipe valves: (1) Having a pipe size connection of 200 mm or more inside diameter; and (2) rated at 10.3 MPa.	ECCN 2A292.b	ECCN 2B350.g—Valves previously controlled under ECCN 2A292.b that meet or exceed the technical parameters described in ECCN 2B350.g.
Pumps designed to move molten metals by electromagnetic forces.	ECCN 2A293	ECCN 2A992—Valves previously controlled under ECCN 2A292.b that do <i>not</i> meet or exceed the parameters in 2B350.g. ECCN 2A993.
Turning machines or combination turning/milling machines, not controlled by 2B001 or 2B201, capable of machining diameters greater than 2.5 meters.	ECCN 2B290.a	ECCN 2B991.d.1—Turning machines or combination turning/milling machines previously controlled under ECCN 2B290.a that meet or exceed the parameters in ECCN 2B991.d.1.
"Software" "specially designed" or modified for "development," "production," or "use" of items controlled by 2A292, 2A293, or 2B290.	ECCN 2D290	EAR99—Turning machines or combination turning/milling machines previously controlled under ECCN 2B290.a that do <i>not</i> meet or exceed the parameters in 2B991.d.1. ECCN 2D290—"Software" "specially designed" or modified for "development," "production," or "use" of items controlled by 2A290 or 2A291 continues to be controlled under this ECCN.
		ECCN 2D991—"Software" "specially designed" for the "development," "production," or "use" of turning machines or combination turning/milling machines previously controlled under ECCN 2B290.a that meet or exceed the parameters in ECCN 2B991.d.1.
		ECCN 2D993—"Software" "specially designed" or modified for "development," "production," or "use" of items previously controlled by 2A292 or 2A293 (now controlled by 2A992 and 2A993, respectively), except "software" for valves previously controlled under ECCN 2A292.b that meet or exceed the technical parameters described in ECCN 2B350.g, as indicated below.
		EAR99—"Software" "specially designed" or modified for "development," "production," or "use" of the following:
		(1) Valves previously controlled under ECCN 2A292.b, and now controlled under ECCN 2B350, that meet or exceed the technical parameters described in ECCN 2B350.g;
		(2) Items previously controlled by 2B290 (except as specified above for former 2B290.a machines that meet or exceed the parameters in ECCN 2B991.d.1).
"Technology" for the "development" of equipment controlled by 2A292, 2A293, or 2B290 or "software" controlled by 2D290.	ECCN 2E001	ECCN 2E001—"Technology" for the "development" of the following:  (1) Valves previously controlled under ECCN 2A292.b that meet or exceed the technical parameters described in ECCN 2B350.g; (2) Other equipment previously controlled by 2A292 or 2A293 (now controlled by 2A992 or 2A993, respectively); (3) Equipment controlled by 2A290 or 2A291; (4) 2D290 "software" "specially designed" or modified for the "development," "production," or "use" of items controlled by 2A290 or 2A291; (5) 2D993 "software" "specially designed" or modified for the "development," "production," or "use" of items previously controlled by 2A292 or 2A293 (now controlled by 2A992 or 2A993, respectively).
		EAR99—"Technology" for the "development" of the following:
		(1) Equipment previously controlled by 2B290;
		(2) "Software" previously controlled by 2D290 "specially designed" or modified for the "development," "production," or "use" of items controlled by 2B290.
"Technology" for the "production" of equipment controlled by 2A292, 2A293, or 2B290.	ECCN 2E002	ECCN 2E002—"Technology" for the "production" of the following:  (1) Valves previously controlled under ECCN 2A292.b that meet or exceed the technical parameters described in ECCN 2B350.g; (2) Other equipment previously controlled by 2A292 or 2A293 (now controlled by 2A992 or 2A993, respectively).
		EAR99—"Technology" for the "production" of equipment previously controlled by 2B290.
"Technology" for the "use" of equipment controlled by 2A292, 2A293, or 2B290.	ECCN 2E290	ECCN 2E290—"Technology" for the "use" of items controlled by 2A290 or 2A291 continues to be controlled under this ECCN. ECCN 2E301—"Technology" for the "use" of valves previously controlled under ECCN 2A292.b that meet or exceed the technical parameters described in ECCN 2B350.g.
		ECCN 2E991—"Technology" for the "use" of turning machines or combination turning/milling machines previously controlled under ECCN 2B290.a that meet or exceed the parameters in ECCN 2B991.d.1.
		ECCN 2E993—"Technology" for the "use" of equipment previously controlled by 2A292 or 2A293 and now controlled by 2A992 or 2A993, respectively (except as specified above for certain former 2A292.b valves).

