

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

**Calgon Carbon Corporation,
15024 U.S. Route 23
Catlettsburg, Kentucky 41129
EPA ID No.: KYD005009923**

Respondent.

Docket No. **RCRA-04-2020-2107(b)**

Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a)

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a) (RCRA or the Act) and Sections 22.13(b) and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

II. PARTIES

4. Complainant is the Chief of the Chemical Safety and Land Enforcement Branch, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA) Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 3008(a) of the Act.
5. Respondent is **Calgon Carbon Corporation**, a corporation doing business in the Commonwealth of Kentucky. This proceeding pertains to Respondent's facility located at **15024 U.S. Route 23, Catlettsburg, Kentucky 41129** (Facility).

III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Commonwealth of Kentucky (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at KRS 224.46 *et seq.* and 401 K.A.R. Chapters 30 and 39.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CAFO.
11. KRS 224.46-510(1) [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at 401 KAR 39:080 Section 1(1)-(7)(a)1., (8)(a), and (9)-(11) [40 C.F.R. Part 262].
12. KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at 401 KAR 39:090, Section 1 and Section 1(1)-(7) (permitted) and 401 KAR 39:090, Section 2(1)-(4). (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. On November 19, 1980, the Respondent submitted Part A of the RCRA Permit Application. On September 7, 1982, the Respondent submitted Part B of the RCRA Permit Application. The submittal of the RCRA Permit Application resulted in the facility receiving interim status.
14. On September 28, 1990, the Kentucky Department for Environmental Protection (KDEP) issued RCRA Hazardous Waste Permit Number KYD-005-009-923 (the RCRA Permit) to Respondent for the storage and treatment of hazardous waste at Respondent's facility.
15. On September 28, 1990, the EPA issued Permit Number HSWA-KY-013 (the HSWA Permit) to Respondent for the storage and treatment of hazardous waste at Respondent's facility.

16. The Respondent submitted a RCRA Permit Application for renewal of its RCRA Permit to store hazardous waste in tanks and containers and to treat hazardous waste in the Carbon Regeneration Unit to KDEP on October 29, 1997.
17. Pursuant to 401 K.A.R. 39:060, Section 3(1) [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
18. Pursuant to 401 K.A.R. 39:060, Section 3(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in 401 K.A.R. 39:060, Section 3(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by 401 K.A.R. 39:060, Section 3(1) [40 C.F.R. § 261.4(b)].
19. Pursuant to 401 K.A.R. 39:060, Section 3(1), [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in 401 K.A.R. 39:060, Section 3(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous wastes and are provided with the EPA Hazardous Waste Numbers D001 through D043.
20. Pursuant to 401 K.A.R. 39:060, Section 3(1) and 401 K.A.R. 39:060, Section 3(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to 401 K.A.R. 39:060, Section 3(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for arsenic is identified with the EPA Hazardous Waste Number D004.
21. Pursuant to 401 K.A.R. 39:060, Section 3(1) and 401 K.A.R. 39:060, Section 3(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to 401 K.A.R. 39:060, Section 3(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for cadmium is identified with the EPA Hazardous Waste Number D006.
22. Pursuant to 401 K.A.R. 39:060, Section 3(1) and 401 K.A.R. 39:060, Section 3(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to 401 K.A.R. 39:060, Section 3(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for selenium is identified with the EPA Hazardous Waste Number D010.
23. Pursuant to 401 K.A.R. 39:005, Section 1(33) and 401 K.A.R. 39:060, Section 3(1) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in 401 K.A.R. 39:060, Section 3(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
24. Pursuant to 401 K.A.R. 39:005, Section 1(28) [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”

