



April 27, 2026

Aquatrans Distributors Inc.  
Unit 203B - 8257 92nd Street  
Delta, BC V4G 0A4

**Commissioner's Decision**  
**Aquatrans Distributors Inc. (CTC Decision No. 07/2026)**

**Introduction**

1. Aquatrans Distributors Inc. ("Aquatrans") is a licensee within the meaning of the *Container Trucking Act* (the "Act").
2. Section 16(1)(b) of the *Act* states that a licensee must carry out the container trucking service in compliance with:
  - (i) this Act and the regulations,
  - (ii) the license, and
  - (iii) if applicable, an order issued to the person under the Act.
3. Under sections 22 and 23 of the *Act*, minimum rates that licensees must pay to truckers who provide container trucking services ("CTS") were first established in the *Container Trucking Regulation* ("*Regulation*") by the Lieutenant Governor in Council and, subsequently, by the Commissioner ("*Rate Order*"). Licensees must comply with the established rates. In particular, section 23(2) of the *Act* states:

A licensee who employs or retains a trucker to provide container trucking services must pay the trucker a rate and a fuel surcharge that is not less than the rate and fuel surcharge established under section 22 for those container trucking services.
4. Under section 31 of the *Act*, the Commissioner may initiate an audit or investigation to ensure compliance with the *Act*, *Regulation* and the CTS license whether or not a complaint has been received by the Commissioner.
5. Section 6.7 of the CTS licence (which became effective December 1, 2022) requires a licensee to equip each truck engaged in container trucking services with an electronic device or technology that records the number of hours and/or trips each truck performs container trucking services.
6. Under what is now s. 6.11 of the licence, which became effective December 1, 2022 (then s. 6.10), licensees are required to ensure that payroll and wage statements for drivers are created and maintained electronically.

7. On May 22, 2025, the Office of the BC Container Trucking Commissioner (“OBCCTC”) initiated a random audit of Aquatrans to determine compliance with the *Act*, *Regulation*, and CTS license between November 1, 2021 and April 30, 2025 (“Audit Scope”).
8. Aquatrans has been the subject of one previous decision. In *Aquatrans Distributors Inc.* (CTS Decision No. 06/2018), the Commissioner found Aquatrans in breach of section 23(2) of the *Regulation* when it failed to pay the minimum regulated rates to 13 company drivers between April 3, 2014 and April 1, 2017. Aquatrans was found to owe the drivers \$13,589.42. The Commissioner imposed an administrative penalty of \$3,000.00.

### **Audit**

9. Aquatrans complied with the auditor’s request for payroll records for November 2021, January and April 2022, March and July 2023, September and October 2024 and April 2025 (“Audit Period”).
10. Aquatrans only employed company drivers during the Audit Period and each was paid on an hourly basis.

### *Regulated vs. Unregulated Work*

11. Aquatrans employed 17 Canadian citizens and/or permanent residents in addition to six workers hired through the temporary foreign worker program administered by the federal government during the Audit Period. Here I use the auditor’s terms “standard drivers” and “TFW drivers” to differentiate between the two groups but note that the *Act* applies equally to both.
12. The auditor confirmed that all the standard drivers were paid an hourly wage equal to the minimum regulated rate for every hour they worked (regardless of the type of containers they moved) but TFW drivers were paid two different rates – the minimum regulated rate and an hourly rate lower than the minimum regulated rate.
13. Aquatrans advised the auditor that they use their tagged trucks to move regulated and non-regulated containers. Aquatrans explained that tagged trucks sometimes move super B train grain trailers<sup>1</sup> and that these trailers, used to transport bulk commodities, do not qualify as containers for the following reasons:
  - a. they do not have a four-letter prefix followed by a six- or seven-digit identifier (e.g., TXCU123456); and
  - b. they are not affixed with a CSC plate issued in accordance with the International Convention for Safe Containers, as adopted by the International Maritime Organization, which would permit the container to be used for the marine shipment of goods; and
  - c. the trailer tires are permanently attached to the chassis and container unlike regulated

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<sup>1</sup> I understand this terminology to mean a high-capacity commercial vehicle configuration featuring two trailers known for grain hopper setups.

containers where the container can be removed from the trailer chassis.

