

# **Guidelines for Characterizing Hazardous Waste Violations**

## **Introduction**

Department of Environmental Protection (DEP) Directive 923 is the Department's controlling enforcement document. These guidelines are intended to complement Directive 923 to determine the appropriate amount of civil and administrative penalties to seek when settling enforcement actions. These guidelines are intended to provide a rational, fair, and consistent method to determine the appropriate enforcement response for Hazardous Waste violations.

**\*\*While as a general matter, Florida does recognize that "the statute of limitations in environmental contexts where there is a continuing invasion of rights does not begin to run until the wrongful invasion of rights that constitutes the violation ceases," instances where violations are approaching the 4 year mark should be reviewed as soon as possible with the Office of General Counsel to preserve all legal options.**

## **Civil and Administrative Penalties**

Under the Environmental Litigation and Reform Act (ELRA), the Department can seek an administrative penalty for certain violations pursuant to s. 403.121(2), Florida Statutes (F.S.). Administrative penalty amounts are stipulated by statute and cannot not exceed \$50,000 per assessment when calculated in accordance with the applicable sections of 403.121, F.S. The ELRA process does not apply to Hazardous Waste. Therefore, when penalty calculations are being made for Hazardous Waste potential violations, the program specific charts shown below should be used to properly characterize potential violations. To aid inspectors in consistently evaluating potential violations, a violation matrix spreadsheet is available that provides supplemental details on the coding and classification of specific violations in relation to statutory or regulatory citations. In addition, a harm calculation worksheet is also available to facilitate a consistent way for categorizing Environmental Harm.

## **Adjustment Factors**

Directive 923 sets out various adjustment factors to be used when calculating a penalty based on the matrix. These factors include:

- Knowing, deliberate, or chronic violations.
- Good faith efforts to comply (or lack of good faith efforts to comply) either prior to or after Department discovery of the violation.
- History of noncompliance.
- Economic benefit of noncompliance.
- Ability to pay.
- Other unique factors.

## **In-Kind Penalties and Pollution Prevention Projects**

In-Kind Penalties and Pollution Prevention Projects should be considered as provided in Directive 923.

## **Penalty Calculation Matrix for Hazardous Waste**

The Department's Penalty Matrix for Hazardous Waste should be referenced from the EPA RCRA Civil Penalty Policy. Remember, to place a violation in the Major row for Environmental Harm, the violation must have actually resulted in pollution in a manner that represents a substantial threat to human health or the

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environment. Moderate violations are those violations that actually or are reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment. Minor violations are those violations that actually or are reasonably expected to result in a minimal threat to human health or the environment. In the special circumstance of a hazardous waste violation resulting in human injury or death, or which involves the deliberate disposal to the ground, surface waste or groundwater, the \$150,000 per day statutory maximum penalty should be pursued.

E V I R O N M E N T A L  H A R M	EXTENT OF DEVIATION			
		MAJOR	MODERATE	MINOR
	MAJOR	\$37,500 to \$28,330	\$28,330 to \$21,250	\$21,250 to \$15,580
	MODERATE	\$15,580 to \$11,330	\$11,330 to \$7,090	\$7,090 to \$4,250
MINOR	\$4,250 to \$2,130	\$2,130 to \$710	\$710 to \$150 <sup>1</sup>	

### Multi-day Penalties

DEP Directive 923 discusses when and how to assess multi-day penalties. As indicated in the directive, for hazardous waste violations, staff should consider the guidance provided in EPA's most current RCRA Civil Penalty Policy, including the ability to compress multiple violations when appropriate and the discretionary nature of penalties for multi-day violations extending beyond day 180. The following multi-day Matrix is being provided to address the situations where multi-day penalties are justified for Hazardous Waste cases.

