UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

IN THE MATTER OF:	
Cedar Fair, L.P. d/b/a/ Worlds of Fun 4545 Worlds of Fun Avenue Kansas City, MO 64161	CONSENT AGREEMENT AND FINAL ORDER
EPA ID No. MOD065757320	
Respondent.	
Proceeding under Section 3008(a) and (g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6928(a) and (g).	Docket No. RCRA-07-2008-0009

I. PRELIMINARY STATEMENT

The United States Environmental Protection Agency (EPA), Region VII (Complainant) and Cedar Fair, L.P. d/b/a/ Worlds of Fun (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2). This Consent Agreement and Final Order (CAFO) is a complete and final settlement of all civil and administrative claims and causes of action for the violations set forth in this CAFO.

II. ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA or the Act), and the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 United States Code (U.S.C.) § 6928(a) and (g), and in accordance with the Consolidated Rules of Practice.

2. This CAFO serves as notice that EPA has reason to believe that Respondent violated regulations found at Title 10, Code of State Regulations ("C.S.R."), Chapter 25 ("10 C.S.R. 25") and Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations at 40 C.F.R. Parts 262 and 279.

Parties

3. The Complainant is the Chief of the RCRA Enforcement and State Programs Branch in the Air and Waste Management Division of EPA, Region VII.

4. The Respondent is Cedar Fair, L.P. d/b/a/ Worlds of Fun, a corporation incorporated under the laws of the State of Delaware and authorized to conduct business in the State of Missouri.

Statutory and Regulatory Framework

5. The State of Missouri has been granted authorization to administer and enforce a hazardous waste program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and the State of Missouri has adopted by reference the federal regulations cited herein at Title 10, Code of State Regulations ("C.S.R."), Chapter 25 ("10 C.S.R. 25"). Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA to enforce the provisions of the authorized State program and the regulations promulgated thereunder. When EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928. In the case of a violation of any RCRA requirement, where such violation occurs in a state which is authorized to implement a hazardous waste program pursuant to Section 3006 of RCRA, EPA shall give notice to the state in which such violation has occurred or is occurring prior to issuing an order. The State of Missouri has been notified of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

6. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than $25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). This figure has been adjusted upward for inflation pursuant to the Civil Monetary Inflation Adjustment Rule, 40 C.F.R. Part 19, so that penalties of up to $27,500 per day are now authorized for violations of Subchapter III of RCRA that occur after January 30, 1997, and before March 15, 2004. Penalties of up to $32,500 per day are authorized for violations that occurred after March 15, 2004. Based upon the facts alleged in this CAFO and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), as discussed in the RCRA Civil Penalty Policy issued by EPA in June 2003, and attached hereto, including the seriousness of the violations, the threat of harm to public health or the environment, any good faith efforts of Respondent to comply with applicable requirements, as well as other

matters as justice may require, the Complainant proposes that Respondent be assessed a civil penalty pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for the violations of RCRA alleged in the CAFO.

Factual Background

7. Respondent is a Delaware corporation authorized to conduct business in the State of Missouri and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

8. Respondent operates a facility located at 4545 Worlds of Fun Avenue, in Kansas City, MO, which is an amusement park (facility).

9. The facility has been in operation at this location since 1973, and currently employs approximately 100 full-time employees and 3500 part-time employees during the spring and summer.

10. On or about December 23, 2005, Respondent notified the Missouri Department of Natural Resources that it was a conditionally exempt small quantity generator (less than 100 kg/month and no more than 1,000 kg at any one time) of hazardous waste.

11. Respondent has been assigned the facility identification number MOD065757320.

12. On July 24, 2007, through July 25, 2007, EPA conducted a RCRA compliance evaluation inspection at Respondent's facility. Based on a review of hazardous waste generation rates at the facility, it was determined that Respondent was operating at that time as a conditionally exempt small quantity generator of hazardous waste.

13. Based on information obtained during the inspection, Respondent was issued a Notice of Violation.

Violations

COUNT I

FAILURE TO COMPLY WITH USED OIL STORAGE REQUIREMENTS

14. Complainant hereby incorporates the allegations contained in paragraphs 1 through 13 above, as if fully set forth herein.

