



**Lexington-Fayette Urban County Government  
Department of Environmental Quality & Public Works  
Division of Environmental Services**

**PENALTY CALCULATION WORKSHEET  
GENERAL**

---

**Background**

Location of Violation/Incident:

Responsible Party Name:

Address:

Phone:

Permit or other regulatory ID# (if applicable):

Referring Inspector and Agency:

Ordinance(s) or Requirement(s) Violated:

Date(s) of Inspection(s) (attach copy of inspection report(s) and/or NOV):

Date Compliance Achieved (if applicable):

Number of Days of Noncompliance:

Comments/Explanation:



**Lexington-Fayette Urban County Government  
Department of Environmental Quality & Public Works  
Division of Environmental Services**

## **Civil Penalty Matrix**

A civil penalty is calculated by determining a base penalty dependent on the severity and duration of the violation and adjusting the base amount for certain adjustment factors. The base penalty evaluates the relationship between the potential harm to human health or the environment and the extent of deviation from applicable regulatory requirements.

### **I. Degree of Environmental Harm**

In evaluating potential harm to human health or the environment, enforcement staff will consider the following factors:

- Amount or relative toxicity of pollutant(s) discharged or released (Is the discharge/release large volume or less than a Reportable Quantity? Is the discharged material mud or a hazardous chemical?)
- Sensitivity of the affected environment (Are bodies of water affected? Are fish and wildlife threatened? Does the violation affect wetlands, sinkholes or other environmentally-sensitive areas?)
- Potential risk posed to human health or the environment
- Duration of discharge or release
- Number and type of environmental media affected (What are the characteristics of the impacted media? Has the violation resulted in off-site impacts? What length of stream may have been impacted?)

The degree of environmental harm will be classified using the following definitions:

**Major**: the violation causes or may cause substantial risk or harm to human health or the environment (Example: discharge in excess of Reportable Quantity or otherwise large volume; documented substantial risk to human health; serious adverse impact on the environment; off-site impacts; long-duration or ongoing violations; multiple media affected)

**Moderate**: the violation causes or may cause a significant risk to human health or the environment (Example: discharge below the Reportable Quantity but above permit limits or local reporting requirements; actual or potential risk to human health; limited adverse impact on the environment; minimal off-site impacts, if any)

**Minor**: the violation causes or may cause a relatively low risk to human health or the environment (Example: low-volume discharge or release; short-duration or one-time event; low-risk material discharged; little or no adverse environmental impact)



**Lexington-Fayette Urban County Government  
 Department of Environmental Quality & Public Works  
 Division of Environmental Services**

**II. Deviation from Regulatory Requirements**

The extent of deviation from the regulatory requirement (ordinance or permit) relates to the degree to which the requirement is violated. The violator may be only slightly out of compliance or may have totally disregarded a requirement, or any point in between. In determining the extent of deviation, the following definitions are used:

Major: the violator deviates from the requirements of the ordinance or permit to such an extent that there is substantial noncompliance (includes failure to secure a required permit and repeated noncompliance)

Moderate: the violator significantly deviates from the requirements of the ordinance or permit or only implements some of the requirements (includes prohibited or illicit discharges/connections, failure to make required connection to sewer and violations of provisions for fats, oils and grease; applies to initial repeat violations of any provision)

Minor: the violator deviates somewhat from the ordinance or permit requirements or meets most of the requirements (includes violators who make good-faith efforts to come into compliance or correct violations prior to abatement deadlines)

**BASE PENALTY CALCULATION**

Degree of Environmental Harm	Extent of Deviation from Requirement(s)			
		Major	Moderate	Minor
Major		\$15,000 to \$12,000	\$12,000 to \$9,000	\$9,000 to \$6,000
Moderate		\$6,000 to \$4,500	\$4,500 to \$3,000	\$3,000 to \$1,500
Minor		\$1,500 to \$1,000	\$1,000 to \$500	\$500 to \$200



**Lexington-Fayette Urban County Government  
Department of Environmental Quality & Public Works  
Division of Environmental Services**

The determination of a specific penalty amount within the selected matrix cell is left to the judgment and discretion of enforcement staff and is based on the individual circumstances of each case. In general, the lower penalty amount in a cell will be selected unless circumstances of the case warrant a higher initial penalty. The enforcement response and initial penalty may be escalated under the following conditions:

- There is reason to believe that the violation presents a serious threat to the public health, safety, and welfare or the environment; or
- In the absence of immediate action, the effects of the continuation of the violation would be irreparable or irreversible; or
- The offense occurs after the first citation for the same type violation is issued to a person or entity for the same property or site.

Note: the penalty amount ultimately derived will be reduced by 33% if the violator does not contest the citation.

**Multi-day Violations**

Article XII of Chapter 16 of the Lexington-Fayette County Code of Ordinances provides for the assessment of civil penalties up to the amount of \$15,000 for each day of any violation. Multi-day penalties will generally be assessed in the case of ongoing violations that have significant potential for harm to human health or the environment and/or that demonstrate substantial deviation from regulatory requirements. When assessed, the number of days of noncompliance will be multiplied by the base penalty derived from the matrix.



**Lexington-Fayette Urban County Government  
Department of Environmental Quality & Public Works  
Division of Environmental Services**

**Penalty Calculation**

*Note: for roll cart container violations, enter the penalty amount directly on the Maximum Penalty line*

1. Proposed Base Penalty from Matrix	\$
2. Multiply Line 1 by ___ Days of Noncompliance <i>enter "1" if multi-day penalty not assessed</i>	\$
3. Adjustment for Compliance History ( ___% increase) <i>up to 15% increase</i>  <i>1 violation in previous 12 months – up to 5% increase 2 violations in previous 12 months – up to 10% increase 3 or more violations or referred directly for citation – up to 15% increase</i>	\$
4. Adjustment for Willing/Knowing Disregard ( ___% increase) <i>up to 15% increase</i>	\$
5. Add Lines 2 through 4	\$
<b>Maximum Penalty*</b>	<b>\$</b>
<i>If uncontested, penalty will be reduced to: (1/3 reduction)</i>	<b>\$</b>

\*civil penalty may not exceed \$15,000 per day or occurrence after application of adjustment factors



**Lexington-Fayette Urban County Government  
Department of Environmental Quality & Public Works  
Division of Environmental Services**

**Supporting Narrative**

Degree of Environmental Harm (extent to which violator's actions resulted in, or were likely to result it, harm to human health or the environment; consider impacts to bodies of water or environmentally sensitive areas; evaluate the extent and duration of the environmental impact)

Compliance History (number, type and seriousness of previous violations; time period over which violations occurred; similarity of previous violations; violator's response to previous enforcement)

Willful/Knowing Disregard of Requirements (the violator's culpability in committing the violation(s); consider the degree of control exercised by the responsible party and whether the events could have been prevented had the violator taken precautions to prevent the occurrence)

---

**Approvals**

Signed: \_\_\_\_\_  
(Enforcement Specialist)

Date: \_\_\_\_\_

Approved: \_\_\_\_\_  
(Compliance & Enforcement Program)

Date: \_\_\_\_\_