

PENALTY COMPUTATION WORKSHEET

Facility Name: Clean Fuels of Florida, Inc.
Facility Address: 2635 NE 4th Ave, Pompano Beach, FL 33064

Department Staff Responsible for the Penalty Computations:

Roger Carman Karen Kantor Kathy Winston

Date: 4/1/2016

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/Multi-Event	Adjustments	Economic Benefit Calculation	Total
#1, #2, #4	40 CFR 262.11, 40 CFR 268.7(a)(2), 40 CFR 268.9(a), 403.727(1)(e), F.S., 62-730.186(7)(d), F.A.C., Waste Determination, Land Disposal Restrictions, Record Keeping	HW PDF Page 3*	Moderate	Moderate (#2)	\$7,090	Not pursued		Not pursued	\$7,090
#3	40 CFR 273.13(d)(1), 273.14(a), 62.737.400(5)(b)(1) UW Container Management - lamps and batteries	HW PDF Page 11*	Minor	Moderate	\$710				\$710
#5, #6, #7	62-730.186(7)(b), 62-730.186(8)(b), and 62-730.186(9)(d) , F.A.C. UPW labeling, UPW accumulation timeframe, UPW training	Not Characterized	Included in #3					Not pursued	
*Guidelines for Characterizing Hazardous Waste Violations							Penalties Subtotal:		\$7,800
							Department Costs:		\$500
							Total:		\$8,300

All penalty calculations are based on the Florida Department of Environmental Protection Hazardous Waste Regulation Section's "Guidelines for Characterizing RCRA Violations," revised as of June 28, 2013. Certain violations require Harm Ranking System characterization and have been utilized where applicable; refer to the attached Hazardous Waste Harm and Potential for Harm Ranking System Worksheet. 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.



Jennifer K. Smith
District Director
Southeast District
Florida Department of Environmental Protection

4/20/16
Date

PENALTY COMPUTATION WORKSHEET

(continued)

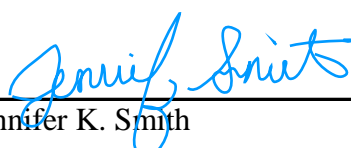
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Part II - Multi-day Penalties and Adjustments

Adjustments:	Dollar Amount:
Lack of good faith after to discovery: Justification:	<hr/>
History of Non-Compliance: Justification:	<hr/>
Economic Benefit of Non-Compliance: Justification: <u>Economic benefit was calculated for Violations #1, #2, and #6. For Violation #1, the economic benefit could not be calculated due to unknown required factors. 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, the Economic Benefit should be pursued if it totals at least \$3,000. Based on this, Economic Benefit is not being pursued in this case because it was calculated at \$308.</u>	<hr/> \$308
Ability to pay: Justification:	<hr/>
Multi-Day Penalties:	Dollar Amount:
Number of days adjustment factor(s) to be applied: Justification:	<hr/>
Number of days matrix amount is to be multiplied: Justification:	<hr/>

Part III-Other Adjustments Made After Meeting With Responsible Party

Adjustments:	Dollar Amount:
Relative Merits of the Case:	<hr/>
Resource Consideration: <u>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 whenever possible.</u>	<hr/>
Other Justification: <u>To settle the matter in a timely manner and avoid the risk of litigation, the Department accepted the facility's settlement offer of \$780, plus \$500 costs and expenses, for a total of \$1,280.</u>	<hr/> -\$7,020



Jennifer K. Smith
District Director
Southeast District
Florida Department of Environmental Protection

May 11, 2016
Date

ECONOMIC BENEFIT CALCULATION

FACILITY: Clean Fuels of Florida, Inc.

VIOLATION: Violation #1- 40 CFR 262.11 - Hazardous waste determination

The UPW is sorted by CFF personnel at their facility to remove items such as outer packaging, gloves, gowns, cups, etc., an activity described in paragraph 62-730.186(7)(c), F.A.C. When these solid wastes were removed from the UPW, they became subject to the requirement of 40 CFR 262.11 to determine whether the solid waste is hazardous waste identified in 40 CFR Part 261 Subpart C or D [as adopted in subsection 62-730.030(1), F.A.C.]. The facility had not conducted waste determinations on the segregated items prior to disposal as solid waste.

The economic benefit is based on avoided costs for disposal, per the DEP's "Guidelines for Characterizing Hazardous Waste Violations" revised as of June 28, 2013, the RCRA Civil Penalty Policy of June 2003, and the "RCRA Hazardous Waste Program-Economic Benefit Calculation Guidance" revised May 2015. The economic benefit would be based on the difference of the disposal cost of hazardous waste versus the disposal cost of nonhazardous solid waste in a municipal solid waste landfill, for the solid waste segregated from the UPW wastes, for which no proper waste determination was conducted. The factors required to calculate the economic benefit are unknown (disposal costs paid, amount of segregated wastes disposed without a proper waste determination, etc.).

