

FOIA

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

.....
In the Matter of:)
)
EMD Biosciences, Inc.)
10394 Pacific Center Court)
San Diego, CA 92121)
)
..... Respondent)

ORDER RELATING TO EMD BIOSCIENCES, INC.

The Bureau of Industry and Security, United States Department of Commerce ("BIS") having notified EMD Biosciences, Inc. ("EMDBI")¹ of its intention to initiate an administrative proceeding against EMDBI pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) ("Regulations"),² and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) ("Act"),³ by issuing a proposed charging letter to EMDBI that alleged that EMDBI committed 134 violations of the Regulations. Specifically, the charges are:

¹ CN Biosciences, Inc. changed its name to EMD Biosciences, Inc. on January 1, 2003.

² The charged violations occurred from 2002 through 2003. The Regulations governing the violations at issue are found in the 2002 - 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2003)). The 2004 Regulations establish the procedures that apply to this matter.

³ 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 (2000)) ("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 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004, (69 *Fed. Reg.* 48763 (August 10, 2004)), has continued the Regulations in effect under IEEPA.

1. *67 Violations of 15 C.F.R. § 764.2(a) - Exports of Various Toxins without the Required Licenses:* On 67 occasions, from on or about June 6, 2002 through on or about July 23, 2003, EMDBI engaged in conduct prohibited by the Regulations by exporting various toxins, items subject to the Regulations and classified under export control classification number ("ECCN") 1C351, from the United States to Canada without the Department of Commerce licenses required by Section 742.2 of the Regulations.
2. *67 Violations of 15 C.F.R. 764.2(e) - Exporting Toxins with Knowledge that a Violation of the Regulations Would Occur:* On 67 occasions, from on or about June 6, 2002 through on or about July 23, 2003, EMDBI sold the various toxins described in Charges 1-67 with knowledge that a violation of the Regulations would occur. EMDBI sold the toxins, items subject to the Regulation and classified under ECCN 1C351, knowing or with reason to know that the toxins would be exported from the United States without the required Department of Commerce licenses.

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

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

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$904,500 is assessed against EMDBI, of which \$226,125 shall be paid to the U.S. Department of Commerce within seven days from the date of entry of this Order; \$226,125 shall be paid to the U.S. Department of Commerce not later than June 30, 2005; \$226,125 shall be paid to the U.S. Department of Commerce not later than September 30,

2005; and \$226,125 shall be paid to the U.S. Department of Commerce not later than December 31, 2005. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, EMDBI 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 EMDBI. Accordingly, if EMDBI should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of EMDBI's export privileges for a period of one year from the date of entry of this Order.

FOURTH, for a period two years from the date of entry of the Order, EMD Biosciences, Inc., 10394 Pacific Center Court, San Diego, CA 92121, its successors or assigns, and when acting for or on behalf of EMDBI, its officers, representatives, agents, or employees ("Denied Person") may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or

otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

FIFTH, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the

use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

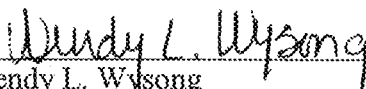
SIXTH, that, to prevent evasion of this Order, BIS, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, may make any person, firm, corporation, or business organization related to EMDBI by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services subject to the provisions of this Order.

SEVENTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

EIGHTH, that, as authorized by Section 766.18 (c) of the Regulations, the denial period set forth above shall be suspended in its entirety for one year from the date of this Order, and shall thereafter be waived, provided that during the period of suspension, EMDBI has committed no violation of the Act or any regulation, order or license issued thereunder.

NINTH, 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.


Wendy L. Wysong
Acting Assistant Secretary of Commerce
for Export Enforcement

Entered this 9th day of May 2005.