E V I R O N M E N T A L  H A R M	EXTENT OF DEVIATION			
		MAJOR	MODERATE	MINOR
	MAJOR	\$7,090 to \$1,420	\$5,670 to \$1,070	\$4,250 to \$780
	MODERATE	\$3,120 to \$570	\$2,230 to \$360	\$1,420 to \$220
MINOR	\$850 to \$150	\$430 to \$150	\$150	

<sup>1</sup> - Environmental Education may be an acceptable substitute

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## Peer Review and Penalty Amount Approvals

In all cases where a proposed hazardous waste penalty exceeds \$25,000, a peer review by the Division of Waste Management is required and the Deputy Secretary must approve the proposed penalty. The Secretary must approve proposed penalties of \$75,000 or more.

## Matrix Factors-Land Disposal Restrictions

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
<b>Major</b>	Failure to meet land disposal restrictions that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Unpermitted land disposal of hazardous wastes without monitoring ground water.</li> <li>2. Failure to provide or use a LDR notice or certification with a hazardous waste shipment. Percentage of facility's hazardous waste streams missing certifications exceeds 75%.</li> <li>3. Storage of wastes restricted from land disposal for more than one year without demonstrating such storage time is necessary.</li> <li>4. Dilution of a land disposal restricted waste or treatment residual as a substitute for adequate treatment.</li> <li>5. Failure of TSD to maintain waste codes/dates on labels, and the percentage of facility's hazardous waste streams missing waste codes/dates exceeds 75%.</li> </ol>
<b>Moderate</b>	Failure to meet land disposal restrictions that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure of a generator to develop and follow a written waste analysis plan for on-site treatment of restricted wastes in tanks or containers, where there was no plan or an incomplete plan, or the plan was not followed.</li> <li>2. Failure to provide or use a LDR notice or certification with a hazardous waste shipment, and the percentage of facility's hazardous waste streams missing certifications is 25% to 75%.</li> <li>3. Storage of wastes restricted from land disposal for more than one year without demonstrating such storage time is necessary.</li> <li>4. Failure to submit certification that treated characteristic waste is being sent to a subtitle D landfill.</li> <li>5. Failure of TSD to maintain waste codes/dates on labels, and the percentage of facility's hazardous waste streams missing waste codes/dates is 25% to 75%.</li> </ol>
<b>Minor</b>	Failure to meet land disposal restrictions that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure to provide or use a LDR notice or certification with a hazardous waste shipment, and the percentage of facility's hazardous waste streams missing certifications is less than 25%.</li> <li>2. Failure to retain LDR notices, certifications, demonstrations, waste analysis data, for three years from the date the waste is subject to documentation.</li> <li>3. Missing or incorrect information on land ban forms.</li> <li>4. Failure of TSD to maintain waste codes/dates on labels, and the percentage of facility's hazardous waste streams missing waste codes/dates is less than 25%.</li> <li>5. Failure of SQG to provide one-time LDR notice with tolling agreement.</li> </ol>

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## Matrix Factors-Manifest Violations

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
<b>Major</b>	Failure to use a hazardous waste manifest that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure to use manifest by a LQG, TSD, or transporter where no shipping papers are available confirmed in two or more than consecutive inspections or other verifications.</li> <li>2. Failure to use a transporter that has received an EPA ID number confirmed in two or more consecutive inspections or other verifications.</li> </ol>
<b>Moderate</b>	Failure to use a hazardous waste manifest that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure to use manifest by a SQG confirmed in more than one inspection or other verification.</li> <li>2. Failure to use manifest by a LQG, TSD, or transporter confirmed in more than one inspection or other verification.</li> <li>3. Failure to file exception report by a LQG confirmed in more than one inspection or other verification.</li> <li>4. Failure to obtain a required EPA Identification Number.</li> </ol>
<b>Minor</b>	Failure to use a hazardous waste manifest that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure to use manifest by a LQG with a tolling agreement or their transporter.</li> <li>2. Missing or incorrect information on a manifest.</li> <li>3. Failure to prepare a manifest in accordance with the instructions.</li> <li>4. Failure of a generator to sign a manifest as required by the form; obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; or retain one copy of the manifest.</li> <li>5. Failure to file exception report by an SQG or an LQG.</li> </ol>

