

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Pace Analytical Services, LLC  
Decatur, Morgan County, Alabama  
USEPA ID Number ALR000067512**

Consent Order No. 23-XXX-CHW

**PREAMBLE**

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (“the Department” or “ADEM”) and Pace Analytical Services, LLC (“Pace”) 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. Pace operates a commercial environmental laboratory (the “Facility”) with EPA Identification Number ALR000067512, located at 1313 Point Mallard Parkway SE in Decatur, Morgan County, Alabama. Pace, as a result of its operations at the Facility, was a small quantity generator of hazardous waste and a small quantity handler of universal waste, as those terms are 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 July 5, 2022, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection ("CEI") of Pace. The CEI and a review of Pace's compliance showed the following:

(a) Pursuant to ADEM Admin. Code r. 335-14-3-.01(5)(a)5.(ii), a generator must mark or label its satellite accumulation containers with an indication of the hazards of the contents.

Pace failed to mark or label the following satellite accumulation containers with an indication of the hazards of their contents: one 5-gallon container of hazardous waste located in the micro lab area, and one 55-gallon drum of hazardous waste located in the micro lab area.

(b) Pursuant to ADEM Admin. Code r. 335-14-3-.01(6)(b), a small quantity generator of hazardous waste may accumulate hazardous waste on site without a permit or interim status provided that they accumulate hazardous waste on site for no more than 180 days, unless they have been granted an extension to the 180-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.

Pace stored one 55-gallon drum of hazardous waste located in the hazardous waste central accumulation area for more than 180-days without a permit or being granted an extension. The drum had an accumulation start date of 12-3-2021.

(c) Pursuant to ADEM Admin. Code r. 335-14-3-.01(6)(b)2.(iv), a small quantity generator of hazardous waste may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of 335-14-5 through 335-14-8, provided that they inspect central accumulation areas weekly. The small quantity generator must record inspections in an inspection log or summary. They must keep these records for at least three years from the date of inspection.

Pace failed to provide documentation that the facility had inspected the following central accumulation areas weekly: the hazardous waste central accumulation area from May

2021 through July 2022, and the waste accumulation room from December 2020 through July 2022.

(d) Pursuant to ADEM Admin. Code r. 335-14-3-.01(6)(b)6.(i)b., a small quantity generator of hazardous waste must mark or label containers with an indication of the hazards of the contents.

Pace failed to mark or label the following hazardous waste containers with an indication of the hazards of the contents: two 55-gallon drums located in the waste accumulation room, and six 55-gallon drums located in hazardous waste central accumulation area.

(e) Pursuant to ADEM Admin. Code r. 335-14-3-.01(6)(b)6.(i)c., a small quantity generator of hazardous waste must mark the date upon which each period of accumulation begins clearly visible for inspection on each container.

Pace failed to mark the following hazardous waste containers with accumulation start dates: five 55-gallon drums located in the waste accumulation room, and one 55-gallon drum located in hazardous waste central accumulation area.

(f) Pursuant to ADEM Admin. Code r. 335-14-3-.01(6)(b)8.(v), a small quantity generator of hazardous waste must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

Pace failed to maintain adequate aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to the hazardous waste central accumulation area.

(g) Pursuant to ADEM Admin. Code r. 335-14-3-.01(6)(b)8.(vi)b., a small quantity generator of hazardous waste shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

Pace failed to provide documentation that the facility had attempted to make arrangements with all local emergency responders.

(h) Pursuant to ADEM Admin. Code r. 335-14-3-.01(6)(b)9.(ii)b., a small quantity generator of hazardous waste must post the location of fire extinguishers and spill control material, and, if present, fire alarm(s) next to telephones or in areas directly involved in the generation and accumulation of hazardous waste.

Pace failed to post the location of fire extinguishers, spill control material, and fire alarms next to telephones or in areas directly involved in the generation and accumulation of hazardous waste.

(i) Pursuant to ADEM Admin. Code r. 335-14-3-.01(8)(d)1., a 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).

Pace failed to submit an annual 8700-12 to the Department for 2022 by the specified month of February.

(j) Pursuant to ADEM Admin. Code r. 335-14-3-.04(1)(a), a generator must keep a copy of each manifest signed in accordance with 335-14-3-.02(4)(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

Pace failed to provide copies of all manifests for the past three years. At the time of inspection, all manifests were not available for review.

5. On July 26, 2022, the Department issued a Notice of Violation to Pace, which cited violations of the hazardous waste regulations that were discovered during the CEI.

6. On August 26, 2022, the Department received Pace's response to the aforementioned Notice of Violation.

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 VIOLATIONS:** 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 Pace, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, Pace 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 there was no significant economic benefit gained by Pace as a result of the violations referenced herein.

