



PROPOSED CHARGING LETTER

FEB 14 2002

FEDERAL EXPRESS-OVERNIGHT

Waters Instruments, Inc.  
13705 26<sup>th</sup> Avenue North  
Suite 102  
Minneapolis, Minnesota 55441

Attention: Jerry Grabowski  
President

Dear Mr. Grabowski:

The Bureau of Export Administration, United States Department of Commerce (BXA), has reason to believe that North Central Plastics, Inc.<sup>1</sup> violated the Export Administration Regulations (15 C.F.R. Parts 730-774 (2001)) (the Regulations),<sup>2</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1994 & Supp. V 1999))

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<sup>1</sup> On August 6, 2001, North Central Plastics, Inc. was merged into Waters Instruments, Inc. As the surviving entity, Waters Instruments, Inc. has assumed liability for all obligations of North Central Plastics outstanding at the time of the merger.

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2001). The violations charged occurred from 1996 through 2000. The Regulations governing the violations at issue are found in the 1996 through 2000 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1996), as amended (61 Fed Reg. 137 14, March 25, 1996) (the "former Regulations"), and 15 C.F.R. Parts 730-774 (1997-2000)). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 *Federal Register* publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the various violations that BXA alleges occurred in 1996, and the Regulations define the various violations that BXA alleges occurred on or after January 1, 1997 and establish the procedures that apply to this matter.



(the Act),<sup>3</sup> on 3 1 occasions. Specifically, BXA charges that North Central Plastics' committed the following violations:

**Charge 1      15 C.F.R. § 787A.6 of the former Regulations - Export, Diversion, Reexport, Transshipment - Exports of Electric Cattle Prods Without the Required Licenses**

On or about August 1, 1996, North Central Plastics exported electric cattle prods (ECCN OA84) from the United States to Taiwan without obtaining a validated export license from the Department of Commerce as required by Sections 772A. 1 (b) and 776A. 14 of the former Regulations. In doing so, North Central Plastics committed one violation of Section 787A.6 of the former Regulations.

**Charge 2      15 C.F.R. § 787A.6 of the former Regulations - Export, Diversion, Reexport, Transshipment - Exports of Electric Cattle Prods Without the Required Licenses**

On or about August 3 1, 1996, North Central Plastics exported electric cattle prods (ECCN OA84) from the United States to Argentina without obtaining a validated export license from the Department of Commerce as required by Sections 772A. 1 (b) and 776A. 14 of the former Regulations. In doing so, North Central Plastics committed one violation of Section 787A.6 of the former Regulations.

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<sup>3</sup> From August 2 1, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (1994 & Supp. V 1999)) ("IEEPA"). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 *Fed. Reg.* 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA.

<sup>4</sup> The actual exports were made by North Central Plastics, prior to its merger with Waters Instruments, Inc.

**Charge 3      15 C.F.R § 787A.6 of the former Regulations - Export, Diversion, Reexport, Transshipment - Exports of Electric Cattle Prods Without the Required Licenses**

On or about December 12, 1996, North Central Plastics exported electric cattle prods (ECCN OA84) from the United States to Honduras without obtaining a validated export license from the Department of Commerce as required by Sections 772A. 1(b) and 776A. 14 of the former Regulations. In doing so, North Central Plastics committed one violation of Section 787A.6 of the former Regulations.

**Charge 4      15 C.F.R § 787A.6 of the former Regulations - Export, Diversion, Reexport, Transshipment - Exports of Electric Cattle Prods Without the Required Licenses**

On or about December 20, 1996, North Central Plastics exported an electric cattle prod (ECCN OA84) from the United States to Switzerland without obtaining a validated export license from the Department of Commerce as required by Sections 772A. 1 (b) and 776A. 14 of the former Regulations. In doing so, North Central Plastics committed one violation of Section 787A.6 of the former Regulations.