14. Aquatrans provided the auditor with photographs of the containers described above which it colloquially calls “bulker” containers. When drivers are moving “bulker” containers Aquatrans refers to this as “bulker work.”
15. Aquatrans explained the TFW drivers were paid the regulated rates when moving regulated containers but were paid less than the minimum regulated hourly rate when moving unregulated containers. Aquatrans explained that only TFW drivers are paid a lower hourly rate for bulker work because Aquatrans’ agreement with Employment and Social Development Canada sets a predetermined hourly rate based on a Labour Market Impact Assessment completed by Aquatrans prior its receiving approval to hire TFWs.
16. Aquatrans did not keep or provide electronic payroll records showing the number of hours and/or trips each truck was used to perform regulated container trucking services. Instead, Aquatrans electronically generated the total number of hours each driver worked, and the drivers manually tracked in a logbook the times they picked up and dropped off regulated containers and bulker containers and that information was manually entered into their payroll records to assign the appropriate hourly rate. A sample of a daily logbook was provided to the auditor along with GPS data Aquatrans said confirms the accuracy of the drivers’ daily logbooks.
17. The auditor reviewed Aquatrans’ records with respect to both the standard drivers and TFW drivers and was satisfied that Aquatrans was reasonably able to identify the non-regulated container movements despite it not complying with the CTS licence requirements for tracking hours or trips of container trucking services.
18. However, she was unable to verify exactly when the drivers were performing regulated container trucking services. While the drivers recorded a certain number of hours of regulated and unregulated work on a daily basis, the auditor could not determine which specific trips reflected regulated work and which reflected “bulker” work. Additionally, while the GPS data identified the locations of each truck movement, the auditor could not clearly differentiate which locations involved which types of containers and therefore which movements would attract the regulated rates. However, she was satisfied that the drivers noted when they picked up and dropped off the unregulated containers such that their hours of unregulated work could be calculated. The auditor was also satisfied that the total hours of work recorded matched the payroll records.

#### *Deductions*

19. Aquatrans loaned TFW drivers money to assist with the cost of the required MELT training to obtain their Class 1 driver’s license and provided copies of the loan agreements for each employee. The amounts deducted (\$250 per pay period) are consistent with the amounts listed on the written loan agreement.

#### *Audit Report*

20. On January 16, 2026, the auditor prepared an Audit Report and concluded the following:
  - a. The bulker containers did not have the markings or characteristics of regulated containers.

- b. Aquatrans did not electronically track the number of hours or trips each tagged truck performed regulated container trucking services work.
  - c. The auditor was unable to independently verify the accuracy of the drivers' daily logbooks but accepted that the drivers manually recorded when they picked up and dropped off each regulated and unregulated container.
  - d. The TFW payroll deductions coincided with the amounts agreed upon in the loan agreements with each TFW driver.
  - e. No other breaches were identified based on the payroll records provided.
21. A copy of the Audit Report was provided to Aquatrans on January 19, 2026 and Aquatrans was provided with an opportunity to make a submission by February 18, 2026. Aquatrans did not provide a response by the deadline.

## **Decision**

### *Regulated vs. Unregulated Work*

22. I adopt the analysis set out in Forfar Enterprises Ltd. (CTC Decision No. 20/2016) that a regulated container must have some indices that indicate the container can and does transit on an ocean carrier. In this case, I accept the auditor's assessment that the "bulker" containers moved by the company drivers do not have any of those indices and therefore are not regulated containers. However, my analysis of whether a company driver was paid the regulated rate while performing container trucking services cannot rest on whether they were immediately moving a regulated container.
23. In Pro West Trucking Ltd. (CTC Decision No. 06/2017) – Commissioner Decision, then-Commissioner MacPhail rejected the licensee's argument that the regulated rates for company drivers who were paid by the hour only applied when the driver was actually moving a regulated container and adopted a more broader and purposeful approach:

To interpret "container trucking services" in the narrow fashion advocated by Pro West, permits the payment of different and presumably lower hourly rates for any work performed by company drivers in the course of providing container trucking services which goes beyond the actual physical movement of a container by truck between locations. If I accept Pro West's argument, then work performed which relates to, or is ancillary to, the movement of these containers by truck between locations, such as pre-trip inspections, empty chassis moves, bob tail moves and within-facility moves, would not attract the regulated rate. This would mean that licensees would be permitted to adopt multi-tiered compensation schemes which would allow for the payment of lower hourly rates for related work performed by their company drivers beyond the mere transportation of containers by truck between locations. In my view such an interpretation would result in the erosion of the fair and stable rate structure contemplated by the Act. Licensees would be able to drive down the average hourly rates payable to their company drivers to levels below those contemplated by Act by paying lesser rates for empty chassis moves and other work related or integral to the movement of containers by truck between locations. This, in my view, is not what the legislature intended.<sup>2</sup>

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<sup>2</sup> Para 61.

