

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Qualawash Holdings, LLC
Saraland, Mobile County, Alabama
USEPA Identification Number ALR000006130**

Consent Order No. 24-XXX-CHW

PREAMBLE

This Consent Order is made and entered into by the Alabama Department of Environmental Management (“the Department” or “ADEM”) and Qualawash Holdings, LLC (“Qualawash”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, and the Alabama Hazardous Wastes Management and Minimization Act (“AHWMMA”), Ala. Code §§ 22-30-1 to 22-30-24, as amended, and the regulations promulgated pursuant thereto.

STIPULATIONS

1. Qualawash operates a commercial truck wash facility (the “Facility”) with EPA Identification Number ALR000006130, located at 202 Commerce Drive in Saraland, Mobile County, Alabama. Qualawash, as a result of its operations at the Facility, was a large quantity generator of hazardous waste, as defined in ADEM Admin. Code Div. 14, at all times relevant to this action.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended.
3. Pursuant to Ala. Code § 22-22A-4(n), the Department is the state agency responsible for the promulgation and enforcement of solid and hazardous waste regulations in accordance with the federal Solid Waste Disposal Act §§ 1002 to 11012, 42 U.S.C. §§ 6901 to 6992k, as amended. In addition, the Department is authorized to administer and enforce the provisions of the AHWMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended.

DEPARTMENT'S CONTENTIONS

4. On December 7, 2023, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection ("CEI") of Qualawash. The CEI and a review of Qualawash's compliance showed the following:

(a) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)4., a container of hazardous waste must be closed at all times during accumulation, except when adding, removing, or consolidating waste; or when temporary venting of a container is necessary for the proper operation of equipment; or to prevent dangerous situations, such as build-up of extreme pressure.

Qualawash failed to keep closed twenty-three satellite accumulation containers of hazardous waste located in the central accumulation area.

(b) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)5.(i), a generator must mark or label its containers with the words "Hazardous Waste".

Qualawash failed to mark or label twenty-five satellite accumulation containers of hazardous waste located in the central accumulation area with the words "Hazardous Waste".

(c) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)5.(ii), a generator must mark or label its container with an indication of the hazards of the contents [examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704].

Qualawash failed to mark or label twenty-four satellite accumulation containers of hazardous waste located in the central accumulation area with an indication of the hazards of the contents.

(d) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)6.(ii), a generator who accumulates either acute hazardous waste listed in 335-14-2-.04(2) or 335-14-2-.04(4)(e) or non-

acute hazardous waste in excess of the amounts listed in 335-14-3-.01(5)(a) at or near any point of generation must remove the excess from the satellite accumulation area within three consecutive calendar days to either a central accumulation area operated in accordance with the applicable requirements in 335-14-3-.01(6)(b) or (7)(a); an on-site interim status or permitted treatment, storage, or disposal facility; or an off-site designated facility.

Qualawash exceeded the allowed volumes of hazardous waste in satellite accumulation and failed to move the excess amounts to the central accumulation area within three calendar days. Five containers of hazardous waste were not moved to the central accumulation area within three days of exceeding the satellite accumulation limit.

(e) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(viii), container storage areas must meet the containment requirements of 335-14-6-.09(6). ADEM Admin. Code r. 335-14-6-.09(6)(b)1. requires, in pertinent part, that a containment system must have a base that underlies the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed.

Qualawash failed to adequately maintain the containment system for the central accumulation area. The containment system had cracks or gaps, and was not impervious to leaks, spills, or accumulated precipitation. Additionally, Qualawash stored five containers of hazardous waste in an area outside of the central accumulation area that failed to meet the containment requirements.

(f) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)10.(i)2., unless exempt under 335-14-3-.01(7)(a)10., a large quantity generator must have an artificial or natural barrier (e.g., a fence in good repair or a fence combined with a cliff), which completely surrounds the active portion of the facility, and a means to control entry, at all times, through the gates or other entrances to the central accumulation area (e.g., an attendant, television monitors, locked entrance, or controlled roadway access to the facility).

