

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

In the Matter of:)
)
PPG Industries, Inc.)
One PPG Place)
Pittsburgh, PA 15272)
)
)
Respondent)

ORDER RELATING TO PPG INDUSTRIES, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified PPG Industries, Inc., of Pittsburgh, Pennsylvania (“PPG”), of its intention to initiate an administrative proceeding against PPG pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to PPG that alleges that PPG committed sixteen violations of the Regulations. Specifically, the charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred in 2007-2010. The Regulations governing the violations at issue are found in the 2007-2010 versions of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2007-2010). The 2011 Regulations set forth the procedures that apply to this matter.

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 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

Charges 1-16 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct by Exporting Triethanolamine to Brazil Without the Required Licenses

On sixteen occasions, between on or about February 17, 2007, and on or about March 29, 2010, PPG engaged in conduct prohibited by the Regulations when it exported from the United States to Brazil triethanolamine (“TEA”), with 99 percent purity, without the Department of Commerce licenses required by Section 742.2 of the Regulations. TEA with 99 percent purity is classified under Export Classification Control Number (“ECCN”) 1C350.c.9 and controlled for chemical and biological weapons proliferation reasons to Brazil. The shipments had a total value of approximately \$58,000. PPG’s Industrial Business Unit arranged for the items to be picked up at the seller’s facility and shipped to a PPG affiliate in Brazil. In so doing, PPG committed sixteen violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and PPG 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, PPG shall be assessed a civil penalty in the amount of \$275,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of the Order.

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, PPG 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 full and timely payment of the civil penalty in accordance with the payment schedule 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 PPG. Accordingly, if PPG should fail to pay the civil penalty in a full and timely manner, the undersigned may issue an Order denying all of PPG's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

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.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 19th day of December, 2011.

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

In the Matter of:)
)
PPG Industries, Inc.)
One PPG Place)
Pittsburgh, PA 15272)
)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between PPG Industries, Inc., of Pittsburgh, Pennsylvania (“PPG”), 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 (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

WHEREAS, BIS has notified PPG of its intentions to initiate an administrative proceeding against PPG, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a Proposed Charging Letter to PPG that alleges that PPG committed sixteen violations of the Regulations, specifically:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred in 2007-2010. The Regulations governing the violations at issue are found in the 2007-2010 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2011 Regulations set forth the procedures that apply to this matter.

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 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

**Charges 1-16 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct by Exporting
Triethanolamine to Brazil Without the Required Licenses**

On sixteen occasions, between on or about February 17, 2007, and on or about March 29, 2010, PPG engaged in conduct prohibited by the Regulations when it exported from the United States to Brazil triethanolamine ("TEA"), with 99 percent purity, without the Department of Commerce licenses required by Section 742.2 of the Regulations. TEA with 99 percent purity is classified under Export Classification Control Number ("ECCN") 1C350.c.9 and controlled for chemical and biological weapons proliferation reasons to Brazil. The shipments had a total value of approximately \$58,000. PPG's Industrial Business Unit arranged for the items to be picked up at the seller's facility and shipped to a PPG affiliate in Brazil. In so doing, PPG committed sixteen violations of Section 764.2(a) of the Regulations.

WHEREAS, PPG has reviewed the Proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

WHEREAS, PPG 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, PPG enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

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

WHEREAS, PPG neither admits nor denies the allegations contained in the Proposed Charging Letter;

WHEREAS, PPG wishes to settle and dispose of all matters alleged in the Proposed Charging Letter by entering into this Agreement; and

WHEREAS, PPG agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over PPG, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanctions shall be imposed against PPG in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:

- a. PPG shall be assessed a civil penalty in the amount of \$275,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions.

- b. The full and 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, license exception, permission, or privilege granted, or to be granted, to PPG. Failure to make full and timely payment of the civil penalty set forth above may result in the denial of all of PPG's export privileges under the Regulations for one year from the date of the failure to make such payment.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, PPG 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 issued), 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 issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued.

PPG also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order until PPG pays in full the civil penalty agreed to in Paragraph 2.a.

4. Upon full and timely payment of the civil penalty as set forth in Paragraph 2.a above, BIS will not initiate any further administrative proceeding against PPG in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

5. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, 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.

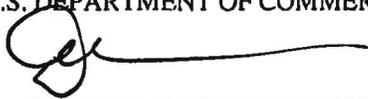
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department 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 issuing 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
U.S. DEPARTMENT OF COMMERCE



Douglas R. Hassebrock
Director of Export Enforcement

Date: 12/19/11

PPG INDUSTRIES, INC.



Viktor Sekmakas
Senior Vice President, Industrial Coatings
PPG Industries, Inc.

