



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 29 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steve Moore
Plant Manager
CF Industries – Yazoo City Plant
4608 Highway 49 East
Yazoo City, Mississippi 39194

Re: CF Industries, Inc.
Consent Agreement - Docket No. RCRA-04-2015-4016(b)

Dear Mr. Moore:

Enclosed is a copy of the final executed Consent Agreement and Final Order (CA/FO) in the above referenced matter. Pursuant to the terms of the CA/FO, CF Industries, Inc. shall submit the penalty payment of \$56,000 within thirty (30) calendar days of the effective date of this CA/FO. If you have any questions, please feel free to contact Brooke York, of my staff, at (404) 562-8025. Legal questions should be directed to Greg Luetscher at (404) 562-9677.

Sincerely,

A handwritten signature in black ink, appearing to read "César A. Zapata".

César A. Zapata
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2015-4016(b)
)	
CF Industries, Inc. – Yazoo City Plant)	
4608 Highway 49 East)	Proceeding Under Section 3008(a) of the
Yazoo City, Mississippi 39194)	Resource Conservation and Recovery Act,
EPA ID No.: MSD008161432)	42 U.S.C. § 6928(a)
)	
Respondent)	
_____)	

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of Section 17-17-1 *et seq.* of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-1 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939f], and the regulations promulgated pursuant thereto and set forth at the Mississippi Hazardous Waste Management Regulations (MHWMR), 11 Miss. Admin. Code Pt. 3, R. 1.1-1.24 [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270]. This action seeks the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Section 17-17-27 of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27 [Section 3005 of RCRA, 42 U.S.C. § 6925] and 11 Miss. Admin. Code Pt. 3, R. 1.1-1.24 [40 C.F.R. Parts 260 through 270, 273, & 279].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent, CF Industries, Inc., is a business incorporated under the laws of Delaware and is the owner and operator of an ammonium nitrate chemical manufacturing plant located at Yazoo City, Mississippi (the Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Mississippi (the 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 Section 17-17-27 of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27 [Section 3005 of RCRA, 42 U.S.C. § 6925] and 11 Miss. Admin. Code Pt. 3, R. 1.1-1.24 [40 C.F.R. Parts 260 through 270, 273, & 279]
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 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 CA/FO.
11. Section 17-17-27 of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27 [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 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. Part 262].
12. Section 17-17-27(4) of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27(4) [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 11 Miss. Admin. Code Pt. 3, R. 1.7. (permitted) and

11 Miss. Admin. Code Pt. 3, R. 1.11 (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.2 [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.
14. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. § 261.3], a solid waste is a “*hazardous waste*” if it meets any of the criteria set forth in 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. § 261.4(b)].
15. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
16. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
17. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.2 [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 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for *chromium* is identified with the EPA Hazardous Waste Number D007.
18. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.2 [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 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for *benzene* is identified with the EPA Hazardous Waste Number D018.
19. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10], a “*container*” is any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
20. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.1 [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.
21. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10], a “*generator*” is “any person, by site, whose act or process produces hazardous waste identified or listed in 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. Part 261] or whose act first causes a hazardous waste to become subject to regulation.

22. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10], an “owner” is the person who owns a facility or part of a facility and an “operator” is the person responsible for the overall operation of a facility.
23. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10], a “person” includes a corporation.
24. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
25. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10], a “universal waste” includes batteries, pesticides, mercury containing equipment, and lamps as described in 11 Miss. Admin. Code Pt. 3, R. 1.21 [40 C.F.R. Part 273].
26. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10], “used oil” means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.
27. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. § 261.2], must determine if that waste is a hazardous waste following the methods articulated in 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.11].
28. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(a)], a generator of 1,000 kilograms or greater of hazardous waste in a calendar month is a large quantity generator (LQG) and may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status, as required by Section 17-17-27(4) of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27(4) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the management requirements listed in 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “LQG Permit Exemption”).
29. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(a)(2)], a condition of the LQG Permit Exemption requires a generator to ensure that the date upon which each period of accumulation begins is clearly marked and visible on each container.
30. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(a)(3)], a condition of the LQG Permit Exemption requires a generator to label or clearly mark each container and tank accumulating hazardous waste on-site with the words “Hazardous Waste.”
31. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(a)(4)], which incorporates 11 Miss. Admin. Code Pt. 3, R. 1.11 [40 C.F.R. § 265.31], a condition of the LQG Permit Exemption requires that facilities be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned release of hazardous waste or hazardous waste constituents to the environment.
32. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(b)], an LQG who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 11 Miss. Admin. Code Pt. 3, R. 1.7, and 11 Miss. Admin. Code

Pt. 3, R. 1.11 [40 C.F.R. Parts 264 and 265] and the permit requirements of 11 Miss. Admin. Code Pt. 3, R. 1.16 [40 C.F.R. Part 270], unless the facility has been granted an extension to the 90 day period.

33. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of 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, provided that the generator complies with the satellite accumulation area conditions listed in 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(c)(1)(i)-(ii)] (hereinafter referred to as the “*SAA Permit Exemption*”).
34. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.21 [40 C.F.R. § 273.9], a “*Universal Waste Handler*” means a generator of universal waste.
35. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.21 [40 C.F.R. § 273.9], a “*Small Quantity Handler of Universal Waste*” (SQHUW) means a universal waste handler who accumulates less than 5,000 kilograms of universal waste (e.g., batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.
36. Pursuant 11 Miss. Admin. Code Pt. 3, R. 1.21 [40 C.F.R. § 273.13(d)(1)], a SQHUW must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment by containing lamps in closed containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps.
37. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.21 [40 C.F.R. § 273.14(e)], a SQHUW must clearly label or mark each lamp or a container or package in which such lamps are contained with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”
38. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.21 [40 C.F.R. § 273.15(c)], a SQHUW must be able to demonstrate the length of time that the universal waste has been accumulated from the date that it became a waste or was received.
39. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.22 [40 C.F.R. § 279.22(c)(1)], containers and above-ground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words “Used Oil.”
40. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.22 [40 C.F.R. § 279.22(d)], upon detection of a release of used oil to the environment, a generator must, *inter alia*, stop the release, contain the released used oil, and clean up and manage properly the released used oil and other materials.

IV. EPA ALLEGATIONS AND DETERMINATIONS

41. Respondent is a “*person*” as defined in 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10].
42. Respondent is the “*owner/operator*” of a “*facility*” located in Yazoo City, Mississippi, as those terms are defined in 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10].

43. Respondent is a “generator” of “hazardous waste” as those terms are defined in 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10] and 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. § 261.3].
44. At the Facility, Respondent manufactures ammonia, ammonium nitrate, urea, and urea-ammonium nitrate solution.
45. Respondent, as a result of its operations at the Facility, was a LQG, as that term is defined in 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. § 261.5], and a SQHUW, as that term is defined in 11 Miss. Admin. Code Pt. 3, R. 1.21 [40 C.F.R. § 273.9], at all times relevant to this CA/FO.
46. On November 26 and 27, 2012, inspectors with the EPA and the Mississippi Department of Environmental Quality (MDEQ) conducted a compliance evaluation inspection at Respondent’s facility. EPA documented its findings of the inspection in a Compliance Evaluation Inspection (CEI) Report that EPA mailed to Respondent on May 1, 2013.
47. At the time of the CEI, the inspectors observed that Respondent had not made a hazardous waste determination regarding, but not limited to, the following solid waste accumulated, stored, and/or managed at the Facility:
 - a. Condensate stored near the process area generated during the turnover of Shift Catalyst;
 - b. Apparently-abandoned aerosol cans stored in the Weigh House;
 - c. 55-gallon drums labeled “Oily Waste” located in the Oily Waste storage area;
 - d. Two 55-gallon drums labeled “Absorbent” located next to the locomotive;
 - e. A pile of used railroad ties believed to contain creosote;
 - f. Discarded solidified paint in the Oily Waste Storage Area; and
 - g. Four 55-gallon containers with torn and illegible hazardous waste labels observed overturned with one appearing to have material spilling out onto the ground just west of the Chem Seps area.
48. The EPA therefore alleges that Respondent violated 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.11] by failing to make a hazardous waste determination on certain solid wastes generated at the Facility.
49. During the CEI, the inspectors observed that two 20 yard roll-off containers located outside of the Chem Seps area holding spent Shift Catalyst, a characteristic hazardous waste exhibiting the toxicity characteristic for chromium (D007), had not been clearly marked with the date that the period of accumulation began.
50. The EPA therefore alleges that Respondent violated Section 17-17-27 of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27 [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 in 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(a)(2)], which requires that each container of hazardous waste be labeled or marked clearly with the date upon which each period of accumulation begins.