Qualawash failed to adequately restrict access to the central accumulation area. The chain link fence surrounding the area was not continuous, resulting in entry into the area not

being controlled. Additionally, Qualawash stored five containers of hazardous waste in an area outside of the central accumulation area where access was not restricted.

(g) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)10.(ii), unless exempt under 335-14-3-.01(7)(a)10., a sign with the legend, "Danger – Unauthorized Personnel Keep Out", must be posted at each entrance to the central accumulation area, and at other locations, in sufficient numbers to be seen from any approach. The legend must be written in English and in any other language predominant in the workplace and the area surrounding the facility, and must be legible from a distance of at least 25 feet. Existing signs with a legend other than "Danger – Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion, and that entry onto the active portion can be dangerous.

Qualawash failed to maintain signage containing the legend "Danger – Unauthorized Personnel Keep Out" at each entrance to the central accumulation area. Additionally, Qualawash stored five containers of hazardous waste in an area outside of the central accumulation area and failed to post the required signage in that area.

(h) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)5.(i)c., a large quantity generator must mark or label its containers with the date upon which each period of accumulation begins clearly visible for inspection on each container.

Qualawash failed to mark or label five containers of hazardous waste with an accumulation start date.

(i) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)5.(i)d., a large quantity generator must mark or label its containers with all appropriate EPA hazardous waste numbers associated with the hazardous waste, as specified in 335-14-2-.03 and 335-14-2-.04.

Qualawash failed to mark or label two containers of hazardous waste with the appropriate EPA hazardous waste number(s).

(j) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a), a large quantity generator may accumulate hazardous waste on site without a permit or interim status provided the generator accumulates hazardous waste on site for no more than 90 days, unless it has been

granted an extension to the 90-day period. ADEM Admin. Code r. 335-14-8-.01(1)(c) requires a permit for the "treatment", "storage", and "disposal" of any "hazardous waste" as identified or listed in Chapter 335-14-2.

Qualawash stored hazardous waste on site for more than 90 days without a permit or an extension. Two containers of hazardous waste had accumulation start dates of February 24, 2023, and July 20, 2023, respectively. Additionally, facility records from November 21, 2023, through February 24, 2023, indicated Qualawash stored hazardous waste on site for more than 90 days without a permit or extension on nine other instances.

(k) Pursuant to ADEM Admin. Code r. 335-14-3-.01(8)(d)1., a large quantity generator or small quantity generator must submit a correct and complete ADEM Form 8700-12 (including all appropriate attachment pages and fees) reflecting current waste activities to the Department annually. The Department must receive the ADEM Form 8700-12 (including all appropriate attachment pages and fees) no later than the 15th day of the specified month in the specified month schedule located at 335-14-1-.02(1)(a).

Qualawash failed to submit an ADEM form 8700-12 annually. Qualawash last submitted the required notification in 2020.

(l) Pursuant to ADEM Admin. Code r. 335-14-3-.14(9)(d), the contingency plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator [see 335-14-3-.14(12)], and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. In situations where the generator facility has an emergency coordinator continuously on duty because it operates 24 hours per day, every day of the year, the plan may list the staffed position (e.g., operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times.

Qualawash failed to maintain an up to date list of emergency coordinators in the contingency plan.

(m) Pursuant to ADEM Admin. Code r. 335-14-3-.14(10)(a), the large quantity generator must submit a copy of the contingency plan and all revisions to all local emergency responders (i.e., law enforcement agencies, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services). This document may also be submitted to the Local Emergency Planning Committee, as appropriate.

Qualawash failed to submit a copy of the most recent revision of the contingency plan to local emergency responders.

