

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

In the Matter of: )  
)  
QUAD/GRAPHICS, Inc., )  
EPA ID IAD980967285 )  
Respondent )  
)  
Proceeding under Sections 3008(a) and (g) of )  
the Resource Conservation and Recovery Act )  
as amended, 42 U.S.C. §§ 6928(a) and (g) )  
)

CONSENT AGREEMENT  
AND FINAL ORDER

Docket No. RCRA-07-2018-0063

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency (EPA), Region 7 (Complainant) and Quad/Graphics, Inc. (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2).

ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6928(a) and (g), and in accordance with the Consolidated Rules of Practice.

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent violated Section 3005 of RCRA, 42 U.S.C § 6925, for failure to comply with the standards for performing hazardous waste determinations (40 C.F.R. Part 261) and for failing to comply with certain generator accumulation standards (40 C.F.R. Part 262.34).

### Parties

3. Complainant is the Branch Chief of the Waste Enforcement and Materials Management branch in the Air and Waste Management Division of EPA, Region 7, as duly delegated by the Administrator of EPA.

4. Respondent is Quad/Graphics, Inc., a Wisconsin corporation authorized to operate and conduct business within the state of Iowa.

### Statutory and Regulatory Framework

5. When EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

6. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than \$25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). The Debt Collection Improvement Act of 2008 and the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred from January 12, 2009, through November 2, 2015, and to \$95,284 for violations that occur after November 2, 2015. Based upon the facts alleged in this Consent Agreement and Final Order, and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), as discussed in the RCRA Civil Penalty Policy issued by EPA in June 2003, the Complainant and Respondent agree to the payment of a settlement amount pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and to take the actions required by the Final Order, for the violations of RCRA alleged in this Consent Agreement and Final Order.

### General Factual Background

7. Respondent is a Wisconsin corporation authorized to operate and conduct business within the state of Iowa. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

8. Respondent's facility was located at 810 E. South Street, Marengo, Iowa (Facility). Respondent operated the Facility as a commercial printing operation prior to its closing. The Facility began closing down its operations in January 2014, and fully ceased operations on February 28, 2014. Prior to closure, the Facility employed approximately 140 personnel.

9. After February 28, 2014, Respondent became fully engaged in the process of decommissioning the Facility, which consisted of removing equipment, disposing of materials, and renovating the Facility for sale. Only two to five personnel were working at the Facility during its decommissioning.

10. On or about March 17, 2014, Respondent notified the EPA as a Large Quantity Generator (LQG) of hazardous waste pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930. LQGs generate 1,000 kilograms per month or more of hazardous waste, or more than 1 kilogram per month of acutely hazardous waste.

11. Respondent was assigned the following EPA ID Number: IAD980967285.

12. On or about August 25–28, 2014, an inspector working on behalf of EPA Region 7 (“the inspector”), conducted a RCRA Compliance Evaluation Inspection (hereinafter “the inspection”) of Respondent’s hazardous waste management practices at the Facility. Based on a review of the inspection report and the information provided by Respondent’s personnel before, during and after the inspection, it was determined that Respondent was operating as a Large Quantity Generator of hazardous waste at the time of the inspection.

13. At the time of the inspection, the inspector noted that Respondent stored numerous containers in a fireproof room at the Facility, many of which appeared to the inspector to be solid waste. These materials were generated by the Respondent at the Facility prior to its closing on February 28, 2014. The contents of many of these containers were later identified by Respondent as hazardous waste.

14. On December 31, 2014, Respondent identified certain materials as being hazardous waste and manifested them off-site as such. These materials were generated by the Respondent at the Facility prior to its closing on February 28, 2014, and were among those same items which had been observed by the inspector during the inspection and which the inspector believed were solid waste. They are as follows:

<b>Date of Disposal</b>	<b>Waste Disposed</b>	<b>Waste Hauler</b>	<b>Amount Manifested</b>
12/31/2014	Waste liquid D001	Clean Harbors	200 Pounds
12/31/2014	Waste corrosive liquids D001, D002	Clean Harbors	200 Pounds
12/31/2014	Waste corrosive liquid D002	Clean Harbors	200 Pounds
12/31/2014	Non DOT Regulated material	Clean Harbors	200 Pounds (not a part of count)
12/31/2014	Waste flammable liquids D001, U002	Clean Harbors	120 Pounds
12/31/2014	Waste hydrogen peroxide D001	Clean Harbors	75 Pounds
12/31/2014	Waste sulfuric acid D002	Clean Harbors	200 Pounds
12/31/2014	Waste corrosive liquid D002	Clean Harbors	80 Pounds