(d) **EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION 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, Pace does not have a history of similar violations.

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

(g) OTHER FACTORS: It should be noted that this Special Order by Consent 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 Pace's contentions, which are set forth below. The Department has agreed to the terms of this Special Order by Consent in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the alleged violations. The Department has determined that the terms contemplated in this Special Order by Consent are in the best interest of the citizens of Alabama.

#### **FACILITY'S CONTENTIONS**

9. Pace neither admits nor denies the Department's contentions. Pace consents to abide by the terms of this Special Order by Consent and to pay the civil penalty assessed herein.

#### **ORDER**

Therefore, without admitting that it has violated any statutes or regulations, Pace, along with the Department, desires to resolve and settle the alleged violations cited above. The Department has carefully considered the facts available to it and has considered the six 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 violations alleged herein. Therefore, the Department and Pace agree to enter into this Special Order by Consent with the following terms and conditions:

A. Pace agrees to pay to the Department a civil penalty in the amount of \$12,880 in settlement of the violations alleged herein within forty-five days of the effective date of this Special Order by Consent. Failure to pay the civil penalty within forty-five 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. Pace agrees that all penalties due pursuant to this Special Order by Consent 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 Special Order by Consent shall reference Pace's name and address, and the ADEM Administrative Order number of this action.

C. Pace agrees that, independent of this Special Order by Consent, Pace shall comply with all terms, conditions, and limitations of the AHWMMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended, and the regulations promulgated pursuant thereto.

D. The Department and Pace ("parties") agree that this Special Order by Consent shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Special Order by Consent certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Special Order by Consent, to execute the Special Order by Consent 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 Special Order by Consent is intended to operate as a full resolution of the alleged violations cited herein.

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

G. For purposes of this Special Order by Consent only, Pace 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 Special Order by Consent 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 Special Order by Consent, 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. Pace agrees not to object to such future orders, litigation, or enforcement actions based on the issuance of this Special Order by Consent if future orders, litigation, or other enforcement actions address new matters not raised in this Special Order by Consent.

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

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

K. The parties agree that final approval and entry into this Special Order by Consent is 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 order.

L. The parties agree that, should any provision of this Special Order by Consent 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 Special Order by Consent must be agreed to in writing signed by both parties.



N. The parties agree that, except as otherwise set forth herein, this Special Order by Consent 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 Pace of its obligations to comply in the future with any permit.

**Executed in duplicate, with each part being an original.**

**PACE ANALYTICAL SERVICES, LLC**

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

Adam Netz  
(Signature of Authorized Representative)

\_\_\_\_\_  
Lance R. LeFleur  
Director

Adam Netz  
(Printed Name)

Director of EHS  
(Printed Title)

11/9/2022  
(Date Signed)

\_\_\_\_\_  
(Date Executed)

**Attachment A**

Pace National – Decatur  
 Decatur, Morgan County  
 Facility ID No. ALR000067512

<b>Violation</b>	<b>Number of Violations*</b>	<b>Seriousness of Violation*</b>	<b>Standard of Care*</b>	<b>History of Previous Violation*</b>
Failure to mark satellite accumulation containers of hazardous waste with an indication of the hazards	1	\$200	\$100	\$0
Storage of hazardous waste without a permit	1	\$10,000	\$1,000	\$0
Failure to conduct or document weekly inspections of the hazardous waste accumulation area(s)	1	\$1,000	\$500	\$0
Failure to mark containers of hazardous waste with an indication of the hazards	1	\$200	\$100	\$0
Failure to mark containers of hazardous waste with accumulation start dates	1	\$200	\$100	\$0
Failure to maintain adequate aisle space	1	\$1,000	\$500	\$0
Failure to make or document arrangements with local emergency responders	1	\$100	\$50	\$0
Failure to post the location of fire extinguishers, spill control material, and fire alarms	1	\$100	\$50	\$0
Failure to submit a correct and complete ADEM Form 8700-12 to the Department	1	\$100	\$50	\$0

Failure to provide for review all manifests for the previous three years	1	\$500	\$250	\$0	<b>Total of Three Factors</b>
<b>TOTAL PER FACTOR</b>		\$13,400	\$2,700	\$0	\$16,100

Adjustments to Amount of Initial Penalty

Economic Benefit (+)	\$0	Amount of Initial Penalty	\$16,100
Mitigating Factors (-)	\$0	Total Adjustments (+/-)	-\$3,220
Ability to Pay (-)	\$0	<b>FINAL PENALTY</b>	\$12,880
Other Factors (+/-)	\$0		

Footnotes

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