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

.....
In the Matter of:)
)
EMD Biosciences, Inc.)
10394 Pacific Center Court)
San Diego, CA 92121)
)
..... Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between EMD Biosciences, Inc. ("EMDBI")¹, and the Bureau of Industry and Security, United States Department of Commerce ("BIS") (collectively referred to as "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) ("Regulations"),² issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) ("Act"),³

¹ CN Biosciences, Inc. changed its name to EMD Biosciences, Inc. on January 1, 2003.

² The charged violations occurred from 2002 through 2003. The Regulations governing the violations at issue are found in the 2002 - 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2003)). The 2004 Regulations establish the procedures that apply to this matter.

³ 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 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 (2000)) ("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 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004, (69 *Fed. Reg.* 48763 (August 10, 2004)), has continued the Regulations in effect under IEEPA.

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

WHEREAS, BIS has issued a proposed charging letter to EMDBI that alleged that EMDBI committed 134 violations of the Regulations, specifically:

1. *67 Violations of 15 C.F.R. § 764.2(a) - Exports of Various Toxins without the Required Licenses:* On 67 occasions, from on or about June 6, 2002 through on or about July 23, 2003, EMDBI engaged in conduct prohibited by the Regulations by exporting various toxins, items subject to the Regulations and classified under export control classification number ("ECCN") 1C351, from the United States to Canada without the Department of Commerce licenses required by Section 742.2 of the Regulations.
2. *67 Violations of 15 C.F.R. 764.2(e) - Exporting Toxins with Knowledge that a Violation of the Regulations Would Occur:* On 67 occasions, from on or about June 6, 2002 through on or about July 23, 2003, EMDBI sold the various toxins described in Charges 1-67 with knowledge that a violation of the Regulations would occur. EMDBI sold the toxins, items subject to the Regulation and classified under ECCN 1C351, knowing or with reason to know that the toxins would be exported from the United States without the required Department of Commerce licenses.

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

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over EMDBI, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanctions shall be imposed against EMDBI in complete settlement of the violations of the Regulations set forth in the proposed charging letter:
 - a. EMDBI shall be assessed a civil penalty in the amount of \$904,500, of which \$226,125 shall be paid to the U.S. Department of Commerce within seven days from the date of entry of the Order; \$226,125 shall be paid to the U.S. Department of Commerce not later than June 30, 2005; \$226,125 shall be paid to the U.S.

Department of Commerce not later than September 30, 2005; and \$226,125 shall be paid to the U.S. Department of Commerce not later than December 31, 2005.

- b. The timely payment of the civil penalty agreed to in paragraph 2.a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to EMDBI. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of EMDBI's export privileges for a period of one year from the date of imposition of the penalty.
- c. For a period two years from the date of entry of the Order, EMDBI, its successors or assigns, and, when acting for or on behalf of EMDBI, its officers, representatives, agents, or employees ("Denied Person") may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:
 - i. Applying for, obtaining, or using any license, License Exception, or export control document;
 - ii. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

- iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.
- d. BIS agrees that, as authorized by Section 766.18 (c) of the Regulations, the two year denial period set forth in paragraph 2.c. shall be suspended in its entirety for a period of one year from the entry of the appropriate Order, and shall thereafter be waived, provided that during the period of suspension, EMDBI has committed no violation of the Act or any regulation, order or license issued thereunder, and, provided further that EMDBI has made timely payment of the \$904,500 civil penalty assessed pursuant to this Agreement and the Order.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, EMDBI hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the proposed charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$904,500 civil penalty, BIS will not initiate any further administrative proceeding against EMDBI in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

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

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

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

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

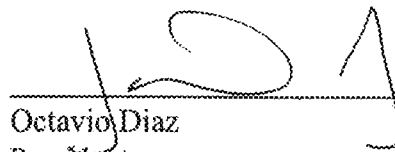
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE

EMD BIOSCIENCES, INC.



