PENALTY COMPUTATION WORKSHEET

Facility Name: H & J Asphalt, Inc.

Facility Address: 4310 NW 35th Ave., Miami, FL 33142-4323

Department Staff Responsible for the Penalty Computations:

Kathy Winston | Roger Carman | Karen Kantor

Date: 2/6/2015

PART I - Class A Penalty Determinations

Violation	Alleged Violation Type	Guidelines for Characterizing Violations	Harm/ Potential Harm Ranking	Extent of Dev.	Matrix Amount	Multi-day	Adjustments	Economic Benefit Calculation	Total
1	40 CFR 279.22(c)(1) Used Oil Container Labeling	UO Page 2	Fixed per ELRA 403.121(5) F.S.		$500				$500
2	40 CFR 279.63(b) Rebuttable Presumption	UO Page 1	Fixed per ELRA 403.121.(4)(d)		$2,000				$2,000
3	40 CFR 279.65(a)/Chapter 62-710.510 F.A.C. Used Oil Acceptance Records	UO Page 1	ELRA NOV 403.121(4)(f)		$500				$500
4	Chapter 62-710.401(6), F.A.C. Secondary Containment (Capacity)	UO Page 1	Fixed per ELRA 403.121(4)(b) F.S.		$4,000				$4,000
5	Chapter 62-710.500, F.A.C. Registration - Off-Specification Used Oil Burner	UO Page 2	Fixed per ELRA 403.758(2) F.S.		$300			Not Pursued	$300
						Penalties Subtotal:			**$7,300**
						Department Costs:			**$500**
						Total:			**$7,800**

All penalty calculations are based on the Florida Department of Environmental Protection Hazardous Waste Regulation Section's "Guidelines for Characterizing Used Oil Violations" revised as of June 28, 2013. The attached civil penalty worksheets are formulated and tendered only in the context of settlement negotiations in order to attempt to reach a cooperative settlement.

02/19/15

Jill S. Creech, P.E. | Date

Southeast District Director

Florida Department of Environmental Protection

PENALTY COMPUTATION WORKSHEET

(continued)

Facility Name: H & J Asphalt, Inc.
Facility Address: 4310 NW 35th Ave., Miami, FL 33142-4323

Part II - Multi-day Penalties and Adjustments

Adjustments: **Dollar Amount:**

Good Faith/lack of good Faith after Discovery:

Justification:

History of Non-Compliance:

Justification:

Economic Benefit of Non-Compliance: $186

Justification: Economic Benefit calculations were performed for Violations #5 ($186). The economic benefit amount (all violations added together) was compared to the chart on page 28 of the RCRA Civil Penalty Policy Manual. When the gravity-based and multi-day penalties combined is $30,000 or less, Economic Benefit should be pursued if it totals at least $3,000. The Economic Benefit for this violation was calculated at $186 and was not pursued in this case.

Ability to pay:

Justification:

Multi-Day Penalties: **Dollar Amount:**

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

Justification:

Number of days matrix amount is to be multiplied:

Justification:

Part III-Other Adjustments Made After Meeting With Responsible Party

Adjustments: **Dollar Amount:**

Relative Merits of the Case:

Resource Consideration: The RCRA matrix amounts were taken from the bottom-of-the-box and ELRA was used wherever possible.

Other Justification:

Jill S. Creech, P.E. Date
Southeast District Director
Florida Department of Environmental Protection

ECONOMIC BENEFIT CALCULATION

FACILITY: H & J Asphalt, Inc.
VIOLATION: #5: Chapter 62-710.500 Registration - Off-Specification Used Oil Burner

The facility failed to register as a burner of off-specification Used Oil.

The economic benefit is based on avoided costs of the annual registration fee for off-specification used oil burners, per the DEP's "Guidelines for Characterizing Used Oil Violations" revised as of July 28, 2013, the RCRA Civil Penalty Policy of June 2003, and the "RCRA Hazardous Waste Program-Economic Benefit Calculation Guidance" Version 10/1/2014. The annual registration fee for an off-specification used oil burner is $100, per Chapter 62-710.500(2). The facility failed to register as an operating off-specification used oil burner for 3 more years after being notified by the Department in 2011 that their registration had expired.

Avoided Costs (AC)	$ 100.00	*Annual registration fee*
X	3	*Number of years not registered*
TOTAL AC	**$ 300**	
Delayed Costs (DC)		*N/A*
+		
TOTAL DC	**$ -**	

AC(1-T)	**+**	**DC(I)**	**=**	**ECONOMIC BENEFIT (EB)**
where T=35%, I=3%				
$300*(1-0.35)	+	$0*(.03)	=	EB
Therefore, $186	+	$0	=	**$186**

The economic benefit amount (all violations added together) was compared to the chart on page 28 of the RCRA Civil Penalty Policy Manual. Economic Benefit was not pursued based on the following:

When the gravity-based and multi-day total penalty is:	Economic Benefit should be pursued if it totals:
$30,000 or less	at least $3,000
$30,001 to $49,999	at least 10% of the proposed penalty
$50,000 or more	$5,000 or more