Items affected by this Rule	Previous EAR designation	Current EAR designation
Oscilloscopes and transient recorders other than those controlled by 3A002.a.7 or 3A002.h. “Software” for the “development,” “production,” or “use” of equipment previously controlled under ECCN 3A292. “Technology” for the “development,” “production,” or “use” of equipment controlled by 3A292.	.....	EAR99—“Technology” for the “use” of equipment previously controlled by 2B290 (except as specified above for certain former 2B290.a turning machines or combination turning/milling machines). 3A992.d through .g—Equipment previously controlled by 3A292.
	ECCN 3A292	
	EAR99	ECCN 3D991—“Software” for the “development,” “production,” or “use” of equipment previously controlled under 3A292 (now controlled under 3A992.d through .g, as described above).
	ECCN 3E292	3E991—“Technology” for the “development,” “production,” or “use” of equipment previously controlled under 3A292 (now controlled under 3A992.d through .g, as described above).

**Conforming Amendments Elsewhere in the EAR**

In addition to the conforming amendments to the CCL described above, this rule makes conforming amendments to other EAR provisions to reflect the removal of ECCNs 2A292, 2A293, 2B290, and 3A292. In Section 738.2 (Commerce Control List Structure), this rule amends the parenthetical in the third sentence of paragraph (d)(1)(ii) by removing the reference to ECCN 2A292 and replacing it with a reference to ECCN 2A290. This rule also amends Section 738.2 by removing the reference to ECCN 3A292 from the fourth sentence of paragraph (d)(2)(iv)(C)(3). In Section 742.2 (Chemical/Biological License Requirements), this rule removes references to ECCN 2A292 from paragraphs (a)(2)(vi), (a)(2)(x)(B), and (a)(2)(xi). This rule amends Supplement No. 2 to part 744 (List of Items Subject to the Military End-Use Requirement in § 744.17) by removing the references to ECCN 3A292.d from paragraphs (3)(i) and (3)(iii) and replacing them with references to ECCN 3A992.g. In addition, the reference to ECCN 3E292 in paragraph (3)(iii) of the Supplement is replaced with a reference to ECCN 3E991. These changes maintain the continuity of the EAR military end-use controls on the digital oscilloscopes and transient recorders affected by the amendments contained in this rule.

Finally, this rule amends Supplement No. 7 to part 748 (Validated End-User List) by removing two references to ECCN 2A292 from the People’s Republic of China entry for Intel Semiconductor (Dalian) Ltd.

**Effect of This Rule on the Scope of Certain EAR Controls**

The changes made by this rule only marginally affect the scope of the EAR controls on the items previously controlled under ECCN 2A292, 2A293, 2B290, or 3A292 (and any related “software” and “technology” therefor), as described above. Prior to the

publication of this rule, these items required a license for NP and/or AT reasons to nine countries (*i.e.*, Cuba, Iran, Iraq, Israel, Libya, North Korea, Pakistan, Sudan, and Syria). However, as indicated above, license requirements continue to apply to most of these items under ECCN 2A992 or 2A993 (AT Column 1 destinations), ECCN 2B350.g (CB Column 1 and AT Column 1 destinations) or under ECCN 2B991.d.1 or 3A992.d through .g (AT Column 1 destinations). Also, a license from BIS continues to be required for exports, reexports, or transfers (in-country) involving any of these items to Cuba, North Korea, or Syria or any of these items that are not classified as EAR99 to Iran or Sudan. In addition to these EAR license requirements, the Treasury Department’s Office of Foreign Assets Control (OFAC) administers comprehensive trade and investment embargoes against Iran, Sudan, and Syria that include prohibitions on exports and certain reexport transactions involving these countries.