**Charge 5      15 C.F.R § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about January 23, 1997, North Central Plastics exported electric cattle prods (ECCN OA985) from the United States to Ireland without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 6      15 C.F.R. § 764,2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about September 12, 1997, North Central Plastics exported electric cattle prods (ECCN OA985) from the United States to Taiwan without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 7      15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about December 6, 1997, North Central Plastics exported electric cattle prods (ECCN OA985) from the United States to Honduras without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations, In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 8      15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about February 26, 1998, North Central Plastics exported electric cattle prods (ECCN 0A985) from the United States to Ireland without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 9      15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation - Exports of Electric Cattle Prods Without the Required Licenses When North Central Plastics Knew or Had Reason to Know that Licenses Were Required**

In connection with the export referenced in Charge 8 above, North Central Plastics knew or had reason to know that the electric cattle prods required a license for export to Ireland. BXA alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, had occurred, was about to occur, or was intended to occur, North Central Plastics violated Section 764.2(e) of the Regulations.

**Charge 10     15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about June 12, 1998, North Central Plastics exported an electric cattle prod (ECCN 0A985) from the United States to Ecuador without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 11     15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation - Exports of Electric Cattle Prods Without the Required Licenses When North Central Plastics Knew or Had Reason to Know that Licenses Were Required**

In connection with the export referenced in Charge 10 above, North Central Plastics knew or had reason to know that the electric cattle prod required a license for export to Ecuador. BXA alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, had occurred, was about to occur, or was intended to occur, North Central Plastics violated Section 764.2(e) of the Regulations.

**Charge 12 15 C.F.R § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about August 14, 1998, North Central Plastics exported electric cattle prods (ECCN 0A985) from the United States to Honduras without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 13 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation - Exports of Electric Cattle Prods Without the Required Licenses When North Central Plastics Knew or Had Reason to Know that Licenses Were Required**

In connection with the export referenced in Charge 12 above, North Central Plastics knew or had reason to know that the electric cattle prods required a license for export to Honduras. BXA alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, had occurred, was about to occur, or was intended to occur, North Central Plastics violated Section 764.2(e) of the Regulations.

**Charge 14 15 C.F.R § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about March 2, 1999, North Central Plastics exported electric cattle prods (ECCN 0A985) from the United States to Honduras without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 15 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation - Exports of Electric Cattle Prods Without the Required Licenses When North Central Plastics Knew or Had Reason to Know that Licenses Were Required**

In connection with the export referenced in Charge 14 above, North Central Plastics knew or had reason to know that the electric cattle prods required a license for export to Honduras. BXA alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, had occurred, was about to occur, or was intended to occur, North Central Plastics violated Section 764.2(e) of the Regulations.

**Charge 16     15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about June 17, 1999, North Central Plastics exported an electric cattle prod (ECCN 0A985) from the United States to Mexico without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 17     15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation - Exports of Electric Cattle Prods Without the Required Licenses When North Central Plastics Knew or Had Reason to Know that Licenses Were Required**

In connection with the export referenced in Charge 16 above, North Central Plastics knew or had reason to know that the electric cattle prod required a license for export to Mexico. BXA alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, had occurred, was about to occur, or was intended to occur, North Central Plastics violated Section 764.2(e) of the Regulations.

**Charge 18     15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about June 25, 1999, North Central Plastics exported electric cattle prods (ECCN 0A985) from the United States to Honduras without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 19     15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation - Exports of Electric Cattle Prods Without the Required Licenses When North Central Plastics Knew or Had Reason to Know that Licenses Were Required**

In connection with the export referenced in Charge 18 above, North Central Plastics knew or had reason to know that the electric cattle prods required a license for export to Honduras. BXA alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, had occurred, was about to occur, or was intended to occur, North Central Plastics violated Section 764.2(e) of the Regulations.

**Charge 20 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about August 4, 1999, North Central Plastics exported electric cattle prods (ECCN 0A985) from the United States to Mexico without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 21 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation - Exports of Electric Cattle Prods Without the Required Licenses When North Central Plastics Knew or Had Reason to Know that Licenses Were Required**

In connection with the export referenced in Charge 20 above, North Central Plastics knew or had reason to know that the electric cattle prods required a license for export to Mexico. BXA alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, had occurred, was about to occur, or was intended to occur, North Central Plastics violated Section 764.2(e) of the Regulations.

**Charge 22 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about November 11, 1999, North Central Plastics exported electric cattle prods (ECCN 0A985) from the United States to Honduras without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 23 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation - Exports of Electric Cattle Prods Without the Required Licenses When North Central Plastics Knew or Had Reason to Know that Licenses Were Required**

In connection with the export referenced in Charge 22 above, North Central Plastics knew or had reason to know that the electric cattle prods required a license for export to Honduras. BXA alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, had occurred, was about to occur, or was intended to occur, North Central Plastics violated Section 764.2(e) of the Regulations.

