
More Valves Subject to Export Control: Particular Concern for Oil/Chemical Industry

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On July 6, 2009, the Department of Commerce, Bureau of Industry and Security (BIS) published a final rule implementing the 2008 Intersessional Decisions of the Australia Group, a multilateral forum consisting of 40 participating countries, which maintains export controls on a list of chemicals, biological agents, and related equipment and technology that could be used in a chemical or biological weapons program. As a result, the Export Administration Regulations (EAR) have been amended to increase export controls on items that can be used for such purposes.

Among other changes, the amendments establish an additional category of industrial valves that are subject to extensive export controls. Companies in industries such as chemicals and oil and gas should be conscious of these new restrictions, as they may affect commercial operations with respect to which participants might not normally expect to have licensing requirements.

By its title, Export Control Classification Number (ECCN) 2B350, Subparagraph “g” controls valves for use in chemical manufacturing facilities and equipment. However, many valves included in this subparagraph are used heavily by other industries, such as the oil and gas industry. The controls are highly restrictive and BIS approvals are required for exports to countries other than those of the Australia Group. Penalties for failure to obtain the necessary licenses can be steep, as discovered by a prominent Houston oilfield services company in its \$800,000 April 2009 settlement with BIS for exporting ECCN 2B350.g valves without a license.

Additional Export Control on Ceramic-Lined Valves

The final rule amends 2B350.g to include valves greater than one centimeter in diameter (including casings or preformed casing liners designed for such valves) that are made from, or fully lined with, any of the following ceramic materials:

- Silicon carbide with a purity of 80% or more by weight;
- Aluminum oxide (alumina) with a purity of 99.9% or more by weight; or
- Zirconium oxide (zirconia)

Effective July 6, 2009, export of valves made from, or lined with these ceramic materials are controlled for reasons of chemical and biological warfare and anti-terrorism.

The ECCN 2B350.g entry now reads as follows:

2B350 Chemical manufacturing facilities and equipment, except valves controlled by 2A226 or 2A292, as follows (see List of Items Controlled).

. . .

g. Valves with nominal sizes greater than 1.0 cm (d in.), and casings (valve bodies) or preformed casing liners designed for such valves, in which all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:

- g.1. Alloys with more than 25% nickel and 20% chromium by weight;
- g.2. Nickel or alloys with more than 40% nickel by weight;
- g.3. Fluoropolymers;
- g.4. Glass or glass lined (including vitrified or enameled coatings);
- g.5. Tantalum or tantalum alloys;
- g.6. Titanium or titanium alloys;
- g.7. Zirconium or zirconium alloys;
- g.8. Niobium (columbium) or niobium alloys; or
- g.9. Ceramic materials, as follows:
 - g.9.a. Silicon carbide with a purity of 80% or more by weight;
 - g.9.b. Aluminum oxide (alumina) with a purity of 99.9% or more by weight; or
 - g.9.c. Zirconium oxide (zirconia).

Other New Export Controls

In addition to the new controls on ceramic lined valves, the amendments (i) clarify the types of dedicated detecting components that are subject to export controls for toxic gas monitoring equipment under ECCN 2B351 and (ii) add a new ECCN 2D351 to control related software. The rule also amends the list of countries that are considered parties to the Chemical Weapons Convention.

Companies that manufacture or use industrial valves should review the ECCNs assigned to valves to ensure that they comply with the new export licensing restrictions.

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