

Matrix Penalty Calculation Worksheet

FLR000119784	Cliff Berry, Inc.	Cliff Berry, Inc. - Jacksonville	DEP DIRECTIVE 923
Facility ID	Respondent(s)	Site Name	403.121, F.S.(ELRA)
			Enforcement Manual
Duval	1518 Talleyrand Avenue, Jacksonville, Florida 32206-5436		Peer Review SOP
County	Address		Please see ELRA Table worksheets for program specific guidelines.
11/28/2023	Emma Sacchitello		
Date	Penalty Calculation Prepared By		

Part I - Penalty Schedule Determinations

Division	Program	Violation Description	RCRA Guideline	Potential for Harm	Extent of Deviation	Matrix Penalty Range	Matrix Penalty Midpoint	Matrix Penalty	# of Violations	Multi-Day Penalty		Total
										Amount	# Days	
Waste	HW	1. 40 CFR 262.11: The facility did not conduct a complete hazardous waste determination on two wastestreams. **Because both wastestreams were analyzed after the inspection and determined to be non-hazardous, no penalty was assessed for this violation.	HW279	Moderate	Minor	\$4,250 to \$7,090	\$5,670	**\$0				\$0
Waste	Used Oil	2. 62-710.510(1) (g), F.A.C.: The facility failed to document halogen screening for each shipment of used oil transported. There were nine instances in 2023 where the halogen screening was not documented.	UO162	Minor	Major	\$2000 to \$2,999	\$2,500	\$2,500				\$2,500
Waste	HW	3. 62-730.170(2), F.A.C.: One truck used for transporting hazardous waste did not have the current hazardous waste transporter registration.	N/A - No applicable guideline	Minor	Minor	\$150 to \$710	\$430	\$430				\$0 \$430

Click the "Add Violation Row" button to add rows --->

Add Violation Row

Part I - Penalty Subtotal	\$2,930	\$2,500
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Department Costs and Expenses	Dollar Amount
Minimum enforcement case range: \$100 to \$500	\$750
Average enforcement case range: \$500 to \$1000	
Complex enforcement case range: \$1000 to \$5000	

Part I With Dept. Costs and Expenses Subtotal	\$3,680	\$3,250
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Part II - Adjustments

Economic Benefit (EB) Calculations

EB = AC(1-T) + DC(I) + DirC

AC = Avoided Costs - expenditures nullified by violator's failure to comply (operating and maintenance costs)

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

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

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

DirC = Direct Costs - Special category Avoided costs. E.g. Monitoring, Permit Fees, or WW treatment costs

Violation	Description	AC	T	DC	I	DirC	Count	EB
1	The facility did not conduct and document HW determinations on two wastestreams: Cost estimate for ignitability, TCLP metals, and TCLP volatiles analysis = \$50 + \$140 + \$242 + \$150 sampling fee = \$582(2) = 1,164 = DC = \$1,164(0.04) = \$46.56			\$1,164	4%			\$46.56
Click the "Add EB Calc Row" button to add rows ---->		Add EB Calc Row			Total Economic Benefit			\$46.56

Type	Adjustment Description and Justification	Dollar Amount
Economic Benefit (see calculations above)	Economic benefit was considered, but was not pursued because it was calculated to be less than 10% of the proposed penalty and below \$3,000.	
Good faith/lack of good faith prior to discovery		
Good faith/lack of good faith after discovery		
History of non-compliance		
Ability to pay		
Other unique factors		

Part II Subtotal	\$0
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<input type="checkbox"/>	Cap Penalties at \$50,000
<input type="checkbox"/>	Environmental School \$750 Reduction

Penalty With Part II Adjustments	\$2,930
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\$2,500

Part III - Other Adjustments Made After Meeting With the Responsible Party (only complete this part if adjustments are made to the initial (peer approved) penalty assessment)

Type	Adjustment Description and Justification	Dollar Amount
Relative Merits of the Case		
Resource Considerations		
Other Justification	Penalty for violation 3 removed based upon information submitted by the facility after the enforcement meeting.	- \$430
		Part III Subtotal
		\$0

- \$430

Additional Notes/Justification

Penalty is greater than \$75,000 and Secretary approval is required.	<input type="checkbox"/>
Penalty is greater than \$25,000 and Deputy Secretary approval is required.	<input type="checkbox"/>
Penalty is \$25,000 or less with an economic benefit adjustment for which Deputy Secretary approval is required.	<input type="checkbox"/>
Total Penalty After Part III Adjustments	\$2,500



Director of District Management / Division Director

June 17, 2024

Date

Penalty Calculation Worksheet Signatures



Assistant Director of District Management

1/16/2024

Date



Director of District Management / Division Director

January 17, 2024

Date

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Not Required

Peer Reviewed by Division

11/28/2023

Date

Deputy Secretary (if required by guidelines)

Date

Office of General Counsel

Date