

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, PA 19103-2029

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EPA REGION III PHILA, PA

IN THE MATTER OF:

**Quality Carriers, Inc.**  
150 E. Pennsylvania Ave., Ste. 125  
Downingtown, PA 19335

RESPONDENT

William Dick Lagoon Site  
1534 Telegraph Road  
Honeybrook, PA 19344

FACILITY

) **CONSENT AGREEMENT**

)  
)  
) U.S. EPA Docket Number  
) **RCRA-03-2008-0017**

)  
) Proceeding under Section 3008  
) of the Resource Conservation and  
) Recovery Act, as amended,  
) 42 U.S.C. § 6928

**CONSENT AGREEMENT**

**I. PRELIMINARY STATEMENT**

This Consent Agreement and Final Order is entered into by the Director, Waste and Chemicals Management Division, U. S. Environmental Protection Agency, Region III (“Complainant” or “EPA”) and Quality Carriers, Inc. (“Respondent” or “Quality”), pursuant to Section 3008(a)(1) of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976, as amended by, *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 42 U.S.C. § 6928(a)(1), the authorized Pennsylvania Hazardous Waste Management Regulations (“PaHWMR”), 25 Pa. Code §§ 260a-266a, 266b, and 268a, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 (“Consolidated Rules of Practice”)

Pursuant to Sections 22.13(b), 22.18(b)(2), and 22.18.(b)(3) of the Consolidated Rules, this Consent Agreement and Final Order (“CA/FO”) resolves Respondent's alleged violations of RCRA Subtitle C, 42 U.S.C. §§ 6921- 6939e with regard to hazardous waste generated at the William Dick Lagoon Site located at 1534 Telegraph Road, Honeybrook, PA 19344 (“Facility”).

EPA has given Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PaDEP”), prior notice of the issuance of this Consent Agreement in accordance with Section 3008(a)(2), of RCRA, 42 U.S.C. § 6928(a)(2).

## II. GENERAL PROVISIONS

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CA/FO.
2. Except as provided in Paragraph 1, above, Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA/FO.
3. Respondent agrees not to contest the Complainant's jurisdiction with respect to the execution or the enforcement of this CA/FO.
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
5. Respondent consents to the issuance of this CA/FO and agrees to comply with its terms.
6. Respondent shall bear its own costs and attorney's fees.
7. Compliance with this CA/FO shall not be a defense to any action commenced at any time for any other violations of the federal laws and regulations administered by EPA.
8. EPA has given the Commonwealth of Pennsylvania prior notice of the issuance of this CA/FO in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. Section 6928(a)(2).

## III. COMPLAINANT'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. In accordance with Section 22.18(b)(2) of the Consolidated Rules of Practice, Complainant makes the following findings of fact and conclusions of law.
10. 25 Pa. Code Chapters 260a, 261a, 262a and 263a incorporate by reference 40 C.F.R. Parts 260, 261, 262 and 263, respectively, as in effect on May 1, 1999, with exceptions not relevant to this matter.
11. Respondent is, and was at the time of the violations alleged in this Consent Agreement, a corporation incorporated in Illinois and doing business in Pennsylvania and is a "person" as that term is defined in RCRA Section 1004(15), 42 U.S.C. Section 6903(15), and 25 Pa. Code § 260a.1 (40 C.F.R. § 260.10).
12. Respondent is, and has been at all times relevant to the violations alleged herein, a "generator" of hazardous waste at the William Dick Lagoon Superfund Site ("the Facility") as that term is defined at 25 Pa. Code § 260a (40 C.F.R. § 260.10).
13. Respondent is, and has been at all times relevant to the violations alleged herein, engaged

in remediation activities at the Facility.

