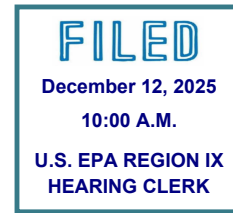


UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX



In the matter of:	)	U.S. EPA Docket No.
	)	
	)	RCRA-09-2026-0031
Biosearch Technologies, Inc.	)	
CAR000236588	)	CONSENT AGREEMENT AND
	)	FINAL ORDER PURSUANT TO
Respondent.	)	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, as codified at 40 Code of Federal Regulations ("C.F.R.") Part 22 ("Consolidated Rules").
2. The Administrator of the United States Environmental Protection Agency ("EPA") has delegated enforcement authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the Regional Administrator of the EPA Region 9, who in turn has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, hereinafter, "Complainant."
3. Respondent is Biosearch Technologies, Inc. ("Respondent").
4. This Consent Agreement and Final Order ("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 penalty proceeding, as authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
5. Complainant and Respondent agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their respective interests and in the public interest.

## **B. PARTIES BOUND**

6. This CA/FO shall apply to and be binding on Respondent, Respondent's officers, directors, partners, agents, employees, contractors, successors and assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CA/FO. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent's obligations under this CA/FO.

## **C. STATUTORY AND REGULATORY FRAMEWORK**

7. Subtitle C of RCRA requires the EPA Administrator to promulgate regulations establishing a hazardous waste management program. Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste management programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of a law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
8. The State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271, on or about August 1, 1992. This authorization was updated on September 26, 2001 (*see* 66 FR 49118, September 26, 2001), on October 7, 2011 (*see* 76 FR 62303, October 7, 2011), and again on January 14, 2020 (*see* 85 FR 2038, as corrected [*see* 86 FR 29207, June 1, 2021]). The authorized hazardous waste program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code ("CA H&S"), and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. § 66001 *et seq.* The State is authorized for all the hazardous waste management regulations referenced in this CA/FO.<sup>1</sup>
9. A violation of the State of California's authorized hazardous waste program, found at CA H&S § 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.
10. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders assessing a civil penalty and/or requiring compliance immediately or within a

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<sup>1</sup> EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States. All citations to the "C.C.R." refer to Division 4.5 of Title 22 of the California Code of Regulations as they existed at the time of their most recent federal authorization. As a convenience, corresponding Federal citations are provided in brackets.

specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921 *et seq.*

#### **D. GENERAL ALLEGATIONS**

11. Respondent is a manufacturer of custom oligonucleotides and a synthesizer of associated reagents for the medical diagnostics, research, and applied markets, and owns and operates a manufacturing facility, located at 2199 S. McDowell Blvd. in Petaluma, California, with an EPA ID Number of CAR000236588 (the “Facility”).
12. On September 30, 2022, EPA conducted a compliance evaluation inspection (“CEI”) at the Facility pursuant to Subtitle C of RCRA.
13. Based upon the findings EPA made during the CEI, and additional information obtained subsequent to the CEI, EPA alleges that Respondent violated certain provisions of CA H&S § 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.
14. Respondent is a “person” as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
15. Respondent is the “owner” and/or “operator” of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
16. Respondent is a “generator” of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
17. Respondent is or has been engaged in “treatment,” “storage,” and/or “disposal” of “hazardous waste” as defined in 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* 40 C.F.R. §§ 260.10 and 261.3].
18. At the Facility, Respondent generates and accumulates, or has generated and accumulated, “hazardous waste” as defined in CA H&S § 25117, and 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* Section § 1004(5) of RCRA, 42 U.S.C. § 6903(5), and 40 C.F.R. §§ 260.10 and 261.3]. These hazardous wastes include but are not limited to the following hazardous waste codes: D001, D002, D038, F002, F003, and F005.
19. At the Facility, Respondent handles, or has handled, “universal waste” as defined in CA H&S § 25123.8, and 22 C.C.R. §§ 66260.10 and 66273.9 [*see also* 40 C.F.R. §§ 260.10 and 273.9]. These universal wastes include but are not limited to lamps and batteries.
20. During the CEI, EPA determined that Respondent was managing hazardous waste with the waste codes D001, D038, F002, F003 and F005 in four 350-gallon metal totes

(“Solvent Totes”). Respondent was also managing hazardous waste in various 55-gallon containers, including hazardous waste with the waste codes D001, D002, D038, F002, F003, and F005, as applicable.