Therefore, as a result of the controls described above, the amendments made by this rule are likely to have a noticeable impact on license requirements only with respect to exports, reexports, or transfers (in-country) of those items previously controlled under ECCN 2A292, 2A293, 2B290 or 3A292 (and any related “software” and “technology” therefor) that are now classified as EAR99, or are currently controlled on the CCL for AT reasons only (*i.e.*, under ECCN 2A992, 2A993, 2B991, 2D991, 2D993, 2E991, 2E993, 3A992, 3D991, or 3E991), and involve the following destinations: Iraq, Israel, Libya, or Pakistan. In this regard, note that the EAR maintain license requirements on exports or reexports to Iraq, or transfers within Iraq, of items subject to the EAR (including EAR99 items, as well as items listed on the CCL) that are destined for a military end-user and/or a military end-use. In addition, a license is required under the EAR if a transaction is subject to any of

the end-user/end-use controls described in part 744 of the EAR.

In light of the above, this rule is expected to have the most significant impact with respect to exports, reexports, or transfers (in-country) of certain digital oscilloscopes to Israel. The effect of this rule on exports, reexports, or transfers (in-country) of any of these items to other destinations is expected to be insignificant.

*Export Administration Act*

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 4, 2016 (81 FR 52587 (Aug. 8, 2016)), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

*Rulemaking Requirements*

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a “significant regulatory action,” although not economically significant, consistent with Executive Order 12866. Accordingly, the rule has been reviewed

by the Office of Management and Budget.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule contains a collection of information subject to the requirements of the PRA. This collection has been approved by OMB under Control Number 0694–0088 (Multi-Purpose Application), which carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Jasmeet Sehra, Office of Management and Budget, by email to [Jasmeet.K.Sehra@omb.eop.gov](mailto:Jasmeet.K.Sehra@omb.eop.gov), or by fax to (202) 395–7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th Street & Pennsylvania Avenue NW., Room 2705, Washington, DC 20230 or by email to [RPD2@bis.doc.gov](mailto:RPD2@bis.doc.gov).

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (See 5 U.S.C. 553(a)(1)). Immediate implementation of these amendments is non-discretionary and fulfills the United States' international obligation to administer controls on specified items consistent with the Guidelines, and the Annex thereto, maintained by the Nuclear Suppliers Group (NSG). The NSG contributes to international security and regional stability through the harmonization of export controls and seeks to ensure that exports do not contribute to the development of nuclear weapons. The NSG consists of 48 member countries that act on a consensus basis and the amendments set forth in this rule revise the scope of nuclear nonproliferation controls in the EAR to more fully reflect the controls implemented by other NSG participating countries, in accordance with the NSG Guidelines and the Annex thereto. Because the United States is a significant exporter of the items

addressed in this rule, immediate implementation of these regulatory provisions is necessary in order for the NSG to continue to meet its objectives. Any delay in implementation will create a disruption in the movement of affected items globally because of disharmony between the export controls maintained by the United States and the export control measures implemented by other NSG members, resulting in tension between member countries. Export controls work best when all countries implement the same export controls in a timely and coordinated manner.

Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form.

#### List of Subjects

##### 15 CFR Part 738

Exports.

##### 15 CFR Part 742

Administrative practice and procedure, Chemicals, Exports, Foreign trade, Reporting and recordkeeping requirements.

##### 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

##### 15 CFR Part 748

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

##### 15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 738, 742, 744, 748, and 774 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

#### PART 738—[AMENDED]

■ 1. The authority citation for 15 CFR part 738 continues to read as follows:

**Authority:** 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3

CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

#### § 738.2 [Amended]

■ 2. Section 738.2 is amended:

- a. By removing “2A292” from the parenthetical in the third sentence of paragraph (d)(1)(ii) and adding “2A290” in its place; and
- b. By removing “3A292,” from the fourth sentence of paragraph (d)(2)(iv)(C)(3).

#### PART 742—[AMENDED]

■ 3. The authority citation for 15 CFR part 742 continues to read as follows:

**Authority:** 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–111, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

#### § 742.2 [Amended]

■ 4. Section 742.2 is amended:

- a. By removing the phrase “or ECCN 2A292” from paragraph (a)(2)(vi);
- b. By removing the phrase “or 2A292” from paragraph (a)(2)(x)(B); and
- c. By removing the phrase “or 2A292” from paragraph (a)(2)(xi).