14. From at least January 19, 2005 to April 15, 2005 Respondent generated “solid waste” and “hazardous waste” as those terms are defined at 25 Pa. Code §§ 260a.1 and 261a.1 (40 C.F.R. Sections 260.10 and 261.2 and .3), represented by EPA Hazardous Waste Nos. D008, D009, D040, and/or F001-F005.
15. U.S. Bulk Transport, Inc. is a non-local trucking operator, providing general freight trucking and long-distance trucking, and is headquartered in Erie, Pennsylvania.
16. From at least January 19, 2005 to April 15, 2005, Respondent contracted with U.S. Bulk Transport to transport hazardous wastes generated at the Facility for offsite “treatment,” “storage,” and/or “disposal,” as those terms are defined at 25 Pa. Code § 260a.1 (40 C.F.R. § 260a.10).
17. Respondent is a generator who offered for transport hazardous wastes for offsite treatment, storage, or disposal and is subject to the manifesting requirements of 25 Pa. Code § 262a.1 (40 C.F.R. § 262.20).
18. From at least January 19, 2005 to April 15, 2005, Respondent exported hazardous waste to Canada, and is therefore subject to the requirements of 25 Pa. Code § 262a.1 (40 C.F.R. §§ 262.50 – .58) pursuant to 25 Pa. Code § 262a.1 (40 C.F.R. § 262.58(b)).
19. Respondent is a “primary exporter,” as that term is defined at 25 Pa. Code § 262a.1 (40 C.F.R. § 262.51).
20. On February 21, 2006, Respondent filed an Annual Report with the International Compliance Assurance Division of the EPA for the calendar year 2005 pursuant to 25 Pa. Code § 262a.1 (40 C.F.R. § 262.56(a)).

### **Count 1**

#### **Failure to File an Accurate Annual Report of Hazardous Waste Exports**

21. The allegations of Paragraphs 1 through 20 are incorporated herein by reference.
22. RCRA § 3017(g), 42 U.S.C. § 6938(g), and 25 Pa. Code § 262a.10 (40 C.F.R. § 262.56(a)), provide, in pertinent part, that a primary exporter of hazardous waste shall file with the Administrator no later than March 1 of each year a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous waste exported during the previous calendar year.
23. Pursuant to 25 Pa. Code § 262a.10 (40 C.F.R. § 262.56(a)), the information in the annual report must include the total amount of waste shipped and number of shipments pursuant to each notification.

24. On February 21, 2006, Respondent filed an Annual Report with the International Compliance Assurance Division of the EPA for the calendar year 2005 pursuant to 40 C.F.R. § 262.56(a).
25. Respondent's Annual Report failed to account for 26 shipments of hazardous waste that were exported to Canada between February 23, 2005 and April 15, 2005, as recorded in Manifests 05510-05535. The total quantity of hazardous waste not accounted for in the Respondent's Annual Report was 1,356,140 lbs.
26. Respondent violated 25 Pa. Code § 262a.10 (40 C.F.R. § 262.56(a)), by failing to submit to EPA by March 1, 2006 an Annual Report for the Calendar Year 2005 which accurately described, by consignee, for each hazardous waste exported, the total amount of waste shipped and the number of shipments as required by 40 C.F.R. § 262.56(a)(4).

### **Count 2**

#### **Failure to Attach a Valid Acknowledgment of Consent to Hazardous Waste Export Shipments**

27. The allegations of Paragraphs 1 through 26 are incorporated herein by reference.
28. Section 3017(a)(1)(C) of RCRA, 42 U.S.C. § 6938(a)(1)(C), provides that no person shall export any hazardous waste unless a copy of the receiving country's written consent is attached to the manifest accompanying each waste shipment.
29. 25 Pa. Code § 262a.1 (40 C.F.R. § 262.52(c)) provides that exports of hazardous waste are prohibited unless a copy of the EPA Acknowledgment of Consent to the shipment accompanies the shipment and is attached to the hazardous waste manifest.
30. 25 Pa. Code Ch 262a.10 (40 C.F.R. § 262.54(h)) provides, in pertinent part, that a primary exporter must attach a copy of the EPA Acknowledgment of Consent to the shipment to the manifest which must accompany the hazardous waste shipment.
31. On April 13 and April 15 of 2005, Respondent exported a total of 98,934 lbs. of D040 hazardous waste to Canada, with Clean Harbors Canada, Inc. designated as the consignee, under Hazardous Waste Manifest Document Nos. 0534 (PAH 093128) and 05535 (PAH 093134).
32. Respondent did not attach an EPA Acknowledgment of Consent for the shipments referenced in paragraph 31, above, to the manifests for such shipments.
33. Respondent violated RCRA Section 3017(a)(1)(C), 42 U.S.C. § 6938(a)(1)(C), and 25 Pa. Code § 262a.10 (40 C.F.R. § 262.52(c) and .54(h)) by failing to attach an Acknowledgment of Consent to the shipment to the manifests which accompanied the hazardous waste shipments on April 13 and April 15, 2005.