Avoided Costs (AC) _____

X _____

TOTAL AC \$ -

Delayed Costs (DC) _____

X _____

TOTAL DC \$ -

$$\begin{array}{rcccl} \text{AC}(1-T) & + & \text{DC}(I) & = & \text{ECONOMIC BENEFIT} \\ & & & & \text{(EB)} \\ & \text{where } T=35\%, I=3\% & & & \\ \hline \$0*(1-0.35) & + & \$0*(.03) & = & \text{EB} \\ \hline \text{Therefore, } \$0 & + & \$0 & = & \mathbf{\$0} \end{array}$$

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

ECONOMIC BENEFIT CALCULATION

FACILITY: Clean Fuels of Florida, Inc.

VIOLATION: Violation #2 - 40 CFR 268.9(a), LDR determination for UPW

The facility receives UPW containing P-listed waste pharmaceuticals (including but not limited to nicotine patches (P075) and warfarin (P001)), as recently as April-May 2015. However, no P-listed UPW was documented to have been shipped from the facility for disposal. The facility's most recent Land Disposal Restriction (LDR) notification (dated 10/12/11) and the most recent waste profile (dated 12/06/13), both to Ross Environmental (EPA ID#OHD048415665), did not list any P-listed hazardous waste numbers, any Toxicity Characteristic (TC) heavy metal or TC organic waste numbers or any U-listed pharmaceuticals waste numbers which have LDR numerical treatment standards.

The economic benefit was based on the avoided costs for disposal, per the DEP's "Guidelines for Characterizing Hazardous Waste Violations" revised as of June 28, 2013, the RCRA Civil Penalty Policy of June 2003, and the "RCRA Hazardous Waste Program-Economic Benefit Calculation Guidance" revised May 2015. The economic benefit was calculated using the difference in the cost of incineration of hazardous UPW wastes containing P-listed pharmaceuticals (\$721 per pallet) and the cost of incineration of UPW not containing P-listed waste (\$459 per pallet), which is \$262 avoided cost per pallet (\$721 - \$459). It is known that the facility has received P-listed UPW, but the number of pallets containing P-listed UPW that were disposed, based on the LDR notification and waste profile absent the required waste codes, is unknown.

Avoided Costs (AC) \$ 262 *Cost difference per pallet*

X 1 *Number of pallets*

TOTAL AC \$ **262**

Delayed Costs (DC) _____

X _____

TOTAL DC \$ **-**

AC(1-T)	+	DC(I)	=	ECONOMIC BENEFIT (EB)
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where T=35%, I=3%

<u>\$262*(1-0.35)</u>	+	<u>\$0*(.03)</u>	=	<u>EB</u>
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<i>Therefore,</i> <u>\$170</u>	+	<u>\$0</u>	=	<u>\$170</u>
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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

ECONOMIC BENEFIT CALCULATION

FACILITY: Clean Fuels of Florida, Inc.

VIOLATION: Violation #6 - 62-730.186(8)(b), F.A.C., UPW accumulation timeframes

Based on the facility's last two disposal manifests, UPW was accumulated by CFF for longer than six months. The facility's last two manifests indicated that the last shipment occurred eight months after the previous. Mr. Fernandez explained that it is not economical to ship less than a full semi-truck load and CFF does not accumulate enough UPW in six months to make a full shipment.

The economic benefit was based on the delayed costs for disposal, per the DEP's "Guidelines for Characterizing Hazardous Waste Violations" revised as of June 28, 2013, the RCRA Civil Penalty Policy of June 2003, and the "RCRA Hazardous Waste Program-Economic Benefit Calculation Guidance" revised May 2015. The estimated disposal cost paid for hazardous UPW wastes was \$459 per pallet. It was estimated that about 10 pallets were stored for more than 180 days.

Avoided Costs (AC) _____

X _____

TOTAL AC \$ -

Delayed Costs (DC) \$ 459.00

X 10

TOTAL DC \$ 4,590.00

$$\begin{array}{rclcl}
 \text{AC}(1-T) & + & \text{DC}(I) & = & \text{ECONOMIC BENEFIT} \\
 & & & & \text{(EB)} \\
 \text{where } T=35\%, I=3\% & & & & \\
 \frac{\$0*(1-0.35)}{} & + & \frac{\$4590*(.03)}{} & = & \text{EB} \\
 \text{Therefore, } \$0 & + & \$138 & = & \mathbf{\$138}
 \end{array}$$

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