**Charge 24 15 C.F.R § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about January 19, 2000, North Central Plastics exported electric cattle prods (ECCN 0A985) from the United States to Ireland without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 25 15 C.F.R § 764.2(e) - Acting with Knowledge of a Violation - Exports of Electric Cattle Prods Without the Required Licenses When North Central Plastics Knew or Had Reason to Know that Licenses Were Required**

In connection with the export referenced in Charge 24 above, North Central Plastics knew or had reason to know that the electric cattle prods required a license for export to Ireland. BXA alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, had occurred, was about to occur, or was intended to occur, North Central Plastics violated Section 764.2(e) of the Regulations.

**Charge 26 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about April 26, 2000, North Central Plastics exported electric cattle prods (ECCN 0A985) from the United States to Columbia without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 27 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation - Exports of Electric Cattle Prods Without the Required Licenses When North Central Plastics Knew or Had Reason to Know that Licenses Were Required**

In connection with the export referenced in Charge 26 above, North Central Plastics knew or had reason to know that the electric cattle prods required a license for export to Columbia. BXA alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, had occurred, was about to occur, or was intended to occur, North Central Plastics violated Section 764.2(e) of the Regulations.

**Charge 28 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about May 11, 2000, North Central Plastics exported electric cattle prods (ECCN 0A985) from the United States to Mexico without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 29 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation - Exports of Electric Cattle Prods Without the Required Licenses When North Central Plastics Knew or Had Reason to Know that Licenses Were Required**

In connection with the export referenced in Charge 28 above, North Central Plastics knew or had reason to know that the electric cattle prods required a license for export to Mexico. BXA alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, had occurred, was about to occur, or was intended to occur, North Central Plastics violated Section 764.2(e) of the Regulations.

**Charge 30 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses**

On or about July 28, 2000, North Central Plastics exported electric cattle prods (ECCN 0A985) from the United States to Honduras without obtaining a license from the Department of Commerce as required by Section 742.7 of the Regulations. In doing so, North Central Plastics committed one violation of Section 764.2(a) of the Regulations.

**Charge 31 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation - Exports of Electric Cattle Prods Without the Required Licenses When North Central Plastics Knew or Had Reason to Know that Licenses Were Required**

In connection with the export referenced in Charge 30 above, North Central Plastics knew or had reason to know that the electric cattle prods required a license for export to Honduras. BXA alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, had occurred, was about to occur, or was intended to occur, North Central Plastics violated Section 764.2(e) of the Regulations.

Each transaction is described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference.

BXA alleges that North Central Plastics committed four violations of Section 787A.6 of the former Regulations, 15 violations of Section 764.2(a) of the Regulations, and 12 violations of Section 764.2(e) of the Regulations, for a total of 31 violations,

Accordingly, Waters Instruments, Inc. (Waters) 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 \$1 1,000 per violation;<sup>5</sup>

Denial of export privileges; and/or

Exclusion from practice before BXA.

If Waters 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 Waters defaults, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to Waters. The Under Secretary of Commerce for Export Administration may then impose up to the maximum penalty on each of the charges in this letter.

Waters is further notified that it is entitled to an agency hearing on the record if Waters files a written demand for one with its answer. (Regulations, Section 766.6). Waters 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).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should you have a proposal to settle this case, you or your representative should transmit it to me through the attorney representing BXA named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Waters' 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 2 1202-4022

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<sup>5</sup> Pursuant to the Federal Civil Penalties Adjustment Act of 1990 (28 U.S.C. §2461, note (1994 & supp. v 1999)), and 15 C.F.R. §6.4(a)(2) (2001), the maximum penalty for each violation committed after October 23, 1996 and before November 1, 2000 is \$11,000.

Waters Instruments, Inc.  
Proposed Charging Letter  
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In addition, a copy of Waters' answer must be served on BXA at the following address:

Chief Counsel for Export Administration  
Attention: Christine Lee  
Room H-3839  
United States Department of Commerce  
14th Street and Constitution Avenue, N.W  
Washington, D.C. 20230

Christine Lee is the attorney representing BXA in this case; any communications that you may wish to have concerning this matter should occur through her. Ms. Lee may be contacted by telephone at (202) 482-5304.