#### **IV. COMPLIANCE ORDER**

Respondent shall perform the following Compliance Tasks within the time periods specified. "Days" as used herein shall mean calendar days unless specified otherwise.

34. Immediately cease all export shipments of hazardous waste except in accordance with the requirements of RCRA § 3017, 42 U.S.C. § 6938, and 25 Pa. Code § 262a.1 (40 C.F.R. Part 262, Subpart E).
35. **Certification:** Within thirty (30) days of the effective date of this CA/FO, Respondent shall certify to EPA in writing that it is in compliance with the Compliance Tasks described above. Such certification shall be made in the manner specified in Paragraph 36 of this Compliance Order.
36. **Submissions to EPA:** Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Compliance Order which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirements of this Compliance Order shall be certified by a responsible corporate officer of Respondent. A responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The aforesaid certification shall provide the following statement above the signature of the responsible corporate officer signing the certification on behalf of the Respondent:

*I certify under penalty of law that this document and all attachments are true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.*

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

Any notifications or submissions to EPA required by this Compliance Order shall be sent to the attention of:

Jeanna Henry (3WC31)  
RCRA Enforcement and Compliance Officer  
United States Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029; and

Brianna Tindall (3RC30)  
Assistant Regional Counsel  
United States Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029.

#### **V. CIVIL PENALTY**

37. In settlement of the above-captioned action, Respondent agrees to pay a civil penalty of **Fourteen Thousand Four Hundred Dollars (\$14,400.00)** in satisfaction of all claims for civil penalties which Complainant may have under RCRA Section 3008(a), 42 U.S.C. § 6928(a), for the violations alleged herein. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the CA/FO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, as described in the attached Final Order, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which this CA/FO is mailed or hand-delivered to Respondent.
38. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of the violations and good faith efforts of the Respondent to comply, as provided for in Section 3008(a)(3) of RCRA, 42 U.S.C. Section 6928(a)(3).
39. Respondent shall remit payment for the civil penalty set forth in paragraph 37, above, by certified check or cashier's check, or by electronic funds transfer, in the following manner:
  - A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2008-0017;
  - B. All checks shall be made payable to "**United States Treasury**";
  - C. All payments made by check and sent by regular mail shall be addressed and

mailed to:

U.S. Environmental Protection Agency—Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Contact: Natalie Pearson, 314-418-4087

- D. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency—Fines and Penalties  
U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

Contact: Natalie Pearson, 314-418-4087

- E. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency”

- F. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

Automated Clearinghouse (ACH) for receiving US currency  
PNC Bank  
808 17th Street, NW  
Washington, DC 20074  
Contact: Jesse White 301-887-6548

ABA = 051036706  
Transaction Code 22 - Checking

Environmental Protection Agency  
Account 310006  
CTX Format

G. On-Line Payment Option:

WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open and complete the form.

H. The customer service phone numbers for the above payment centers are:

212-720-5000 (wire transfers, Federal Reserve Bank of New York)  
800-762-4224 (ACH/Wire Info, PNC Bank)

Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment\\_cin.htm](http://www.epa.gov/ocfo/finservices/make_a_payment_cin.htm)

I. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CA/FO. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Brianna Tindall  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC30)  
1650 Arch Street  
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC00)  
1650 Arch Street  
Philadelphia, PA 19103-2029

40. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this CA/FO.
41. Pursuant to 31 U.S.C. Section 3717 and 40 C.F.R. Section 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owned to the United
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States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

42. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. Section 13.11(a).
43. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. Section 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
44. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. Section 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. Section 901.9(d).

#### **VI. OTHER APPLICABLE LAWS**

45. Nothing in this CA/FO shall relieve Respondent of any duties or obligations otherwise imposed upon it by applicable Federal, State or local laws or regulations.

#### **VII. RESERVATION OF RIGHTS**

46. This CA/FO resolves only EPA's claims for civil penalties for the specific violations of RCRA Subtitle C which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CA/FO.