Michael D. Turner
Director
Office of Export Enforcement



Octavio Diaz
President

Date: 5/4/2005

Date: 4-20-05

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

EMD Biosciences, Inc.
10394 Pacific Center Court
San Diego, CA 92121

Attn: Octavio Diaz
President

Dear Mr. Diaz :

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), has reason to believe that EMD Biosciences, Inc. of San Diego, California ("EMDBI")¹ has committed 134 violations of the Export Administration Regulations (the "Regulations"),² which are issued under the authority of the Export Administration Act of 1979 (the "Act").³ Specifically, BIS charges that EMDBI committed the following violations:

Charges 1-67 (15 C.F.R. § 764.2(a) - Exports of Various Toxins without the Required Licenses)

As described in greater detail in the Schedule of Violations, which is enclosed herewith and incorporated herein by reference as Exhibit A, on 67 occasions, from on or about June 6, 2002

¹ CN Biosciences, Inc. changed its name to EMD Biosciences, Inc. on January 1, 2003.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2004). The charged violations occurred from 2002 through 2003. The Regulations governing the violations at issue are found in the 2002 - 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2003)). The 2005 Regulations establish the procedures that apply to this matter.

³ 50 U.S.C. app. §§ 2401- 2420 (2000). 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 August 3, 2000 (3 C.F.R., 2000 Comp., p. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 6, 2004 (69 Fed. Reg. 48763 (August 10, 2004)), continues the Regulations in effect under IEEPA.

through on or about July 23, 2003, EMDBI engaged in conduct prohibited by the Regulations by exporting various toxins, items subject to the Regulations and classified under export control classification number ("ECCN") 1C351, from the United States to Canada without the Department of Commerce licenses required by Section 742.2 of the Regulations. In so doing, EMDBI committed 67 violations of Section 764.2(a) of the Regulations.

Charges 68-134 (15 C.F.R. 764.2(e) - Exporting Toxins with Knowledge that a Violation of the Regulations Would Occur)

As described in greater detail in the Schedule of Violations, which is enclosed herewith and incorporated herein by reference as Exhibit A, on 67 occasions, from on or about June 6, 2002 through on or about July 23, 2003, EMDBI sold the various toxins described in Charges 1-67 with knowledge that a violation of the Regulations would occur. EMDBI sold the toxins, items subject to the Regulation and classified under ECCN 1C351, knowing or with reason to know that the toxins would be exported from the United States without the required Department of Commerce licenses. In so doing, EMDBI committed 67 violations of Section 764.2 (e) of the Regulations.

Accordingly, EMDBI is hereby notified that an administrative proceeding is instituted against it pursuant to 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 \$11,000 per violation;⁴

Denial of export privileges; and/or

Exclusion from practice before BIS.

If EMDBI fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7. If EMDBI defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to EMDBI. *See id.* The Under Secretary for Industry and Security may then impose up to the maximum penalty on the charges in this letter. *See id.*

EMDBI is further notified that it is entitled to an agency hearing on the record if EMDBI files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. EMDBI is also entitled to be

⁴ *See* 15 C.F.R. § 6.4(a)(2).

represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

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

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

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

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

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

Melissa B. Mannino is the attorney representing BIS in this case. Any communications that EMDBI may wish to have concerning this matter should occur through her. She may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner
Director
Office of Export Enforcement

