



EPA REGION 2
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION

March 6, 2024

Via Electronic Mail

Ms. Nilsa Martínez, Senior Director
PACE Analytical, Inc.
El Retiro Zona Industrial Calle B & C
San Germán, Puerto Rico, 00683
nilsa.martinez@pacelabs.com

RE: NOTICE OF VIOLATION, RCRA § 3007 Information Request
PACE Analytical, Inc.
Ref. No. CEPD-RCRA-09-0142
EPA ID No. PRD090235227

Dear Ms. Martínez:

The U.S. Environmental Protection Agency (EPA) is charged with the protection of human health and the environment under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq. Pursuant to RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), the EPA promulgated rules, regulations, and standards governing the handling and management of hazardous waste as set forth in Title 40 of the Code of Federal Regulations 40 (C.F.R.) Parts 260-272.

On September 10, 1992, EPA promulgated regulations under the RCRA program to establish Standards for the Management of Used Oil Destined for Recycling (57 Federal Register 41566). These regulations are in 40 C.F.R. Part 279 and the amended sections of 40 C.F.R. Parts 260, 261, 266 and 271. These regulations became effective on March 8, 1993.

The Commonwealth of Puerto Rico is not authorized by the EPA to conduct a hazardous waste program under Section 3006 of RCRA, 42 U.S.C. § 6926 and is not authorized to enforce RCRA. The EPA has retained its authority to enforce the hazardous waste rules and regulations in Puerto Rico.

The Notice of Violation (NOV) portion of this letter (see ATTACHMENT I) is issued pursuant to Section 3008 of RCRA. Issuance of this NOV and compliance or non-compliance with its terms does not in any way preclude EPA from the issuance of further NOV's, Information Requests, and/or taking formal enforcement action against PACE Analytical, Inc. (the "Facility") in San German, Puerto Rico, including monetary penalties, under Section 3008 of RCRA, and any other applicable regulation or statute.

Pursuant to the provisions of Section 3007 of RCRA, EPA may require parties who handle or have handled hazardous waste to provide information relating to such wastes. Pursuant to the statutory provisions cited above, EPA hereby requires that you provide the information requested in ATTACHMENT II, using the instructions and definitions included in ATTACHMENT III. This information is necessary to determine the compliance status of the Facility.

If you have not already done so, you must take immediate action to correct the numbered violations described in ATTACHMENT I. Please submit, within thirty (30) days of the receipt of this correspondence, a response which includes (1) a description of the actions you have taken to correct the numbered violations noted in ATTACHMENT I, (2) documentation that the numbered violations have been corrected, and (3) a description of the procedures that will be put into place to prevent such violations from occurring in the future.

Please provide the information requested no later than thirty (30) calendar days from receipt of this letter. Requests for additional time must be justified. Requests for additional time must be made within ten (10) calendar days of receipt of this letter. The response must be signed by a responsible official or agent of your Facility, using the form in ATTACHMENT IV to this letter.

The response to the request in the ATTACHMENT II must be mailed to the following address:

Mr. Eduardo R. González, P.E., Enforcement Officer
Response and Remediation Branch
U.S. Environmental Protection Agency - Region 2
Caribbean Environmental Protection Division
City View Plaza, Suite 7000
#48 PR-165 Km 1.2
Guaynabo, P.R. 00968-8069

You may, if you so desire, assert a business confidentiality claim covering all or part of the information herein requested. The claim may be asserted by placing on (or attaching to) the information at the time it is submitted, a cover sheet, stamped or typed with the legend, or other suitable form of notice, such as "trade secret," "proprietary," or "company confidential". The claim should set forth the information requested in 40 C.F.R. Section 2.204(e)(4). Information covered by such a claim will be disclosed by EPA only to the extent permitted by, and by means of procedures set forth in, 40 C.F.R. Part 2. EPA will review the information to determine the extent of confidentiality of the information, and may, at its discretion, challenge the confidentiality claim pursuant to the procedures set forth at 40 C.F.R. Part 2. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. If you contend that some or all the submitted information is entitled to confidential treatment, specify which portions of the information you consider confidential. For each item or class of information that you identify as being subject to your claim, please answer the questions in ATTACHMENT V, giving as much detail as possible. Please note that you bear the burden of substantiating your confidentiality claim. Conclusory allegations will be given little or no weight in the determination.

This information request is not subject to the requirements of the Paperwork Reduction Act (PRA), as amended, 44 U.S.C. Part 3501 et seq.

Failure to respond in full to the above requirements is a violation of RCRA and will result in federal enforcement action pursuant to Section 3008 of RCRA, including the assessment of a monetary penalty. Such penalties may be up to \$117,468 per day per violation.

When submitting your response, please attach to the Certification of Answers to Request for Information (ATTACHMENT IV, below), a list of persons, by name, position or title, and company, who prepared or assisted in the preparation of the responses to this information request.