<b>Date of Disposal</b>	<b>Waste Disposed</b>	<b>Waste Hauler</b>	<b>Amount Manifested</b>
12/31/2014	Waste corrosive liquid D002	Clean Harbors	20 Pounds
12/31/2014	Waste hypochlorite solutions D002	Clean Harbors	470 Pounds
12/31/2014	Waste Tetrachloroethylene D039, U210	Clean Harbors	80 Pounds
12/31/2014	Waste Tetrachloroethylene mixture D039, U080, U210	Clean Harbors	130 Pounds
12/31/2014	Waste Tetrachloroethylene, used oil D039, F002	Clean Harbors	390 Pounds

### Violations

15. Complainant hereby states and alleges that Respondent has violated RCRA and the federal regulations promulgated thereunder, as follows:

#### Count 1

##### Failure to Conduct Hazardous Waste Determinations

16. Complainant hereby incorporates the allegations contained in Paragraphs 7 through 14 above, as if fully set forth herein.

17. Pursuant to 40 C.F.R. § 262.11, a generator of solid waste, as defined in 40 C.F.R. §§ 260.10 and 261.2, must determine if that waste is a hazardous waste using methods prescribed in the regulations.

18. At the time of the inspection, EPA determined that Respondent had generated solid wastes at the Facility, some of which were later identified by Respondent as those hazardous wastes listed in Paragraph 14 above.

19. At the time of the inspection, Respondent had not conducted hazardous waste determinations on any of the waste streams described in Paragraph 14 above.

20. Respondent's failure to perform a hazardous waste determination on the above-referenced solid waste streams is a violation of 40 C.F.R. § 262.11.

**Count 2**

**Operating as a Treatment, Storage or Disposal Facility  
Without a RCRA Permit or RCRA Interim Status**

21. Complainant hereby incorporates the allegations contained in Paragraphs 7 through 14 above, as if fully set forth herein.

**Generator Requirements**

22. Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations at 40 C.F.R. § 270.1(b) require each person owning or operating a facility for the treatment, storage, or disposal of hazardous wastes identified or listed under Subchapter C of RCRA to have a permit or interim status for such activities. At no time did Respondent have such a permit or interim status for this facility.

23. The regulations at 40 C.F.R. § 262.34(a) state that a generator may accumulate hazardous waste on-site for ninety (90) days or less without a permit or without interim status, provided the conditions listed in 40 C.F.R. § 262.34(a)(1)-(4) are met. If a generator fails to comply with any of these conditions, the generator is not allowed to store hazardous waste at their facility for any length of time. Respondent failed to comply with the following conditions:

*Failure to conduct weekly hazardous waste inspections*

24. The regulations at 40 C.F.R. § 262.34(a)(1)(i) require that while being accumulated on-site, the hazardous waste must be placed in containers and the generator must comply with the applicable requirements of Subpart I of 40 C.F.R. Part 265.

25. Pursuant to 40 C.F.R. § 265.174, as found in 40 C.F.R. Part 265, Subpart I, the owner or operator must inspect, at least weekly, areas where containers of hazardous waste are stored, looking for leaking containers and deteriorating containers caused by corrosion or other factors.

26. At the time of the inspection, Respondent's representative stated to the inspector for the EPA that weekly inspections were not performed in the area of the Facility where the Respondent's containers of hazardous waste were stored.

*Failure to date hazardous waste accumulation containers*

27. The regulations at 40 C.F.R. § 262.34(a)(2) require generators to clearly mark the date upon which each period of accumulation began on each container.

28. At the time of the inspection, the inspector for the EPA observed that the hazardous waste accumulation containers stored at the Facility were not marked with the date upon which accumulation began.

*Failure to label hazardous waste accumulation containers*

29. The regulations at 40 C.F.R. § 262.34(a)(3) require generators to clearly mark each container of hazardous waste with the words “Hazardous Waste” while accumulating on-site.

30. At the time of the inspection, the inspector for the EPA observed that the hazardous waste accumulation containers, stored at the Facility, were not were not marked with the words “Hazardous Waste.”

*Failure to maintain adequate aisle space*

31. The regulations at 40 C.F.R. § 262.34(a)(4) require, in part, that the generator comply with Subparts C and D in 40 C.F.R. Part 265.

32. Pursuant to 40 C.F.R. § 265.35, as found in 40 C.F.R. Part 265, Subpart C, the owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

33. At the time of the inspection, the inspector for the EPA observed that Respondent failed to maintain adequate aisle space in the location of the Facility that it was using as its hazardous waste storage area.