Sincerely,

Mark D. Menefee  
Director  
Office of Export Enforcement

Enclosure

# SCHEDULE A

**SCHEDULE OF VIOLATIONS  
EXPORTS BY NORTH CENTRAL PLASTICS**

Charge No.	Export Date (on or about)	Commodity	Air Waybill No. or Bill of Lading No.	Invoice No.	Destination
	8/01/96	electric cattle prods	40825676	191571-1	Taiwan
2	8/31/96	electric cattle prods	JERBUE 6330002	191654-1	Argentina
3	12/12/96	electric cattle prods	PEG55 099SPS 004	194592-1	Honduras
4	12/20/96	electric cattle prod	4841 6239 835	195187-1	Switzerland
5	1/23/97	electric cattle prods	LLB1050	195226-1	Ireland
6	9/12/97	electric cattle prods	SEI 60775 / 297-69140385	201895-1	Taiwan
7	12/06/97	electric cattle prods	PEG44 749SPS 011	203524-1	Honduras
8, 9	2/26/98	electric cattle prods	OWT 133 573346 7	205184-1	Ireland
10, 11	6/12/98	electric cattle prod	MSP 100996 / 307 0935 1941	207222-1	Ecuador
12, 13	8/14/98	electric cattle prods	SPS980708	209288-1	Honduras
14, 15	3/02/99	electric cattle prods	SPS990254	213684-1	Honduras

Charge No.	Export Date (on or about)	Commodity	Air Waybill No. or Bill of Lading No.	Invoice No.	Destination
16, 17	6/17/99	electric cattle prod	408603, 4068385, 4259607, 4007364, 4203266	216341-1	Mexico
18, 19	6/25/99	electric cattle prods	SPS990760	216442-1	Honduras
20, 21	8/04/99	electric cattle prods	OWT 133 580661 7	218128-1	Mexico
22, 23	11/11/99	electric cattle prods	UBCU1010574A	219960-1	Honduras
24, 25	1/19/00	electric cattle prods	CRSE 034-0394600	221366-1	Ireland
26, 27	4/26/00	electric cattle prods	MIA00E040834	223668-1	Columbia
28, 29	5/11/00	electric cattle prods	OWT 133 597212 0	224362-1	Mexico
30, 31	7/28/00	electric cattle prods	SPS000823	226449-1	Honduras

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF EXPORT ADMINISTRATION  
WASHINGTON, D.C. 20230

\_\_\_\_\_  
In the Matter of: )  
 )  
Waters Instruments, Inc. )  
13705 26<sup>th</sup> Avenue North )  
Suite 102 )  
Minneapolis, Minnesota 55441 )  
 )  
\_\_\_\_\_  
Respondent )

SETTLEMENT AGREEMENT BETWEEN WATERS INSTRUMENTS, INC. AND THE  
BUREAU OF EXPORT ADMINISTRATION

This Settlement Agreement (Agreement) is made by and between Waters Instruments, Inc. (Waters) and the Bureau of Export Administration, United States Department of Commerce (BXA), pursuant to Section 766.1 S(a) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (2001)) (the Regulations),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1994 & Supp. V 1999)) (Act),<sup>2</sup> and which are currently

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2001). The violations charged occurred from 1996 through 2000. The Regulations governing the violations at issue are found in the 1996 through 2000 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1996), as amended (61 Fed Reg. 12714, March 25, 1996) (the former Regulations), and 15 C.F.R. Parts 730-774 (1997-2000)). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 *Federal Register* publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the various violations that BXA alleges occurred in 1996, and the Regulations define the various violations that BXA alleges occurred on or after January 1, 1997 and establish the procedures that apply to this matter.

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (1994 & Supp. V 1999)) (IEEPA). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 Fed.

maintained in force under the International Emergency Economic Powers Act (50 U. S.C. §§ 1701 - 1706 (1994 & Supp. V 1999)).