25. Pursuant to 401 K.A.R. 39:005, Section 1(53) [40 C.F.R. § 260.10], a “person” includes a corporation.
26. Pursuant to 401 K.A.R. 39:005 Section 1(51) [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility.”
27. Pursuant to 401 K.A.R. 39:005 Section 1(50) [40 C.F.R. § 260.10], an “operator” is “the person responsible for the overall operation of a facility.”
28. Pursuant to KRS 224.1-010(27) and 401 K.A.R. 39:005 Section 1(68) [40 C.F.R. § 260.10], “storage” means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes.
29. Pursuant to 401 KAR 39:005 Section 1(14) [40 C.F.R. § 260.10], a “container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
30. Pursuant to 401 KAR 39:005 Section 1(21) [40 C.F.R. § 260.10], “disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.
31. Pursuant to 401 KAR 39:005 Section 1 [40 C.F.R. § 260.10], a “large quantity generator” (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2200 lbs) of non-acute hazardous waste in a calendar month.
32. Pursuant to 401 KAR 39:005 Section 1 [40 C.F.R. § 260.10], “tank” means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.
33. Pursuant to 401 KAR 39:005 Section 1 [40 C.F.R. § 260.10], a “tank system” is defined as a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
34. Pursuant to 401 KAR 39:090, Section 2(1) [40 C.F.R. § 264.1031], “in light liquid service” means that the piece of equipment contains or contacts a waste stream where the vapor pressure of one or more of the organic components in the stream is greater than 0.3 kilopascals (kPa) at 20 °C, the total concentration of the pure organic components having a vapor pressure greater than 0.3 kilopascals (kPa) at 20 °C is equal to or greater than 20 percent by weight, and the fluid is a liquid at operating conditions.
35. Pursuant to 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.16(b) or §262.17(a)], except as required in 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.15(a)(7) and (8)], provided that the generator

complies with the satellite accumulation area (SAA) conditions listed in 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.15(a)] (hereinafter referred to as the “SAA Permit Exemption”).

36. Pursuant to 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark or label its containers with an indication of the hazards of the contents.
37. Pursuant to 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.17], a LQG may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by KRS 22 4.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.17] (hereinafter referred to as the “LQG Permit Exemption”).
38. Pursuant to 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.17(a)(1)(ii)], which is a condition of the LQG Permit Exemption, if a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the LQG Permit Exemption.
39. Pursuant to 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.17(a)(1)(iv)], which is a condition of the LQG Permit Exemption, a container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste; and a container holding hazardous waste must not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.
40. Pursuant to 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.17(a)(1)(v)], which is a condition of the LQG Permit Exemption, a generator is required to, at least weekly, inspect central accumulation areas looking for leaking containers and for deterioration of containers caused by corrosion or other factors.
41. Pursuant to 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.17(a)(5)(i)(B)], which is a condition of the LQG Permit Exemption, a generator must mark or label its containers with an indication of the hazards of the contents.
42. Pursuant to 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.17(a)(6)] which incorporates 401 KAR 39:080 Section 1 [40 C.F.R. § 262.255], and is a condition of the LQG Permit Exemption, a generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.
43. Pursuant to 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.202], the owner or operator shall manage all hazardous waste placed in a tank in accordance with the applicable requirements of subparts AA, BB, and CC of this part.
44. Pursuant to 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1031 and 40 C.F.R. § 264.1031 by reference], “closed-vent system” means a system that is not open to the atmosphere and that is composed of piping, connections, and if necessary, flow-inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device.

45. Pursuant to 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1031 and 40 C.F.R. § 264.1031 by reference], “control device” means an enclosed combustion device, vapor recovery system, or flare. Any device the primary function of which is the recovery or capture of solvents or other organics for use, reuse, or sale (e.g., a primary condenser on a solvent recovery unit) is not a control device.
46. Pursuant to 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1081], “average volatile organic concentration” or “average VO concentration” means the mass weighted average volatile organic concentration of a hazardous waste as determined in accordance with the requirements of 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1084] of this subpart.
47. Pursuant to 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1081], “closure device” means a cap, hatch, lid, plug, seal, valve, or other type of fitting that blocks an opening in a cover such that when the device is secured in the closed position it prevents or reduces air pollutant emissions to the atmosphere. Closure devices include devices that are detachable from the cover (e.g., a sampling port cap), manually operated (e.g., a hinged access lid or hatch), or automatically operated (e.g., a spring-loaded pressure relief valve).
48. Pursuant to 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1081], “fixed roof” means a cover that is mounted on a unit in a stationary position and does not move with fluctuations in the level of the material managed in the unit.
49. Pursuant to 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1081], “maximum organic vapor pressure” means the sum of the individual organic constituent partial pressures exerted by the material contained in a tank, at the maximum vapor pressure-causing conditions (i.e., temperature, agitation, pH effects of combining wastes, etc.) reasonably expected to occur in the tank. For the purpose of this subpart, maximum organic vapor pressure is determined using the procedures specified in 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1084(c)].
50. Pursuant to 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1083], an owner or operator who treats, stores, or disposes of hazardous waste containing an average volatile organic concentration greater than 500 parts per million by weight (ppmw) at the point of waste origination in surface impoundments, tanks, miscellaneous units, or containers must meet the organic air emission standards, as required by 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1083] (“Subpart CC”).
51. Pursuant to 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1085(b)(2)], the owner or operator shall control air pollutant emissions from each tank, which does not meet the conditions specified in 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1085(b)(1)(i) through (iii)], in accordance with Tank Level 2 Controls specified in 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1085(d)].
52. Pursuant to 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1085(d)(3)], owners and operators controlling air pollutant emissions from a tank subject to Subpart CC, Tank Level 2 Controls, shall use a tank vented through a closed-vent system to a control device in accordance with the requirements specified in 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1085(g)].
53. Pursuant to 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1085(g)], the owner or operator who controls air pollutant emissions from a tank subject to Subpart CC, Tank Level 2 Controls, by