**SCHEDULE OF VIOLATIONS
EMD BIOSCIENCES, INC. EXPORTS TO CANADA**

<u>SHIP#</u>	<u>COUNTS</u>	<u>EXPORT DATE</u>	<u>COMMODITY</u>	<u>VALUE</u>	<u>ECCN</u>	<u>INVOICE</u>	<u>AWB</u>
1	1, 68	6/6/2002	(1) Microcystin-YR	\$181.00	1C351	3353019	Yes
2	2, 69	6/19/2002	(2) Microcystin-LR	\$352.00	1C351	3358196	Yes
3	3, 70	6/26/2002	(1) Microcystin-LR	\$176.00	1C351	3360852	Yes
4	4, 71	7/1/2002	(1) Microcystin-LR	\$176.00	1C351	3359873-1	Yes
5	5, 72	7/1/2002	(1) Microcystin-LR	\$176.00	1C351	3362062	Yes
6	6, 73	7/9/2002	(1) Tetrodotoxin	\$135.00	1C351	3365387	Yes
7	7, 74	7/16/2002	(1) Microcystin-LR	\$176.00	1C351	3366744	No
8	8, 75	7/31/2002	(2) Microcystin-LR	\$352.00	1C351	3373946	No
9	9, 76	8/20/2002	(10) Microcystin-LR	\$176.00	1C351	3382029	No
10	10, 77	8/22/2002	(1) Microcystin-LR	\$176.00	1C351	3383002	No
11	11, 78	8/26/2002	(2) Microcystin-LR	\$352.00	1C351	3383951	No
12	12, 79	9/10/2002	(3) Botulinum Toxin A	\$516.00	1C351	3388310	Yes
13	13, 80	9/12/2002	(1) Microcystin-LR	\$176.00	1C351	3390588	No
14	14, 81	9/17/2002	(1) Tetrodotoxin	\$135.00	1C351	3391729	No
15	15, 82	9/19/2002	(1) Microcystin-LR	\$176.00	1C351	3393118	No
16	16, 83	10/1/2002	(1) Tetrodotoxin	\$135.00	1C351	3397085-1	No
17	17, 84	10/9/2002	(2) Microcystin-LR	\$352.00	1C351	3400492	No
18	18, 85	10/23/2002	(1) Microcystin-LR	\$176.00	1C351	3405735	No
19	19, 86	10/30/2002	(2) Tetrodotoxin	\$270.00	1C351	3408410	No
20	20, 87	10/31/2002	(1) Microcystin-LR	\$176.00	1C351	3409325	No
21	21, 88	11/1/2002	(1) Botulinum Toxin B	\$398.00	1C351	3408311	No
22	22, 89	11/13/2002	(4) Enterotoxin B	\$1,000.00	1C351	3414305	No
23	23, 90	11/15/2002	(10) Microcystin-LR	\$1,760.00	1C351	3415332	No
24	24, 91	11/26/2002	(1) Microcystin-LR	\$176.00	1C351	3419115	No
25	25, 92	12/3/2002	(1) Microcystin-LR (1) Microcystin-YR	\$176.00 \$362.00	1C351	3420574	No
26	26, 93	12/4/2002	(3) Botulinum Toxin A (1) Botulinum Toxin B	\$516.00 \$192.00	1C351	3420026	No
27	27, 94	12/5/2002	(1) Microcystin-LR	\$176.00	1C351	3421539	No
28	28, 95	12/16/2002	(1) Microcystin-LR	\$176.00	1C351	3425605	No
29	29, 96	12/16/2002	(1) Microcystin-LR	\$176.00	1C351	3424100-1	No
30	30, 97	12/20/2002	(2) Microcystin-LR	\$352.00	1C351	3427430	No
31	31, 98	1/7/2003	(1) Microcystin-LR	\$172.00	1C351	3427979	No
32	32, 99	1/17/2003	(2) Microcystin-YR (2) Microcystin-RR	\$372.00 \$372.00	1C351	3434694	No
33	33, 100	1/24/2003	(1) Microcystin-LR	\$181.00	1C351	3437246	No
34	34, 101	1/31/2003	(1) Microcystin-LR	\$181.00	1C351	3440259	No
35	35, 102	2/3/2003	(1) Microcystin-LR	\$181.00	1C351	3440723	No
36	36, 103	2/10/2003	(2) Tetrodotoxin	\$278.00	1C351	3443357	No
37	37, 104	2/12/2003	(1) Botulinum Toxin B	\$398.00	1C351	3444332	No
38	38, 105	2/17/2003	(3) Microcystin-YR	\$558.00	1C351	3446597	No
39	39, 106	2/25/2003	(1) Microcystin-LF (1) Microcystin-LW (1) Microcystin-RR (1) Microcystin-YR	\$130.00 \$140.00 \$186.00 \$186.00	1C351	3449387	No
40	40, 107	2/26/2003	(1) Tetrodotoxin	\$139.00	1C351	3449413	No
41	41, 108	2/27/2003	(1) Tetrodotoxin	\$139.00	1C351	3450994	No
42	42, 109	3/4/2003	(2) Microcystin-LR	\$362.00	1C351	3452304	No
43	43, 110	3/5/2003	(1) Tetrodotoxin	\$139.00	1C351	3452223	No