24. I adopt the analysis set out in Commissioner MacPhail's *Pro West* decision. In the case of company drivers (or IOs who are paid by the hour) who perform container trucking services work, that work includes work integral and ancillary to "the transportation of containers by means of a truck."
25. The complicating factor in this case is that Aquatrans had its drivers use the same trucks to move both regulated and unregulated containers within one shift, which means the TFW drivers<sup>3</sup> were paid two different rates over one day depending on the type of container they moved. Aquatrans' method of distinguishing between the two rates does not clearly account for any time spent by the TFW drivers performing work "ancillary" or "integral" to the movement of regulated containers. I was provided no evidence about how Aquatrans or the drivers dealt with activities "such as pre-trip inspections, empty chassis moves, bob tail moves and within-facility moves" that are integral or ancillary to regulated moves. It is likely, by way of example, that at some point during a shift a TFW driver dropped off a regulated container at a customer's location and bob-tailed the tagged truck back to Aquatrans' yard to pick up an unregulated container and vice versa. It is not clear to me what hourly rate was paid to the TFW driver in such circumstances.
26. I agree with the auditor that the TFW drivers were paid the regulated rates while moving regulated containers, but because of Aquatrans' breach of s. 6.7 of the licence, I am unable to determine if they were paid the regulated rates for work related to regulated container trucking services. The drivers were instructed to record the time spent moving both regulated and unregulated containers, and those hours represented the total number of hours they worked. However, it is unlikely that drivers would be moving containers attached to their trucks every minute of their shift. Containers are attached and unattached from the trucks throughout a shift and I am unclear on the rate paid when the driver was moving a truck without a container (regulated or unregulated). Several decisions have dealt with the difficulty of identifying work related to container trucking services that must be paid at the regulated rate without proper record keeping.<sup>4</sup>
27. If the TFW drivers simply recorded the hours spent moving unregulated containers and if the balance of the hours worked were paid at the regulated rates, that may have simplified my analysis. Aquatrans' explanation to the auditor that its drivers recorded the times they picked and dropped off the container does not account for the time the driver worked between those periods of time. It seems likely that the time spent performing work related to the movement of regulated containers was incorporated into either regulated or unregulated hours recorded by the drivers, but it is not clear which. I am unable to ascertain the hours spent performing ancillary work, let alone at what rate it was paid. It is therefore impossible to determine at this stage if there are any monies owing to the TFW drivers.
28. Aquatrans did not dispute that the auditor was unable to differentiate between regulated and unregulated trips based on the GPS data provided for each truck. I find that Aquatrans was in breach of section 6.7 of the CTS licence in March and July 2023, September and October 2024 and April 2025 of the Audit Period (the months when s. 6.7 was in effect).

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<sup>3</sup> The standard drivers were paid the equivalent rate to the minimum regulated rate for all hours worked so I do not need to assess whether Aquatrans paid the regulated rates for all the regulated work to the standard drivers.

<sup>4</sup> See Commissioner's Decisions: Sunlover Holding Co. Ltd. (CTC Decision No. 10/2017) at paras 25-27; Hutchison Cargo Terminal Inc. (CTC Supplemental Decision No. 04/2019) at paras 25-26; Pro West Trucking Ltd. (CTC Decision No. 06/2017) at para 64 and Simard Westlink Inc. (CTC Decision NO. 01/2020) at paras 23-29.

29. I also find the payroll records were entered manually– not created and maintained electronically – and that Aquatrans was therefore in breach of s. 6.10 of its licence in the months of the Audit Period when s. 6.10 was in effect (March and July 2023, September and October 2024, and April 2025).<sup>5</sup>

#### *Deductions*

30. In Canadian Boys Transport Ltd. (CTC Decision No. 03/2017), Commissioner MacPhail determined that monies loaned to drivers could not be offset by deductions and found that the licensee was required to pay the driver the minimum regulated rate as set out in section 23(2) of the *Act*. In Canaan Shipping Co. Ltd. (CTC Decision No. 03/2019) – Commissioner’s Decision, Commissioner Crawford considered advances against future earnings to be loans and therefore “not permitted deductions as these deductions result in drivers receiving rates of pay that are less than the minimums set by legislation.”<sup>6</sup> I adopt the same analysis in this case.
31. My review of the auditor’s working papers shows that the TFW drivers earned income from unregulated work in excess of the \$250.00 deducted in each pay period. Any deduction could have been made against the income earned from the unregulated work. Accordingly, I do not find that there was a breach of s. 23(2) of the *Act* as I was not provided sufficient evidence that the deductions were made against the regulated wages earned.
32. The seriousness of the available penalties indicates the potential gravity of non-compliance with the *Act*. The *Act* is beneficial legislation intended to ensure that licensees pay their drivers in compliance with the established rates. Licensees must comply with the legislation, as well as the terms and conditions of their licences, and the Commissioner is tasked under the *Act* with investigating and enforcing compliance.
33. Under section 28 of the *Regulation*, the maximum administrative fine the Commissioner may impose in the case of a contravention relating to the payment of remuneration or fuel surcharge is \$500,000, and in any other case, the maximum is \$10,000
34. In keeping with the above-described purpose of the legislation the factors which will be considered when assessing the appropriate administrative penalty include the following as set out in Smart Choice Transportation Ltd. (OBCCTC Decision No. 21/2016):
- The seriousness of the respondent’s conduct;
  - The harm suffered by drivers as a result of the respondent’s conduct;
  - The damage done to the integrity of Container Trucking Industry;
  - The extent to which the licensee was enriched;
  - Factors that mitigate the respondent’s conduct;
  - The respondent’s past conduct;
  - The need to demonstrate the consequences of inappropriate conduct to those who enjoy the

