

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2005-0021-MLM-E TCEQ ID: RN104321369 CASE NO.: 23364
RESPONDENT NAME: QUEST DIAGNOSTICS CLINICAL LABORATORIES, INC.
DBA QUEST DIAGNOSTICS**

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 5850 Rogerdale Road, Houston, Harris County</p> <p>TYPE OF OPERATION: Analytical laboratory</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired May 4, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p>TCEQ Attorney: Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p>TCEQ Enforcement Coordinator: Ms. Miriam Hall, Air Enforcement Section, MC 128, (512) 239-1044</p> <p>TCEQ Regional Contact: Ms. Nicole M. Bealle, Houston Regional Office, MC R-12, (713) 161-3623</p> <p>Respondent: Mr. Surya Mohapatra, President, Quest Diagnostics Clinical Laboratories, Inc., 1290 Wall Street West, 5th Floor, Lyndhurst, New Jersey 07071</p> <p>Respondent's Attorney: Ms. Nichol Bunn, Wilson, Elser, Moskowitz, Edelman & Dicker, L.L.P., Bank of America Plaza, 901 Main Street, Suite 4800, Dallas, Texas 75202-3758</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 24-27, 2004 (investigation date); September 23, 2004 (record review)</p> <p>Date of NOE Relating to this Case: December 2, 2004</p> <p>Background Facts: The EDRP was filed December 2, 2005. The Respondent filed an answer and the case was referred to SOAH. The Respondent signed the Agreed Order February 10, 2009.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to obtain authorization for the acceptance of untreated medical waste [30 TEX. ADMIN. CODE §§ 330.4(b) and 330.5(a)]. Failed to perform hazardous waste determinations [30 TEX. ADMIN. CODE § 335.62 and 40 CFR § 262.11]. Failed to ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container [30 TEX. ADMIN. CODE § 335.69(a)(2) and 40 CFR § 262.34(a)(2)]. Failed to ensure that each container and tank is labeled or marked clearly with the words "Hazardous Waste" [30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 CFR § 262.34(a)(3)]. Failed to ensure that a container holding hazardous waste is always closed during storage, except when it is necessary to add or remove waste [30 TEX. ADMIN. CODE § 335.69(d)(1) and 40 CFR § 265.173(a)]. Failed to mark containers with either the words "Hazardous Waste" or with other words that identify the contents of the containers [30 TEX. ADMIN. CODE § 335.69(d)(2) and 40 CFR § 262.34(c)(1)(ii)]. 	<p>Total Assessed: \$51,100</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$51,100 The Respondent paid the administrative penalty in full.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Effective March 27, 2006, the definition pertaining to "on-site" management of medical waste was changed in the MSW Medical Waste Management rules, authorizing the collection of waste from Quest satellite facilities within 75 miles of the Facility.</p> <p>Corrective Actions Taken:</p> <ol style="list-style-type: none"> Performed a hazardous waste determination for the vials containing methanol liquid being discarded at the Facility on December 14, 2004. Began labeling each container in the container storage area of the Facility with the words "Hazardous Waste" and with the date upon which each period of accumulation begins on December 13, 2004. Implemented procedures to ensure that all containers holding hazardous waste are always closed during storage, except when it is necessary to add or remove waste and are properly labeled on December, 14, 2004. Began maintaining records to support the location of all hazardous waste accumulation areas in February 2006. Began including the correct classification code assigned to the waste by the generator in the hazardous waste manifest on January 22, 2006. Developed a written waste analysis plan for the shredding of vials and the collection of liquid waste from the vials in February 2006. Made arrangements to familiarize police, fire departments, emergency response teams, and hospitals with the layout of the facility, properties of hazardous waste handled at the facility, associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, possible evacuation routes, and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility on January 31, 2006. Developed a pollution prevention plan on February 15, 2006.

QUEST DIAGNOSTICS

DOCKET NO.: 2005-0021-MLM-E

<p>7. Failed to maintain records to support the location of all hazardous waste accumulation areas [30 TEX. ADMIN. CODE § 335.9(a)(1)(G)].</p> <p>8. Failed to include the TCEQ waste classification code assigned to the waste by the generator in the hazardous waste manifest [30 TEX. ADMIN. CODE § 335.10(b)(22)].</p> <p>9. Failed to develop and follow a written waste analysis plan which describes the procedures that will be followed to comply with treatment standards [30 TEX. ADMIN. CODE § 335.431(c) and 40 CFR § 268.7(a)(5)].</p> <p>10. Failed to familiarize police, fire departments, emergency response teams, and hospitals with the layout of the facility, properties of hazardous waste handled at the facility, associated hazards, the location where facility personnel would be working, entrances to roads inside the facility, possible evacuation routes and the types of injuries or illnesses which could result from fires, explosions, or releases from the facility [30 TEX. ADMIN. CODE § 335.69(a)(4) and 40 CFR § 265.37(a)(1) and (4)].</p> <p>11. Failed to develop a pollution prevention plan [30 TEX. ADMIN. CODE § 335.475].</p>		
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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 10, 2004

