

CLIENT ALERT

No Longer The Berry Amendment But Worse

October 12, 2006

Section 842 of the 2007 Defense Authorization Act moved the statutory provisions concerning acquisitions involving specialty metals out of the "Berry Amendment" and into a new statutory provision, 10 USC § 2533b, and made a number of substantive changes, including the creation of a new exception for commercially available electronic components with de minimis specialty metal content, authority in certain conditions for the Defense Department to waive the requirements of the prior law for any products manufactured before the date the new statute was enacted, and what appears to be the elimination of billing or price adjustments as a mechanism to resolve noncompliance on future production. On balance, these amendments are likely to make compliance with the statutory requirements more difficult in the future and there are reports that industry intends to attempt to convince Congress to address some of the problems during a "lame duck" session after the election.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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