

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

RAIN CII CARBON LLC

AI # 3439

PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.

\* Settlement Tracking No.  
\* SA-AE-20-0122  
\*  
\* Enforcement Tracking No.  
\* AE-PP-17-00161  
\*  
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\*  
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SETTLEMENT

The following Settlement is hereby agreed to between Rain CII Carbon LLC (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a limited liability company that owned and/or operated a coke calcining plant located in Sulphur, Calcasieu Parish, Louisiana (“the Facility”).

II

On May 3, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-17-00161 (Exhibit 1).

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal

statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of NINE THOUSAND AND N0/100 DOLLARS (\$9,000.00), of which Two Thousand Four Hundred Sixty-Three and 75/100 Dollars (\$2,463.75) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set

forth in La. R. S. 30:2025(E) of the Act.

## VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

## IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Calcasieu Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

## XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

## XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

RAIN CII CARBON LLC

BY: Angelique Ledig  
(Signature)

Angelique Ledig  
(Printed)

TITLE: Environmental Engineer

THUS DONE AND SIGNED in duplicate original before me this 24<sup>TH</sup> day of MARCH, 20 22, at BATON ROUGE, LA.

Kyli Beall  
NOTARY PUBLIC (ID # 24957)  
EXPIRES AT DEATH

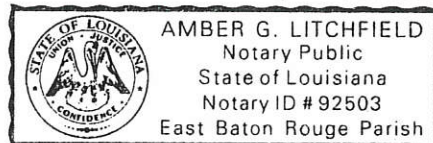
KYLE BEALL  
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
Chuck Carr Brown, Ph.D., Secretary

BY: Celena J. Cage  
Celena J. Cage, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 11<sup>th</sup> day of May, 20 22, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: [Signature]  
Lourdes Iturralde, Assistant Secretary

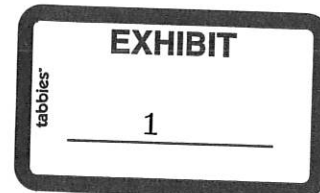


JOHN BEL EDWARDS  
GOVERNOR

CHUCK CARR BROWN, Ph.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

May 3, 2019



CERTIFIED MAIL (7104 0510 0002 3595 4042)  
RETURN RECEIPT REQUESTED

**RAIN CII CARBON LLC**  
c/o Elwood F. Cahill, Jr.  
Agent for Service of Process  
Sher Garner Cahill Richter Et Al  
909 Poydras Street, 28<sup>th</sup> Floor  
New Orleans, LA 70122-1033

**RE: NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. AE-PP-17-00161  
AGENCY INTEREST NO. 3439**

Dear Sir:

On or about October 26-27, 2016, and November 1, 2016, inspections of the **LAKE CHARLES CALCINING PLANT** (the facility), a coke calcining plant, owned and/or operated by **RAIN CII CARBON LLC (RESPONDENT)**, were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 1920 Pak Tank Road in Sulphur, Calcasieu Parish, Louisiana.

The facility operates, or has operated, under the Title V Air Permits shown in Table A:

**TABLE A**

Permit No.	Permit Issue Date	Permit Expiration Date
0520-00048-V1	March 16, 2010	January 23, 2011
0520-00048-V2	April 13, 2012	April 13, 2017
0520-00048-V3	November 5, 2012	April 13, 2017
0520-00048-V4	April 5, 2017	April 13, 2017
0520-00048-V5	August 4, 2017	August 4, 2022

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspections and subsequent file review conducted on April 1, 2019, to determine the degree of compliance with the Act, the Air Quality Regulations and any applicable permits:

Rain CII Carbon LLC  
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A. In the Respondent's 2016 Specific Requirements Report dated March 28, 2017, 2016 Annual Compliance Certification dated March 28, 2017, 2017 Specific Requirements Report dated March 28, 2018 and 2017 Annual Compliance Certification dated March 28, 2018, the Respondent disclosed emissions for the Waste Heat Boiler/Baghouse System Stack (WHB) (RLP 0037), in excess of the Sulfur Dioxide (SO<sub>2</sub>) 1,600 pounds per hour (lb/hr) limit as shown in Table B:

**TABLE B**  
**Waste Heat Boiler/Baghouse System Stack /RLP 0037**

Deviation Began	Emissions	Cause of Exceedance	Specific Requirements Report
2/7/16 10:00 pm	1,712.7 lb/hr in 1 hour	Service provider failed to place the SO <sub>2</sub> Continuous Emissions Monitoring System (CEMS) in operating mode following system maintenance.	2016
2/8/16 9:00 am	2,078.2 lb/hr in 1 hour		
2/8/16 10:00 am	2,256.3 lb/hr in 1 hour		
2/8/16 11:00 am	2,760.4 lb/hr in 1 hour		
6/14/16 12:00 pm	1,722.3 lb/hr in 1 hour	Calibration of the CEMS immediately prior to spikes in SO <sub>2</sub> emissions prevented the lime delivery system from adjusting to deliver extra lime in response to increased SO <sub>2</sub> emission levels.	
1/1/17 5:00 pm	1,685 lb/hr in 1 hour	Operator failed to reduce feedrate after water flow to the scrubber was lost.	2017

