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U.S. EPA REGION IX  
REGIONAL HEARING CLERK

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

In the matter of )  
)  
**BIO-RAD LABORATORIES, INC.** )  
)  
EPA ID No. CAD 981 453 871 )  
)  
Respondent. )  
\_\_\_\_\_ )

U.S. EPA Docket No.  
RCRA-9-2007-0002

CONSENT AGREEMENT AND  
FINAL ORDER PURSUANT TO  
40 C.F.R. SECTIONS 22.13 AND  
22.18.

CONSENT AGREEMENT

**A. PRELIMINARY STATEMENT**

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), *as amended*, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation, Termination or Suspension of Permits, 40 C.F.R., Part 22, as revised by 64 Fed. Reg. 141 (July 23, 1999). Complainant is the United States Environmental Protection Agency, Region 9 ("EPA").
2. Bio-Rad Laboratories, Inc. ("Respondent") operates a facility located at 3110 Regatta Boulevard, Richmond, California (the "Facility"). The Facility is used to manufacture life science research products, such as ion exchange beads, buffers, reagents, and dyes, and qualifies as a large quantity generator of RCRA hazardous waste. The Facility's EPA ID number is CAD981453871.
3. EPA and Respondent, agree to settle this matter and Respondent agrees to consent to the entry of this Consent Agreement and Final Order ("CA/FO"). This CA/FO, which contains the elements of a complaint required by 40 C.F.R. §§ 22.14(a)(1)-(3) and (8), simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13 and 22.18.
4. The parties agree that settlement of the relevant matters without litigation will save time and resources, that it is in the public interest, that it is consistent with the provisions and

objectives of RCRA and applicable regulations, and that entry of this CA/FO is the most appropriate means of resolving such matters.

5. This action is based on EPA allegations that Respondent failed to: (1) label containers and tanks in violation of 22 C.C.R. § 66262.34 [*see also* 40 C.F.R. § 262.34]; (2) conduct a hazardous waste determination in violation of 22 C.C.R. § 66262.11 [*see also* 40 C.F.R. § 262.11]; (3) comply with air emissions standards for tanks, surface impoundments, and containers in violation of 22 §§ 66265.1085, 66265.1087, and 66265.1090 [*see also* 40 C.F.R. §§ 265.1085, 265.1087, and 265.1090]; (4) comply with air emissions standards for equipment leaks in violation of 22 C.C.R. §§ 66265.1050 through 66265.1064 [*see also* 40 C.F.R. §§ 265.1050 through 265.1064]; (5) comply with contingency plan requirements in violation of 22 C.C.R. § 66265.52 [*see also* 40 C.F.R. § 265.52]; and, (6) comply with training and personnel requirements in violation of 22 C.C.R. § 66265.16 [*see also* 40 C.F.R. § 265.16].

**B. JURISDICTION**

4. On August 1, 1992, the State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to § 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271. The authorized program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. §§ 66001 *et seq.*
5. Respondent is a "person" as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
6. Respondent is an "operator" of a "facility" as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
7. Respondent's hazardous waste manifests indicate that it is a large quantity generator of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10] and 51 FR 10153 (March 24, 1986).
8. Respondent is or has been engaged in "storage" of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
9. Respondent generates and accumulates, or has generated and accumulated, materials that are "wastes" as defined in 22 C.C.R. §§ 66260.10 and 66261.2 [*see also* 40 C.F.R. §§ 260.10 and 261.2].

10. Respondent generates and accumulates, or has generated and accumulated, at its facility, "hazardous waste" as defined in California Health & Safety Code § 25117, and 22 C.C.R. §§ 66260.10 and 66261.3 [see also RCRA § 1004(5), and 40 C.F.R. §§ 260.10 and 261.3].
11. On April 20 and 21, 2005, EPA conducted a RCRA Compliance Evaluation Inspection ("CEI") at Respondent's facility. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA determined that Respondent had violated California Health & Safety Code § 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States Government.
12. Section 3006 of RCRA, 42 U.S.C. § 6926 provides, *inter alia*, that authorized state hazardous waste programs are to be carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is also a violation of Subtitle C of RCRA.
13. A violation of California's authorized hazardous waste program, as set forth in the California Health & Safety Code § 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California's authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
14. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders requiring immediate compliance or compliance within a specified period of time regarding violations of any requirement of Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*
15. The Administrator has delegated his authority under Section 3008 of RCRA to the EPA Regional Administrator for Region IX, who has redelegated this authority to the Director of the Waste Management Division.

