

PENALTY COMPUTATION WORKSHEET

Violator's Name: ONYX Environmental Services, L.L.C.

Waste Management Program: Hazardous Waste Section

Department Staff Responsible for the Penalty Computations: Jim Byer 

Date: December 9, 2005

PART I - Class A Penalty Determination

	<u>Violation Type</u>	<u>Potential for Harm</u>	<u>Extent of Dev.</u>	<u>Matrix Amount</u>	<u>Multi- day</u>	<u>Adjust- ments</u>	<u>Total</u>
1.	403.727(1) F.S. 62-737.800(10) F.A.C. HO37-82472-004 General Condition #2 Un-permitted Operations - Self-reported	<u>Moderate</u>	<u>Major</u>	<u>\$10,450</u>	<u>\$125,300</u>	<u>(\$101,813)</u>	<u>\$33,937</u>
2.	403.727(1) F.S. HO37-82472-004 Specific Condition Pt I - #2 Specific Condition Pt V-#3 Contingency Plan - Self-reported	<u>Moderate</u>	<u>Moderate</u>	<u>\$7,150</u>		<u>(\$5,363)</u>	<u>\$1,787</u>
3.	403.727(1) F.S. 62-737.800(11) F.A.C. HO37-82472-004 Specific Condition Pt I-#18 Operating Records - Self-reported	<u>Moderate</u>	<u>Major</u>	<u>\$10,450</u>		<u>(\$7,837)</u>	<u>\$2,613</u>
4.	403.727(1) F.S. 62-737.860(2) F.A.C. HO37-82472-004 Specific Condition Pt II-#3 Maximum Quantity Stored - Self-reported	<u>Moderate</u>	<u>Major</u>	<u>\$10,450</u>		<u>(\$7,837)</u>	<u>\$2,613</u>
5.	62-737.400(3)(a) F.A.C. Universal Waste Transporter/Transfer Station Notification	<u>Minor</u>	<u>Major</u>	<u>\$2,475</u>			<u>\$2,475</u>
6.							

Total Penalties for all Violations: \$43,425


CHARLES F. GODDARD
Program Administrator
Waste Management

Date

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PART II – Multi-day Penalties and Adjustments

ADJUSTMENTS

Dollar Amount

Good faith/~~Lack of good faith~~ prior to discovery: 75 percent of Penalty for Violations 1-4 / (\$122,850)

Justification: ONYX immediately self-reported the un-permitted storage activity to the Department, expeditiously corrected the violations and cooperated in the civil investigation of the issues. Eligibility for penalty mitigation is pursuant to EPA's Policy "Incentives for Self-Policing: Discovery, Disclosure, and Correction and Prevention of Violations" (65 Fed Reg 19617 (4/11/00) and FDEP Directive 922, "Incentives For Self-Evaluation By The Regulated Community", both attached).

Good faith/Lack of good faith after discovery: _____
Justification: _____

History of non-compliance: _____
Justification: _____

Economic benefit of non-compliance: NO ADJUSTMENT
Justification: Economic Benefit calculated is less than \$5,000, in accordance with EPA RCRA Civil Penalty Policy, June 2003. See calculation in justification.

Ability to pay: _____
Justification: _____

Total Adjustments: subtract (\$122,850)

MULTI-DAY PENALTIES

Dollar Amount

Number of days adjustment factor(s) to be applied: 179 Days

Total Dollar Amount: \$700 X 179 days = \$125,300

Justification: Un-permitted storage of containers of mercury containing materials in excess of the facility's permitted capacity and in a location not authorized by the operating permit occurred from no later than July 12, 2004. At least forty-five 55-gallon drums of fluorescent powder allegedly processed in the retort from February 2004 to May 2004 were not located in the permitted facility at the time of two compliance inspections, July 12, 2004 and April 26, 2005. All forty-five drums were located within the 400 containers of mercury containing materials associated with the un-permitted storage area (four tractor-trailer vans).

OR

Number of days matrix amount is to be multiplied: _____
Justification: _____

(Inspections, meetings, assessment review)

Total Adjusted Penalty: \$43,425
Department Expenses: \$1,500

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Part III - Other Adjustments Made After Meeting with the
Responsible Party

ADJUSTMENTS:

Dollar Amount

Relative merits of the case:

Resource considerations:

Other justification:

Date

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Waste Management