DATES	Assigned 06-Dec-2004	Screening 20-Dec-2004	Priority Due 04-Feb-2005	EPA Due <input type="text"/>
	PCW 18-Dec-2008			

RESPONDENT/FACILITY INFORMATION	
Respondent	Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics
Reg. Ent. Ref. No.	RN104321369
Additional ID No(s).	Solid Waste Registration No. 87396
Facility/Site Region	12-Houston <input type="text"/>
Major/Minor Source	Major Source <input type="text"/>

CASE INFORMATION			
Enf./Case ID No.	23364	No. of Violations	9
Docket No.	2005-0021-MLM-E	Order Type	1660
Case Priority	3	Enf. Coordinator	Miriam Hall
Media Program(s)	Medical Waste	EC's Team	Enforcement Team 4
Multi-Media	Industrial and Hazardous Waste		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0% Enhancement** **Subtotals 2, 3, & 7**

Notes

Culpability **0% Enhancement** **Subtotal 4**

Notes

Good Faith Effort to Comply **0% Reduction** **Subtotal 5**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with a small x)

Notes

Economic Benefit **0% Enhancement*** **Subtotal 6**

Total EB Amounts	<input type="text" value="\$294"/>	<i>*Capped at the Total EB \$ Amount</i>
Approx. Cost of Compliance	<input type="text" value="\$4,250"/>	

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Reduction** **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date	20-Dec-2004	Docket No.	2005-0021-MLM-E	PCW
Respondent	Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics		ision 2 (September 2002)	
Case ID No.	23364	PCW Revision December 10, 2004		
Reg. Ent. Reference No.	RN104321369			
Additional ID No(s)	Solid Waste Registration No. 87396			
Media (Statute)	Medical Waste			
Ent. Coordinator	Miriam Hall			
Site Address	5850 Rogerdale Road, Houston, Harris County			

Compliance History Worksheet

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

No <

Adjustment Percentage (Subtotal 3) 0%

Average Performer <

Adjustment Percentage (Subtotal 7) 0%

Compliance History Notes

No change due to Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 20-Dec-2004

Docket No. 2005-0021-MLM-E

PCW

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics

ision 2 (September 2002)

Case ID No. 23364

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN104321369

Additional ID No(s). Solid Waste Registration No. 87396

Media [Statute] Medical Waste

Enf. Coordinator Miriam Hall

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics
 Case ID No. 23364
 Reg. Ent. Reference No. RN104321369
 Additional ID No(s). Solid Waste Registration No. 87396
 Media [Statute] Medical Waste
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$3,000	27-Aug-2004	28-Feb-2006	1.5	\$226	n/a	\$226
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is an estimated cost to obtain authorization to accept medical waste for treatment. The Date Required is the investigation date and the Final Date is the projected date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance

TOTAL

Screening Date 20-Dec-2004

Docket No. 2005-0021-MLM-E

PCW

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics

ision 2 (September 2002)

Case ID No. 23364

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN104321369

Additional ID No(s). Solid Waste Registration No. 87396

Media [Statute] Medical Waste

Enf. Coordinator Miriam Hall

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description
 Failure to determine if a waste is hazardous pursuant to 30 Tex. Admin. Code § 335.504 (relating to Hazardous Waste Determination). Specifically, during the investigation, it was documented that the respondent failed to conduct a hazardous waste determination for vials containing a methanol liquid that were being discarded.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="50%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>

Matrix Notes
 Failure to determine if a waste is hazardous may result in mismanagement of the waste which could expose human health or the environment to significant amounts of pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended based on documentation of one waste during the August 27, 2004 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics
 Case ID No. 23364
 Reg. Ent. Reference No. RN104321369
 Additional ID No(s). Solid Waste Registration No. 87396
 Media [Statute] Medical Waste
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$250	27-Aug-2004	30-Sep-2005	1.1	\$14	n/a	\$14
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is an estimated cost to perform a complete hazardous waste determination on shredded vials of medical waste to include sampling and laboratory analysis. The Date Required is the investigation date and the Final date is the projected compliance date.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$250** TOTAL **\$14**

Screening Date 20-Dec-2004

Docket No. 2005-0021-MLM-E

PCW

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics

Revision 2 (September 2002)