15. Respondent, as a generator of used oil, is subject to the regulations contained in 40 C.F.R. Part 279 Subpart C, which is also incorporated by reference at 10 C.S.R. 25-11.279(1).

16. The regulations at 40 C.F.R. § 279.22(c)(1), as found in Part 279 Subpart C, state that containers and above ground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

17. At the time of the July 2007 inspection, sixteen containers of used oil were observed at Respondent's facility that were not labeled or marked clearly with the words "Used Oil." Fourteen of the containers were observed in the East Outside Wash Down Area at the Maintenance Building, one container was observed near the Grand Prix area, and one container was observed near the Le Taxi Tour area.

18. By failing to label containers of used oil, Respondent violated 40 C.F.R. § 279.22(c)(1).

19. The regulations at 40 C.F.R. § 279.22(d), as found in Part 279 Subpart C, state that upon detection of a release of used oil to the environment, a generator must stop the release, contain the released used oil, clean up and manage properly the released used oil and other materials; and if necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

20. At the time of the July 2007 EPA inspection, seven separate releases of used oil were detected at Respondent's facility near the following locations:

a. Spinning Dragon Ride
b. Patriot Ride
c. Timber Wolf Ride
d. Mamba Ride
e. Boomerang Ride
f. Grand Prix Maintenance Shop
g. East Outside Wash Down Area

21. By failing to contain the release of used oil and clean it up, Respondent violated 40 C.F.R. § 279.22(d).

COUNT II

FAILURE TO CONDUCT A HAZARDOUS WASTE DETERMINATION

22. Complainant hereby incorporates the allegations contained in paragraphs 1 through 13 above, as if fully set forth herein.

23. Pursuant to 40 C.F.R. § 262.11, as incorporated by reference at 10 C.S.R. 25-5.262(1), a generator of solid waste, as defined in 40 C.F.R. § 261.2, is required to determine if the solid waste is a hazardous waste.

24. At the time of the July 2007 EPA inspection, Respondent was generating absorbent pads that had been used to absorb Carburetor Cleaner in the Grand Prix Maintenance Shop. Respondent had not conducted a hazardous waste determination on this waste before it was disposed of in the general trash.

25. At the time of the July 2007 EPA inspection, Respondent was generating paper wipes that had been used to wipe liquid tire buffer and cleaner off of tires at the Le Taxi Tour Maintenance Shop. Respondent had not conducted a hazardous waste determination on this waste before it was disposed of in the general trash.

26. Respondent's failure to make hazardous waste determinations on the waste streams noted in paragraphs 24 and 25 above is a violation of 40 C.F.R. § 262.11, as incorporated in 10 C.S.R. 25-5.262(1).

III. CONSENT AGREEMENT

27. Respondent and EPA agree to the terms of this CAFO and Respondent agrees to comply with the terms of this CAFO.

28. Respondent admits the jurisdictional allegations of this CAFO and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this CAFO.

29. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CAFO.

30. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and its right to appeal the proposed Final Order portion of this CAFO.

31. Respondent and Complainant agree to conciliate the matters set forth in this CAFO without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

32. This CAFO addresses and resolves all civil administrative claims for the RCRA violations identified above. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

33. Nothing contained in this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and

regulations and applicable permits.

34. Respondent certifies that by signing this CAFO that to best of its knowledge, Respondent's facility is in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.* and all regulations promulgated thereunder.

35. The effect of settlement described in Paragraph 32 above is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 34, above, of this CAFO.

36. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

37. Respondent agrees that, in settlement of the claims alleged in this CAFO, Respondent shall pay a mitigated civil penalty of $38,009.40 as set forth in Paragraph 1 of the Final Order below, and shall perform two Supplemental Environmental Projects ("SEPs") as set forth in this CAFO. The projected cost of each SEP is specified in Paragraph 41, Subparagraphs a(3) and b(3) of this CAFO.

38. The penalty specified in Paragraph 37, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

39. Respondent consents to the issuance of this CAFO and consents for the purposes of settlement to the payment of the civil penalty cited in paragraph 37, above, and to the performance of the SEPs specified in Paragraph 41.