C. **ALLEGED VIOLATIONS**

**COUNT I**

**Failure to Label Containers and Tanks**

16. Paragraphs 1 through 15 above are incorporated herein by this reference as if they were set forth here in their entirety.
17. 22 C.C.R. § 66262.34(f) [see also 40 C.F.R. § 262.34] provides that each container and tank used for onsite accumulation of hazardous waste shall be labeled or marked clearly

with the words "Hazardous Waste" and also include the following information: applicable accumulation date, composition and physical state of the wastes, statement(s) which call attention to the particular hazardous properties of the waste, and the name and address of the person producing the waste.

18. During their inspection on April 20-21, 2005, EPA inspectors observed the following:
  - a. one unlabeled drum containing RCRA hazardous waste;
  - b. one unlabeled 220 gallon tote containing RCRA hazardous waste;
  - c. 39 small unlabeled containers containing RCRA hazardous waste; and,
  - d. two unlabeled tanks containing RCRA hazardous waste as well as one tank containing RCRA hazardous waste with a label which included the wrong accumulation start date.
19. Therefore, EPA alleges that Respondent violated 22 C.C.R. § 66262.34(f) [*see also* 40 C.F.R. § 262.34].

#### **COUNT II**

##### **Failure to Conduct a Hazardous Waste Determination**

20. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.
21. 22 C.C.R. § 66262.11 [*see also* C.F.R. § 262.11] requires that a generator of solid waste, as defined in 22 C.C.R. § 66261.2 [*see also* 40 C.F.R. § 261.2], determine if that waste is a "hazardous waste."
22. As indicated in paragraph 18 above, during their inspection of Respondent's facility on April 20-21, 2005, EPA inspectors observed 39 small unlabelled containers. An employee of Respondent informed EPA inspectors at the time of the inspection that these containers had been in the 90 day storage area since April 15, 2005, and that they contained off-specification or expired chemicals for which a hazardous waste determination had yet to be made, as required by 22 C.C.R. § 66262.11 [*see also* C.F.R. § 262.11].
23. Therefore, EPA alleges that Respondent violated 22 C.C.R. § 66262.11 [*see also* 40 C.F.R. § 262.11].

#### **COUNT III**

##### **Failure to Comply with Air Emissions Standards for Tanks and Containers**

24. Paragraphs 1 through 23 above are incorporated herein by this reference as if they were set forth here in their entirety.

25. 22 C.C.R. § 66262.34 requires large quantity generators to meet the requirements of Article 28.5 of Chapter 15 of the environmental health standards for the management of hazardous waste (Division 4.5 of Title 22) [see also 40 C.F.R. § 262.34 and Part 265 Subpart CC] This article includes 22 C.C.R. §§ 66265.1085, 66265.1087, and 66265.1090, which require generators to control air pollutant emissions from tanks and containers. [see also 40 C.F.R. Subpart CC § 265.1085, 40 C.F.R. § 265.1087, and 40 C.F.R. § 265.1090].
26. Pursuant to Article 28.5, there are two levels of air emission controls for tanks (Tank Level 1 and Tank Level 2) based on the size of the tank, maximum organic vapor pressure of the waste, and whether the tank is used in a waste stabilization process. Tank Level 1 controls are applicable to Respondent's tanks.
27. 22 C.C.R. § 66265.1085 requires that owners or operators controlling air emissions from tanks using Tank Level 1 controls shall:
  - a. determine the maximum organic vapor pressure for hazardous wastes to be managed in the tank before the first time the hazardous waste is placed in the tank, as specified in 22 C.C.R. § 66265.1085(c)(1) [see also 40 C.F.R. § 265.1085(c)(1)]; and
  - b. inspect the air emissions control equipment in accordance with applicable standards, as specified in 22 C.C.R. § 66265.1085(c)(4)(A) through (C), including conducting an initial and annual inspections [see also 40 C.F.R. § 265.1085(c)(4)(i) through (iii)].
28. During their inspection in April 2005, EPA inspectors determined that Respondent had failed to determine the maximum organic vapor pressure for the hazardous wastes tanks and to conduct initial and annual inspections of hazardous waste tanks.
29. The Tank Level 1 control requirements at 22 C.C.R. § 66265.1085(c)(2) dictate that when air emissions are controlled using a closed-vent system that is vented to a control device, the control device shall remove or destroy organics in the vent stream and shall be operating whenever hazardous waste is managed in the tank.
30. During their inspection in April 2005, EPA inspectors found that a tank identified as HW-3 had a control device. This control device was a carbon adsorption system. The carbon adsorption drum had not been changed since December 16, 2004 and Respondent could not provide information showing that the carbon adsorption system was, in fact, removing organics or operating properly when hazardous waste was managed in the tank.
31. Pursuant to Article 28.5, there are three levels of air emission controls for containers (Container Level 1, Level 2, and Level 3) based on container size, organic contents, and whether the container is used in a waste stabilization process. Container Level 2 controls are applicable to Respondent's containers.