21. 22 C.C.R. § 66270.1(c) requires that each person owning or operating a facility where hazardous waste is transferred, treated, stored, or disposed must have a permit [*see also* 40 C.F.R. § 270.1(c)].
22. 22 C.C.R. § 66262.34(a)<sup>2</sup> [*see also* 40 C.F.R. § 262.17(a)] provides that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or grant of interim status provided the generator meets certain conditions applicable to the accumulation of that waste. Failure to meet the conditions of the exemption subjects the generator to the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].<sup>3</sup>
23. At the time of the CEI, Respondent did not apply for or have a permit or grant of interim status to store hazardous waste under 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].
24. 22 C.C.R. § 66262.34(a)(1)(A)<sup>4</sup> [*see also* 40 C.F.R. §§ 262.17(a)(1)(i) and 262.17(a)(2)] exempts generators of hazardous waste from the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1] and allows generators to accumulate hazardous waste on-site for up to 90 days provided that they meet certain conditions, including that the waste is accumulated in containers or tanks and the generator complies with the air emissions standards for equipment leaks found Article 28 [*see also* 40 C.F.R. §§ 265.1050-1064], if applicable.
25. 22 C.C.R. § 66265.1050(b) [40 C.F.R. § 265.1050(b)] provides that Title 22, Division 4.5, Chapter 15, Article 28 (Air Emission Standards for Equipment Leaks) (“Article 28”) of the California Code of Regulations, 22 C.C.R. §§ 66265.1050-1064 [*see also* 40 C.F.R. §§ 265.1050-1064] applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in a unit that is subject to the permitting requirements or a unit that is exempt from permitting (i.e., a “90-day” tank or container) and is not a recycling unit.

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<sup>2</sup> 22 C.C.R. § 66262.34(a) has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.17. *See* footnote 1.

<sup>3</sup> The current version of 40 C.F.R. § 262.10(g) clarifies that noncompliance by any generator with an applicable condition for exemption from storage permit and operations requirements means that the facility is a storage facility operating without an exemption from the permit, interim status, and operations requirements in 40 C.F.R. Parts 124, 264 through 267, and 270 of Chapter I and that without an exemption, any violations of such storage requirements are subject to penalty and injunctive relief under Section 3008 of RCRA, 42 U.S.C. § 6928.

<sup>4</sup> This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. §§ 66262.17(a)(1)(A) and 66262.17(2)(A). *See* footnote 1.

26. EPA determined, at the time of the CEI, the Facility was operating equipment, such as pumps and valves, in direct contact with hazardous waste with organic concentrations of at least 10 percent by weight that were managed in the Solvent Totes, and such equipment was subject to Article 28 [*see also* 40 C.F.R. §§ 265.1050-1064].

## **E. ALLEGED VIOLATIONS**

### **Count I**

#### **Failure to perform an accurate waste determination**

27. Paragraphs 1 through 26 above are incorporated herein by reference.
28. 22 C.C.R. § 66262.11 [*see also* 40 C.F.R. § 262.11]<sup>5</sup> requires a person who generates a waste, as defined by 22 C.C.R. § 66261.2, to determine if that waste is a hazardous waste. Pursuant to 22 C.C.R. §§ 66262.11(a)-(b) [*see also* 40 C.F.R. § 262.11], to make such a determination, the generator shall first determine if the waste is excluded from regulation under 22 C.C.R. § 66261.4 or CA H&S § 25143.2, and shall then determine if the waste is listed as a hazardous waste in Title 22, Division 4.5, Chapter 11, Article 4 of the California Code of Regulations, 22 C.C.R. §§ 66261.30-66261.35 [40 C.F.R. §§ 261.30-35].
29. During the CEI, EPA observed carbon canisters (“Carbon Filters”) directly attached to the Solvent Totes. EPA determined that the Solvent Totes vent volatile organic compounds through the Carbon Filters.
30. EPA determined that the Carbon Filters met the criteria for the waste codes for spent halogenated solvents F002 and spent non-halogenated solvents F005 because the Carbon Filters are mixed with the F002 and F005 waste in the Solvent Totes.
31. The corresponding waste profile indicates that Respondent characterized the Carbon Filters as non-RCRA hazardous waste with California waste code CA-352.
32. Therefore, by failing to determine if the waste is listed as a hazardous waste in Title 22, Division 4.5, Chapter 11, Article 4 of the California Code of Regulations, 22 C.C.R. §§ 66261.30-35 [*see also* 40 C.F.R. §§ 261.30-35], Respondent failed to make an accurate hazardous waste determination, a violation of 22 C.C.R. § 66262.11 [*see also* 40 C.F.R. § 262.11].

