

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

In the Matter of:)
)
Mine Safety Appliances Company)
121 Gamma Drive)
Pittsburgh, PA 15238)
)
Respondent)

ORDER RELATING TO MINE SAFETY APPLIANCES COMPANY

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Mine Safety Appliances Company (“Mine Safety”) of its intention to initiate an administrative proceeding against Mine Safety pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (“Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),² by issuing a proposed charging letter to Mine Safety that alleged that Mine Safety committed 107 violations of the Regulations. Specifically, the charges are:

¹The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The violations alleged occurred during the 2001-2005 period. The Regulations governing the allegations at issue are found in the 2001-2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2005)). The 2007 Regulations govern the procedural aspects of the case.

² Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

**Charges 1-71 15 C.F.R. § 764.2(a) - Reexporting Items to Iran Without the
Required Licenses (EAR99 items)**

On 71 occasions between on or about May 30, 2001 and on or about December 7, 2005, MSA engaged in conduct prohibited by the Regulations by reexporting various safety equipment items ("items"), items subject to the Regulations³ (EAR99), from the United Arab Emirates ("UAE") to Iran without the required U.S. Government authorizations. Specifically, MSA's branch office, MSA Middle East, located in Abu Dhabi, UAE, reexported these items from the UAE to Iran. Pursuant to Section 560.204 of the Iranian Transactions Regulations⁴ maintained by the Department of the Treasury's Office of Foreign Assets Control ("OFAC"), a reexport by a U.S. person, wherever located, of any goods to Iran is prohibited. MSA Middle East is a U.S. person as set forth in Section 560.314 of the Iranian Transactions Regulations. Pursuant to Section 746.7(a)(3) of the Regulations, in order to comply with the provisions of the EAR, transactions subject to both the Regulations and the Iranian Transactions Regulations maintained by OFAC require OFAC authorization. No OFAC authorizations were obtained for the reexports described herein. By failing to obtain such authorizations from OFAC, MSA committed 71 violations of Section 764.2(a) of the Regulations.

**Charges 72-102 15 C.F.R. § 764.2(a) - Reexporting Items to Iran Without the
Required Licenses (Controlled Items)**

On 31 occasions between on or about June 12, 2003 and on or about November 30, 2005, MSA engaged in conduct prohibited by the Regulations by reexporting various safety equipment items, items subject to the Regulations (ECCN⁵ 1A995 and 1A004), from the UAE to Iran without the required U.S. Government authorizations. Specifically, MSA's branch office, MSA Middle East, located in Abu Dhabi, UAE, reexported these items from the UAE to Iran. Pursuant to Section 746.7(a)(2)(ii) of the Regulations, the reexport of the items to Iran required licenses from BIS. Pursuant to Section 746.7(a)(3), in order to comply with the provisions of the EAR, transactions subject to both the EAR and the Iranian Transactions Regulations maintained by OFAC require OFAC authorization. The reexport of the safety equipment items to Iran required authorizations from OFAC pursuant to 31 C.F.R. Part 560.205, and no such authorizations were obtained. By

³The items that were reexported by MSA Middle East fall into four classification categories: "EAR99", "ECCN 1A995", "1A004", and "1A995/EAR99."

⁴The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2001-2005).

⁵"ECCN" refers to "Export Control Classification Number." See Supp. 1 to 15 C.F.R. § 774.

failing to obtain such authorizations from OFAC, MSA committed 31 violations of Section 764.2(a) of the Regulations.

Charges 103-107 15 C.F.R. § 764.2(a) - Reexporting Items to Syria Without the Required Licenses

On 5 occasions between on or about May 26, 2004 and on or about December 29, 2004, MSA engaged in conduct prohibited by the Regulations by reexporting safety equipment items, items subject to the Regulations (EAR99 and 1A995), from the UAE to Syria without the Department of Commerce licenses required by Section 742.9 of the Regulations. Specifically, MSA's branch office, MSA Middle East, located in Abu Dhabi, UAE, reexported these items from the UAE to Syria. In so doing, MSA committed 5 violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and Mine Safety have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

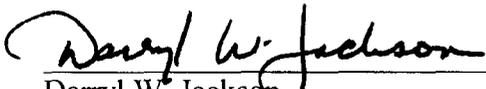
FIRST, that a civil penalty of \$470,000 is assessed against Mine Safety, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Mine Safety will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Mine Safety. Accordingly, if Mine Safety should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Mine Safety's export privileges for a period of one year from the date of entry of this Order.

FOURTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



Darryl W. Jackson
Assistant Secretary of Commerce
for Export Enforcement

Entered this 7th day of December 2007.