Each emission of SO<sub>2</sub> in excess of permit limits is a violation of Title V Permit No. 0520-00048-V3, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

B. In the Respondent's 2016 Specific Requirements Report dated March 28, 2017, 2016 Annual Compliance Certification dated March 28, 2017, 2017 Specific Requirements Report dated March 28, 2018 and 2017 Annual Compliance Certification dated March 28, 2018, the Respondent disclosed exceedances for the Kiln Stack (RLP 0006) in excess of the SO<sub>2</sub> concentration limit in parts per million volume, wet basis (ppmv), as shown in Table C:

**TABLE C**  
**Kiln Stack (RLP 0006)**

Date	Hour	Exceedance of Three-Hour Average SO <sub>2</sub> 2,000 ppmv wet basis	Cause of Exceedance
2/8/16	2:00 am – 3:00 am	2,029	Actual sulfur content of coke based on laboratory analysis was higher than expected, or projected.
	3:00 am – 4:00 am	2,095	
	4:00 am – 5:00 am	2,094	

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2/8/16	5:00 am – 6:00 am	2,102	Production personnel did not properly adjust (reduce) the coke feed rate to prevent SO <sub>2</sub> exceedances.
	9:00 am – 10:00 am	2,108	
	2:00 pm – 3:00 pm	2,049	
	3:00 pm – 4:00 pm	2,085	
	4:00 am – 5:00 pm	2,084	
2/9/16	1:00 am – 2:00 am	2,031	

Each exceedance of the concentration limit is a violation of Specific Requirement 102 of Title V Permit No. 0520-00048-V3, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

- C. In correspondence dated March 28, 2017, the Respondent submitted the facility's 2016 Annual Compliance Certification, disclosing that on February 5, 2016 the Respondent failed to properly conduct two-hour sampling of green coke for 24-hour sulfur composite analysis for RLP 0006, the combined stack for two rotary kilns. Three samples were collected for Kiln 1 (EQT 0002); one sample was collected for Kiln 2 (EQT 0003). The Respondent's failure to compile a 24-hour composite sample is a violation of Specific Requirement 107 of Title V Permit No. 0520-00048-V3, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- D. During the October 26, 2016 inspection, the Respondent disclosed to Department's representatives that the thermocouple measuring the exit temperature of RLP0037 was not properly placed in the vent gas stream. The Respondent estimated that the misplacement was present from February 8, 2016, until October 18, 2016. All temperatures recorded during that time period were therefore invalid. In correspondence dated April 28, 2017, the Respondent submitted the facility's 2016 Second Semiannual Monitoring Report, documenting this event. The failure to accurately record vent gas temperatures is a violation of Specific Requirement (SR) 99 of Title V Permit No. 0520-00048-V3, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violations described herein. Written comments may be filed regarding the violations and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violations. If you would like to have such a meeting, please contact Mark E. Brown at (225) 219-3782 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF**



Rain CII Carbon LLC

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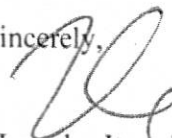
**POTENTIAL PENALTY.** Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violations described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Lourdes Iturralde  
Assistant Secretary

Office of Environmental Compliance

LI/MEB/meb

Alt ID No. 0520-00048

c: Rain CII Carbon LLC  
Ross Gares, Plant Manager  
1920 Pak Tank Road  
Sulphur, LA 70665

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
 OFFICE OF ENVIRONMENTAL COMPLIANCE  
 ENFORCEMENT DIVISION  
 POST OFFICE BOX 4312  
 BATON ROUGE, LOUISIANA 70821-4312

**NOTICE OF POTENTIAL PENALTY  
 REQUEST TO SETTLE (OPTIONAL)**



Enforcement Tracking No.	AE-PP-17-00161	Contact Name	Mark E. Brown
Agency Interest (AI) No.	3439	Contact Phone No.	(225) 219-3782
Alternate ID No.	0520-00048		
Respondent:	Rain CII Carbon LLC	Facility Name:	Lake Charles Calcining Plant
	c/o Elwood F. Cahill, Jr.	Physical Location:	1920 Pak Tak Road
	Agent for Service of Process	City, State, Zip:	Sulphur, LA 70665
	Sher Garner Cahill Richter Et. Al 909 Poydras Street, 28 <sup>th</sup> Floor New Orleans, LA 70122-1033	Parish:	Calcasieu

**SETTLEMENT OFFER (OPTIONAL)**

*(check the applicable option)*

The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.

In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY AE-PP-17-00161**, the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.

In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY AE-PP-17-00161**, the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ \_\_\_\_\_ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance.

- Monetary component = \$ \_\_\_\_\_
- Beneficial Environmental Project (BEP) component (optional)= \$ \_\_\_\_\_
- **DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.**

The Respondent has reviewed the violations noted in **NOTICE OF POTENTIAL PENALTY AE-PP-17-00161** and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

**CERTIFICATION STATEMENT**

*I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.*

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

**MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:**

Louisiana Department of Environmental Quality  
 Office of Environmental Compliance  
 Enforcement Division  
 P.O. Box 4312  
 Baton Rouge, LA 70821  
 Attn: Mark E. Brown