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<sup>5</sup> The current version of 40 C.F.R. § 262.11 clarifies EPA’s longstanding policy that generators must make an accurate waste determination.

## **Count II**

### **Operating without a permit due to failure to comply with accumulation time limits**

33. Paragraphs 1 through 26 above are incorporated herein by reference.
34. 22 C.C.R. § 66262.34(a)<sup>6</sup> [*see also* 40 C.F.R. § 262.17(a)] exempts large quantity generators of hazardous waste from the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1] and allows them to accumulate hazardous waste on-site for up to 90 days provided that they meet certain conditions, including that the generator does not accumulate hazardous waste on-site for more than 90 days and the date the applicable accumulation period begins is clearly marked and visible for inspection on each container.
35. During the CEI, EPA observed that Respondent had accumulated at least one small container of liquid hydrofluoric acid (D002) over the 90-day accumulation limit. EPA also observed at least two other small containers of liquid hydrofluoric acid (D002) and at least one 55-gallon container of liquid acetic acid (D002) that were missing dates of the applicable accumulation periods for the containers.
36. EPA alleges that by failing to satisfy the requirements of 22 C.C.R. § 66262.34(a) [*see also* 40 C.F.R. § 262.17(a)], Respondent failed to meet the conditional requirements for the large quantity generator permit exemption and, therefore operated without a permit in violation of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].

## **Count III**

### **Failure to close a container of hazardous waste**

37. Paragraphs 1 through 26 above are incorporated herein by reference.
38. 22 C.C.R. § 66262.34(a)(1)(A)<sup>7</sup> [*see also* 40 C.F.R. §§ 262.17(a)(1)(iv)(a)] exempts generators of hazardous waste from the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1] and allows generators to accumulate hazardous waste on-site for up to 90 days provided that they meet certain conditions, including that the waste is accumulated in containers or tanks and the generator complies with the requirements of Title 22, Division 4.5, Chapter 15, Article 9 (Use and Management of

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<sup>6</sup> This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.17(a). *See* footnote 1.

<sup>7</sup> This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.17(a)(1)(D)(1). *See* footnote 1.

Containers) (“Article 9”) of the California Code of Regulations, 22 C.C.R. §§ 66265.170-178 [see also 40 C.F.R. §§ 265.170-178].

39. 22 C.C.R. § 66265.173(a) [see also 40 C.F.R. § 265.173(a)] states that a container holding hazardous waste shall always be closed during transfer and storage, except when it is necessary to add or remove waste.
40. During the CEI, EPA observed one 55-gallon container of ignitable and listed hazardous waste (D001, D038, F002, F003 and F005) and one 55-gallon container of ignitable and listed hazardous waste (D001, D0038, F003, and F005), that were open at a time waste was neither being added nor removed from the containers.
41. Therefore, by failing to close its containers of hazardous waste, in violation of 22 C.C.R. § 66265.173(a) [see also 40 C.F.R. § 265.173(a)], Respondent failed to implement Article 9 [see also 40 C.F.R. §§ 265.170-178].
42. EPA alleges that by failing to satisfy the container management requirements of Article 9 [see also 40 C.F.R. §§ 265.170-178], Respondent failed to meet the conditional requirement for the large quantity generator permit exemption and, therefore operated without a permit in violation of 22 C.C.R. § 66270.1 [see also 40 C.F.R. § 270.1].

