

7. Subsection (b)(4) applies where the offense involved violation of a permit, or where there was a failure to obtain a permit when one was required.

Background: This section applies both to substantive violations of the statute governing the handling of pesticides and toxic and hazardous substances and to recordkeeping offenses. The first four specific offense characteristics provide enhancements when the offense involved a substantive violation. The fifth and sixth specific offense characteristics apply to recordkeeping offenses. Although other sections of the guidelines generally prescribe a base offense level of 6 for regulatory violations, §2Q1.2 prescribes a base offense level of 8 because of the inherently dangerous nature of hazardous and toxic substances and pesticides. A decrease of 2 levels is provided, however, for “simple recordkeeping or reporting violations” under §2Q1.2(b)(6).

| | |
|------------------------|---|
| <i>Historical Note</i> | Effective November 1, 1987. Amended effective November 1, 1993 (amendment 481); November 1, 1997 (amendment 553); November 1, 2004 (amendment 672); November 1, 2010 (amendment 746); November 1, 2018 (amendment 813); November 1, 2025 (amendment 836). |
|------------------------|---|

§2Q1.3. Mishandling of Other Environmental Pollutants; Recordkeeping, Tampering, and Falsification

- (a) Base Offense Level: **6**
- (b) Specific Offense Characteristics
 - (1) (A) If the offense resulted in an ongoing, continuous, or repetitive discharge, release, or emission of a pollutant into the environment, increase by **6** levels; or
 - (B) if the offense otherwise involved a discharge, release, or emission of a pollutant, increase by **4** levels.
 - (2) If the offense resulted in a substantial likelihood of death or serious bodily injury, increase by **11** levels.
 - (3) If the offense resulted in disruption of public utilities or evacuation of a community, or if cleanup required a substantial expenditure, increase by **4** levels.
 - (4) If the offense involved a discharge without a permit or in violation of a permit, increase by **4** levels.
 - (5) If a recordkeeping offense reflected an effort to conceal a substantive environmental offense, use the offense level for the substantive offense.