

PENALTY COMPUTATION WORKSHEET

Facility Name: Raider Environmental Services, Inc.
Facility Address: 4103 NW 132nd St., Opa Locka, FL 33054

Department Staff Responsible for the Penalty Computations:

Kathy Winston Karen Kantor Roger Carman

Date: 4/8/2014

PART I - Class A Penalty Determinations

	Alleged Violation Type	Guidelines for Characterizin g Violations	Harm Ranking	Extent of Deviation	Matrix Amount	Multi-day	Adjust-ments	Economic Benefit Calculation	Total
1	40 CFR Part 279.52(a)(2)(iii) Failure to have required equipment	UO Page 2	ELRA 403.121(5) F.S.		\$500				\$500
2	40 CFR Part 279.52(b)(2) Failure to have adequate Contingency Plan	UO Page 1	ELRA 403.121(4)(e) F.S.		\$1,000		\$200 (20% ↑)		\$1,200
3	40 CFR Part 279.55(b) Failure to provide Waste Analysis Plan	UO Page 1	ELRA 403.121(4)(d) F.S.		\$2,000				\$2,000
4	Chapter 62-710.800(2) Failure to operate/modify/close a facility pursuant to a permit	UO Page 1	ELRA 403.121(4)(c) F.S.		\$3,000		\$600 (20% ↑)	Not Taken	\$3,600
5	Chapter 62-710.800(6) Failure to have sufficient Financial Assurance	UO page 1	ELRA 403.121(4)(a)		\$5,000	\$3,000 (30 days X \$100)	\$1,000 (20% ↑)		\$9,000
*ELRA Penalty equivalents were applied rather than matrix amounts where it was the lesser of the two.							Penalties Subtotal:		\$16,300
							Department Costs:		\$500
							Total:		\$16,800

All penalty calculations are based on the Florida Department of Environmental Protection's "Guidelines for Characterizing Used Oil Violations" revised as of June 28, 2013. Certain violations require Harm Ranking System characterizations and have been utilized where applicable. ELRA Penalty equivalents were applied rather than matrix amounts where it was the lesser of the two. 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.

Jill S. Creech, P.E. 4/10/15
Southeast District Director Date
Florida Department of Environmental Protection

PENALTY COMPUTATION WORKSHEET

(continued)

Facility Name: Raider Environmental Services, Inc.
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Part II - Multi-day Penalties and Adjustments

Adjustments:

Good Faith/lack of good Faith prior to Discovery:
Justification:

Dollar Amount:

Good Faith/lack of good Faith after Discovery:
Justification:

History of Non-Compliance:
Justification:

\$1,800

An upward adjustment of 20% is applied to Violations # 2 (\$200), #4 (\$600), and #5 (\$1,000) as they are repeat violations from the previous enforcement case in 2011.

\$50

Economic Benefit of Non-Compliance:
Justification:

Economic Benefit calculation is required for Violation #4. 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 total penalty is \$30,000 or less, Economic Benefit should be pursued if it totals at least \$3,000. Based on this, Economic Benefit for Violation #4 is not being pursued in this case because it totals \$50.

Ability to pay:
Justification:

Multi-Day Penalties:

Dollar Amount:

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

\$3,000

Justification:

In accordance with DEP Directive 923 - Settlement Guidelines for Civil Penalties (revised February 2013) and "Guidelines for Characterizing Used Oil Violations" (revised June 28, 2013), Violation #5 requires the calculation of multiday penalties. DEP Directive 923 indicates that multi-day penalties may be pursued where daily advantage is being gained by the violator for an ongoing violation; or, where the violation is causing daily adverse impacts to the environment and the violator knew or should have known of the violation after the first day it occurred and either failed to take action to mitigate or eliminate the violation or took action that resulted in the violation continuing. Multi-day penalties should be computed by multiplying the appropriate daily penalty calculated or a part thereof by the number of days of noncompliance. For violations that are significantly detrimental to the environment, a penalty amount at the matrix amount should be calculated for the violations that occur after the first day, up to 30 days of non-compliance. For violations that occur for more than 30 days, judgment should be exercised to determine the appropriate penalty amount to be sought for each additional day of non-compliance that occurs over 30 days. For Violation #5, the facility was out of compliance for 174 days after notification from the Department. Based on the guidance of Directive 923, a multi-day penalty amount of \$100 per day for 30 days of noncompliance is recommended (\$3,000).

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:

-\$2,500

The Department rescinded the penalty amounts for violation numbers #1 & #3: for violation #1, the facility provided documentation which demonstrated that the maintenance and annual servicing of their fire extinguishers was ongoing prior to the October 4, 2012 inspection; and for violation #3, the facility-- though unable to locate its whereabouts during the inspection--provided their Waste Analysis Plan to the Department immediately following the October 4, 2012 inspection.

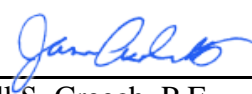
Resource Consideration:

In the interest of obtaining a settlement and Considering Department resources, the RCRA matrix were taken from the bottom of the box and ELRA amounts were used where every possible

Other Justification:

-\$10,800

The Department offered an additional reduction equivalent to the multi-day and history of non-compliance adjustments (-\$4,800), and an additional \$1,000 reduction to settle. In the interest of reaching an amicable settlement and to avoid the risk of litigation, the Department accepted the facility's counteroffer of \$3,000 plus \$500 costs and expenses to settle the matter through a Short Form Consent Order.

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

4/10/15

Date

ECONOMIC BENEFIT CALCULATION

FACILITY: Raider Environmental Services, Inc.

VIOLATION: Chapter 62-710.800(2) - Failure to follow permit conditions

The facility stored used oil in tanks that were not in their permit; therefore, exceeding their allowable storage capacity in violation of their permit conditions. At a minimum, the facility benefitted by not paying the appropriate substantial modification permit fees. Any other factors required to perform the calculation are unknown.

The economic benefit is based on delayed costs, per the DEPs Guidelines for Characterizing RCRA Violations, the RCRA Civil Penalty Policy of June 2003, and the September 10, 2007 Revised Prices for Calculating Economic Benefit. The delayed cost is based on the permit fees required to process a substantial modification to their existing Used Oil Processor permit. The fee for a substantial modification to the permit is \$500, pursuant to Chapter 62-710.800(4), F.A.C.

Avoided Costs (AC) _____ *N/A*

X _____

TOTAL AC \$ -

Delayed Costs (DC) \$ 500.00 *fee for substantial permit modification*

X \$ 1 *one-time fee*

TOTAL DC \$ 500.00

AC(1-T) + DC(I) = ECONOMIC BENEFIT
where T=38%, I=10%

\$0*(1-0.38) + \$500*(.10) = EB

Therefore, \$0 + \$50 = \$50

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:

\$30,000 or less
\$30,001 to \$49,999
\$50,000 or more

Economic Benefit should be pursued if it totals:

at least \$3,000
at least 10% of the proposed penalty
\$5,000 or more

USED OIL/USED FILTER HARM RANKING SYSTEM

