

PENALTY COMPUTATION WORKSHEET

(continued)

Facility Name: Cliff Berry - Port Everglades
Facility Address: 3400 SE 9th Ave., Fort Lauderdale, FL 33316

Part II - Multi-day Penalties and Adjustments

Adjustments: **Dollar Amount:**
Good Faith/lack of good Faith prior to Discovery: _____
Justification: _____

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

History of Non-Compliance: _____
Justification: _____

Economic Benefit of Non-Compliance: \$130
Justification: Economic benefit was calculated for violation # 4. However, when the total penalty is \$30,000 or less, the guidelines indicate that economic benefit should be pursued if it totals at least \$3,000. In this case the calculated amount was \$130; therefore, economic benefit was not pursued.

Ability to pay: _____
Justification: _____

Multi-Day Penalties: **Dollar Amount:**
Number of days adjustment factor(s) to be applied: _____
Justification: Multiday penalties for Violation #6 are "presumed", pursuant to the RCRA Civil Penalty Policy. It is anticipated that the total calculated penalties in this case serve to be a reasonable deterrent; therefore, multiday penalties for violation # 6 were not pursued.

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

Part III-Other Adjustments Made After Meeting With Responsible Party

Adjustments: **Dollar Amount:**
Resource Consideration: In the interest of obtaining an amicable settlement and considering Department resources, the RCRA matrix amounts were taken from the bottom of the box. In addition, the Department used discretionary enforcement by combining related violations under one penalty amount which was a representative characterization of the combined violations.

Resource Consideration: _____

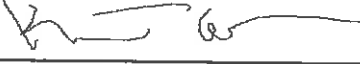
Other Justification: _____


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


**HARM RANKING SYSTEM WORKSHEET
FOR HAZARDOUS WASTE VIOLATIONS**

FACILITY NAME: Cliff Berry - Port Everglades

Violation No.	Alleged Violation Type	Nature of Waste	Waste Volume	RECEPTORS		Total Score	Harm Ranking
				Discharge	Potential Exposure		
#2	40 CFR Part 263.30 Failure to package waste per applicable DOT	4	2	8	3	17	Moderate
#5	40 CFR Part 265.31 Failure to operate in a way to minimize releases	4	2	8	3	17	Moderate
#6	40 CFR Part 265.172 Failure to store waste in a container that is compatible with the waste	4	2	8	3	17	Moderate

Assigned by: 
 Kathy Winston


 Karen Kantor


 Roger Carman

Date: 11/13/2013

HAZARDOUS WASTE SCORING SYSTEM

If the Total Score is	Then the Potential for Harm is
19-26	MAJOR
13-18	MODERATE
7-12	MINOR

ECONOMIC BENEFIT CALCULATION

FACILITY: Cliff Berry, Inc

40 CFR Part 265.16(a)(3) - Failure to properly train emergency response

VIOLATION: employees

The facility failed to properly train its' emergency response employees (driver & chemist).

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 cost of annual refresher training for emergency response employee is \$650

Avoided Costs (AC) \$ -

X 0

TOTAL AC \$ -

Delayed Costs (DC) \$ 650.00 *cost of refresher training*

X \$ 2 *two employees - driver & chemist*

TOTAL DC \$ 1,300.00

AC(1-T)	+	DC(I)	=	ECONOMIC BENEFIT
<i>where T=38%, I=10%</i>				
<u>\$0*(1-0.38)</u>	+	<u>\$1300*(.10)</u>	=	<u>EB</u>
<i>Therefore,</i> <u>\$0</u>	+	<u>\$130</u>	=	<u>\$130.00</u>

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