34. Because Respondent failed to comply with the generator requirements as set forth in Paragraphs 23 through 33 above, Respondent was not authorized to store hazardous waste at its Facility for any length of time, and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

**Storage Over Ninety Days**

35. The regulations at 40 C.F.R. § 262.34(b) state that a generator who accumulates hazardous wastes for more than ninety (90) days is an operator of a storage facility and must comply with 40 C.F.R. Parts 264 and 265, and the permit requirements of 40 C.F.R. Part 270 unless it has been granted an extension to the ninety (90) day period. Facilities classified as “Large Quantity Generators” may store hazardous waste at their facility without a permit no more than ninety (90) days.

36. Respondent closed its Facility’s operations on February 28, 2014. At the time of the inspection, the EPA determined that Respondent stored numerous containers of solid waste at the Facility. The contents of some of these containers were later identified by Respondent as hazardous waste. These materials were generated by the Respondent at the Facility prior to its closing on February 28, 2014. In correspondence with the EPA dated April 8, 2016, Respondent stated that these hazardous wastes were shipped off-site on December 31, 2014:

<b>Date of Disposal</b>	<b>Waste Disposed</b>	<b>Waste Hauler</b>	<b>Amount Manifested</b>
12/31/2014	Waste liquid D001	Clean Harbors	200 Pounds
12/31/2014	Waste corrosive liquids D001, D002	Clean Harbors	200 Pounds
12/31/2014	Waste corrosive liquid D002	Clean Harbors	200 Pounds
12/31/2014	Non DOT Regulated material	Clean Harbors	200 Pounds (not a part of count)
12/31/2014	Waste flammable liquids D001, U002	Clean Harbors	120 Pounds
12/31/2014	Waste hydrogen peroxide D001	Clean Harbors	75 Pounds
12/31/2014	Waste sulfuric acid D002	Clean Harbors	200 Pounds
12/31/2014	Waste corrosive liquid D002	Clean Harbors	80 Pounds
12/31/2014	Waste corrosive liquid D002	Clean Harbors	20 Pounds
12/31/2014	Waste hypochlorite solutions D002	Clean Harbors	470 Pounds
12/31/2014	Waste Tetrachloroethylene D039, U210	Clean Harbors	80 Pounds
12/31/2014	Waste Tetrachloroethylene mixture D039, U080, U210	Clean Harbors	130 Pounds
12/31/2014	Waste Tetrachloroethylene, used oil D039, F002	Clean Harbors	390 Pounds

37. By storing hazardous waste on-site for greater than 90 days, Respondent was operating as a hazardous waste storage facility and subjected itself to the requirements of 40 C.F.R. Parts 264, 265, and the permit requirements of 40 C.F.R. Part 270.

38. Respondent's failure to obtain a hazardous waste storage permit is a violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

**CONSENT AGREEMENT**

39. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms of the Final Order portion of this Consent Agreement and Final Order.

40. Respondent admits the jurisdictional allegations of this Consent Agreement and Final Order and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this Consent Agreement and Final

Order set forth below.

41. Respondent neither admits nor denies the factual and legal allegations set forth in this Consent Agreement and Final Order.

42. Respondent waives its right in this action to contest any issue of fact or law set forth in this CAFO and its right to appeal the Final Order accompanying this Consent Agreement.

43. Respondent and Complainant agree to conciliate the matters set forth in this Consent Agreement and Final Order without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

44. Nothing contained in the Final Order portion of this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

45. Full payment of the settlement amount proposed in this CAFO shall only resolve Respondent's liability for the violations alleged in this Consent Agreement and Final Order. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

46. Full payment of the settlement amount proposed in this CAFO shall not in any case affect the right of the Environmental Protection Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and regulations promulgated thereunder.

47. The effect of settlement described in Paragraph 46 above is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 48, below, of this Consent Agreement and Final Order.

48. Respondent has not controlled the Facility since its sale on March 15, 2017, but certifies that by signing this Consent Agreement and Final Order that to the best of its knowledge, as of that date, the Facility was in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.*, and all regulations promulgated thereunder.

49. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

50. Respondent agrees that, in settlement of the claims alleged in this Consent Agreement and Final Order, Respondent shall pay Seventy Thousand Dollars (\$70,000) as set forth in Paragraph 1 of the Final Order portion of this Consent Agreement and Final Order, below.

51. The settlement amount specified in the paragraph above shall not be deductible for purposes of Federal, State and local taxes.

52. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment cited above.

53. Late Payment Provisions: Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the settlement amount if it is not paid by the date required. Interest will be assessed at a rate of the United States Treasury Tax and loan rate in accordance with 31 C.F.R. § 901.9(b). A charge will be assessed to cover the costs of debt collection including processing and handling costs and attorney fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the payment of the settlement amount becomes due and is not paid. 31 C.F.R. § 901.9(c) and (d).

54. Respondent understands that failure to pay any portion of the settlement amount on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said amount, along with interest thereon at the applicable statutory rate.