venting the tank to a control device shall meet the requirements specified in paragraphs (g)(1) through (g)(3) of this section.

54. Pursuant to 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1033(j)], the owner or operator who controls air pollutant emissions from a tank subject to Subpart CC, Tank Level 2 Controls, shall ensure that the closed-vent system is designed to operate with no detectable emissions, as indicated by an instrument reading of less than 500 ppmv above background as determined by the procedure in 401 KAR 39:090 Section 2(1) [40 C.F.R. § 264.1034(b)], and by visual inspections; or the closed-vent system is designed to operate at a pressure below atmospheric pressure.
55. Pursuant to 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1033(k)(2)(i)], the owner or operator who controls air pollutant emissions from a tank subject to Subpart CC, Tank Level 2 Controls, shall visually inspect the closed-vent system to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in ductwork or piping or loose connections.
56. Pursuant to 401 KAR 39:080 Section 3(1) [40 C.F.R. § 273.9], a “Small Quantity Handler of Universal Waste” (SQHUW) is a Universal Waste handler who does not accumulate 5,000 kilograms or more of Universal Waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.
57. Pursuant to 401 KAR 39:080 Section 3(1) [40 C.F.R. § 273.13(d)(1)], a SQHUW must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows: a SQHUW must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

IV. FINDINGS OF FACTS

58. Respondent is a primary granulated activated carbon manufacturer and hazardous waste management facility that receives hazardous waste spent activated carbon from off-site for regeneration.
59. The Respondent received a RCRA Part B permit (Permit Number KYD-005-009-923) for the storage of hazardous waste carbon in aboveground storage tanks, effective on November 1, 1990. The permit expired on October 31, 2000. Calgon submitted a RCRA Part B permit renewal application to store hazardous waste in tanks and containers and to treat hazardous waste in the Carbon Regeneration Unit to KDEP on or about April 2000.
60. At a minimum, the Respondent generates hazardous wastes bearing the waste codes D004, D006 and D010.
61. The Respondent is a generator of 1,000 kilograms or greater of hazardous waste in a calendar month, and is therefore a LQG of hazardous waste.
62. The Respondent treats and stores hazardous waste in containers and tanks.

63. On July 9-11, 2019, the EPA and KDEP conducted a RCRA compliance evaluation inspection (CEI) at Respondent's facility. The EPA's findings of the CEI were documented in a show cause letter and the inspection report that was mailed to Respondent, dated November 1, 2019.
64. At the time of the CEI, the EPA inspector observed that furnace clinker, a D004, D006 and D010 hazardous waste, in the Furnace Clinker SAA, as well as two flip-top plastic trash cans and three (3) one-gallon containers with locking lids in the Laboratory SAA did not include labels indicating the hazard of the contents of the containers.
65. At the time of the CEI, the Respondent had a central accumulation area (CAA) located between the Thaw Building and the Carbon Regeneration Unit (CRU) where roll off 220571 of clinker, a D004, D006 and D010 hazardous waste, and roll off 222676 of concrete/sand containing various types of hazardous waste generated by Respondent were stored. The tarps on roll off 220571 and roll off 222676 were ripped and torn in several places, and therefore the roll offs were open.
66. At the time of the CEI, the EPA inspector observed roll off 222676 in the CAA was buckled and severely rusted. This container did not appear to be in good condition.
67. At the time of the CEI, the EPA inspector noted that weekly inspections were not conducted during the weeks of February 11, 2019 and April 22, 2019 at the CAAs in the Laboratory.
68. At the time of the CEI, the EPA inspector observed the following containers in CAAs at the Facility which were not labeled with an indication of the hazard of the contents of the container:
 - (a) Seven (7) roll off containers storing hazardous waste in the CAA for roll offs,
 - (b) A hopper storing hazardous waste in the Diester Building,
 - (c) Three (3) containers storing hazardous waste in the Laboratory, and
 - (d) Five (5) containers storing hazardous waste in the Spray Dryer Assembly and Baghouse.
69. At the time of the CEI, the EPA inspector observed that the space between roll offs B303016 and B303015 did not allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.
70. Respondent operates a tank system which manages hazardous waste of average volatile organic concentration greater than 500 parts per million by weight (ppmw) at the point of waste origination, and is subject to Subpart CC, Level 2 Controls. The tank system includes thirteen (13) permitted hazardous waste tanks. These fixed roof tanks operate under negative pressure and are vented through a closed vent system to a pollution control device, activated carbon filters in series.
71. At the time of the CEI, the EPA inspector observed openings in the top of some of the permitted tanks. The closure devices servicing these openings were either missing or not in a closed position as designed, which resulted in visible gaps between the tanks and the manway access openings.