#### PART 744—[AMENDED]

■ 5. The authority citation for 15 CFR part 744 continues to read as follows:

**Authority:** 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 18, 2015, 80 FR 57281 (September 22, 2015); Notice of November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of January 20, 2016, 81 FR 3937 (January 22, 2016); Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

#### Supplement No. 2 to Part 744—[Amended]

■ 6. Supplement No. 2 to part 744 is amended:

- a. By removing “3A292.d” from paragraph (3)(i) and paragraph (3)(iii) and adding “3A992.g” in its place; and
- b. By removing “3E292” from paragraph (3)(iii) and adding “3E991” in its place.

**PART 748—[AMENDED]**

- 7. The authority citation for 15 CFR part 748 continues to read as follows:

**Authority:** 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

**Supplement No. 7 to Part 748—[Amended]**

- 8. Supplement No. 7 to part 748 is amended under the China (People’s Republic of) Validated End-User entry for Intel Semiconductor (Dalian) Ltd.:
  - a. By removing “2A292,” wherever it appears; and
  - c. By adding “81 FR [INSERT Federal Register PAGE NUMBER], November 25, 2016” in chronological order, under the column heading “Federal Register citation”, for this Validated End-User entry.

**PART 774—[AMENDED]**

- 9. The authority citation for 15 CFR part 774 continues to read as follows:

**Authority:** 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

**Supplement No. 1 to Part 774—[Amended]**

- 10. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, ECCN 2A226 is amended, under the “List of Items Controlled” section, by removing “2A292,” from the second entry of the “Related Controls” paragraph and adding “2A992,” in its place.
- 11. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, ECCNs 2A292 and 2A293 are removed.
- 12. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, add ECCNs 2A992 and 2A993 between ECCNs 2A991 and 2A994 to read as follows:
 

**2A992 Piping, fittings and valves made of, or lined with stainless, copper-nickel**

**alloy or other alloy steel containing 10% or more nickel and/or chromium.**

**License Requirements**

*Reason for Control:* AT

<i>Control(s)</i>	<i>Country chart (see supp. No. 1 to part 738)</i>
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AT applies to entire entry. AT Column 1

**List Based License Exceptions (See part 740 for a Description of All License Exceptions)**

*LVS:* N/A  
*GBS:* N/A  
*CIV:* N/A

**List of Items Controlled**

*Related Controls:* (1) See ECCN 2D993 for software for items controlled under this entry. (2) See ECCNs 2E001 (“development”), 2E002 (“production”), and 2E993 (“use”) for technology for items controlled under this entry. (3) Also see ECCNs 2A226, 2B350 and 2B999.

*Related Definitions:* N/A

*Items:*

- a. Pressure tube, pipe, and fittings of 200 mm (8 in.) or more inside diameter, and suitable for operation at pressures of 3.4 MPa (500 psi) or greater;
- b. Pipe valves having all of the following characteristics that are not controlled by ECCN 2B350.g:
  - b.1. A pipe size connection of 200 mm (8 in.) or more inside diameter; and
  - b.2. Rated at 10.3 MPa (1,500 psi) or more.

**2A993 Pumps designed to move molten metals by electromagnetic forces.**

**License Requirements**

*Reason for Control:* AT

<i>Control(s)</i>	<i>Country chart (see supp. No. 1 to part 738)</i>
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AT applies to entire entry. AT Column 1

**List Based License Exceptions (See part 740 for a description of all license exceptions)**

*LVS:* N/A  
*GBS:* N/A  
*CIV:* N/A

**List of Items Controlled**

*Related Controls:* (1) See ECCN 2D993 for software for items controlled under this entry. (2) See ECCNs 2E001 (“development”), 2E002 (“production”), and 2E993 (“use”) for technology for items controlled under this entry. (3) Pumps for use in liquid-metal-cooled reactors are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110).

*Related Definitions:* N/A

*Items:* The list of items controlled is contained in the ECCN heading.

- 13. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, immediately following the Category 2 subheading B

that applies to “Test,” “Inspection” and “Production Equipment,” revise the “Technical Notes” heading to read as follows:

**B. “Test,” “Inspection” and “Production Equipment”**

**Technical Notes for 2B001 to 2B009, 2B201, and 2B991 to 2B999: \* \* \***

\* \* \* \* \*

- 14. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, ECCN 2B001 is amended, under the “List of Items Controlled” section, by removing the phrase “2B201, 2B290, and 2B991” from the fourth entry of the “Related Controls” paragraph and adding the phrase “2B201 and 2B991” in its place.