32. Pursuant to 22 C.C.R. § 66265.1087(d)(1) and 22 C.C.R. § 66265.1087(f) [*see also* 40 C.F.R. § 265.1087(d)(1)(i) and 40 C.F.R. § 265.1087(f)], containers for which Container Level 2 standards apply must meet the applicable U.S. Department of Transportation (“DOT”) regulations on packaging hazardous waste materials for transportation [*see also* 40 C.F.R. § 265.1087(d)(1)(i)]. Such requirements dictate, in part, that before reuse each packaged hazardous waste material must be inspected and may not be reused unless free from incompatible residue, rupture, or other damage which reduces structural integrity. *See* 49 C.F.R. § 173.28. Such requirements also dictate that each intermediate bulk container (“IBC”) be inspected and tested prior to use. *See* 49 C.F.R. § 180.352.
33. 22 C.C.R. § 66265.1087(d)(2) requires that transfer of hazardous waste in or out of a container using Container Level 2 controls shall be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical. [*See also* 40 C.F.R. 265.1087(d)(2)].
34. During their inspection in April 2005, EPA inspectors determined that Respondent had improperly reused damaged containers, failed to conduct the necessary periodic inspections and testing of IBCs, and failed to comply with the Container Level 2 transfer requirements.
35. Pursuant to 22 C.C.R. § 66265.1090 [*see also* 40 C.F.R. § 265.1090], each owner or operator of a facility subject to the requirements in Article 28.5 [*see also* 40 C.F.R. Part 265 Subpart CC] must adhere to certain recordkeeping requirements, including maintaining records for each determination for the maximum organic vapor pressure of the hazardous waste in the tank.
36. During their inspection in April 2005, EPA inspectors determined that Respondent had failed to maintain the necessary inspection and maximum vapor pressure records.
37. Therefore, EPA alleges that Respondent failed to comply with Article 28 of Chapter 15 of the environmental health standards for the management of hazardous waste (Division 4.5 of Title 22) [*see also* 40 C.F.R. § 262.34 and Part 265 Subpart CC].

#### **COUNT IV**

##### **Failure to Comply with Air Emissions Standards for Equipment Leaks**

38. Paragraphs 1 through 37 above are incorporated herein by this reference as if they were set forth here in their entirety.
39. 22 C.C.R. § 66262.34 requires large quantity generators to meet the requirements of Article 28 of Chapter 15 of the environmental health standards for the management of hazardous waste (Division 4.5 of Title 22) [*see also* 40 C.F.R. § 262.34 and Part 265 Subpart BB]. That article includes 22 C.C.R. §§ 66265.1050 through 66265.1064, which

set forth Air Emission Standards for Equipment Leaks [see also 40 C.F.R. §§ 265.1050 through 265.1064].

40. Article 28 requires that:
- a. each piece of equipment to which this article applies shall be marked in such a manner that it can be distinguished readily from other pieces of equipment, as specified in 22 C.C.R. § 66265.1050(c) [see also 40 C.F.R. § 265.1050(c)];
  - b. each pump in light liquid service shall be: (1) monitored monthly to detect leaks by the methods specified in § 66265.1063(b), except as provided in subsections (d), (e), and (f) of § 66265.1052, and (2) checked by visual inspection each calendar week for indications of liquids dripping from the pump seal, as specified in 22 C.C.R. § 66265.1052(a)(1) and (2) [see also 40 C.F.R. § 265.1052(a)(1) and (2)];
  - c. each valve in gas/vapor or light liquid service shall be monitored monthly and managed in accordance with the provisions set forth in 22 C.C.R. § 66265.1057(a) [see also 40 C.F.R. § 265.1057(a)]; and,
  - d. each owner or operator keep records in accordance with the provisions set forth in 22 C.C.R. § 66265.1064 [see also 40 C.F.R. § 265.1064].
41. During their inspection in April 2005, EPA inspectors determined that:
- a. applicable equipment (i.e., valves, pumps, flanges, pressure relief devices, and other connectors) was not marked to readily distinguish it from other equipment;
  - b. facility equipment was not being monitored or inspected in accordance with equipment leak requirements; and,
  - c. records were not being kept in accordance with the relevant recordkeeping requirements.
42. Therefore, EPA alleges that Respondent failed to comply with Article 28 of Chapter 15 of the environmental health standards for the management of hazardous waste (Division 4.5 of Title 22) [see also 40 C.F.R. § 262.34 and Part 265 Subpart BB].