Please also provide a brief description of the basis for their association with the Facility. Please enclose enough information to document your answers and refer to the Compliance Assistance Publications in ATTACHMENT VI.

If you have any questions regarding this matter, please contact Mr. Eduardo González, P.E. at (787) 977-5839 or e-mail at gonzalez.eduardo@epa.gov.

Sincerely,

**HECTOR
VELEZ-CRUZ**

Digitally signed by
HECTOR VELEZ-CRUZ
Date: 2024.03.06
08:03:24 -04'00'

Héctor L. Vélez Cruz, Esq.
Acting Director

Enclosures:

1. ATTACHMENT I - Notice of Violation
2. ATTACHMENT II - Information Request
3. ATTACHMENT III - Instructions & Definitions
4. ATTACHMENT IV- Certification of Answers
5. ATTACHMENT V - Substantiation of Confidential Business Information Claim
6. ATTACHEMENT VI - Copies of Compliance Assistance Publications

cc: Maria V. Rodríguez, Chief
Land Pollution Control Division
Puerto Rico Department of Natural and Environmental Resources
P.O. Box 366147, Puerta de Tierra Station
San Juan, PR 00906-6600

ATTACHMENT I
Notice of Violation

PACE Analytical, Inc.
Ref. No. CEPD-RCRA-09-0142
EPA ID No. PRD090235227

On or about December 21, 2023, a duly authorized representative of EPA conducted a RCRA compliance evaluation inspection (the "RCRA Inspection") at PACE Analytical, Inc. located in El Retiro Zona Industrial Calle B & C San Germán, Puerto Rico (the "Facility"), pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, to determine your Facility's compliance with certain federal hazardous waste accumulation, storage, and disposal regulations. Based on a review of the information obtained during and after this RCRA Inspection, the following specific violations of the requirements for large quantity hazardous waste generators were found:

General Requirements (40 CFR § 262 Subpart A)

1. 40 CFR § 262.17(a)(1)(ii) requires if a container (including peripherals and connecting valves), holding hazardous waste is not in good condition, or if it begins to leak, the large quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption for a large quantity generator that accumulates hazardous waste.

At the time of the RCRA Inspection, there was a mobile phase line that connects to two Satellite Accumulation Area containers that were leaking throughout an oxidized metal valve. It was also observed that the base of the cabinet was containing the spill inside the metal tray. It was noted that the spill was leaking slowly such as drop-to-drop releases meaning that it has been occurring for a long period of time. It was also noted that the spill may probably be seating there for some time due to the visible stains on the metal tray without containers being repaired or replaced in a timely manner in violation of 40 CFR § 262.17(a)(1)(ii).

2. 40 CFR § 262.17(a)(6) referring to 40 CFR § 262.251 requires that large quantity generators comply with the standards of Preparedness, Prevention and Emergency Procedures and must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

At the time of the RCRA Inspection, it was observed that the spill has been occurring for a long period of time and the Facility did not look for leaking containers and for deterioration of containers caused by corrosion or other factors which require immediate remedial actions if deterioration or leaks are detected at the Facility in violation of 40 CFR § 262.251.

Based on the conditions observed during the Inspection, the Facility was in violation of the above regulations.

ATTACHMENT II
RCRA § 3007 Information Request

PACE Analytical, Inc.
Ref. No. CEPD-RCRA-09-0142
EPA ID No. PRD090235227

On or about December 21, 2023, a duly authorized representative of EPA conducted a RCRA compliance evaluation inspection (the "RCRA Inspection") at PACE Analytical, Inc. located in El Retiro Zona Industrial Calle B & C San Germán, Puerto Rico (the "Facility"), pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, in order to determine your Facility's compliance with certain federal hazardous waste accumulation, storage and disposal regulations.

Based on a review of the information obtained during and after the RCRA Inspection, we have determined that certain information is required to fully evaluate the compliance of this Facility. You are hereby required to answer the following questions and provide the following information:

1. With regard to the violations cited in the above Notice of Violation (Enclosure I), please provide the following:
 - a. a description of the actions taken, or that will be taken, to correct the specific violations cited in items 1 through 3 (inclusive) of the NOV. Be specific (e.g., when actions were started and finished, how much was disposed of, etc.);
 - b. documentation verifying that the violations have been corrected, including photographs, where applicable; and
 - c. an account of changes in Facility management practices sufficient to prevent a recurrence of the violations. Include a Facility "Corrective Measures Plan" addressing operational changes, as detailed in Attachment VI, if PACE Analytical, Inc. will continue managing such wastes (i.e., organic wastes).
2. Please provide the full legal name, address, and legal status (e.g., corporation, not-for-profit corporation, individual owner, partnership) of the current and past owner and/or owners, since 1989 of the Facility located in El Retiro Zona Industrial Calle B & C San Germán, Puerto Rico. Also, provide:
 - a. the name(s) and official title(s) of each of the officer(s) (or the proprietor(s), if not a corporation) of all current and past owners; and
 - b. the month/day/year all current and past owners began ownership of the Facility.
3. Please describe the remedial actions undertaken by the PACE Analytical, Inc. to look for future leaking containers and for deterioration of containers caused by corrosion or other factors and management practices sufficient to prevent a recurrence of the violations. Although, RCRA regulations do not require that satellite accumulation areas be inspected on a weekly basis, it was

deemed advised to all satellite accumulation areas be included as part of weekly inspections as a Good Laboratory Practice.