## Matrix Factors—Hazardous Waste Determinations

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
<b>Major</b>	Failure to make a hazardous waste determination that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure to perform a hazardous waste determination. <ol style="list-style-type: none"> <li>a. Greater than 75% of the facility's hazardous waste streams have not had a waste determination.</li> <li>b. The Department requested that facility make determination and facility failed to comply.</li> <li>c. Facility shipped waste for disposal without making proper determination, confirmed in more than one inspection or other verification.</li> </ol> </li> </ol>
<b>Moderate</b>	Failure to make a hazardous waste determination that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Percentage of the facility's hazardous waste streams for which a hazardous waste determination has not been conducted is 25% to 75%.</li> <li>2. Failure of a facility to document claims that materials are not solid wastes or are conditionally exempt from regulation.</li> <li>3. Facility shipped waste for disposal without making proper determination.</li> </ol>
<b>Minor</b>	Failure to make a hazardous waste determination that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Percentage of the facility's hazardous waste streams for which a hazardous waste determination has not been conducted is less than 25%.</li> </ol>

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### Matrix Factors-Notification Violations

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
<b>Major</b>	Failure to make proper notifications that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. All TSD facilities and transfer facilities failing to notify.</li> <li>2. All large quantity generators and transporters (who do not operate transfer facilities) failing to notify.</li> <li>3. Failure to submit a Regulated Waste Activity form for a Transfer Facility confirmed in more than one inspection or other verification.</li> </ol>
<b>Moderate</b>	Failure to make proper notifications that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. All small quantity generators failing to notify.</li> <li>2. Failure to submit a Regulated Waste Activity form for a Transfer Facility.</li> </ol>
<b>Minor</b>	Failure to make proper notifications that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Generators who have previously notified and failed to re-notify.</li> <li>2. Failure to submit Transporter Status form annually.</li> <li>3. Failure to update information on Transfer Facility Notification form annually.</li> </ol>

### Matrix Factors-Record Keeping

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
<b>Major</b>	Failure to keep records that actually or is reasonably expected to result in pollution in a manner that represents a substantial threat to human health or the environment.	NA
<b>Moderate</b>	Failure to keep records that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure for a TSD to keep written operating records of treatment, storage, or disposal activities for hazardous waste.</li> <li>2. Failure of a transfer facility to maintain written records of waste entering and leaving the transfer facility. No operating log kept.</li> <li>3. Failure to submit a biennial report in accordance with a subsequent request for submittal of a missing report.</li> </ol>
<b>Minor</b>	Failure to keep records that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure for a TSD to keep adequate operating records.</li> <li>2. Failure of a transfer facility to maintain written records of waste entering and leaving the transfer facility. Log kept but incomplete.</li> <li>3. Failure to maintain a uniform manifest or contractual agreement, or to keep records of shipping papers, test results, waste analyses, or waste determinations for three years.</li> <li>4. Failure to submit a complete biennial report.</li> </ol>

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### Matrix Factors-Accumulation Time Violations

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	Violations that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. The amount of time the drums/containers have been accumulated past the 90(180)-day limit exceeds 180 days.</li> <li>2. SQG exceeds the limit of 6,000 kilograms of hazardous waste stored on-site.</li> </ol>
Moderate	Violations that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. The amount of time the drums/containers have been accumulated past the 90(180)-day limit is 90 to 180 days.</li> <li>2. Drums/containers have not been marked with dates of accumulation confirmed in more than one inspection or other verification.</li> </ol>
Minor	Violations that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. The amount of time the drums/containers have been accumulated past the 90(180)-day limit is less than 90 days.</li> <li>2. Drums/containers have not been marked with dates of accumulation.</li> </ol>