#### **Count IV**

##### **Failure to perform air monitoring**

43. Paragraphs 1 through 26 above are incorporated herein by reference.
44. 22 C.C.R. §§ 66265.1052(a)(1) and 66265.1057(a) [see also 40 C.F.R. §§ 265.1052(a)(1) and 265.1057(a)] require that each pump in light liquid service and each valve in gas/vapor or light liquid service subject to Article 28 are monitored monthly to detect leaks in accordance with the monitoring method in 22 C.C.R. § 66265.1063(b) [see also 40 C.F.R. § 265.1063(b)].
45. Based on information gathered during the CEI, EPA determined that Respondent failed to perform monthly monitoring for its equipment subject to Article 28 on at least five occasions between April 2022 and the date of the CEI.
46. Therefore, by failing to conduct monthly monitoring of its equipment subject to Article 28, in violation of 22 C.C.R. §§ 66265.1052(a)(1) and 66265.1057(a) [see also 40 C.F.R. §§ 265.1052(a)(1) and 265.1057(a)], Respondent failed to implement Article 28 [see also 40 C.F.R. §§ 265.1050-1064].

47. EPA alleges that by failing to satisfy the monitoring and recordkeeping requirements of Article 28 [*see also* 40 C.F.R. §§ 265.1050-1064], Respondent failed to meet the conditional requirement for the large quantity generator permit exemption and, therefore operated without a permit in violation of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].

### **Count V**

#### **Failure to keep air monitoring records**

48. Paragraphs 1 through 26 above are incorporated herein by reference.
49. 22 C.C.R. § 66265.1064 [*see also* 40 C.F.R. § 265.1064] states that each owner or operator subject to Article 28 shall comply with the recordkeeping requirements for leak detection monitoring by, without limitation, maintaining records of leak detection monitoring under 22 C.C.R §§ 66265.1052(a)(1) and 66265.1057(a), 22 C.C.R. § 66265.1064(d) [*see also* 40 C.F.R. § 265.1064(d)].
50. Based on information gathered during the CEI, EPA determined that Respondent failed to maintain records of leak detection air monitoring on at least thirty-two occasions between September 2019 and the date of the CEI.
51. Therefore, by failing to meet the recordkeeping requirements for leak detection monitoring, in violation of 22 C.C.R. § 66265.1064 [*see also* 40 C.F.R. § 265.1064], Respondent failed to implement Article 28 [*see also* 40 C.F.R. §§ 265.1050-1064].
52. EPA alleges that by failing to satisfy the monitoring and recordkeeping requirements of Article 28 [*see also* 40 C.F.R. §§ 265.1050-1064], Respondent failed to meet the conditional requirement for the large quantity generator permit exemption and, therefore operated without a permit in violation of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].

### **Count VI**

#### **Failure to manage universal waste lamps to prevent releases**

53. Paragraphs 1 through 26 above are incorporated herein by reference.
54. 22 C.C.R. § 66273.33(b) [*see also* 40 C.F.R. §§ 273.13(d) and 273.33(d)] specifies that a universal waste handler shall manage universal waste lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, including that a universal waste handler shall immediately clean up and place in a container any lamp that is broken and shall place in a container any lamp that shows



evidence of leakage or damage that could cause the release of mercury or other hazardous constituents to the environment.

55. During the CEI, EPA observed broken shards of glass originating from broken universal waste lamps in an outdoor area of the Facility.
56. EPA alleges that by failing to immediately clean up and place broken universal waste lamps in a container, Respondent failed to manage universal waste lamps in compliance with the requirements of 22 C.C.R. § 66273.33(b) [*see also* 40 C.F.R. §§ 273.13(d) and 273.33(d)].