(n) Pursuant to ADEM Admin. Code r. 335-14-3-.14(10)(b), a large quantity generator that first becomes subject to these provisions after May 30, 2017, or a large quantity generator that is otherwise amending its contingency plan must submit a quick reference guide of the contingency plan to the local emergency responders identified at 335-14-3-.14(10)(a) or, as appropriate, the Local Emergency Planning Committee.

Qualawash failed to develop a quick reference guide for the contingency plan.

5. On January 12, 2024, the Department issued a Notice of Violation ("NOV") to Qualawash, which cited violations of the hazardous waste regulations that were discovered during the CEI.

6. On February 16, 2024, the Department received Qualawash's response to the aforementioned NOV.

7. Pursuant to Ala. Code § 22-22A-5(18), as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation(s), including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person's efforts to minimize or mitigate the effects of such violation(s) upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the department shall not

exceed \$250,000.00. Each day such a violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

(a) **SERIOUSNESS OF THE VIOLATION(S):** In determining the seriousness of the violations, the Department considered the general nature and magnitude of the violations along with the available evidence of irreparable harm to the environment and threat to the health or safety of the public.

(b) **STANDARD OF CARE:** In considering the standard of care manifested by Qualawash, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, Qualawash failed to exhibit a standard of care commensurate with the applicable regulatory standards.

(c) **ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:** The Department has determined that no significant economic benefit was gained by Qualawash as a result of the violations referenced herein.

(d) **EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION(S) UPON THE ENVIRONMENT:** There are no known environmental effects to mitigate as a result of the alleged violations.

(e) **HISTORY OF PREVIOUS VIOLATIONS:** Based on a review of Department records, Qualawash has a history of similar violations and the civil penalty reflects that history.

(f) **ABILITY TO PAY:** The Department does not have any evidence indicating that Qualawash is unable to pay the civil penalty.

(g) **OTHER FACTORS:** It should be noted that this Consent Order is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty that is warranted in the spirit of cooperation and the desire to resolve this matter amicably without incurring the unwarranted expense of litigation (see Attachment A, which is made a part of the Department's Contentions).

8. The Department neither admits nor denies Qualawash's Contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violation(s) cited herein without the unwarranted expenditure of State resources in

further prosecuting the alleged violation(s). The Department has determined that the terms contemplated in this Consent Order are in the best interest of the citizens of Alabama.

QUALAWASH'S CONTENTIONS

9. Qualawash neither admits nor denies the Department's Contentions set forth above. Qualawash has agreed to the terms of this Consent Order for settlement purposes only and admits no liability with respect to the alleged violations contained in the Department's NOV, or any contentions of fact or law set forth in this Consent Order. Qualawash consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

10. On January 17, 2024, Qualawash received a copy of the NOV from the Department.

11. On February 16, 2024, Qualawash submitted a written response to the Department's NOV. Qualawash's response confirmed that all of the alleged violations identified by the Department during the CEI and set forth in the NOV had been fully resolved.

ORDER

Therefore, without admitting that it has violated any statutes or regulations, Qualawash, along with the Department, desires to resolve and settle the alleged violation(s) cited above. The Department has carefully considered the facts available to it and has considered the six (6) penalty factors enumerated in Ala. Code § 22-22A-5(18)c., as amended, as well as the need for timely and effective enforcement. The Department believes that the following conditions are appropriate to address the violation(s) alleged herein. Therefore, the Department and Qualawash agree to enter into this Consent Order with the following terms and conditions:

A. Qualawash agrees to pay to the Department a civil penalty in the amount of \$17,050 in settlement of the violation(s) alleged herein within forty-five (45) days of the effective date of this Consent Order. Failure to pay the civil penalty within forty-five (45) days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. Qualawash agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check or other payment methods acceptable to the Department and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

Any payment submitted to the Department pursuant to this Consent Order shall reference Qualawash's name and address, and the ADEM Consent Order Number of this action.

C. Qualawash agrees to comply with all terms, conditions, and limitations of the AHWMMA and the regulations promulgated pursuant thereto immediately upon the effective date of this Consent Order and continuing every day thereafter.