#### COUNT V

##### **Failure to Comply with Contingency Plan Requirements**

43. Paragraphs 1 through 42 above are incorporated herein by this reference as if they were set forth here in their entirety.
44. 22 C.C.R. § 66262.34 requires large quantity generators to meet the requirements of Article 4 of Chapter 15 of the environmental health standards for the management of hazardous waste (Division 4.5 of Title 22) [see also 40 C.F.R. §§ 262.34 and 265.50 through 40 C.F.R. § 265.56].
45. Article 4 includes 22 C.C.R. §§ 66265.50 through 66265.56 [see also 40 C.F.R. § 265.50 through 40 C.F.R. § 265.56], which set forth contingency plan and emergency

procedures. In particular, 22 C.C.R. § 66265.52(e) [*see also* 40 C.F.R. § 265.52(e)] provides, in part, that each contingency plan must include a list of all emergency equipment at a facility. Further, the location of all such equipment must be identified in the contingency plan.

46. During their inspection in April 2005, EPA inspectors determined that the contingency plan at Respondent's facility did not identify the location of the facility's emergency equipment.
47. Therefore, EPA alleges that Respondent violated 22 C.C.R. § 66265.52 [*see also* 40 C.F.R. § 265.52].

#### **COUNT VI**

##### **Failure to Meet Requirements for Hazardous Waste Training**

48. Paragraphs 1 through 47 above are incorporated herein by this reference as if they were set forth here in their entirety.
49. 22 C.C.R. § 66262.34 requires large quantity generators to meet the requirements of 22 C.C.R. § 66265.16 [*see also* 40 C.F.R. § 262.34 and 265.16].
50. 22 C.C.R. § 66265.16 [*see also* 40 C.F.R. § 265.16] sets forth personnel training requirements. In particular, 22 C.C.R. § 66265.16(c) [*see also* 40 C.F.R. § 265.16(c)] provides that facility personnel must take part in an annual review of the initial training required in paragraph (a) of 22 C.C.R. § 66265.16 [*see also* 40 C.F.R. § 265.16].
51. During their inspection in April 2005, EPA inspectors determined that Respondent had failed to provide one of its hazardous waste handlers with the required annual training.
52. Therefore, EPA alleges that Respondent violated 22 C.C.R. § 66265.16(c) [*see also* 40 C.F.R. § 265.16(c)].

#### **D. CIVIL PENALTY**

53. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as adjusted by the Debt Collection Improvement Act of 1996, *see* 61 Fed. Reg. 69360 (Dec. 31, 1996), and the Civil Monetary Penalty Inflation Adjustment Rule, *see* 69 Fed. Reg. 7121 (Feb. 13, 2004), authorizes a civil penalty of up to TWENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$27,500) per day for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*, occurring between January 31, 1997 and March 15, 2004. The Civil Monetary Penalty Inflation Adjustment Rule issued in February 2004 authorizes a civil penalty of up to THIRTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$32,500) for violations that occur after March 15, 2004. 69 Fed. Reg. 7121 (Feb. 13, 2004). Based

upon the facts alleged herein and upon those factors which EPA must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. §6928(a)(3), and the RCRA Civil Penalty Policy, including the seriousness of the violations, any good faith efforts by Respondent to comply with applicable requirements and to cooperate with EPA, and any economic benefit accruing to Respondent, as well as such other matters as justice may require, EPA proposes that Respondent be assessed TWENTY-NINE THOUSAND AND NINE HUNDRED DOLLARS (\$29,900.00) as the civil penalty for the violations alleged herein. The proposed penalties were calculated in accordance with the "June 2003 RCRA Civil Penalty Policy."

**E. ADMISSIONS AND WAIVERS OF RIGHTS**

54. For the purposes of this proceeding, Respondent admits to the jurisdictional allegations set forth in Section B of this CA/FO. Respondent consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.
55. Respondent neither admits nor denies any allegations of fact or law set forth in Section C of this CA/FO. Respondent hereby waives any rights Respondent may have to contest the allegations set forth in this CA/FO, waives any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CA/FO, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and hereby consents to the issuance of this CA/FO without adjudication. In addition, Respondent hereby waives any rights Respondent may have to appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

**F. PARTIES BOUND**

56. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until such time as the civil penalty required under Sections D and G has been paid in accordance with Section G and any delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.
57. No change in ownership or corporate, partnership, or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
58. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