40. In response to the violations of RCRA alleged in this CAFO and in settlement of this matter, although not required by RCRA or any other federal, state, or local law, Respondent shall complete the SEPs described in Paragraph 41 of the CAFO, which the parties agree is intended to secure significant environmental or public health protection and improvement.

41. Respondent shall complete the following SEPs: a Used Oil Recycling Project and Construction of Covered Containment Area. The requirements of each SEP are detailed below.

a. Used Oil Recycling Project (SEP#1).

(1) At the time of the July 2007 inspection, Respondent was a generator of used oil and was shipping used oil offsite for disposal. Although not required by RCRA or any other federal, state, or local law, Respondent shall purchase an oil purifier or similar device that is designed to recycle used oil by removing contaminates in order to reuse the used oil at the facility. The contaminants

removed from the used oil shall be disposed in accordance with all local, state and federal laws and regulations. Respondent shall use the oil purifier or similar device to recycle used oil from the facility for a period of 365 days, beginning on the date the oil purifier or similar device is installed at the facility. All activities associated with performance of this SEP shall be in accordance with all local, state, and federal laws and regulations.

(2) Respondent shall purchase the oil purifier or similar device identified in Paragraph 41, Subparagraph a(1) within 180 days of the effective date of this CAFO.

(3) Respondent shall expend a minimum of $16,764 in performance of the activities described in Paragraph 41, Subparagraph a(1). Calculation of costs associated with performance of SEP #1 shall include costs for service, filters and operation of the oil purifier or similar device, calculated over a period of 365 days from the date that the oil purifier or similar device is installed at the facility. Calculation of costs associated with performance of SEP #1 shall not include the costs for the purchase of new oil or disposal of used oil or contaminates removed from used oil.

b. Construction of Covered Containment Area (SEP #2).

(1) At the time of the July 2007 inspection, Respondent was storing used and new oil at its facility in a storage facility that was exposed to weather. Although not required by RCRA or any other federal, state, or local law, Respondent shall construct a roof over the used oil storage area at the "East Outside Wash Down Area" at the facility that will prevent water contamination of oil stored in the area, and that will also minimize the release into the environment of used oil. All activities associated with performance of this SEP shall be in accordance with all local, state, and federal laws and regulations.

(2) Respondent shall complete construction of the covered containment area identified in Paragraph 41, Subparagraph b(1) within 240 days of the effective date of this CAFO.

(3) Respondent shall expend a minimum of $10,000 in performance of the activities described in Paragraph 41, Subparagraph (b)(1). Calculation of costs associated with performance of SEP #2 shall not include costs associated with installation of a new containment area and/or oil interceptor in the East Outside Wash Down area. Calculation of costs associated with performance of SEP #2 shall not include the costs for the purchase of new oil or disposal of used oil or contaminated removed from used oil.

42. Within 540 days of the effective date of this CAFO, Respondent shall submit a SEP Completion Report to EPA. The SEP Completion Report shall conform to the requirements of Paragraphs 43 through 45 below and shall contain the following information:

a. A detailed description of the SEPs as implemented, including itemized costs;

b. A description of any problems encountered in implementation of the projects and the solution thereto;

c. A description of the specific environmental and/or public health benefits resulting from implementation of the SEPs; and

d. Certification that the SEPs have been fully implemented pursuant to the provisions of this CAFO.

43. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all SEP costs. SEP costs shall not include the excluded costs identified in Paragraph 41, Subparagraphs a(3) and b(3). For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Cancelled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

44. The SEP Completion Report shall include the statement of Respondent, through an officer, signed and certifying under penalty of law the following:

> I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

45. The SEP Completion Report shall be submitted on or before the due date to:

Deborah Finger, AWMD
Environmental Protection Agency
Region VII
901 North 5th Street
Kansas City, Kansas 66101.

46. Any public statement, oral or written, in print, film, internet, or other media, made by Respondent making reference to the SEPs shall include the following language:

> This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of the Resource Conservation and Recovery Act. 42 U.S.C. § 6901 *et. seq.*

47. Respondent hereby certifies that, as of the date of this CAFO, Respondent is not required to perform or develop the SEPs identified in Paragraph 41 by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEPs by any other agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive credit in any other enforcement action for the SEPs.

48. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEPs.