### Matrix Factors-Non-Compliance with Permit Conditions

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	Failure to meet permit conditions that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Knowingly disposing hazardous waste without a permit or discharging hazardous waste to septic tanks.</li> <li>2. Storage of unpermitted waste confirmed in more than one inspection or other verification.</li> <li>3. Exceeding design capacity for container storage space where the design capacity has been exceeded by more than 75%.</li> <li>4. Failure of a TSD to implement a ground water monitoring program, establish a corrective action program, or institute corrective action for releases of hazardous waste or hazardous waste constituents confirmed in more than one inspection or other verification.</li> <li>5. Failure of a TSD to install a ground water monitoring system at the compliance point specified confirmed in more than one inspection or other verification.</li> <li>6. Failure of a TSD to determine if there is statistically significant evidence of increased contamination for any chemical parameter or hazardous constituent specified in the permit confirmed in more than one inspection or other verification.</li> </ol>
Moderate	Failure to meet permit conditions that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Exceeding design capacity for container storage space where the design capacity has been exceeded by 25% to 75%.</li> <li>2. Failure of a TSD to monitor for hazardous constituents identified in the permit, to monitor at the point of compliance specified in the permit or to conduct a monitoring and response program as required confirmed in more than one inspection or other verification.</li> <li>3. More than two confirmed consecutive exceedances by a TSD of maximum contaminant levels specified in the permit.</li> </ol>

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Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Minor	Failure to meet permit conditions that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure to report non-compliance with a permit.</li> <li>2. Exceeding design capacity for container storage space where the design capacity has been exceeded by less than 25%.</li> </ol>

### Matrix Factors-Preparedness and Prevention

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	Failure to prepare for an emergency that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure of a generator, TSD, LQG, Transporter, Transfer Facility to have a contingency plan whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents, to air, soil, or surface water.</li> <li>2. Failure for a generator, TSD, LQG, Transporter, Transfer Facility to maintain and operate a facility in a manner that minimized an otherwise unplanned or sudden release of hazardous waste to the environment.</li> <li>3. Failure to maintain required procedures or infrastructure needed to control unauthorized entry confirmed in more than one inspection or other verification.</li> </ol>
Moderate	Failure to prepare for an emergency that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure of a generator to adequately implement a contingency plan in a manner that exacerbates a fire, explosion, or release of hazardous waste or hazardous waste constituents, to air, soil, or surface water.</li> <li>2. Failure of a generator to take appropriate action during an emergency. Moderate = Partial Implementation.</li> <li>3. Failure for SQG to maintain and operate a facility in manner that minimized an otherwise unplanned or sudden release of hazardous waste to the environment.</li> <li>4. Failure to maintain required procedures or infrastructure needed to control unauthorized entry.</li> </ol>
Minor	Failure to prepare for an emergency that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure of a generator to have a complete contingency plan or missing required elements.</li> <li>2. Failure of a generator to take all reasonable measures to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the facility during an emergency.</li> <li>3. Failure to maintain and operate a facility in manner required to maintain containment of hazardous waste, where not released to the environment.</li> </ol>

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### Matrix Factors-Unit Management

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	Failure to manage containers and tanks that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. No assessment of tank integrity or secondary containment not provided, confirmed in more than one inspection or other verification.</li> <li>2. Storing reactive or ignitable waste within 50 feet of property line, where the drums or other containers are stored less than 15 feet of the property line.</li> <li>3. Failure by transfer facility to store wastes on a manmade surface where the percentage of waste improperly stored exceeds 75%.</li> <li>4. Failure of a generator to package waste in accordance with DOT requirements prior to shipment, or offering waste for transport off-site that results in a release where the failure to package waste as required was confirmed in more than one inspection or other verification.</li> </ol>
Moderate	Failure to manage containers and tanks that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure of a generator to package waste in accordance with DOT requirements prior to shipment, or offering waste for transport off-site that results in a release.</li> <li>2. Open, rusting or bulging drums used for storage of hazardous waste or substances.</li> <li>3. Failure of a generator to perform any container/tank inspections, or to timely install secondary containment where required.</li> <li>4. Storing reactive or ignitable waste within 50 feet of property line, where the drums or other containers are stored within 15 to less than 25 feet of the property line.</li> <li>5. Failure by transfer facility to store wastes on a manmade surface. Percentage of waste improperly stored is 25 to 75%.</li> </ol>
Minor	Failure to manage containers and tanks that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Conducted inspection of containers/tanks but kept no records.</li> <li>2. Storing reactive or ignitable waste within 50 feet of property line, where the drums are stored within 25 to 50 feet of the property line.</li> <li>3. Failure by transfer facility to store wastes on a manmade surface where the percentage of waste improperly stored is less than 75%.</li> <li>4. Failure of a generator to package waste in accordance with DOT requirements prior to shipment, or offering waste for transport off-site, where the waste is not released.</li> </ol>