Case ID No. 23364

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN104321369

Additional ID No(s). Solid Waste Registration No. 87396

Media [Statute] Medical Waste

Enf. Coordinator Miriam Hall

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="25%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics
 Case ID No. 23364
 Reg. Ent. Reference No. RN104321369
 Additional ID No(s). Solid Waste Registration No. 87396
 Media [Statute] Medical Waste
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$50	27-Aug-2004	15-Sep-2005	1.1	\$3	n/a	\$3

Notes for DELAYED costs: This is an estimated cost to label six containers with the beginning date of accumulation and with the words "Hazardous Waste" and to label the vial shredder with the words "Hazardous Waste". The Date Required is the date of investigation and the Final Date is the projected compliance date.

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance TOTAL

Screening Date 20-Dec-2004

Docket No. 2005-0021-MLM-E

PCW

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics

ision 2 (September 2002)

Case ID No. 23364

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN104321369

Additional ID No(s). Solid Waste Registration No. 87396

Media [Statute] Medical Waste

Enf. Coordinator Miriam Hall

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics
 Case ID No. 23364
 Reg. Ent. Reference No. RN104321369
 Additional ID No(s). Solid Waste Registration No. 87396
 Media [Statute] Medical Waste
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$50	27-Aug-2004	15-Sep-2005	1.1	\$3	n/a	\$3

Notes for DELAYED costs: This is an estimated cost to maintain hazardous waste containers covered and labeled with either the contents or the words "Hazardous Waste". The Date Required is the date of investigation and the Final Date is the projected compliance date.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance

TOTAL

Screening Date 20-Dec-2004

Docket No. 2005-0021-MLM-E

PCW

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics

ision 2 (September 2002)

Case ID No. 23364

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN104321369

Additional ID No(s). Solid Waste Registration No. 87396

Media [Statute] Medical Waste

Enf. Coordinator Miriam Hall

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="25%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics
 Case ID No. 23364
 Reg. Ent. Reference No. RN104321369
 Additional ID No(s). Solid Waste Registration No. 87396
 Media [Statute] Medical Waste
 Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$50	27-Aug-2004	15-Sep-2005	1.1	\$3	n/a	\$3
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is an estimated cost to maintain a record keeping system to support the location of the satellite accumulation area. The Date Required is the investigation date and the Final Date is the projected date of compliance.

Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$50 TOTAL \$3

Screening Date 20-Dec-2004

Docket No. 2005-0021-MLM-E

PCW

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics

ision 2 (September 2002)

Case ID No. 23364

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN104321369

Additional ID No(s). Solid Waste Registration No. 87396

Media [Statute] Medical Waste

Enf. Coordinator Miriam Hall

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

		Major	Moderate	Minor	
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="1%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics
 Case ID No. 23364
 Reg. Ent. Reference No. RN104321369
 Additional ID No(s). Solid Waste Registration No. 87396
 Media [Statute] Medical Waste
 Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$50	27-Aug-2004	15-Sep-2005	1.1	\$3	n/a	\$3

Notes for DELAYED costs: This is an estimated cost to ensure that the correct waste stream code is used on a hazardous waste manifest. The Date Required is the investigation date and the Final Date is the projected date of compliance.

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance TOTAL

Screening Date 20-Dec-2004

Docket No. 2005-0021-MLM-E

PCW

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics

ision 2 (September 2002)

Case ID No. 23364

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN104321369

Additional ID No(s). Solid Waste Registration No. 87396

Media [Statute] Medical Waste

Enf. Coordinator Miriam Hall

Violation Number

7

Primary Rule Cite(s)

30 Tex. Admin. Code § 335.431(c)

Secondary Rule Cite(s)

40 Code of Federal Regulations § 268.7(a)(5)

Violation Description

Failure to develop and follow a written waste analysis plan which describes the procedures that will be followed to comply with treatment standards. Specifically, during the investigation, it was documented that the respondent failed to develop a written waste analysis plan for collecting the liquid contents of shredded vials.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			25%

Matrix Notes

The respondent failed to comply with 100% of the rule requirement.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	X	

Violation Base Penalty \$2,500

One single event is recommended based on documentation of the violation during the August 27, 2004 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics
 Case ID No. 23364
 Reg. Ent. Reference No. RN104321369
 Additional ID No(s). Solid Waste Registration No. 87396
 Media [Statute] Medical Waste
 Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	27-Aug-2004	30-Sep-2005	1.1	\$11	n/a	\$11

Notes for DELAYED costs: This is an estimated cost to to develop a written waste analysis plan for collecting liquids from shredded vials. The Date Required is the investigation date and the Final Date is the projected date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$200** TOTAL **\$11**