WHEREAS, BXA has notified Waters of its intention to initiate an administrative proceeding against Waters pursuant to the Act and the Regulations;

WHEREAS, BXA has issued a proposed charging letter to Waters that alleged that North Central Plastics, Inc.<sup>3</sup> committed four violations of the former Regulations and 27 violations of the Regulations. Specifically, the charges are:

1. *Four Violations of 15 C.F.R. § 787A. 6 of the former Regulations: Export, diversion, reexport, transshipment - Exports of Electric Cattle Prods Without the Required Licenses:* On four separate occasions, from on or about August 1, 1996 through on or about December 20, 1996, North Central Plastics exported or caused to be exported electric cattle prods, an item subject to the former Regulations, from the United States to Argentina, Honduras, Switzerland, and Taiwan without obtaining Department of Commerce licenses as required by Sections 772A. 1 (b) and 776A. 14 of the former Regulations.

2. *15 Violations of 15 C.F.R. § 764.2(a) of the Regulations: Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses:* On 15 separate occasions, from on or about January 23, 1997 through on or about July 28, 2000, North Central

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Reg. 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA.

<sup>3</sup> On August 6, 2001, North Central Plastics, Inc. was merged into Waters Instruments, Inc. As the surviving entity, Waters Instruments, Inc. has assumed liability for all obligations of North Central Plastics outstanding at the time of the merger. However, the actual exports were made by North Central Plastics, prior to its merger with Waters Instruments, Inc.

Plastics exported or caused to be exported electric cattle prods, an item subject to the Regulations, from the United States to Columbia, Ecuador, Ireland, Honduras, Mexico, and Taiwan without licenses from the Department of Commerce as required by Section 742.7 of the Regulations.

3. *12 Violations of 1.5 C.F.R. § 764.2(e) of the Regulations: Acting with Knowledge of a Violation - Exports of Electric Cattle Prods When North Central Plastics Knew or Had Reason to Know that License Were Required* On 12 separate occasions, from on or about February 26, 1998 through on or about July 28, 2000, North Central Plastics knew or had reason to know that the electric cattle prods required a license for export from the United States to Columbia, Ecuador, Ireland, Honduras, and Mexico.

WHEREAS, Waters 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, Waters fully understands the terms of this Agreement and the Order that will be issued to give effect to this Settlement Agreement (Order);

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

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

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

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

WHEREAS, Waters agrees to be bound by the Order, when entered;

NOW THEREFORE, Waters and BXA agree as follows:

1. BXA has jurisdiction over Waters, under the former Regulations and Regulations, in connection with the matters alleged in the proposed charging letter.

2. BXA and Waters agree that the following sanction shall be imposed against Waters in complete settlement of the charges set forth in the proposed charging letter:

- a. Waters shall be assessed a civil penalty in the amount of \$186,000, \$160,000 of which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment of the remaining \$26,000 shall be suspended for two years from the date of entry of this Order and shall thereafter be waived, provided that, during the period of suspension, Waters has committed no violation of the Act, or any regulation, license or order issued thereunder or under IEEPA; and provided further that Waters has made timely payment of the \$160,000.
- b. The timely payment of the civil penalty agreed to in paragraph 2a. 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 Waters. Failure to make

timely payment of the civil penalty set forth above shall result in the denial of all of Waters' export privileges for a period of one year from the date of entry of the Order imposing the civil penalty.

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

4. BXA agrees that, upon entry of the Order, it will not initiate any administrative proceeding against Waters in connection with any violation of the Act, former Regulations, or the Regulations arising out of the transactions identified in the proposed charging letter.

5. Waters understands that BXA will make the proposed charging letter, this Agreement, and the Order, when entered, available to the public.

6. BXA and Waters agree that 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 766.1 S(a) of the Regulations, BXA and Waters agree that they may not use this Agreement in any administrative or judicial proceeding and that the parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

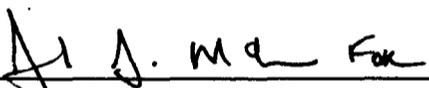
7. No agreement, understanding, representation, or interpretation not contained in this Agreement may be used to vary or otherwise **affect** the terms of this Agreement or the Order, when entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or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

8. This Agreement shall become binding on BXA only when 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 EXPORT ADMINISTRATION  
U.S. DEPARTMENT OF COMMERCE

WATERS INSTRUMENTS, INC.