#### **Effective Date**

55. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. The Respondent shall be provided with written notice, which may be accomplished electronically, of such filing within three days of said filing by providing said notice to:

Ms. Dana Gruen  
VP, Chief Compliance Officer and Deputy General Counsel  
Quad/Graphics, Inc.  
N61 W23044 Harry's Way  
Sussex, Wisconsin 53089-3995  
*dana.gruen@qg.com*

#### **Reservation of Rights**

56. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms of the Final Order portion of this Consent Agreement and Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Fifty-Seven Thousand Three Hundred Ninety-One Dollars (\$57,391) per day, per violation, pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law.

57. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this Consent Agreement and Final Order.

58. Except as expressly provided herein, nothing in this Consent Agreement and Final Order shall constitute or be construed as a release from any claim (civil or criminal), 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 Respondent's Facility.

59. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

60. The provisions of this Consent Agreement and Final Order shall be deemed satisfied upon a written determination by Complainant that Respondent has fully implemented the actions required in the Final Order (the "Determination"). The Complainant shall issue the Determination to the Respondent within 60 days of the payment of the settlement amount as described in the Consent Agreement and Final Order. The Determination shall be sent to:

Ms. Dana Gruen  
VP, Chief Compliance Officer and Deputy General Counsel  
Quad/Graphics, Inc.  
N61 W23044 Harry's Way  
Sussex, Wisconsin 53089-3995  
*dana.gruen@qg.com*

### **FINAL ORDER**

Pursuant to the authority of Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g), and according to the terms of this Consent Agreement and Final Order, IT IS HEREBY ORDERED THAT:

#### **A. Payment of Civil Settlement Amount**

1. Within thirty (30) days of the effective date of this Consent Agreement and Final Order, Respondent will pay Seventy Thousand Dollars (\$70,000).

2. Payment shall be made by cashier's or certified check, by wire transfer, or on-line. The Payment shall reference the Docket Number on the check or wire transfer. If made by cashier's or certified check, the check shall be made payable to "Treasurer of the United States" and remitted to:

United States Environmental Protection Agency  
Fines and Penalties  
Combined Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000.

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

3. A copy of the check, transfer, or on-line payment confirmation shall simultaneously be sent to the following:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219; and

Raymond C. Bosch, Attorney  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219.

4. No portion of any settlement amount or interest paid by Respondent pursuant to the requirements of this Consent Agreement and Final Order shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

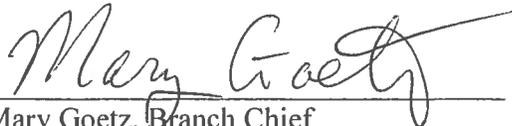
#### **B. Parties Bound**

5. The Final Order portion of this Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

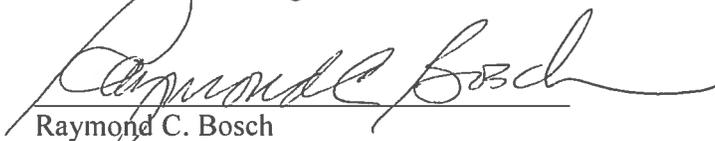
COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

22 Jan 2018  
Date

  
\_\_\_\_\_  
Mary Goetz, Branch Chief  
Waste Enforcement and Materials Management Branch  
Air and Waste Management Division

1-16-2018  
Date

  
\_\_\_\_\_  
Raymond C. Bosch  
Office of Regional Counsel

RESPONDENT:

QUAD/GRAPHICS, INC.

1/11/18  
Date

  
Signature

Dana B. Green  
Printed Name

VP, CCO, Deputy General Counsel  
Title

IT IS SO ORDERED. This Final Order shall become effective upon filing.

Jan. 23, 2018  
Date

Karina Borromeo  
Karina Borromeo  
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that on the date below, I hand delivered the original and one true copy of this Consent Agreement and Final Order to the Regional Hearing Clerk, U.S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219. I further certify that a true and correct copy of the foregoing order was sent this day in the following manner to the addressees:

Copy via Email to Respondent:

Ms. Dana Gruen  
VP, Chief Compliance Officer and Deputy General Counsel  
Quad/Graphics, Inc.  
N61 W23044 Harry's Way  
Sussex, Wisconsin 53089-3995  
*dana.gruen@qg.com*

and

Copy via Certified Mail, Return Receipt Requested to Respondent:

Ms. Dana Gruen  
VP, Chief Compliance Officer and Deputy General Counsel  
Quad/Graphics, Inc.  
N61 W23044 Harry's Way  
Sussex, Wisconsin 53089-3995  
*dana.gruen@qg.com*

Dated this 24<sup>th</sup> day of January 2018.

LISA Haugen  
Signed