- 15. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, ECCN 2B201 is amended, under the “List of Items Controlled” section, by removing the phrase “2B001, 2B290, and 2B991” from the third entry of the “Related Controls” paragraph and adding the phrase “2B001 and 2B991” in its place.

- 16. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, ECCN 2B290 is removed.

- 17. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, ECCN 2B350 is amended by revising the “Related Controls” paragraph, under the “List of Items Controlled” section, to read as follows:

**2B350 Chemical manufacturing facilities and equipment, except valves controlled by 2A226, as follows (see List of Items Controlled).**

\* \* \* \* \*

**List of Items Controlled**

*Related Controls:* See also ECCNs 2A226, 2A992, 2A993, 2B231, and 2B999.

\* \* \* \* \*

- 18. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, ECCN 2B991 is amended by revising the “Related Controls” paragraph, under the “List of Items Controlled” section, to read as follows:

**2B991 Numerical control units for machine tools and “numerically controlled” machine tools, n.e.s. (see List of Items Controlled).**

\* \* \* \* \*

**List of Items Controlled**

*Related Controls:* See also ECCNs 2B001 and 2B201.

\* \* \* \* \*

- 19. In Supplement No. 1 to part 774 (the Commerce Control List), Category

2—Materials Processing, ECCN 2B999 is amended, under the “List of Items Controlled” section, by removing “2A293,” from the first entry of the “Related Controls” paragraph and adding “2A992, 2A993,” in its place.

■ 20. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, ECCN 2D290 is amended by revising the ECCN heading to read as follows:

**2D290 “Software” “specially designed” or modified for the “development,” “production,” or “use” of items controlled by 2A290 or 2A291.**

\* \* \* \* \*

■ 21. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, add ECCN 2D993 between ECCNs 2D992 and 2D994 to read as follows:

**2D993 “Software” “specially designed” or modified for the “development,” “production,” or “use” of items controlled by 2A992 or 2A993.**

**License Requirements**

*Reason for Control:* AT

<i>Control(s)</i>	<i>Country chart (see supp. No. 1 to part 738)</i>
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AT applies to entire entry. AT Column 1

**List Based License Exceptions (See part 740 for a Description of All License Exceptions)**

*CIV:* N/A  
*TSR:* N/A

**List of Items Controlled**

*Related Controls:* See ECCN 2E001 (“development”) for “technology” for “software” controlled under this entry.

*Related Definitions:* N/A

*Items:* The list of items controlled is contained in the ECCN heading.

■ 22. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, ECCN 2E001 is amended by revising, in the License Requirements section, the fourth and fifth entries in the table (which contain the Control(s) language for Country Chart NP Column 2 and Country Chart CB Column 2, respectively) to read as follows:

**2E001 “Technology” according to the General Technology Note for the “development” of equipment or “software” controlled by 2A (except 2A983, 2A984, 2A991, or 2A994), 2B (except 2B991, 2B993, 2B996, 2B997, 2B998, or 2B999), or 2D (except 2D983, 2D984, 2D991, 2D992, or 2D994).**

**License Requirements**

*Reason for Control:* \* \* \*

<i>Control(s)</i>	<i>Country chart (see supp. No. 1 to part 738)</i>
-------------------	--

\* \* \* \* \*  
NP applies to “technology” for items controlled by 2A290, 2A291, or 2D290 for NP reasons.

NP Column 2

CB applies to “technology” for equipment controlled by 2B350 to 2B352, valves controlled by 2A226 having the characteristics of those controlled by 2B350.g, and software controlled by 2D351.

CB Column 2

\* \* \* \* \*  
\* \* \* \* \*

■ 23. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, ECCN 2E002 is amended by revising, in the License Requirements section, the fourth and fifth entries in the table (which contain the Control(s) language for Country Chart NP Column 2 and Country Chart CB Column 2, respectively), to read as follows:

**2E002 “Technology” according to the General Technology Note for the “production” of equipment controlled by 2A (except 2A983, 2A984, 2A991, or 2A994) or 2B (except 2B991, 2B993, 2B996, 2B997, 2B998, or 2B999).**

**License Requirements**

*Reason for Control:* \* \* \*

<i>Control(s)</i>	<i>Country chart (see supp. No. 1 to part 738)</i>
-------------------	--

\* \* \* \* \*  
NP applies to “technology” for equipment controlled by 2A290 or 2A291 for NP reasons.

