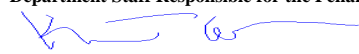



PENALTY COMPUTATION WORKSHEET

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

Department Staff Responsible for the Penalty Computations:


 Kathy Winston


 Karen Kantor


 Roger Carman

Date: 11/13/2013

PART I - Class A Penalty Determinations

Violation	Alleged Violation Type	Guidelines for Characterizing Violations	Potential for Harm*	Extent of Dev.	Matrix Amount	Multi-day	Adjustments	Economic Benefit Calculation	Total
#1	40 CFR Part 262.12(a) Failure to obtain a EPA ID number	HW Page 3	Moderate	Moderate (4)	\$7,090				\$7,090
#2, #6	40 CFR Part 262.30 and 40 CFR Part 265.172 Container Packaging and Waste complatibility	HW Page 6 and 7	Moderate*	Moderate (1) on page 7	\$7,090	Not pursued (for #6)			\$7,090
#3	40 CFR Part 263.20 Failure to correctly fill out a manifest	HW Page 3	Moderate	Minor (3)	\$4,250				\$4,250
#4, #5	40 CFR Part 265.16(a)(3) and 40 CFR Part 265.31 Employee training, and Preparedness/Prevention	HW Page 6 and 8	Moderate*	Major (2) on page 6	\$11,330			Not pursued (for #4)	\$11,330
*See attached Harm Ranking System Worksheet								Penalties Subtotal:	\$29,760
								Department Costs:	\$500
								Total:	\$30,260

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 characterizations and have been utilized where applicable; refer to the attached 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.


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

11/22/13
 Date

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:**

Relative Merits of the Case: _____

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, and ELRA was used wherever possible when it yielded the lower penalty amount. In addition, the Department used discretionary enforcement by combining related violations under one penalty amount which was a representative characterization of the combined violations.

Other Justifications: -\$27,630

Violations #1 (\$7,090) and #3 (\$4,250) were rescinded as requirements applicable to the generator rather than the transporter. Violation #4 (\$11,330) was rescinded based on CBI's well-documented history of compliant training activities. Violations #2 and #6 were reduced based the recharacterization of the harm/potential for harm ranking to Minor due to no discharge to the environment (reduced from \$7,090 to \$2,130). To reach a cooperative settlement in the matter and avoid the risk of litigation, the Department accepted the facility's settlement offer of \$2,130 plus \$500 costs and expenses.

Jennifer Smith

7/14/2015

Bill 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

Date: 11/13/2013


Karen Kantor


Roger Carman

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)	\$	<u> -</u>	
		X <u> 0</u>	
TOTAL AC	\$	-	

Delayed Costs (DC)	\$	<u> 650.00</u>	<i>cost of refresher training</i>
		X \$ <u> 2</u>	<i>two employees - driver & chemist</i>
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

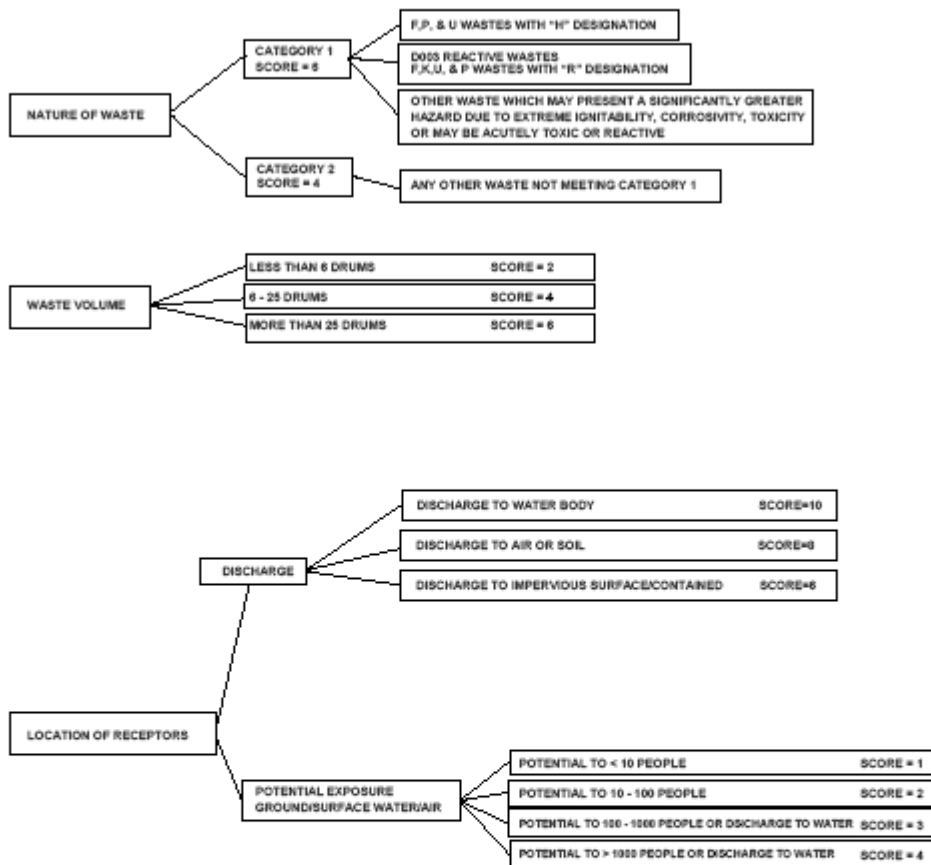
Economic Benefit should be pursued if it totals:

at least \$3,000

at least 10% of the proposed penalty

\$5,000 or more

HAZARDOUS WASTE HARM RANKING SYSTEM



TOTAL HARM:	19 - 26	MAJOR
	13 - 18	MODERATE
	7 - 12	MINOR