49. Respondent agrees to the payment of stipulated penalties as follows:

a. In the event Respondent fails to comply with any of the terms or provisions of this Agreement relating to the performance of the SEPs, above, and/or to the extent that the actual expenditures for the SEPs do not equal or exceed the cost of the SEPs described in Paragraph 41, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

(1) Except as provided in Subparagraph b. immediately below, if SEP #1 is not completed satisfactorily and timely pursuant to the requirements set forth in Paragraph 41, Respondent shall be liable for and shall pay a stipulated penalty to the United States in the amount of $9,580.

(2) If SEP #1 is satisfactorily completed, but the Respondent spent less than 90 percent of the amount of money required to be spent on SEP #1, Respondent shall pay a stipulated penalty to the United States in the amount of $1,916.

(3) Except as provided in Subparagraph b. immediately below, if SEP #2 is not completed satisfactorily and timely pursuant to the requirements set forth in Paragraph 41, Respondent shall be liable for and shall pay a stipulated penalty to the United States in the amount of $3,214.

(4) If SEP #2 is satisfactorily completed, but the Respondent spent less than 90 percent of the amount of money required to be spent on SEP #2,

Respondent shall pay a stipulated penalty to the United States in the amount of $643.

b. If the SEPs identified in Paragraph 41 are not completed satisfactorily, but EPA determines that Respondent: (1) has made good faith and timely efforts to complete the SEPs; and (2) has certified, with supporting documentation, that Respondent spent at least 90 percent of the amount of money required to be spent on each SEP, Respondent shall not be liable for payment of a stipulated penalty.

c. If the SEPs are satisfactorily completed in accordance with Paragraph 41, but EPA determines that the Respondent has spent at least 90 percent of the amount of money which was required to be spent was expended on each SEP, Respondent shall not be liable for any stipulated penalty.

d. If Respondent fails to timely and completely submit the SEP Completion Report required by Paragraphs 42, Respondent shall be liable for and shall pay a stipulated penalty in the amount of $100.00 for each day after the due date until a complete report is submitted.

e. The determination of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

f. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.

g. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions set forth in Paragraph 2 of the Final Order portion of this CAFO, below.

50. Late Payment Provisions: Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the date required. Interest will be assessed at a rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b). A charge will be assessed to cover the costs of debt collection including processing and handling costs and attorneys fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 31 C.F.R. §§ 901.9(c) and (d).

51. Respondent understands that failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate.

52. This CAFO shall be effective upon entry of the Final Order by the Regional Judicial Officer for EPA, Region VII. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

53. This CAFO shall remain in full force and effect until Complainant provides Respondent with written notice, in accordance with Paragraph 13 of the Final Order, that all requirements hereunder have been satisfied.

IV. FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and according to the terms of this CAFO, IT IS HEREBY ORDERED THAT:

A. Payment of Civil Penalty

1. Within thirty (30) days of the effective date of this CAFO, Respondent shall pay a mitigated civil penalty of $38,009.40.

2. Payment of the penalty shall be by cashier or certified check made payable to "Treasurer of the United States" and remitted to:

EPA-Region VII
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000.

The Respondent shall reference the Docket Number, RCRA-07-2008-0009 on the check. A copy of the check shall also be mailed to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region VII
901 North 5th Street
Kansas City, Kansas 66101

and

Jonathan Meyer
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VII
901 North 5th Street
Kansas City, Kansas 66101.

3. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CAFO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

4. Respondent shall complete the Supplemental Environmental Projects in accordance with the provisions set forth in the Consent Agreement and shall be liable for any stipulated penalty for failure to complete the project as specified in the Consent Agreement.