4. When submitting your response, please attach to the Certification of Answers to Request for Information (Attachment IV, below) a list of persons by name, position or title, department, and company who prepared or assisted in the preparation of the responses to this information request. Please also provide a brief description of the nature of their work. If any person is not an employee, please also provide a short account of the basis for their association with you and/or the Facility in question.
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ATTACHMENT III
Instructions & Definitions

In responding to this Request for Information, apply the following instructions and definitions:

1. The signatory should be an officer or agent who is authorized to respond on behalf of the company/corporation to whom this is addressed.
2. A complete response must be made to each individual question in this request for information. Identify each answer with the number of the question to which it is addressed.
3. In preparing your response to each question, consult, as necessary, with all present and former employees and agents of the company/corporation who you have reason to believe may be familiar with the matter to which the question pertains.
4. In answering each question, identify all contributing sources of information.
5. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, state the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and phone number and the reasons for your belief.
6. If you cannot provide a precise answer to any question, please approximate, and state the reason for your inability to be specific.
7. For each document produced in response to this Request for Information, indicate on the document or in some other reasonable manner, the number of the question to which it applies.
8. If anything is deleted from a document produced in response to this Request for Information, state the reason for and the subject matter of the deletion.
9. If a document is requested but is not available, state the reason for its unavailability. In addition, identify any such document by author, date, subject matter, number of pages, and all recipients and their addresses.
10. For the purposes of this Request for Information, companies, corporation and/or institution are all the operations conducted by you or your company at the Facility located in located in in El Retiro Zona Industrial Calle B & C San Germán, Puerto Rico 00683.
11. Hazardous waste shall be defined for the purposes of this Request for Information as that term is defined in Section 1004(5) of RCRA, as amended, 42 U.S.C. Part 6903(5) and in 40 C.F.R., Section 261.3.
12. Hazardous constituents shall be defined as those substances listed in 40 C.F.R. Part 261, Appendix VIII.

13. Other definitions, for the purposes of this Request for Information, are as defined in 40 C.F.R. Part 260, Subpart B.
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ATTACHMENT IV
Certification of Answers

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Information Request) and all documents submitted herewith, and that I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement my response to EPA's Information Request if any additional information relevant to the matters addressed in EPA's Information Request or my response thereto should become known or available to me.

NAME (print or type)

TITLE (print or type)

SIGNATURE

ATTACHEMENT V
Substantiation of Confidential Business Information Claim

1. For what period of time do you request that the information be maintained as confidential, *e.g.*, until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to Question 1, immediately above?
3. What measures have you taken to protect the information claimed as confidential and to guard against undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has EPA or any other governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity why release of the information is likely to result in substantial harmful effects on the business or to its competitive position. Explain the specific nature of those harmful effects; why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If the business asserts that the information is voluntarily submitted information, whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.
8. Any other issue you deem relevant.

ATTACHMENT VI
Copies of Compliance Assistance Publications

Managing Your Hazardous Waste: A Guide for Small Businesses and Hazardous Waste Requirements for Large Quantity Generators. These publications may be used to improve your understanding of the EPA's Hazardous Waste Program as it applies to all hazardous waste generators. These publications are available through:

- https://www.epa.gov/sites/default/files/2019-10/documents/10008_managingyourhazwaste_508pdf_october_16_2019.pdf
- Fact Sheet on Requirements for Large Quantity Generators of Hazardous Waste at: <https://www.epa.gov/hwgenerators/fact-sheet-requirements-large-quantity-generators-hazardous-waste>
- Information on Spent Fluorescent Light Bulb Management, please see the EPA's *Overview of the Universal Waste Program* Internet site at: <https://www.epa.gov/hw/universal-waste#regs>
- Categories of Hazardous Waste Generators at: <https://www.epa.gov/hwgenerators/categories-hazardous-waste-generators#large>
- 40 CFR § 262.17 - Conditions for exemption for a large quantity generator that accumulates hazardous waste at: [https://www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-262/subpart-A/section-262.17#p-262.17\(a\)\(1\)\(ii\)](https://www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-262/subpart-A/section-262.17#p-262.17(a)(1)(ii))
- Resource Conservation and Recovery Act (RCRA) Orientation Manual at: <https://www.epa.gov/sites/default/files/2015-07/documents/rom.pdf>