Screening Date 20-Dec-2004

Docket No. 2005-0021-MLM-E

PCW

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics

Revision 2 (September 2002)

Case ID No. 23364

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN104321369

Additional ID No(s). Solid Waste Registration No. 87396

Media [Statute] Medical Waste

Enf. Coordinator Miriam Hall

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="25%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics
 Case ID No. 23364
 Reg. Ent. Reference No. RN104321369
 Additional ID No(s). Solid Waste Registration No. 87396
 Media [Statute] Medical Waste
 Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	27-Aug-2004	30-Sep-2005	1.1	\$5	n/a	\$5

Notes for DELAYED costs: This is an estimated cost to make the necessary notifications with emergency response organizations. The Date Required is the investigation date and the Final Date is the projected date of compliance.

Item	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal		0.0	\$0	\$0	\$0
Personnel		0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling		0.0	\$0	\$0	\$0
Supplies/equipment		0.0	\$0	\$0	\$0
Financial Assurance [2]		0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]		0.0	\$0	\$0	\$0
Other (as needed)		0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$100** TOTAL **\$5**

Screening Date 20-Dec-2004

Docket No. 2005-0021-MLM-E

PCW

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics

ision 2 (September 2002)

Case ID No. 23364

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN104321369

Additional ID No(s). Solid Waste Registration No. 87396

Media [Statute] Medical Waste

Enf. Coordinator Miriam Hall

Violation Number 9

Primary Rule Cite(s) 30 Tex. Admin. Code § 335.475

Secondary Rule Cite(s)

Violation Description Failure to develop a pollution prevention plan. Specifically, during the investigation, it was documented that the respondent had not developed a pollution prevention plan.

Base Penalty \$10,000

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	X			25%

Matrix Notes The respondent failed to comply with 100% of the rule requirement.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$2,500

One single event is recommended based on documentation of the violation during the August 27, 2004 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$27

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics
 Case ID No. 23364
 Reg. Ent. Reference No. RN104321369
 Additional ID No(s). Solid Waste Registration No. 87396
 Media [Statute] Medical Waste
 Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	27-Aug-2004	30-Sep-2005	1.1	\$27	n/a	\$27

Notes for DELAYED costs: This is an estimated cost to develop a pollution prevention plan. The Date Required is the investigation date and the Final Date is the projected date of compliance.

Item	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$500** TOTAL **\$27**

Compliance History

Customer/Respondent/Owner-Operator:	CN601660046 Quest Diagnostics Clinical Laboratories, Inc.	Classification: AVERAGE	Rating: 3.010
Regulated Entity:	RN104321369 QUEST DIAGNOSTICS	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	87396
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000057117
Location:	5850 ROGERDALE RD, HOUSTON, TX, 77072	Rating Date: 9/1/04 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	February 21, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 21, 2000 to February 21, 2005		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Jaime Garza	Phone:	(956) 430-6030

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	Yes
2. Has there been a (known) change in ownership of the site during the compliance period?	No
3. If Yes, who is the current owner?	N/A
4. If Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 12/02/2004 (336184)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
Description:
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
QUEST DIAGNOSTICS CLINICAL
LABORATORIES, INC. DBA
QUEST DIAGNOSTICS,
RN104321369

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-0021-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics ("Quest Diagnostics") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Quest Diagnostics, represented by Ms. Nichol Bunn of the law firm of Wilson, Elser, Moskowitz, Edelman & Dicker, L.L.P., appear before the Commission and together stipulate that:

1. Quest Diagnostics owns and operates an analytical laboratory for patient specimens gathered from doctors' offices, clinics, and patient service centers located at 5850 Rogerdale Road, Houston, Harris County Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and Quest Diagnostics agree that the Commission has jurisdiction to enter this Agreed Order, and that Quest Diagnostics is subject to the Commission's jurisdiction.
4. Quest Diagnostics received notice of the violations alleged in Section II ("Allegations") on or about December 7, 2004.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Quest Diagnostics of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of fifty-one thousand one hundred dollars (\$51,100.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Quest Diagnostics has paid fifty-one thousand one hundred dollars (\$51,100.00) of the administrative penalty.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Quest Diagnostics have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Quest Diagnostics has implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. Performed a hazardous waste determination for the vials containing methanol liquid being discarded at the Facility on December 14, 2004.
 - b. Began labeling each container in the container storage area of the Facility with the words "Hazardous Waste" and with the date upon which each period of accumulation begins on December 13, 2004.
 - c. Implemented procedures to ensure that all containers holding hazardous waste are always closed during storage, except when it is necessary to add or remove waste and are properly labeled on December, 14, 2004.
 - d. Began maintaining records to support the location of all hazardous waste accumulation areas in February 2006.
 - e. Began including the correct classification code assigned to the waste by the generator in the hazardous waste manifest on January 22, 2006.
 - f. Developed a written waste analysis plan for the shredding of vials and the collection of liquid waste from the vials in February 2006.
 - g. Made arrangements to familiarize police, fire departments, emergency response teams, and hospitals with the layout of the facility, properties of hazardous waste handled at the facility, associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, possible evacuation routes, and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility on January 31, 2006.

