

PENALTY COMPUTATION WORKSHEET
SUBJECT TO FINAL APPROVAL

Violator's Name: FPL - Ft Myers Lee & Thompson Service Center

Address: 2425 Thompson St., Fort Myers

Name of Department Staff Responsible for the Penalty Computations:

Karen Bayly

Date: 2/15/2022

PART I - DRAFT PENALTY DETERMINATIONS

Violation Type and description	RCRA Guideline	ELRA Schedule	ENVIRON- MENTAL Harm	Extent of Dev.	Matrix Amount	Adjust- ments	Total
1 40 CFR 279.45(a)/FAC 62-710.800(1) - used oil stored >35 days and did not meet rqmts of 40 CFR Subpart F.	UO 99/100	403.121(4)(b)	minor	major	\$2,500	-\$500.00	\$2,000.00
2 62-710.850(5)(a) - used oil filter drum not properly managed	UO 132/3	403.121(5)	minor	minor	\$1,000	waived	\$0.00
<div> <div>Penalty matrix was utilized to calculate civil penalty. Violations did not cause actual or significant likelihood of exposure to hazardous waste or constituents.</div> <div> <div>Subtotal:</div> <div>Department Costs:</div> <div>Total:</div> </div> <div> <div>\$3,500</div> <div>\$250</div> <div>\$3,750.00</div> </div> <div> <div>(-1500)</div> <div></div> <div></div> </div> <div> <div>\$2,000.00</div> <div>\$250</div> <div>\$2,250</div> </div> </div>							

Jon Iglehart, District Director

Date

Assistant Deputy Secretary, Regulatory

Date

Peer Reviewed by Division: Yes () No (x)

PART II - MULTI-DAY PENALTIES AND ADJUSTMENTS

<u>Adjustments</u>	<u>Amount</u>
Good faith prior to discovery: _____	\$0
Justification: _____	
Good faith after discovery: _____ 20% reduction - violation 1; waive - violation 2	-\$1,500
Justification: _____ Facility has worked cooperatively with FDEP and took immediate corrective actions during and following inspection	
History of non-compliance: _____	\$0
Justification: _____	
Economic benefit of non-compliance: _____ EB calculated but not being pursued - <\$3,000	\$0.00
Justification: _____	
Ability to pay: _____	\$0
Justification: _____	
Total Adjustments:	-\$1,500.00

ECONOMIC BENEFIT CALCULATIONS

$$EB = AC(1-T) + DC(I) = \$1,580$$

AC = Avoided Costs – expenditures that will never be incurred for violator's noncompliance.

DC = Delayed Costs – expenditures deferred by violator's failure to comply.

T = Corporate Tax Rate = 21% (in 2020)

I = Interest rate charged by IRS for delinquent accounts = 4% (in 2020)

40 CFR 279.45(a)/62-710.800(1) - Failure to meet requirements of 40 CFR Subpart F (Avoided Cost)

Used oil was stored for >35 days without meeting requirements for a used oil processing facility and obtaining a processing permit.

Fee for used oil processor permit application is \$2,000 (62-710.800(4))

$$\text{Avoid Costs} = \$2,000(1-.21) = \$1,580$$

$$\text{Delayed Costs} = \$0(4\%) = \$0$$

$$EB = \$1,580$$

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

Justification: _____ \$ -

Or

Number of days matrix amount is to be multiplied:

Justification: _____ \$ -

Comments:

PART III - OTHER ADJUSTMENTS MADE AFTER MEETING WITH THE RESPONSIBLE PARTY

ADJUSTMENT

Dollar Amount

Relative merits of the case:

Resource Considerations:

Other Justification:

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Harm and Potential for Harm Ranking System

FACILITY NAME: FPL Ft Myers Lee & Thompson Service C							Date: 02-09-2022
EPA ID No.: FLD000807370							Case #: 22-
Violation	Description	Nature of Waste	Amount of Waste	Discharge	People	Threat	Total Points
1	40 CFR 279.45(a)/62-710.800(1) - used oil stored >35 days at used oil transfer facility	3	8	0	1	0	12
2	62-710.850(5)(a) - used oil filter drum not properly managed	2	1	0	1	0	4
3							
5							
Nature of Waste							Score
High Hazard (acutely toxic or reactive)							6
Other HW/Universal Waste							4
Used Oil							3
Used Oil Filters							2
Amount of Waste							
> 5,000 kg/1,375 gal (25 drums) of Waste							8
1,000 to 5,000 kg/275 gal to 1,375 gal (5 to 25 drums) of Waste OR 2.2lbs or > of acutely toxic waste							5
>100 kg to 1,000 kg/25 gal to 275 gal (5 drums) OR <2.2lbs of acutely toxic waste							2
<100 kg /<25 gal of Waste							1
Discharge							
Discharge to surface water or off site discharge.							12
Discharge to ground water							10
Discharge to soil							8
Discharge to air or Impervious Surface/Containment							6
Discharge-de minimus cleanup per 62-780 FAC							2
No Discharge							0
Potential Exposures							
>1,000 people							4
101 - 1,000 people							3
10 - 100 people							2
<10 people							1
Additional Threat Factors (select all that apply for a specific violation-Use if NO discharge observed) (use sliding scale 0 = no risk, 1-4 depending on severity)							
Fire or Explosion Risk							0-4
Incompatible Waste Storage							0-4
Risk of Employee Exposure above PELs							0-4
Container Integrity							0-4
Inadequate Provisions for Detecting and Preventing Releases							0-4
				SUBSTANTIAL (Major)		Above 20	
				SIGNIFICANT (Moderate)		13-20	
				MINIMAL (Minor)		Under 13	

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(Hazardous Waste & Universal Waste Cases)

EXTENT OF DEVIATION FROM REQUIREMENT

	MAJOR	MODERATE	MINOR
MAJOR	\$37,500 to \$28,330 (\$32,915)	\$28,330 to \$21,250 (\$24,790)	\$21,250 to \$15,580 (\$18,415)
MODERATE	\$15,580 to \$11,330 (\$13,455)	\$11,330 to \$7,090 (\$9,210)	\$7,090 to \$4,250 (\$5,670)
MINOR	\$4,250 to \$2,130 (\$3,190)	\$2,130 to \$710 (\$1,420)	\$710 to \$150 (\$430)

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(Used Oil Cases)

EXTENT OF DEVIATION FROM REQUIREMENT

	MAJOR	MODERATE	MINOR
MAJOR	\$15,000 to \$13,000 (\$14,000)	\$12,999 to \$11,000 (\$12,000)	\$10,999 to \$9,000 (\$10,000)
MODERATE	\$8,999 to \$7,000 (\$8,000)	\$6,999 to \$5,000 (\$6,000)	\$4,999 to \$3,000 (\$4,000)
MINOR	\$2,999 to \$1,999 (\$2,500)	\$1,999 to \$1,000 (\$1,500)	\$1,000

Guidelines for Characterizing HW, Used Oil, Universal Waste and Dry Cleaner Violations

https://fldeploc.dep.state.fl.us/appdata/rcra_epa/Guidance/Draft_HW_Crosswalk_8_15_2019.xlsx

Enforcement Manual

<https://floridadep.gov/ogc/ogc/content/enforcement-manual>