NP Column 2

CB applies to “technology” for equipment controlled by 2B350 to 2B352 and for valves controlled by 2A226 having the characteristics of those controlled by 2B350.g.

CB Column 2

\* \* \* \* \*  
\* \* \* \* \*

■ 24. In Supplement No. 1 to part 774 (the Commerce Control List), Category

2—Materials Processing, ECCN 2E290 is amended by revising the ECCN heading and by revising the License Requirements section to read as follows:

**2E290 “Technology” according to the General Technology Note for the “use” of equipment controlled by 2A290 or 2A291.**

**License Requirements**

*Reason for Control:* NP, AT

<i>Control(s)</i>	<i>Country chart (see supp. No. 1 to part 738)</i>
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NP applies to entire entry.

NP Column 2

AT applies to entire entry.

AT Column 1

\* \* \* \* \*

■ 25. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, add ECCN 2E993 between ECCNs 2E991 and 2E994 to read as follows:

**2E993 “Technology” according to the General Technology Note for the “use” of equipment controlled by 2A992 or 2A993.**

**License Requirements**

*Reason for Control:* AT

<i>Control(s)</i>	<i>Country chart (see supp. No. 1 to part 738)</i>
-------------------	--

AT applies to entire entry. AT Column 1

**List Based License Exceptions (See part 740 for a Description of All License Exceptions)**

*CIV:* N/A  
*TSR:* N/A

**List of Items Controlled**

*Related Controls:* N/A

*Related Definitions:* N/A

*Items:* The list of items controlled is contained in the ECCN heading.

■ 26. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, ECCN 3A002 is amended by revising the “Related Controls” paragraph, under the “List of Items Controlled” section, to read as follows:

**3A002 General purpose “electronic assemblies,” modules and equipment, as follows (see List of Items Controlled).**

\* \* \* \* \*

**List of Items Controlled**

*Related Controls:* See Category XV(e)(9) of the USML for certain “space-qualified” atomic frequency standards “subject to the ITAR” (see 22 CFR parts 120 through 130). See also 3A101, 3A992 and 9A515.x.

\* \* \* \* \*

■ 27. In Supplement No. 1 to part 774 (the Commerce Control List), Category

3—Electronics, ECCN 3A292 is removed.

■ 28. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, ECCN 3A992 is amended in the “Items” paragraph, under the “List of Items Controlled” section, by adding paragraphs .d through .g and by adding a Note at the end of ECCN to read as follows:

**3A992 General purpose electronic equipment not controlled by 3A002.**

\* \* \* \* \*

**List of Items Controlled**

\* \* \* \* \*

Items:

\* \* \* \* \*

- d. Non-modular analog oscilloscopes having a bandwidth of 1 GHz or greater;
- e. Modular analog oscilloscope systems having either of the following characteristics:
  - e.1. A mainframe with a bandwidth of 1 GHz or greater; or
  - e.2. Plug-in modules with an individual bandwidth of 4 GHz or greater;
- f. Analog sampling oscilloscopes for the analysis of recurring phenomena with an effective bandwidth greater than 4 GHz;
- g. Digital oscilloscopes and transient recorders, using analog-to-digital conversion techniques, capable of storing transients by sequentially sampling single-shot inputs at successive intervals of less than 1 ns (greater than 1 giga-sample per second), digitizing to 8 bits or greater resolution and storing 256 or more samples.

**Note:** This ECCN controls the following “specially designed” “parts” and “components” for analog oscilloscopes:

1. Plug-in units;
2. External amplifiers;
3. Pre-amplifiers;
4. Sampling devices;
5. Cathode ray tubes.

■ 29. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, ECCN 3E001 is amended by revising the ECCN heading to read as follows:

**3E001 “Technology” according to the General Technology Note for the “development” or “production” of equipment or materials controlled by 3A (except 3A980, 3A981, 3A991 3A992, or 3A999), 3B (except 3B991 or 3B992) or 3C (except 3C992).**

\* \* \* \* \*

■ 30. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, ECCN 3E292 is removed.