### **Count VII**

#### **Failure to label universal waste batteries**

57. Paragraphs 1 through 26 above are incorporated herein by reference.
58. 22 C.C.R. § 66273.34(a) [*see also* 40 C.F.R. §§ 273.14(a) and 273.34(a)] specifies that a universal waste handler shall label or mark universal waste to identify the type of universal waste, such as batteries (i.e., each battery), or a container in which the batteries are contained, shall be labelled or marked clearly with the following phrase: “Universal Waste—Battery(ies)”.
59. During the CEI, EPA observed one (1) unmarked and unlabelled 1-gallon container of universal waste batteries and one (1) 1-gallon container of universal waste batteries which was inadequately labelled with the word: “Batteries”.
60. EPA alleges that Respondent failed to accumulate universal waste batteries in properly marked containers, in violation of 22 C.C.R. § 66273.34(a) [*see also* 40 C.F.R. §§ 273.14(a) and 273.34(a)].

#### **F. CIVIL PENALTY**

61. Respondent agrees to pay a civil penalty in the amount of FIFTY-THREE THOUSAND FIVE HUNDRED SEVENTY-TWO DOLLARS (\$53,572) (“Assessed Penalty”) within thirty (30) calendar days of the Effective Date of this CA/FO. The Effective Date of this CA/FO as defined in Section M, below, is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.
62. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:  
<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

63. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, RCRA-09-2026-0031.
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons via electronic mail:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 9  
[R9HearingClerk@epa.gov](mailto:R9HearingClerk@epa.gov)

Christopher Rollins  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency - Region 9  
[Rollins.Christopher@epa.gov](mailto:Rollins.Christopher@epa.gov)

and

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
[CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov)

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

64. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

- a. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS standard underpayment

rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.

- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Effective Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Effective Date.

65. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

66. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

67. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

#### **G. ADMISSIONS AND WAIVERS OF RIGHTS**

68. For this administrative proceeding only, Respondent, in accordance with 40 C.F.R. § 22.18(b):

- a. admits the jurisdictional allegations of this CA/FO;
- b. neither admits nor denies the specific factual allegations contained in this CA/FO;
- c. consents to the assessment of any stated civil penalty, to the issuance of any specified compliance or corrective action order, and to any conditions specified in this CA/FO; and
- d. waives any right to contest the allegations and its right to appeal the proposed final order accompanying this CA/FO.

69. By executing this CA/FO, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the CA/FO.

#### **H. COMPLIANCE TASKS AND CERTIFICATION OF COMPLIANCE**

70. In executing this CA/FO, Respondent certifies under penalty of law to EPA that other than the work to be performed pursuant to this Section, it has taken all steps necessary to return to full compliance with RCRA, 42 U.S.C. § 6901 et seq., and its implementing regulations.

71. If any submission under this Section contains information that Respondent believes constitutes Confidential Business Information ("CBI") under 40 C.F.R. § 2.203(b), Respondent shall segregate all records or parts thereof submitted under this CA/FO which they claim is CBI and label them as "claimed as confidential business information" or "claimed as CBI." Records that a submitter properly labels in accordance with the preceding sentence will be afforded the protections specified in 40 C.F.R. part 2, subpart B. If the records are not properly labeled when they are submitted to EPA, or if EPA notifies the submitter that the records are not entitled to confidential treatment under the standards of 40 C.F.R. part 2, subpart B, the public may be given access to such records without further notice to the submitter.

72. If Respondent is unable to complete any of the compliance tasks in this Section, Respondent shall submit a written request for a modification, including the basis for the request, to EPA. Respondent shall submit this request within seven (7) days of identifying a need for a modification. Based on this request, EPA shall in its discretion grant or deny, in full or in part, the request for modification.

73. For a period of one year following the Effective Date:

- a. Starting October 1, 2025, within thirty days of the end of each quarter, Respondent shall submit equipment leak detection monitoring results for the prior period to EPA, including monthly, quarterly and annual (if applicable for the quarter) results for each piece of equipment that is subject to Article 28 [*see also* 40 C.F.R. §§ 265.1050-1064]. For example, Respondent would transmit the quarterly monitoring results for the time period of October through December 2025 to EPA no later than January 30, 2026.
- b. If Respondent is demonstrating compliance with Article 28 [*see also* 40 C.F.R. §§ 265.1050-1064] recordkeeping requirements by documentation of compliance with 40 C.F.R. Part 60, Part 61, and Part 63, Respondent shall submit to EPA:
  - i. A written cross-walk identifying the specific provisions of 40 C.F.R. Parts 60, 61, or 63 that Respondent relied upon to satisfy the Article 28 requirements, together with a concise explanation of how those provisions have been applied, including any reliance on extended monitoring periods or alternative recordkeeping schedules. Where any expected monthly monitoring data are not included, Respondent shall state the regulatory basis for such omission (e.g., “extended monitoring period under 40 C.F.R. §§ 60, 61 and 63”); and
  - ii. A certification that Respondent is in compliance with the applicable provisions of 40 C.F.R. Parts 60, 61, and 63.