### Matrix Factors-Labeling

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	Failure to label containers that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	NA
Moderate	Failure to label containers that actually or are reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Percentage of facility's containerized hazardous waste streams improperly labeled exceeds 50%.</li> <li>2. Failure by an LQG to offer transporter the appropriate placards.</li> </ol>
Minor	Failure to label containers that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Waste accumulation containers must be clearly marked or labeled 'Hazardous Waste' or with words that identify the contents of the container.</li> <li>2. Waste storage containers and tanks must be clearly marked or labeled 'Hazardous Waste'. Based on % of Containers not labeled; Minor = 0-50%.</li> <li>3. Failure to label each container according to DOT regulations for transportation.</li> <li>4. Failure by an SQG to offer transporter the appropriate placards.</li> </ol>



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### Matrix Factors-Financial Responsibility

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
<b>Major</b>	Failure to meet financial responsibility that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure by a TSD to comply with any of the financial assurance requirements within one year of due date.</li> <li>2. Transporting hazardous waste without establishing financial responsibility for sudden accidental occurrences, confirmed in more than one inspection or other verification.</li> </ol>
<b>Moderate</b>	Failure to meet financial responsibility that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure to establish financial assurance as required.</li> <li>2. Failure to maintain liability coverage for sudden or non-sudden accidental occurrences.</li> <li>3. Transporting hazardous waste without submitting proof of financial responsibility for sudden accidental occurrences.</li> </ol>
<b>Minor</b>	Failure to meet financial responsibility that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure of transporter to submit annual verification of insurance.</li> <li>2. Failure to keep the latest closure cost estimate at the facility during its operating life.</li> <li>3. Failure to submit originally signed financial instruments.</li> <li>4. Failure to adjust cost estimates for inflation within 60 days prior to the anniversary date of the establishment of the financial instruments.</li> </ol>

### Matrix Factors-Personnel Training

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
<b>Major</b>	Failure to adequately train personnel that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure of a generator or TSD to have a training program or train personnel, confirmed in more than one inspection or other verification.</li> <li>2. Failures of an SQG to ensure employees are familiar with applicable waste handling and emergency procedures, confirmed in more than one inspection or other verification.</li> </ol>
<b>Moderate</b>	Failure to adequately train personnel that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure of a generator or TSD to have a training program or train personnel where training is one year or more overdue.</li> <li>2. Failures of an SQG to ensure employees are familiar with applicable waste handling and emergency procedures, confirmed in more than one inspection or other verification.</li> </ol>
<b>Minor</b>	Failure to adequately train personnel that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure of an SQG to ensure employees are familiar with applicable waste handling and emergency procedures.</li> <li>2. Failure to document training conducted.</li> <li>3. Training does not cover all areas.</li> <li>4. Training is not completed within 6 months.</li> <li>5. Training is less than 1-year overdue.</li> <li>6. Failure of a Generator to maintain training records for current personnel until closure of facility and records for former employees for 3 years from the date the employee last worked at the facility.</li> </ol>

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### Matrix Factors-Contingency Plans and Emergency Procedures

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
<b>Major</b>	Failure to have, maintain, implement a contingency plan that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	1. Failure by an LQG, Transfer Facility, or an operating TSD to have a contingency plan not related to an emergency condition or incident, confirmed in more than one inspection or other verification.
<b>Moderate</b>	Failure to have, maintain, implement a contingency plan that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	1. Failure to report an emergency incident (assuming that the remainder of the contingency plan was implemented). 2. Incomplete, outdated, or missing contingency plan, confirmed in more than one inspection or other verification.
<b>Minor</b>	Failure to have, maintain, implement a contingency plan that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	1. Failure to submit a contingency plan to authorities. 2. Incomplete reporting after an incident. 3. Failure of an SQG to post required information by telephone.