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<sup>5</sup> Section 6.7 and 6.10 first came into effect on December 1, 2022 and section 6.10 was renumbered to 6.11 in the 2024 CTS licence.

<sup>6</sup> Paragraph 28.

- benefits of having a CTS licence;
- The need to deter licensees from engaging in inappropriate conduct, and
  - Orders made by the Commission in similar circumstances in the past.
35. The introduction of electronic record keeping and tracking requirements in the 2022 CTS licence was intended to increase industry compliance with the rate and record keeping requirements by eliminating the use of paper based/manual trip or hourly tracking and payroll systems which are harder to manage, easier to manipulate and have more potential for error.
36. Aquatrans did not electronically track the number of hours of regulated work performed by its trucks and also relied on manually entered payroll records instead of electronically generated payroll records between at least December 2022 and April 2025 (the last month of the Audit Period) in breach of s. 6.7 and 6.10 of the 2022 CTS licence. Both breaches impact the ability of the auditor ensure the regulated rates are paid for all the regulated container trucking services work performed. An administrative penalty is warranted.
37. Failure to adhere to section 6.10 of the CTS licence has been treated as a serious offence. In Super Star Trucking Ltd. (CTC Decision No. 14/2023), MDW Express Transport Ltd. (CTC Decision No. 02/2024), and ADP Transport Ltd. (CTC Decision No. 06/2024), the licensees were issued administrative fines of \$6,000, \$6,000 and \$5,000 respectively for not being compliant with section 6.10.
38. Failure to adhere to section 6.7 of the CTS licence has been treated as a serious offence and has often generated an administrative fine. In Canada West Warehousing Ltd. (CTC Decision No. 17/2024), Triangle Transportation Ltd. (CTC Decision No. 14/2024), and Vicinity Transportation Ltd. (CTC Decision No. 22/2025) the licensees were issued administrative fines of \$6,000, \$8,000 and \$7,000 respectively for, *inter alia*, not being compliant with section 6.7 for a lengthy period of time.
39. I adopt the analysis set out in those decisions.
40. Aquatrans was in breach of its CTS licence and I am unable to determine if the TFW drivers were properly paid. This is particularly concerning given the unique vulnerability of temporary foreign workers in the industry. I will order Aquatrans to review its payroll records during the Audit Scope period to ensure the TFW drivers were paid the regulated work for any ancillary or integral work related to the movement of regulated containers.
41. I have also considered that Aquatrans has previously been issued an administrative penalty.
42. I have decided that an administrative penalty of \$6,000 is appropriate. In assessing the appropriate penalty, I am mindful that Aquatrans' failure to comply has hindered the auditor's ability to ensure the TFW drivers were paid for all regulated work. The penalty should remind Aquatrans and all licensees that in cases where drivers provide regulated and unregulated work, licensees must generate and retain the proper payroll records to demonstrate they have paid the minimum regulated rates for all regulated container trucking services.
43. In the result and in accordance with section 34(2) of the *Act*, I give notice that I propose an administrative fine against Aquatrans in the amount of \$6,000.00.

44. In addition, in accordance with section 9 of the *Act*, I order Aquatrans to review the Audit Scope payroll records to determine if any TFW driver was not paid the regulated rates for work related to, or is ancillary to, the movement of these containers by truck between locations, such as pre-trip inspections, empty chassis moves, bob tail moves and within-facility moves, and report its findings to the auditor within 30 days of this decision.
45. Aquatrans has 7 days from receipt of this notice to provide the Commissioner with a written response setting out why the proposed penalty should not be imposed.
46. If Aquatrans provides a written response in accordance with the above, I will consider that response and I will provide notice of my decision to either:
  - I. Refrain from imposing any or all of the proposed penalties; or
  - II. Impose any or all of the proposed penalties.
47. This decision will be delivered to Aquatrans and will be published on the OBCCTC's website after the Decision Notices are issued ([www.obcctc.ca](http://www.obcctc.ca)).

Dated at Vancouver, B.C. this 27<sup>th</sup> day of April 2026.

A handwritten signature in blue ink, appearing to read 'Glen MacInnes', written in a cursive style.

Glen MacInnes  
Commissioner