72. At the time of the CEI, the EPA inspector observed some portions of the closed-vent system were open to the atmosphere.
73. At the time of the CEI, the EPA inspector observed universal waste lamps in cylinders in an open 4-foot container.

V. ALLEGED VIOLATIONS

74. Respondent is a “person” as defined in 401 Ky. Admin. Regs. 39:005 Section 1(53) [40 C.F.R. § 260.10].
75. Respondent is the “owner” and “operator” of a facility located in Catlettsburg, Kentucky as those terms are defined in 401 Ky. Admin. Regs. 39:005 Section 1(51) and (50) [40 C.F.R. § 260.10].
76. Respondent generates D004, D006, and D010 wastes that are solid waste and hazardous waste as defined in 401 Ky. Admin. Regs. 39:060 Section 3(1) [40 C.F.R. §§ 261.2 and 261.3].
77. Respondent failed to label six (6) containers holding hazardous waste in SAAs with an indication of the hazard of their contents. The EPA therefore alleges Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the marking and labeling requirements of 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption.
78. Respondent failed to close roll off 220571 and roll off 222676, containers holding hazardous waste. The EPA therefore alleges Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the container management requirement in 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.17(a)(1)(iv)], which is a condition of the LQG Permit Exemption.
79. Respondent failed to immediately transfer the hazardous waste from roll off 222676, a container in poor condition, to a container that is in good condition. The EPA therefore alleges Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.17(a)(1)(ii)], by failing to transfer hazardous waste from a container which was not in good condition, or had begun to leak, into a container which were in good condition and to manage the waste in accordance with the applicable regulations.
80. Respondent failed to conduct weekly inspections at the CAA at the Laboratory during the weeks of February 11, 2019 and April 22, 2019. The EPA therefore alleges Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the container inspection requirement in 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.17(a)(1)(v)], which is a condition of the LQG Permit Exemption.
81. Respondent failed to label or mark sixteen (16) containers in CAAs with an indication of the hazard of the contents. The EPA therefore alleges that Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or

interim status, because Respondent failed to comply with the marking and labeling requirement in 401 KAR 39:080 Section 1 [40 C.F.R. § 262.17(a)(5)(i)(B)], which is a condition of the LQG Permit Exemption.

82. The Respondent failed to maintain adequate aisle space between roll offs B303016 and B303015. The EPA therefore alleges Respondent violated KRS 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.17(a)(6)], by not complying with the aisle space requirements of 401 KAR 39:080 Section 1(1) [40 C.F.R. § 262.255].
83. Respondent failed to manage all hazardous waste placed in tanks 701, 705, 706, 901, 902, and 903 in accordance with the applicable requirements of 40 C.F.R. 265 Subparts AA, BB, and CC. The EPA therefore alleges Respondent violated 401 KAR 39:090 Section 2 [40 C.F.R. § 265.202], by not complying with the organic air emission requirement to manage all hazardous waste placed in a tank in accordance with the applicable requirements of Subparts AA, BB, and CC.
84. Respondent failed to vent tanks 701, 705, 706, 901, 902, and 903 through a closed-vent system to a control device in accordance with the requirements specified in 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1085(g)]. The EPA therefore alleges Respondent violated 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1085(d)(3)], by not complying with the vent system requirements of the Organic Air Emissions Standards of 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1085(g)].
85. Respondent failed to design and operate the closed-vent system with no detectable emissions or operate the closed-vent system below atmospheric pressure. The EPA therefore alleges Respondent violated 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1033(j)], by not complying with the closed-vent system design and operation requirements of the Organic Air Emission Standards.
86. Respondent failed to visually inspect the closed-vent system for defects that could result in air pollutant emissions. The EPA therefore alleges Respondent violated 401 KAR 39:090 Section 2(1) [40 C.F.R. § 265.1033(k)(2)(i)], by not complying with the closed-vent system inspection and monitoring requirements of the Organic Air Emission Standards.
87. Respondent failed to close the 4-foot container of universal waste lamps. The EPA therefore alleges Respondent violated 401 KAR 39:080 Section 3(1) [40 C.F.R. § 273.13(d)(1) Lamps], by failing to manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows: (1) a SQHUW must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