74. Within fifteen (15) days of completion of the Compliance Task described in Paragraph 73 above, Respondents shall submit the following certification:

“By signing this Certification, Biosearch Technologies, Inc., without admitting or denying any allegation of fact or law, certifies that Biosearch Technologies, Inc. is in full compliance with all the statutory and regulatory requirements that formed the basis for the violations alleged in this CA/FO. This certification of compliance is based upon true, accurate, and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.”

## **I. DELAY IN PERFORMANCE/STIPULATED PENALTIES**

75. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as follows: FIVE HUNDRED DOLLARS (\$500) per day for the first to fifteenth day of delay, ONE THOUSAND DOLLARS (\$1,000) per day for the sixteenth to thirtieth day of delay, and FIVE THOUSAND DOLLARS (\$5,000) per day for each day of delay thereafter. For the purposes of this Section, Respondent's obligation to meet any and all requirements set for this in this CA/FO shall include completion of any and all activities required under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.
76. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations.
77. Stipulated penalties shall begin to accrue on the day after performance is due and shall continue to accrue through the final day until performance is complete. All stipulated penalties owed to EPA shall be due within thirty (30) days of receipt by Respondent of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due.
78. In addition to any stipulated penalties assessed, interest and penalties shall accrue in accordance with 40 C.F.R. § 13.11.
79. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section F of this CA/FO.
80. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal taxation purposes.
81. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.
82. Failure to meet any requirement set forth in this CA/FO by caused by a Force Majeure event shall not constitute non-compliance. "Force Majeure," for purposes of this CA/FO, means any event arising from causes beyond the control of Respondent, of any entity controlled by Respondent, or of Respondent's contractors that delays or prevents the performance of any obligation under this CA/FO despite Respondent's best efforts to fulfill the obligation. "Force Majeure" does not include financial inability to complete any obligation under this CA/FO, or increased cost of performance.

83. If any event occurs for which Respondent will or may claim a Force Majeure, Respondent shall notify EPA by email seven (7) days after the date Respondent first knew or should have known that the event would likely delay performance. Respondent shall be deemed to know of any circumstance of which any contractor of, subcontractor of, or entity controlled by Respondent knew or should have known. Within seven (7) days thereafter, Respondent shall send a further notice to EPA that includes: (a) a description of the event and its effect on Respondent's completion of the requirements of the CA/FO; (b) a description of all actions taken or to be taken to prevent or minimize the adverse effects or delay; (c) the proposed extension of time for Respondent to complete the requirements of the CA/FO; and (d) all available proof supporting their claim of Force Majeure. EPA will notify Respondent of its determination whether Respondent is entitled to relief under Paragraph 82, and, if so, the duration of the extension of time for performance of the obligations affected by the Force Majeure. Failure to comply with the notice requirements herein regarding an event precludes Respondent from asserting any claim of Force Majeure regarding that event.

#### **J. RESERVATION OF RIGHTS**

84. In accordance with 40 C.F.R. § 22.18(c), full compliance with this CA/FO shall only resolve Respondent's liability for federal civil penalties for the violations specifically alleged herein and does not in any case affect the right of the EPA to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
85. This CA/FO is not a permit or modification of any existing permit issued pursuant to any federal, state, or local laws or regulations. This CA/FO shall in no way relieve or affect Respondent's obligations under any applicable federal, state or local laws, regulations, or permits.

#### **K. OTHER CLAIMS**

86. 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 Facility.