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

In the Matter of:

Mine Safety Appliances Company
121 Gamma Drive
Pittsburgh, PA 15238

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Mine Safety Appliances Company (“Mine Safety”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”).²

WHEREAS, Mine Safety filed a voluntary self-disclosure with BIS’s Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning certain transactions at issue herein;

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The violations alleged occurred during the 2001-2005 period. The Regulations governing the allegations at issue are found in the 2001-2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2005)). The 2007 Regulations govern the procedural aspects of the case.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

WHEREAS, BIS has notified of its intention to initiate an administrative proceeding against Mine Safety, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to Mine Safety that alleged that Mine Safety committed 107 violations of the Regulations, specifically:

Charges 1-71 15 C.F.R. § 764.2(a) - Reexporting Items to Iran Without the Required Licenses (EAR99 items)

On 71 occasions between on or about May 30, 2001 and on or about December 7, 2005, MSA engaged in conduct prohibited by the Regulations by reexporting various safety equipment items (“items”), items subject to the Regulations³ (EAR99), from the United Arab Emirates (“UAE”) to Iran without the required U.S. Government authorizations. Specifically, MSA’s branch office, MSA Middle East, located in Abu Dhabi, UAE, reexported these items from the UAE to Iran. Pursuant to Section 560.204 of the Iranian Transactions Regulations⁴ maintained by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), a reexport by a U.S. person, wherever located, of any goods to Iran is prohibited. MSA Middle East is a U.S. person as set forth in Section 560.314 of the Iranian Transactions Regulations. Pursuant to Section 746.7(a)(3) of the Regulations, in order to comply with the provisions of the EAR, transactions subject to both the Regulations and the Iranian Transactions Regulations maintained by OFAC require OFAC authorization. No OFAC authorizations were obtained for the reexports described herein. By failing to obtain such authorizations from OFAC, MSA committed 71 violations of Section 764.2(a) of the Regulations.

Charges 72-102 15 C.F.R. § 764.2(a) - Reexporting Items to Iran Without the Required Licenses (Controlled Items)

On 31 occasions between on or about June 12, 2003 and on or about November 30, 2005, MSA engaged in conduct prohibited by the Regulations by reexporting various safety equipment items, items subject to the Regulations (ECCN⁵ 1A995 and 1A004), from the UAE to Iran without the required U.S. Government authorizations. Specifically, MSA’s branch office, MSA Middle East, located in Abu Dhabi, UAE, reexported these items from the UAE to Iran. Pursuant to Section 746.7(a)(2)(ii) of the Regulations, the reexport of the items to Iran required licenses from BIS. Pursuant to Section 746.7(a)(3), in order to comply with the provisions of the EAR, transactions subject to both the EAR and the Iranian Transactions Regulations maintained by OFAC require OFAC authorization. The reexport of the safety equipment items to Iran required authorizations from OFAC pursuant to 31 C.F.R. Part 560.205, and no such authorizations were

³ The items that were reexported by MSA Middle East fall into four classification categories: “EAR99”, “ECCN 1A995”, “1A004”, and “1A995/EAR99.”

⁴ The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2001-2005).

⁵ “ECCN” refers to “Export Control Classification Number.” See Supp. 1 to 15 C.F.R. § 774.

obtained. By failing to obtain such authorizations from OFAC, MSA committed 31 violations of Section 764.2(a) of the Regulations.

Charges 103-107 15 C.F.R. § 764.2(a) - Reexporting Items to Syria Without the Required Licenses

On 5 occasions between on or about May 26, 2004 and on or about December 29, 2004, MSA engaged in conduct prohibited by the Regulations by reexporting safety equipment items, items subject to the Regulations (EAR99 and 1A995), from the UAE to Syria without the Department of Commerce licenses required by Section 742.9 of the Regulations. Specifically, MSA's branch office, MSA Middle East, located in Abu Dhabi, UAE, reexported these items from the UAE to Syria. In so doing, MSA committed 5 violations of Section 764.2(a) of the Regulations.

WHEREAS, Mine Safety has reviewed the proposed charging letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true;

WHEREAS, Mine Safety fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, Mine Safety enters into this Agreement voluntarily and with full knowledge of its rights;

WHEREAS, Mine Safety states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Mine Safety neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, Mine Safety wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, Mine Safety agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Mine Safety, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanction shall be imposed against Mine Safety in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the voluntary self-disclosure and the proposed charging letter:

a. Mine Safety shall be assessed a civil penalty in the amount of \$470,000, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.

b. The timely payment of the civil penalty agreed to in paragraph 2.a is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Mine Safety. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Mine Safety's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Mine Safety hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$ 470,000 civil penalty, BIS will not initiate any further administrative proceeding against Mine Safety in connection with any violation of the Act or the Regulations arising out of the transactions identified in the voluntary self-disclosure and the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export

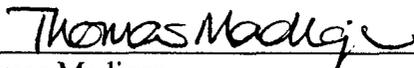
Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

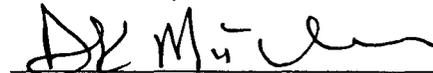
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY
DEPARTMENT OF COMMERCE



Thomas Madigan
Acting Director
Office of Export Enforcement

MINE SAFETY APPLIANCES U.S.
COMPANY, INC.