VI. STIPULATIONS

88. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

89. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
- b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
- c. consents to the assessment of a civil penalty as stated below;
- d. consents to the conditions specified in this CAFO;
- e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
- f. waives its rights to appeal the Final Order accompanying this CAFO.

90. For the purpose of this proceeding, Respondent:

- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;
- d. waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;
- e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and
- f. agrees to comply with the terms of this CAFO.

91. By executing this CAFO, Respondent certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.

92. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the parties agree to receive service by electronic means at the following valid email addresses: Newman.Alan@epa.gov, Redleaf-Durbin.Joan@epa.gov for the EPA and Marvin.Church@kuraray.com for the Respondent.

VII. TERMS OF PAYMENT

93. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **\$46,400.00**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.
94. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check.

- a. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

- b. If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station: SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1819

- c. If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- d. If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: Craig Steffen, (513) 487-2091
REX (Remittance Express): 1-866-234-5681

95. Respondent shall send proof of **payment**, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
bullock.patricia@epa.gov

and

Alan A. Annicella, Chief
Land, Asbestos and Lead Section
Enforcement and Compliance Assurance Division
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
annicella.alan@epa.gov

96. "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the Facility name and "Docket No. **RCRA-04-2020-2107(b)**."
97. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Accordingly, EPA may require the Respondent to pay the following amounts on any amount overdue:
- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, Interest is waived. However, if the civil penalty is not paid in full within 30 days, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).
 - b. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of not

more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).

- c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(b)(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.

98. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:

- a. refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13 and 13.14;
- b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;
- c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17; and/or
- d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

99. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

VIII. EFFECT OF CAFO

100. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

101. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).

102. Any violation of this CAFO may result in a civil penalty for each day of continued noncompliance with the CAFO and/or the suspension or revocation of any federal or state permit issued to the violator, as provided in Section 3008(c) of the Act, 42 U.S.C § 6928(c).

103. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
104. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
105. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.
106. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.
107. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.
108. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
109. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
110. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
111. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
112. EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA. If such false or inaccurate material was provided, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

113. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
114. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

IX. EFFECTIVE DATE

115. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

[Remainder of Page Intentionally Left Blank

Complainant and Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement In the Matter of **Calgon Carbon Corporation**, Docket No. **RCRA-04-2020-2107(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Chad Whalen August 10, 2020
Signature Date

Printed Name: CHAD WHALEN

Title: SENIOR VICE PRESIDENT & CHIEF LEGAL OFFICER

Address: 3000 GSK DR., MOON TWP., PA 15108

The foregoing Consent Agreement In the Matter of **Calgon Carbon Corporation**, Docket No. **RCRA-04-2020-2107(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

Kimberly L. Bingham
Chief
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. EPA Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Calgon Carbon Corporation
15024 U.S. Route 23
Catlettsburg, Kentucky 41129
EPA ID No.: KYD005009923

Respondent.

Docket No. **RCRA-04-2020-2107(b)**

Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a)

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, in the Matter of **Calgon Carbon Corporation**, Docket No. **RCRA-04-2020-2107(b)**, were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent: Mr. Marvin Church, Director, Environmental, Health, and Safety
Calgon Carbon Corporation – Big Sandy Plant
P.O. Box 664
15024 U.S. Route 23
Catlettsburg, Kentucky 41129
(412) 787-6724
Marvin.Church@kuraray.com

To EPA: Alan Newman, Environmental Engineer
(404) 562-8589
newman.alan@epa.gov

Joan Redleaf Durbin, Senior Attorney
(404) 562-9544
redleaf-durbin.joan@epa.gov

Quantindra Smith, Environmental Protection Specialist
(404) 562-8564
smith.quantindra@epa.gov

U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303

Patricia A. Bullock, Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960