Date: Dec. 14, 2011

Reviewed and approved by:



Kenneth G. Weigel, Esq.
Alston & Bird LLP
Counsel for PPG Industries, Inc.

Date: Dec 15, 2011

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

PPG Industries, Inc.
One PPG Place
Pittsburgh, PA 15272

Attention: *Viktor Sekmakas*
Senior Vice President, Industrial Coatings

Dear Mr. Sekmakas:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that PPG Industries, Inc. (“PPG”), of Pittsburgh, Pennsylvania, has committed sixteen 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 alleges that PPG committed the following violations:

Charges 1-16 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct by Exporting Triethanolamine to Brazil Without the Required Licenses

As described in greater detail in the attached Schedule of Violations, which is enclosed herein and incorporated by reference, on sixteen occasions, between on or about February 17, 2007, and on or about March 29, 2010, PPG engaged in conduct prohibited by the Regulations when it exported from the United States to Brazil triethanolamine (“TEA”), with 99 percent purity, without the Department of Commerce licenses required by Section 742.2 of the Regulations. TEA with 99 percent purity is classified under Export Classification Control Number (“ECCN”) 1C350.c.9 and controlled for chemical and biological weapons proliferation reasons to Brazil. The shipments had a total value of approximately \$58,000. PPG’s Industrial Business Unit arranged for the items to be picked up at the seller’s facility and shipped to a PPG affiliate in Brazil. In so doing, PPG committed sixteen violations of Section 764.2(a) of the Regulations.

* * * * *

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The violations alleged occurred in 2007-2010. The Regulations governing the violation at issue are found in the 2007-2010 versions of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2007-2010). The 2011 Regulations govern the procedural aspects of this 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 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

Accordingly, PPG 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 and any other liability, sanction or penalty available under law, including, but not limited to any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;³
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If PPG 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. *See* 15 C.F.R. §§ 766.6 and 766.7. If PPG defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to PPG. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

PPG is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. PPG is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should PPG have a proposal to settle this case, PPG should transmit it to the attorney representing BIS named below.

PPG is further notified that under the Small Business Regulatory Enforcement Flexibility Act, PPG 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/>.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, PPG'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

³ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

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

Chief Counsel for Industry and Security
Attention: R. Elizabeth Abraham, Esq.
Room H-3839
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

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

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement

Schedule of Violations

Charge No.	Export Date	Destination	Commodity Description	ECCN	Value	Violation
1	2/17/2007	Brazil	Triethanolamine (TEA) 99% Purity	1C350.c.9	\$7,378.06	15 C.F.R. § 764.2(a)
2	7/10/2007	Brazil	TEA 99% Purity	1C350.c.9	\$2,796.50	15 C.F.R. § 764.2(a)
3	8/8/2007	Brazil	TEA 99% Purity	1C350.c.9	\$5,428.50	15 C.F.R. § 764.2(a)
4	9/24/2007	Brazil	TEA 99% Purity	1C350.c.9	\$2,632.00	15 C.F.R. § 764.2(a)
5	11/11/2007	Brazil	TEA 99% Purity	1C350.c.9	\$2,546.50	15 C.F.R. § 764.2(a)
6	12/10/2007	Brazil	TEA 99% Purity	1C350.c.9	\$10,925.29	15 C.F.R. § 764.2(a)
7	2/3/2008	Brazil	TEA 99% Purity	1C350.c.9	\$4,353.69	15 C.F.R. § 764.2(a)
8	3/29/2008	Brazil	TEA 99% Purity	1C350.c.9	\$4,021.82	15 C.F.R. § 764.2(a)
9	9/21/2008	Brazil	TEA 99% Purity	1C350.c.9	\$3,778.67	15 C.F.R. § 764.2(a)
10	9/23/2008	Brazil	TEA 99% Purity	1C350.c.9	\$3,695.97	15 C.F.R. § 764.2(a)
11	7/6/2009	Brazil	TEA 99% Purity	1C350.c.9	\$1,134.42	15 C.F.R. § 764.2(a)
12	7/19/2009	Brazil	TEA 99% Purity	1C350.c.9	\$1,449.53	15 C.F.R. § 764.2(a)
13	9/21/2009	Brazil	TEA 99% Purity	1C350.c.9	\$1,196.62	15 C.F.R. § 764.2(a)
14	10/13/2009	Brazil	TEA 99% Purity	1C350.c.9	\$2,524.15	15 C.F.R. § 764.2(a)
15	1/12/2010	Brazil	TEA 99% Purity	1C350.c.9	\$1,837.17	15 C.F.R. § 764.2(a)
16	3/29/2010	Brazil	TEA 99% Purity	1C350.c.9	\$2,050.90	15 C.F.R. § 764.2(a)