  
\_\_\_\_\_  
Mark D. Menefee  
Director  
Office of Export Enforcement

  
\_\_\_\_\_  
Jerry Grabowski  
President

Date: 3/11/02

Date: 3/8/02

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF EXPORT ADMINISTRATION  
WASHINGTON, D.C. 20230

\_\_\_\_\_  
In the Matter of )  
 )  
Waters Instruments, Inc. )  
13 705 26<sup>th</sup> Avenue North )  
Suite 102 )  
Minneapolis, Minnesota 5544 1 )  
 )  
\_\_\_\_\_  
Respondent

ORDER RELATING TO RESPONDENT, WATERS INSTRUMENTS INC.

The Bureau of Export Administration, United States Department of Commerce (BXA), having notified Waters Instruments, Inc. (Waters), of its intention to initiate an administrative proceeding against it pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1994 & Supp. V 1999)) (Act),<sup>1</sup> and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2001)) (Regulations),<sup>2</sup>

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<sup>1</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations then in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1706 (1994 & Supp. V 1999)) (IEEPA). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 *Fed Reg.* 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA.

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2001). The violations charged occurred from 1996 through 2000. The Regulations governing the violations at issue are found in the 1996 through 2000 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed Reg.* 12714, March 25, 1996) (the former Regulations), and 15 C.F.R. Parts 730-774 (1997-2000)). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 *Federal Register* publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the

based on allegations in a proposed charging letter issued to Waters that alleged that North Central Plastics, Inc.<sup>3</sup> committed four violations of the former Regulations and 27 violations of the Regulations. Specifically, the charges are:

1. *Four Violations of 15 C.F.R. § 787A. 6 of the former Regulations: Export, diversion, reexport, transshipment - Exports of Electric Cattle Prods Without the Required Licenses:* On four separate occasions, from on or about August 1, 1996 through on or about December 20, 1996, North Central Plastics exported or caused to be exported electric cattle prods, an item subject to the former Regulations, from the United States to Argentina, Honduras, Switzerland, and Taiwan without obtaining Department of Commerce licenses as required by Sections 772A. 1 (b) and 776A. 14 of the former Regulations.

2. *15 Violations of 15 C.F.R. § 764.2(a) of the Regulations: Engaging in Prohibited Conduct - Exports of Electric Cattle Prods Without the Required Licenses:* On 15 separate occasions, from on or about January 23, 1997 through on or about July 28, 2000, North Central Plastics exported or caused to be exported electric cattle prods, an item subject to the Regulations, from the United States to Columbia, Ecuador, Ireland, Honduras, Mexico, and Taiwan without licenses from the Department of Commerce as required by Section 742.7 of the

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violations that BXA alleges occurred in 1996, and the Regulations define the various violations that BXA alleges occurred on or after January 1, 1997 and establish the procedures that apply to this matter.

<sup>3</sup> On August 6, 2001, North Central Plastics, Inc. was merged into Waters Instruments, Inc. As the surviving entity, Waters Instruments, Inc. has assumed liability for all obligations of North Central Plastics outstanding at the time of the merger. However, the actual exports were made by North Central Plastics, prior to its merger with Waters Instruments, Inc.

Regulations.

3. *12 Violations of 1.5 C.F.R. § 764.2(e) of the Regulations: Acting with Knowledge of a Violation - Exports of Electric Cattle Prods When North Central Plastics Knew or Had Reason to Know that License Were Required:* On 12 separate occasions, from on or about February 26, 1998 through on or about July 28, 2000, North Central Plastics knew or had reason to know that the electric cattle prods required a license for export from the United States to Columbia, Ecuador, Ireland, Honduras, and Mexico.

BXA and Waters having entered into a Settlement Agreement pursuant to Section 766.1 S(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$186,000 is assessed against Waters, \$160,000 of 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. Payment of the remaining \$26,000 shall be suspended for two years from the date of entry of this Order and shall thereafter be waived, provided that, during the period of suspension, Waters has committed no violation of the Act, or any regulation, license or order issued thereunder or under IEEPA; and provided further that Waters has made timely payment of the \$160,000.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (1994 & Supp. V 1999)), 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, Waters 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 Waters Instruments.

Accordingly, if Waters should fail to pay the civil penalty in a timely manner, the undersigned will enter an Order denying all of Waters' 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.

  
\_\_\_\_\_  
Michael J. Garcia  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this MAR day of CH 2002.