### Matrix Factors-Universal Waste Batteries

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
<b>Major</b>	Failure to manage universal waste batteries that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	1. Failure by a large quantity handler of universal waste to contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container, confirmed in more than one inspection or other verification.
<b>Moderate</b>	Failure to manage universal waste batteries that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	1. Failure by a large or small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container.
<b>Minor</b>	Failure to manage universal waste batteries actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	1. Failure to label or mark universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, with any one of the following phrases: "Universal Waste—Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

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### Matrix Factors-Universal Waste Pesticides

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	Failure to responsibly manage universal waste pesticides that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	1. Failure by a large quantity handler of universal waste to manage universal waste pesticides in a way that prevented a release of any universal waste or component of a universal waste to the environment where the failure to manage waste as required was confirmed in more than one inspection or other verification.
Moderate	Failure to responsibly manage universal waste pesticides that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	1. Failure by a large or small quantity handler of universal waste to manage universal waste pesticides as required to prevent releases of any universal waste or component of a universal waste to the environment, confirmed in more than one inspection or other verification. 2. Use of containers not closed, structurally sound, and compatible with the pesticides
Minor	Failure to responsibly manage universal waste pesticides that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	1. Failure to label or mark a container, tank, transport vehicle or vessel in which recalled or unused universal waste pesticides are contained with the words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."

### Matrix Factors-General Universal Waste

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
Major	Failure to responsibly manage universal wastes that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	1. Handlers and transporters of universal waste shall not dilute or treat universal waste. 2. Handlers of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.
Moderate	Failure to responsibly manage universal wastes that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	1. Universal wastes from the LQH shall be shipped to other handlers or destination facilities. 2. Handlers shall not accumulate universal waste for longer than one year. 3. Handlers not keeping records that demonstrate length of time universal waste has been accumulated, confirmed in more than one inspection or other verification. 4. Handlers not ensuring that its employees involved with the management of universal waste are trained in the proper handling and emergency cleanup and containment procedures applicable to its handling or transport of spent universal waste lamps or devices, confirmed in more than one inspection or other verification. 5. A small quantity handler of lamps or devices that also accumulates other universal wastes shall notify the department before meeting or exceeding a combined universal waste amount of 5,000 kilograms.
Minor	Failure to responsibly manage universal wastes that actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	1. Handler of lamps or devices shall ensure that all its employees, involved with the management of universal are trained in the proper handling and emergency cleanup and containment procedures applicable to its handling or transport of spent universal waste lamps or devices. Minor=incomplete training. 2. Handlers not adequately maintaining required records. 3. Handlers not ensuring applicable training is provided to its employees.

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## Matrix Factors-Universal Waste Mercury Lamps/Devices, Redistributors and Reverse Distributors