**VIII. FULL AND FINAL SATISFACTION**

47. Payment of the penalty specified in this CA/FO, above, and completion of the Compliance Tasks set forth herein shall constitute full and final satisfaction of Complainant's claims for civil penalties for the specific violations set forth in the Complaint.

**IX. PARTIES BOUND**

48. This CA/FO shall apply to and be binding upon EPA, Respondent, and Respondent's officers, employees, agents, successors and assigns. By his/her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized to enter into this Agreement on behalf of Respondent and to bind Respondent to the terms and conditions of this CA/FO.

**X. EFFECTIVE DATE**

49. The effective date of this CA/FO is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or his designee, is filed with the Regional Hearing Clerk.

**XI. ENTIRE AGREEMENT**

50. This CA/FO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CA/FO.

For the Respondent:

Quality Carriers, Inc.

Date: 2/1/08

By: Roy Peterson  
Roy C. Peterson  
Manager

Quality Carriers, Inc. CA/FO

11 U.S. EPA Docket Number RCRA-03-2008-0017

For the Complainant:

U.S. Environmental Protection Agency, Region III

Date: 2/25/08

By: Brianna Tindall  
Brianna Tindall  
Assistant Regional Counsel

The Waste and Chemicals Management Division, United States Environmental Protection Agency - Region III, recommends that the Regional Administrator of the U.S. EPA Region III or his designee issue the accompanying Final Order.

Date: 3/4/08

By: Abraham Ferdas  
Abraham Ferdas, Director  
Waste and Chemicals Management Division

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 REGION III  
 1650 Arch Street  
 Philadelphia, PA 19103-2029

IN THE MATTER OF:

**Quality Carriers, Inc.**  
 150 E. Pennsylvania Ave., Ste. 125  
 Downingtown, PA 19335

RESPONDENT

William Dick Lagoon Site  
 1534 Telegraph Road  
 Honeybrook, PA 19344

FACILITY

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) **FINAL ORDER**  
 )  
 )  
 ) U.S. EPA Docket Number  
 ) **RCRA-03-2008-0017**  
 )  
 ) Proceeding under Section 3008  
 ) of the Resource Conservation and  
 ) Recovery Act, as amended,  
 ) 42 U.S.C. § 6928  
 )  
 )  
 )

**FINAL ORDER**

Complainant, the Director of the Waste and Chemicals Management Division, U.S. Environmental Protection Agency - Region III, and Respondent, Quality Carriers, Inc., have executed a document entitled “Consent Agreement” which I ratify as a Consent Agreement in accordance with 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 C.F.R. Part 22 (with specific reference to 40 C.F.R. Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are incorporated herein by reference.

NOW, THEREFORE, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a), and based upon the representations of the parties set forth in the Consent Agreement that the civil penalty amount agreed to by the parties in settlement of the above-captioned matter is based upon a consideration of the factors set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), IT IS HEREBY ORDERED THAT Respondent shall pay a civil penalty in the amount of **Fourteen Thousand Four Hundred Dollars (\$14,400.00)** as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 3/6/08

BY: *Renée Sarajian*  
Renée Sarajian  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region III

Quality Carriers, Inc. CA/FO

U.S. EPA Docket Number RCRA-03-2008-0017

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PHILADELPHIA, PA

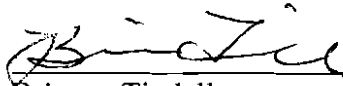
## CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by Overnight Delivery Service, a copy of the Consent Agreement and Final Order, **In the Matter of: Quality Carriers, Inc., U.S. EPA Docket Number RCRA-03-2008-0017**, to the persons and addresses listed below. The original Consent Agreement and Final Order were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III.

**Roy C. Peterson**  
**Project Manager**  
**Quality Carriers, Inc.**  
**150 E. Pennsylvania Avenue, Suite 125**  
**Downingtown, PA 19335**

**Maxine M. Woelfling**  
**Morgan, Lewis & Bockius LLP**  
**17 North Second Street**  
**Suite 1420**  
**Harrisburg, PA 17101**

Dated: 3/6/08

  
Brianna Tindall  
Assistant Regional Counsel  
Office of Regional Counsel  
EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029