- h. Developed a pollution prevention plan on February 15, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Quest Diagnostics has not complied with one or more of the terms or conditions in this Agreed Order.
 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Quest Diagnostics is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 330.4(b) and 330.5(a)¹, by failing to obtain authorization for the acceptance of untreated medical waste as documented on August 24, 27, and September 23, 2004.
2. 30 TEX. ADMIN. CODE § 335.62 and 40 CFR § 262.11, by failing to determine if a waste is hazardous pursuant to 30 TEX. ADMIN. CODE § 335.504 (relating to Hazardous Waste Determination). Specifically, during the investigation, it was documented that the Respondent failed to conduct a hazardous waste determination for vials containing a methanol liquid that were being discarded as documented on August 24, 27, and September 23, 2004.
3. 30 TEX. ADMIN. CODE § 335.69(a)(2) and 40 CFR § 262.34(a)(2), by failing to ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container as documented on August 24, 27, and September 23, 2004.
4. 30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 CFR § 262.34(a)(3), by failing to ensure that each container and tank is labeled or marked clearly with the words "Hazardous Waste" as documented on August 24, 27, and September 23, 2004.

¹ The provisions of 30 TEX. ADMIN. CODE ch. 330 were revised by the Commission and the new provisions were adopted effective March 27, 2006. (30 TEX. REG. 2502) The violations are alleged to have occurred prior to the change in the rules, so the citations are to the rules in effect at the time of the violations.

5. 30 TEX. ADMIN. CODE § 335.69(d)(1) and 40 CFR § 265.173(a), by failing to ensure that a container holding hazardous waste is always closed during storage, except when it is necessary to add or remove waste as documented on August 24, 27, and September 23, 2004.
6. 30 TEX. ADMIN. CODE § 335.69(d)(2) and 40 CFR § 262.34(c)(1)(ii), by failing to mark containers with either the words Hazardous Waste or with other words that identify the contents of the containers as documented on August 24, 27, and September 23, 2004.
7. 30 TEX. ADMIN. CODE § 335.9(a)(1)(G), by failing to maintain records to support the location of all hazardous waste accumulation areas as documented on August 24, 27, and September 23, 2004.
8. 30 TEX. ADMIN. CODE § 335.10(b)(22), by failing to include the TCEQ waste classification code assigned to the waste by the generator in the hazardous waste manifest as documented on August 24, 27, and September 23, 2004.
9. 30 TEX. ADMIN. CODE § 335.431(c) and 40 CFR § 268.7(a)(5), by failing to develop and follow a written waste analysis plan which describes the procedures that will be followed to comply with treatment standards. Specifically, during the investigation, it was documented that the Respondent failed to develop a written waste analysis plan for collecting the liquid contents of shredded vials as documented on August 24, 27, and September 23, 2004.
10. 30 TEX. ADMIN. CODE § 335.69(a)(4) and 40 CFR § 265.37(a)(1) and (4), by failing to familiarize police, fire departments, emergency response teams, and hospitals with the layout of the facility, properties of hazardous waste handled at the facility, associated hazards, the location where facility personnel would be working, entrances to roads inside the facility, possible evacuation routes and the types of injuries or illnesses which could result from fires, explosions, or releases from the facility as documented on August 24, 27, and September 23, 2004.
11. 30 TEX. ADMIN. CODE § 335.475, by failing to develop a pollution prevention plan as documented on August 24, 27, and September 23, 2004.

III. DENIALS

Quest Diagnostics generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Quest Diagnostics pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Quest Diagnostics' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics, Docket No. 2005-0021-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Quest Diagnostics. Quest Diagnostics is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Quest Diagnostics in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Quest Diagnostics, or three days after the date on which the Commission mails notice of the Order to Quest Diagnostics, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

April 1, 2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]
Signature

1-26-09
Date

MICHAEL A. PEAF
Name (Printed or typed)

MANAGING DIRECTOR
Title

Authorized representative of
Quest Diagnostics Clinical Laboratories, Inc. dba Quest Diagnostics