Matrix Factor	Environmental Harm	Extent of Deviation from Requirement
<b>Major</b>	Failure to responsibly manage universal waste mercury lamps and/or devices that actually results in pollution in a manner that represents a substantial threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure to ensure proper disposal of mercury-containing device. Major=&gt;100 lamps or devices.</li> <li>2. Failure to develop and submit to the Department, along with its registration, operational plans and a closure plan including financial assurance within 180 days of the required date.</li> <li>3. Failure to store containers that are structurally sound; compatible with the universal waste lamp or device. Major&gt;100 lamps or devices.</li> <li>4. Failure by a handler/transporter of spent universal waste lamps or devices to ship these items to a handler or universal waste lamp or device destination facility, confirmed in more than one inspection or other verification.</li> <li>5. The owner or operator of a large quantity handler facility, or of a transfer facility that stores lamps or devices in areas other than on a lamp or device transport vehicle, and where 2,000 kilograms or more of universal waste lamps or 100 kilograms or more of devices are accumulated at one time shall: Develop and submit to the Department, along with its registration and operational plan.</li> <li>6. Failure to keep and maintain copies of shipping documents, including shipping papers and logs detailing shipments received from transporters, hazardous waste manifests and any documents disclosing shipping discrepancies. Major=no records.</li> <li>7. Failure to inspect mercury recovery and mercury reclamation facilities for malfunctions and deterioration, for operator errors, and discharges which may cause, or lead to a release of hazardous materials into the environment or which might lead to a threat to human health. Major=No inspection.</li> </ol>
<b>Moderate</b>	Failure to responsibly manage universal waste mercury lamps and/or devices that actually or is reasonably expected to result in pollution in a manner that represents a significant threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure to obtain a permit to operate a mercury recovery or mercury reclamation facility.</li> <li>2. A handler or transporter, excluding one exempted from registration shall not begin or continue operations without a current and valid registration issued by the Department.</li> <li>3. Failure for a transporter to use trucks that are totally enclosed and in good condition.</li> <li>4. Failure to properly notify the department before meeting or exceeding an accumulation amount of 5,000 kilograms of lamps or devices.</li> <li>5. Failure to properly train personnel in the proper handling and emergency cleanup and containment procedures for handling or transport of spent universal waste lamps or devices.</li> <li>6. Failure for a handler or transfer facility to properly store its universal waste lamps or devices indoors, and for amounts than specified in its registration or closure plan.</li> <li>7. Failure for a handler to store for more than one year, or a transfer facility for more than ten days, universal waste lamps or devices from the date of generation or from when they were first received, respectively.</li> <li>8. Failure to track receipts and shipments of these lamps or devices confirmed in more than one inspection or other verification.</li> <li>9. Failure to properly notify the Department prior to any modifications to the operations or equipment which do not conform to the approved permit, within 30 days of such modification.</li> <li>10. Failure to properly notify the department within two weeks of any emergency event.</li> </ol>
<b>Minor</b>	Failure to responsibly manage universal waste mercury lamps and/or devices actually or is reasonably expected to result in pollution in a manner that represents a minimal threat to human health or the environment.	<ol style="list-style-type: none"> <li>1. Failure to properly notify the Department prior to any modifications to the operations or equipment which do not conform to the approved permit.</li> <li>2. Before beginning operations, and then annually, a handler or a transporter of spent universal waste lamps or devices shall register by notifying the Department.</li> <li>3. Failure to ensure proper disposal of mercury-containing device or device components. Minor&lt;10 lamps or devices.</li> <li>4. Handlers/transporters of spent universal waste lamps or devices shall only ship these items to a handler or universal waste lamp or device destination facility. Minor&lt;10 lamps or devices.</li> <li>5. Failure to store containers that are structurally sound; compatible with the universal waste lamp or device. Minor&lt;10 lamps or devices.</li> <li>6. Failure to label containers with one of the following: for universal waste lamps, the words "Spent Mercury-Containing Lamps for Recycling", "Universal Waste Mercury Lamps", "Waste Mercury Lamps" or "Used Mercury Lamps"; except for those crushed which shall be labeled "Crushed Mercury Lamps". Minor&lt;10 lamps or devices.</li> <li>7. Failure to keep and maintain copies of shipping documents, including shipping papers and logs detailing shipments received from transporters, hazardous waste manifests and any documents disclosing shipping discrepancies. Minor=Inspected but no records kept.</li> <li>8. Failure for large quantity handler facility, or of a transfer facility to properly register with the department.</li> <li>9. Failure to properly submit annual reports to the Department.</li> <li>10. Failure to properly train personnel in the proper handling and emergency cleanup and containment procedures applicable to its handling or transport of spent universal waste lamps or devices. Minor=Incomplete training.</li> <li>11. New transporters, handlers or lamp or device destination facilities may be added at any time during the year, but the Department shall be notified of any changes at least annually.</li> </ol>