Dated: November 15, 2016.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

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**COMMODITY FUTURES TRADING COMMISSION**

**17 CFR Part 4**

**RIN 3038–AE47**

**Commodity Pool Operator Financial Reports**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commodity Futures Trading Commission (Commission or CFTC) is amending certain of its regulations applicable to the financial reports that each person registered or required to be registered as a commodity pool operator (CPO) must provide for each commodity pool that it operates. These amendments: Permit the use of additional alternative generally accepted accounting principles, standards or practices; provide relief from the Annual Report audit requirement under certain circumstances; and make clear that an audited Annual Report must be distributed and submitted at least once during the life of a pool.

**DATES:** Effective December 27, 2016.

**FOR FURTHER INFORMATION CONTACT:** Christopher W. Cummings, Special Counsel, 202–418–5445, [ccummings@cftc.gov](mailto:ccummings@cftc.gov), or Barbara S. Gold, Associate Director, 202–418–5441, [bgold@cftc.gov](mailto:bgold@cftc.gov), Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st NW., Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. Part 4 of the Commission’s Regulations*

Part 4 of the Commission’s regulations governs the operations and activities of CPOs.<sup>1</sup> It requires each CPO registered or required to be registered with the Commission: To deliver to each participant in its commodity pool a Disclosure Document for the pool containing specified information (Regulations 4.21, 4.24, 4.25 and 4.26); to distribute to each participant periodic unaudited Account Statements for the pool (Regulation 4.22(a)) and an audited

<sup>1</sup> Section 1a(11) of the Commodity Exchange Act (Act or CEA) defines the term “commodity pool operator” and CEA Section 4m(1) generally requires each person who comes within the CPO definition to register as a CPO with the Commission. The Act is found at 7 U.S.C. 1 *et seq.* (2012). The Commission’s regulations are found at 17 CFR Ch. I (2016). Both the Act and the Commission’s regulations are accessible through the Commission’s Web site, <http://www.cftc.gov>.

Annual Report for the pool (Regulation 4.22(c)); to file certain additional financial reports for the pool (Regulation 4.27); and to make and keep specified books and records (Regulation 4.23). Additionally, part 4 prohibits certain activities on the part of all CPOs (Regulations 4.20 and 4.41) and provides for various CPO definitional exclusions (Regulation 4.5), CPO registration exemptions (Regulation 4.13), and compliance exemptions from otherwise applicable CPO requirements (Regulations 4.7, 4.12(b), and 4.12(c)).

*B. The Proposal and the Amendments*

Over the years, and pursuant to authority delegated to it by Regulation 140.93, Commission staff has provided exemptive relief from specific part 4 requirements on a case-by-case basis.<sup>2</sup> On August 5, 2016, the Commission proposed to codify certain of these exemptions as applicable to the Annual Report (Proposal).<sup>3</sup> In response to the comments received, the Commission is adopting as proposed certain amendments to its regulations applicable to the Annual Report audit requirement. Additionally, in response to the comments, the Commission is adopting various other amendments to its regulations applicable to the Annual Report and other CPO financial reports. Each of these amendments (collectively, the Amendments), is intended to provide relief to CPOs, under specified standards, from otherwise applicable requirements.

As is discussed more fully below, these Amendments provide for the use of certain additional alternative generally accepted accounting principles, practices or standards (each an Additional Alternative GAAP) in Annual Reports and periodic Account Statements—whether distributed pursuant to Regulation 4.22 or Regulation 4.7—and in Form CPO–PQR. The Amendments provide for relief

<sup>2</sup> These letters were issued by the Commission’s Division of Swap Dealer and Intermediary Oversight (DSIO) and its predecessors, the Division of Clearing and Intermediary Oversight and the Division of Trading and Markets.

Regulation 140.93 currently delegates to the Director of DSIO “all functions reserved to the Commission” in Regulation 4.12(a)—which provides that the Commission may exempt any person or any class or classes of persons from any provision of part 4 if it finds that the exemption is not contrary to the public interest and the purposes of the provisions from which the exemption is sought and, further, that the Commission may grant the exemption subject to such terms and conditions as it may find appropriate.

<sup>3</sup> 81 FR 51828. Part 4 contains many similar provisions applicable to commodity trading advisors (CTAs). The Proposal did not also pertain to CTAs, however, because CPOs are required to distribute Annual Reports and CTAs are not subject to any such requirement.