From: "Kay Morrell" <Kay.Morrell@kbr.com>
To: PublicComments@bis.doc.gov
Date: Thu, Dec 9, 2010 8:04 AM
Subject: Notice of Inquiry--CCL

Dear Mr. Mooney,

This comment addresses confusion with ECCN 2B350.h and ECCN 2B999 f, g, k, and n. Each of these subsections controls piping made from various materials. The confusion is whether or not these subsections also control the fittings for the piping. When we request ECCNs for fittings from manufacturers and suppliers, we receive varied responses with some including fittings made out of the materials listed for the piping under ECCNs 2B350 or 2B999 and others listing them under EAR99.

This confusion may arise from the fact that ECCN 2A292 specifically lists piping and fittings in its description. This could lead one to reason that if BIS has specifically listed fittings in one ECCN, but not in another, then it must be the Government's intent to leave fittings out of ECCNs 2B350 and 2B999. However, when we have posed this question in conversations with BIS licensing officers, one common response is that fittings are nothing more than shorter pieces of piping and therefore they should be treated as piping when determining ECCNs. While this unpublished direction from the licensing officers is not likely to be a problem when dealing with ECCN 2B999 items, there could be serious consequences for ECCN 2B350 items.

We would recommend that the descriptions in ECCN 2B999 f, g, k, and n be altered to include fittings in the list of items controlled under those subsections if that is clearly the Government's intent. If they are not meant to be included under this ECCN, please include an explanatory note that states that fittings are not included. We understand that BIS may not be able to unilaterally alter the language in ECCN 2B350.h, but perhaps a note could be included to indicate whether or not this subsection is intended to include fittings that meet the same parameters as the piping.

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