**G. PAYMENT OF CIVIL PENALTY**

59. Respondent consents to the assessment of and agrees to pay a civil penalty of TWENTY-NINE THOUSAND AND NINE HUNDRED DOLLARS (\$29,900.00) in full settlement of the federal civil penalty claims set forth in this CA/FO.
60. Respondent shall submit payment of the TWENTY-NINE THOUSAND AND NINE HUNDRED DOLLARS (\$29,900.00) within thirty (30) calendar days of the Effective Date of this CA/FO. The Effective Date of this CA/FO is the date the Regional Hearing Clerk files the Final Order signed by the Regional Judicial Officer. All payments shall indicate the name of the Facility, the EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action. Payment shall be made by certified or cashier's check payable to "Treasurer of the United States" and sent to:

Mellon Bank  
U.S. Environmental Protection Agency - Region 9  
P.O. Box 371099M  
Pittsburgh, PA 15251.

At the time payment is made, a copy of the check shall be sent to:

Danielle Carr  
Regional Hearing Clerk (RC-1)  
U.S. Environmental Protection Agency - Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

and

Dan Fernandez (WST-3)  
Waste Management Division  
U.S. Environmental Protection Agency - Region 9  
75 Hawthorne Street  
San Francisco, CA 94105.

61. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), each payment must be received by the due date set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. A late penalty charge of \$15.00 will be imposed after thirty (30) calendar days with an additional \$15.00 charge for each subsequent 30-day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondent further will

be liable for stipulated penalties as set forth below for any payment not received by its due date.

**H. DELAY IN PERFORMANCE/STIPULATED PENALTIES**

62. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below:

For failure to submit a payment to EPA by the time required in this CA/FO: ONE THOUSAND DOLLARS (\$1,000.00) per day for first to fifteenth day of delay, ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) per day for sixteenth to thirtieth day of delay, and TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) per day for each day of delay thereafter.

63. All penalties shall begin to accrue on the date that performance is due or a violation occurs, and shall continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations. EPA will notify Respondent when penalties are due.
64. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. § 13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.
65. All penalties shall be made payable by certified or cashier's check to "Treasurer of the United States" and shall be remitted as described in Paragraph 60.
66. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
67. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this CA/FO.

**I. RESERVATION OF RIGHTS**

68. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c). This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or

criminal, which EPA has under RCRA, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, *as amended*, 42 U.S.C. § 9601 *et seq.*, ("CERCLA"), or any other statutory, regulatory or common law enforcement authority of the United States Government.

69. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, State, or federal laws and regulations.
70. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondent's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CA/FO.
71. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, state or federal permits.

**J. OTHER CLAIMS**

72. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Respondent's facility.

**K. MISCELLANEOUS**

73. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
74. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
75. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed by the Regional Hearing Clerk.

IT IS SO AGREED.

10/19/06

Date

12/6/06

Date

Sanford Wadler

Sanford Wadler  
Vice President and General Counsel  
Bio-Rad Laboratories, Inc.

Jeff Scott

Jeff Scott, Director  
Waste Management Division  
U.S. Environmental Protection Agency, Region 9

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order Pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA-9-2007-8002) be entered and that Bio-Rad Laboratories, Inc. pay a civil penalty of TWENTY-NINE THOUSAND AND NINE-HUNDRED DOLLARS (\$29,900.00) due within thirty (30) days from the Effective Date of this Consent Agreement and Final Order. Payment must be paid by certified or cashier's check made out to the Treasurer of the United States, and sent to Mellon Bank, P.O. Box 371099M, Pittsburgh, PA, 15251.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

12/08/06

Date

Steven J. Jawgiel

Steven Jawgiel  
Regional Judicial Officer  
United States Environmental Protection Agency,  
Region 9

## CERTIFICATE OF SERVICE

I hereby certify that on the date below, the original copy of the foregoing Complaint, Consent Agreement and Final Order, was filed with the Regional Hearing Clerk, Region IX, and that copies were sent by certified mail, return receipt requested, to:

Joseph J. Griebstein  
Environmental, Health, Safety and Security Manager  
Bio-Rad Laboratories Inc.  
Life Sciences Group  
3110 Regatta Boulevard  
Richmond, CA 94804

and

Adam Pressman  
Associate General Counsel  
Bio-Rad Laboratories, Inc.  
1000 Alfred Nobel Drive  
Hercules, CA 94547

12-11-06  
Date

Danielle E Carr  
Danielle Carr  
Regional Hearing Clerk  
Office of Regional Counsel, Region IX