Douglas K. McClaine
Vice President, Secretary & General Counsel

Date: November 29, 2007

Date: 11.20.07

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mine Safety Appliances Company
121 Gamma Drive
Pittsburgh, PA 15238

Attention: Douglas McClaine, Vice President, Secretary, & General Counsel

Dear Mr. McClaine:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Mine Safety Appliances Company of Pittsburgh, PA ("MSA"), has committed 107 violations of the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").² Specifically, BIS charges that MSA committed the following violations:

**Charges 1-71 15 C.F.R. § 764.2(a) - Reexporting Items to Iran Without the
Required Licenses (EAR99 items)**

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on 71 occasions between on or about May 30, 2001 and on or about December 7, 2005, MSA engaged in conduct prohibited by the Regulations by reexporting various safety equipment items ("items"), items subject to the Regulations³ (EAR99), from the United Arab

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The violations alleged occurred during the 2001-2005 period. The Regulations governing the allegations at issue are found in the 2001-2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2005)). The 2007 Regulations govern the procedural aspects of the case.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) ("IEEPA").

³As set forth in attached schedules, the items that were reexported by MSA Middle East fall into four classification categories: "EAR99", "ECCN 1A995", "1A004", and "1A995/EAR99."

Emirates (“UAE”) to Iran without the required U.S. Government authorizations. Specifically, MSA’s branch office, MSA Middle East, located in Abu Dhabi, UAE, reexported these items from the UAE to Iran. Pursuant to Section 560.204 of the Iranian Transactions Regulations⁴ maintained by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), a reexport by a U.S. person, wherever located, of any goods to Iran is prohibited. MSA Middle East is a U.S. person as set forth in Section 560.314 of the Iranian Transactions Regulations. Pursuant to Section 746.7(a)(3) of the Regulations, in order to comply with the provisions of the EAR, transactions subject to both the Regulations and the Iranian Transactions Regulations maintained by OFAC require OFAC authorization. No OFAC authorizations were obtained for the reexports described herein. By failing to obtain such authorizations from OFAC, MSA committed 71 violations of Section 764.2(a) of the Regulations.

Charges 72-102 15 C.F.R. § 764.2(a) - Reexporting Items to Iran Without the Required Licenses (Controlled Items)

As described in greater detail in Schedule B, which is enclosed herewith and incorporated herein by reference, on 31 occasions between on or about June 12, 2003 and on or about November 30, 2005, MSA engaged in conduct prohibited by the Regulations by reexporting various safety equipment items, items subject to the Regulations (ECCN⁵ 1A995 and 1A004), from the UAE to Iran without the required U.S. Government authorizations. Specifically, MSA’s branch office, MSA Middle East, located in Abu Dhabi, UAE, reexported these items from the UAE to Iran. Pursuant to Section 746.7(a)(2)(ii) of the Regulations, the reexport of the items to Iran required licenses from BIS. Pursuant to Section 746.7(a)(3), in order to comply with the provisions of the EAR, transactions subject to both the EAR and the Iranian Transactions Regulations maintained by OFAC require OFAC authorization. The reexport of the safety equipment items to Iran required authorizations from OFAC pursuant to 31 C.F.R. Part 560.205, and no such authorizations were obtained. By failing to obtain such authorizations from OFAC, MSA committed 31 violations of Section 764.2(a) of the Regulations.

Charges 103-107 15 C.F.R. § 764.2(a) - Reexporting Items to Syria Without the Required Licenses

As described in greater detail in Schedule C, which is enclosed herewith and incorporated herein by reference, on 5 occasions between on or about May 26, 2004 and on or about December 29,

⁴The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2001-2005).

⁵“ECCN” refers to “Export Control Classification Number.” See Supp. 1 to 15 C.F.R. § 774.

2004, MSA engaged in conduct prohibited by the Regulations by reexporting safety equipment items, items subject to the Regulations (EAR99 and 1A995), from the UAE to Syria without the Department of Commerce licenses required by Section 742.9 of the Regulations. Specifically, MSA's branch office, MSA Middle East, located in Abu Dhabi, UAE, reexported these items from the UAE to Syria. In so doing, MSA committed 5 violations of Section 764.2(a) of the Regulations.

Accordingly, MSA is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of up to \$11,000 per violation;⁶

Denial of export privileges; and/or

Exclusion from practice before BIS.

If MSA fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. (Regulations, Sections 766.6 and 766.7). If MSA defaults, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to MSA. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

MSA is further notified that it is entitled to an agency hearing on the record if MSA files a written demand for one with its answer. (Regulations, Section 766.6). MSA is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

MSA is further notified that under the Small Business Regulatory Enforcement Flexibility Act, MSA may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

⁶See 15 C.F.R. §6.4(a)(4) (2001-2005).

Mine Safety Appliances Company
Proposed Charging Letter
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The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should MSA have a proposal to settle this case, MSA or its representative should transmit it to the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, MSA's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

In addition, a copy of MSA's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Parvin R. Huda
Room H-3839
United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Parvin R. Huda is the attorney representing BIS in this case; any communications that MSA may wish to have concerning this matter should occur through her. Ms. Huda may be contacted by telephone at (202) 482-5301.

Sincerely,

Thomas Madigan
Acting Director
Office of Export Enforcement