D. The Department and Qualawash ("Parties") agree that this Consent Order shall apply to and be binding upon both parties, and both parties shall direct their directors, officers, and employees implementing this Consent Order to comply with its provisions. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

E. The Parties agree that, subject to the terms of these provisions and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the alleged violation(s) cited herein.

F. Qualawash agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

G. For purposes of this Consent Order only, Qualawash agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County.

H. The Parties agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future which

would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement actions as may be appropriate. Qualawash agrees not to object to such future orders, litigation, or enforcement actions based on the issuance of this Consent Order if future orders, litigation, or other enforcement actions address new matters not raised in this Consent Order.

I. The Parties agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and Qualawash does hereby waive any hearing on the terms and conditions of this Consent Order.

J. The Parties agree that this Consent Order shall not affect Qualawash's obligation to comply with any federal, State, or local laws or regulations.

K. The Parties agree that final approval and entry into this Consent Order are subject to the requirements that the Department give notice of proposed orders to the public, and that the public have at least thirty days within which to comment on the Consent Order.

L. The Parties agree that, should any provision of this Consent Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

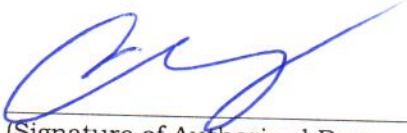
M. The Parties agree that any modifications of this Consent Order must be agreed to in writing signed by both parties.

N. The Parties agree that, except as otherwise set forth herein, this Consent Order is not and shall not be interpreted to be a permit or modification of an existing permit under federal, State, or local law, and shall not be construed to waive or relieve Qualawash of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

QUALAWASH HOLDINGS, LLC

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT



(Signature of Authorized Representative)

Charles D. Boyd

(Printed Name)

VP of Environmental

(Printed Title)

6/24/24

(Date Signed)

Lance R. LeFleur
Director

(Date Executed)

Attachment A

Qualawash Holdings, LLC
 Saraland, Mobile County
 Facility ID No. ALR000006130

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*
Failure to keep satellite accumulation containers closed	1	\$200	\$100	\$0
Failure to mark or label satellite accumulation containers with the words "Hazardous Waste"	1	\$200	\$100	\$0
Failure to mark or label satellite accumulation containers with an indication of the hazards of the contents	1	\$200	\$100	\$0
Failure to remove excess waste from satellite accumulation within three calendar days	1	\$1,000	\$100	\$0
Failure to maintain the containment systems	1	\$2,000	\$200	\$200
Failure to prevent unknowing entry to hazardous waste accumulation areas	1	\$2,000	\$200	\$200
Failure to post "Danger-Unauthorized Personnel Keep Out" signs	1	\$200	\$100	\$0

Failure to mark or label containers of hazardous waste with an accumulation start date	1	\$200	\$100	\$0	
Failure to mark or label containers of hazardous waste with the appropriate EPA hazardous waste number(s)	1	\$200	\$100	\$0	
Storage of hazardous waste for greater than 90 days without a permit	1	\$10,000	\$1,000	\$0	
Failure to submit ADEM Form 8700-12 to the Department annually	1	\$600	\$300	\$0	
Failure to maintain an up to date list of emergency coordinators	1	\$100	\$50	\$0	
Failure to provide a copy of the contingency plan to all emergency responders	1	\$100	\$50	\$0	
Failure to develop a quick reference guide for the contingency plan	1	\$100	\$50	\$0	Total of Three Factors
TOTAL PER FACTOR		\$17,100	\$2,550	\$400	\$20,050

Adjustments to Amount of Initial Penalty

Economic Benefit (+)	\$0
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	-\$3,000

Amount of Initial Penalty	\$20,050
Total Adjustments (+/-)	-\$3,000
FINAL PENALTY	\$17,050

Footnotes

* See the "FINDINGS" portion of the Order for a detailed description of each violation and the penalty factors.