#### **L. MISCELLANEOUS**

87. This CA/FO can be signed in counterparts.
88. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

89. Each party to this action shall bear its own costs and attorneys' fees.
90. EPA and Respondent consent to entry of this CA/FO without further notice.
91. This CA/FO constitutes the entire agreement between the parties regarding the subject matter herein and supersedes all prior discussions, negotiations, or understandings, whether written or oral. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information. All notices and submissions under this CA/FO, shall be in writing and shall be sent by electronic mail to the following addresses, or to such other addresses as either party may designate in writing, unless otherwise specified in this CA/FO:

For EPA:

Enforcement Officer  
Christopher Rollins  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency – Region 9  
Email: [Rollins.Christopher@epa.gov](mailto:Rollins.Christopher@epa.gov)  
With cc to: Laura Friedli  
Attorney Advisor  
U.S. Environmental Protection Agency – Region 9  
Email: [Friedli.laura@epa.gov](mailto:Friedli.laura@epa.gov)

For Respondent:

Rob McLeod  
Director, Global EH&S  
LGC Diagnostics and Genomics  
Email: [Rob.Mcleod@lgcgroup.com](mailto:Rob.Mcleod@lgcgroup.com)

With cc to: Courtney Scrubbs  
General Counsel  
LGC Diagnostics & Genomics  
Email: [Courtney.Scrubbs@lgcgroup.com](mailto:Courtney.Scrubbs@lgcgroup.com)

92. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of the obligations in Section H (Compliance Tasks and Certification of Compliance) is restitution, remediation, or required to come into compliance with the law.



93. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondent shall complete the following actions as applicable:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to Jessica Chalifoux in EPA’s Cincinnati Finance Department at [chalifoux.jessica@epa.gov](mailto:chalifoux.jessica@epa.gov), on or before the date the Respondent’s penalty payment is due, pursuant to Paragraph 61, or within 7 days should the order become effective between December 15 and December 31 of the calendar year. EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Division with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of a TIN issued by the IRS.

#### **M. EFFECTIVE DATE**


94. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the effective date of this CA/FO (Effective Date) shall be the date that the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

In the Matter of Biosearch Technologies, Inc.  
Docket No. RCRA-09-2026-0031  
Consent Agreement and Final Order

FOR RESPONDENT BIOSEARCH TECHNOLOGIES, INC.:

11/20/2025  
Date

  
\_\_\_\_\_  
Steve Cooper  
Vice President, Head of Operations

In the Matter of Biosearch Technologies, Inc.  
Docket No. RCRA-09-2026-0031  
Consent Agreement and Final Order

FOR COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 9:

**AMY MILLER-BOWEN**

Digitally signed by AMY MILLER-  
BOWEN

Date: 2025.12.05 10:59:17 -08'00'

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Amy C. Miller-Bowen, Director  
Enforcement and Compliance Assurance 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-09-2026-0031) be entered and that Respondent pay a civil penalty of FIFTY-THREE THOUSAND FIVE HUNDRED SEVENTY-TWO DOLLARS (\$53,572), due within thirty (30) days from the Effective Date of this Consent Agreement and Final Order, and comply with all terms and conditions set forth in this Consent Agreement and Final Order.

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

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Beatrice Wong  
Regional Judicial Officer  
United States Environmental Protection Agency,  
Region 9

**CERTIFICATE OF SERVICE**

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of Biosearch Technologies, Inc. (Docket No. RCRA-09-2026-0031) was filed by the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was served on the parties, via electronic mail, as indicated below:

**RESPONDENT(S):**

Kirk Dossat  
Biosearch Technologies, Inc.  
2199 S. McDowell Blvd  
Petaluma, CA 94954  
Kirk.dossat@lgcgroup.com

Courtney B. Scrubbs, Esq.  
Biosearch Technologies, Inc.  
2199 S. McDowell Blvd  
Petaluma, CA 94954  
Courtney.Scrubbs@lgcgroup.com

**COMPLAINANT:**

Laura Friedli  
Assistant Regional Counsel  
U.S. EPA – Region IX  
Hazardous Waste Section I (ORC-3-1)  
75 Hawthorne Street  
San Francisco, CA 94105  
Friedli.Laura@epa.gov

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Ponly Tu  
Regional Hearing Clerk  
U.S. EPA – Region IX