**SCHEDULE OF VIOLATIONS
EMD BIOSCIENCES, INC. EXPORTS TO CANADA**

<u>SHIP#</u>	<u>COUNTS</u>	<u>EXPORT DATE</u>	<u>COMMODITY</u>	<u>VALUE</u>	<u>ECCN</u>	<u>INVOICE</u>	<u>AWB</u>
44	44, 111	3/12/2003	(1) Microcystin-LR	\$181.00	1C351	3456053	No
45	45, 112	3/18/2003	(1) Microcystin-LR	\$181.00	1C351	3457758	No
46	46, 113	3/19/2003	(1) Tetrodotoxin	\$139.00	1C351	3457497-1	No
47	47, 114	3/28/2003	(1) Microcystin-LR	\$135.75	1C351	3461323	No
48	48, 115	4/4/2003	(1) Microcystin-LF (1) Microcystin-LW (1) Microcystin-RR (1) Microcystin-YR	\$97.50 \$105.00 \$139.50 \$139.50	1C351	3465974	No
49	49, 116	4/16/2003	(1) Microcystin-RR	\$186.00	1C351	3470312	No
50	50, 117	4/17/2003	(1) Microcystin-LR	\$181.00	1C351	3470312-1	No
51	51, 118	4/23/2003	(1) Microcystin-LR	\$135.75	1C351	3472511	Yes
52	52, 119	5/16/2003	(1) Staphylococcus Aureus	\$201.00	1C351	3482376	Yes
53	53, 120	5/20/2003	(1) Botulinum Toxin C	\$165.75	1C351	3481180	Yes
54	54, 121	5/20/2003	(1) Botulinum Toxin A (1) Botulinum Toxin B	\$132.75 \$148.50	1C351	3482417	Yes
55	55, 122	5/28/2003	(2) Microcystin-LR	\$271.50	1C351	3485583	Yes
56	56, 123	6/5/2003	(1) Microcystin-LR	\$135.75	1C351	3489058	Yes
57	57, 124	6/10/2003	(2) Tetrodotoxin	\$208.50	1C351	3491009	Yes
58	58, 125	6/11/2003	(1) Microcystin-LR	\$135.75	1C351	3491970	Yes
59	59, 126	6/16/2003	(1) Cholera Toxin	\$79.50	1C351	3493669	Yes
60	60, 127	6/17/2003	(2) Microcystin-LR	\$271.50	1C351	3494146	Yes
61	61, 128	6/25/2003	(4) Staphylococcus Aureus	\$1,072.00	1C351	3496692	Yes
62	62, 129	6/27/2003	(1) Cholera Toxin	\$106.00	1C351	3497818	Yes
63	63, 130	7/7/2003	(1) Cholera Toxin	\$88.50	1C351	3501612	Yes
64	64, 131	7/8/2003	(1) Cholera Toxin	\$93.00	1C351	3501371	Yes
65	65, 132	7/16/2003	(1) Cholera Toxin	\$79.50	1C351	3505461	Yes
66	66, 133	7/17/2003	(2) Tetrodotoxin	\$208.50	1C351	3506027	Yes
67	67, 134	7/28/2003	(2) Microcystin-LF (2) Microcystin-LW	\$195.00 \$210.00	1C351	3509904	Yes