B. Compliance Actions

5. Respondent shall take the following actions following the effective date of the Final Order, according to the terms, conditions and time periods specified below:

a. Respondent shall perform the following measures to contain any used oil emanating from the following rides or areas:

(1) Spinning Dragon Ride: Perform and complete repairs to ensure proper performance of the used oil containment system, within 240 days of the effective date of this Final Order;

(2) Timber Wolf Ride: Construct deflectors in the Timber Wolf lift house to channel used oil to the containment area within 240 days of the effective date of this Final Order;

(3) Mamba Ride: Install oil gutters, a concrete containment structure, and an oil/water separator within 240 days of the effective date of this Final Order;

(4) Boomerang Ride: Install an oil / water separator and construct a cement flume for the Boomerang's lift within 240 days of the effective date of this Final Order;

(5) East Outside Wash Down Area: Install an oil / water separator and construct a concrete containment structure within 240 days of the effective date of this Final Order; and

(6) Patriot Ride: Install an oil / water separator within 425 days of the effective date of this Final Order.

b. Within 60 days of the completion of the measures described in Paragraph 5, Subsections a(1) through (5) above, Respondent shall provide EPA with a detailed written description and documentation to confirm that the measures were completed in accordance with this Final Order. Such documentation includes, but is not limited to, clear color photographs, construction diagrams, purchase orders and/or work orders.

c. Within 60 days of the completion of the measures described in Paragraph 5, Subsection a(6) above, Respondent shall provide EPA with a detailed written description and documentation to confirm that the measures were completed in accordance with this Final Order. Such documentation includes, but is not limited to, clear color photographs, construction diagrams, purchase orders and/or work orders.

d. Beginning on the effective date of the Final Order, Respondent shall institute a protocol to ensure routine weekly inspections and inspections following any significant rain event, of all areas of the facility where releases of used oil may occur, including all used oil containment structures at the facility. Such inspections shall ensure that the containment structures are in good condition (i.e., no severe rusting, apparent structural defects or deterioration) and not leaking, and shall document whether any releases of used oil occurred at the facility during the inspection period. Respondent shall also perform the following:

(1) If a release of used oil is detected at any time or during any inspection required to be performed under Paragraph 5, Subparagraph d, Respondent shall follow the requirements of 40 C.F.R. § 279.22(d) and any and all applicable local, state, and federal laws and regulations.

(2) For a period of one year following the effective date of the Final Order, Respondent shall provide two semi-annual reports to EPA that includes the completed inspection logs, details of any used oil release(s) that occur during this time and actions taken by Respondent in response to any such release(s), shipping documents if used oil disposal activities occur during this period, and descriptions of any maintenance activities conducted on any used oil containment structures. The first report shall be due within 180 days of the effective date of this Final Order, and the second report shall be due within 360 days of the effective date of this Final Order.

6. Respondent shall submit all documents and other correspondence required to be submitted to EPA by this Final Order to:

Deborah Finger
AWMD/RESP
U.S. EPA Region VII
901 North 5th Street
Kansas City, Kansas 66101

B. Parties Bound

7. This Final Order portion of this CAFO shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CAFO.

C. Reservation of Rights

8. Notwithstanding any other provision of this CAFO, EPA reserves the right to enforce the terms of the Final Order portion of this CAFO by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Thirty-Two Thousand Five Hundred Dollars ($32,500.00) per day per violation pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law.

9. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CAFO.

10. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

11. Notwithstanding any other provisions of the CAFO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial

endangerment to human health and the environment.

12. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.

13. The provisions of this CAFO shall be deemed satisfied upon a written determination by Complainant that Respondent has fully implemented the actions required in the Final Order.

For the Complainant:
The United States Environmental Protection Agency

9/29/08
Date

Donald Toensing
Chief, RCRA Enforcement and State Programs Branch
Air and Waste Management Division
U.S. Environmental Protection Agency
Region VII

9/29/08
Date

Jonathan Meyer
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VII

For Respondent:
Cedar Fair, L.P. d/b/a/ Worlds of Fun

9/26/08
Date

Signature

FRANK WILSON
Printed Name

V.P. / GM
Title

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional Judicial Officer.

September 29, 2008
Date

Robert Patrick
Regional Judicial Office

IN THE MATTER OF Cedar Fair L.P. d/b/a Worlds of Fun, Respondent
Docket No. RCRA-07-2008-0009

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order were sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Jonathan W. Meyer
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Original by Certified Mail Return Receipt to:

Frank Wilburn
Vice President/General Manager
Cedar Fair, L.P. d/b/a Worlds of Fun
4545 Worlds of Fun Avenue
Kansas City, Missouri 64161

Dated: 9/29/08

Kathy Robinson
Hearing Clerk, Region 7