51. During the CEI, the inspectors observed that two 20 yard roll-off containers located outside of the Chem Seeps area holding spent Shift Catalyst, a characteristic hazardous waste exhibiting the toxicity characteristic for chromium (D007), had not been labeled with the words “Hazardous Waste.”
52. The EPA therefore alleges that Respondent violated Section 17-17-27(4) of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27(4) [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 in 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(a)(3)], which requires that each container be labeled or marked clearly with the words “Hazardous Waste.”
53. During the CEI, the inspectors observed that the Facility was not being operated or maintained in a manner designed to minimize the possibility of fire, explosion, or any unplanned release of hazardous waste or hazardous waste constituents to the land, air, or water by, inter alia, allowing a notice warning of a leaking valve to remain affixed to a tank of Shift Catalyst condensate subsequent to repair of the valve, broken fluorescent bulbs located in an unlabeled and undated container, and solidified paint waste that had been placed in a container of general trash.
54. The EPA therefore alleges that Respondent violated Section 17-17-27(4) of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27(4) [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 in 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(a)(4)] which incorporates 11 Miss. Admin. Code Pt. 3, R. 1.11 [40 C.F.R. § 265.31], which requires facilities to be maintained and operated so as to minimize the possibility of a fire, explosion, or any unplanned release of hazardous waste or hazardous waste constituents to the environment.
55. At the time of the CEI, the inspectors’ review of uniform hazardous waste shipping manifests, weekly inspection logs and other related documents, revealed that a hazardous waste stream exhibiting the toxicity characteristic for benzene (D018), produced by “pigging” operations conducted by the owner/operator of the natural gas pipeline serving the Facility and not typically generated at the Facility or handled by Respondent, had been stored at the Facility for a period in excess of 90 days.
56. The EPA therefore alleges that Respondent violated Section 17-17-27(4) of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27(4) [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 in 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(b)], which states that a generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 11 Miss. Admin. Code Pt. 3, R. 1.7 and 1.11 [40 C.F.R. parts 264 and 265] and the permit requirements of 11 Miss. Admin. Code Pt. 3, R. 1.16 [40 C.F.R. § 270].

57. At the time of the CEI, the inspectors observed one full and one partially-full, labeled and dated, 55-gallon containers of a diesel gas mixture, a characteristic hazardous waste, in the Auto Repair Shop SAA.
58. The EPA therefore alleges that Respondent violated Section 17-17-27(4) of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27(4) [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 SAA Permit Exemption set forth in 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(c)(1)], which allows a generator to accumulate as much as 55-gallons of hazardous waste in containers at or near any point of generation where waste initially accumulate which is under the control of the operator of the process generating the waste.
59. At the time of the CEI, the inspectors observed one full and one partially-full 55-gallon containers labeled “hazardous waste, diesel gas mixture” and with the date of October 16, 2012 located in the area identified as the Auto Repair Shop SAA, indicating that the containers had been stored in that location for 42 days.
60. The EPA therefore alleges that Respondent violated Section 17-17-27(4) of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27(4) [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 SAA Permit Exemption set forth in 11 Miss. Admin. Code Pt. 3, R. 1.3 [40 C.F.R. § 262.34(c)(2)], whereby a generator who accumulates more than 55 gallons of hazardous waste in a SAA must mark the container holding the excess hazardous waste with the date the excess amount began accumulating and, within three days, relocate said container in a manner consistent with 11 Miss. Admin. Code Pt. 3, R. 1.1 *et seq.* [40 C.F.R. chpt I].
61. At the time of the CEI, the inspectors observed what appeared to be spent universal waste fluorescent lamps being stored in an unsealed 55-gallon container in Room R and what appeared to be a spent lamp in the Weigh House.
62. The EPA therefore alleges that Respondent violated 11 Miss. Admin. Code Pt. 3, R. 1.21 [40 C.F.R. § 273.13(d)(1)], by failing to contain spent lamps in a closed container or package which is structurally sound, adequate to prevent breakage, and is compatible with the contents of the lamps.
63. At the time of the CEI, the inspectors observed six containers holding universal waste fluorescent lamps in Room R that were not labeled as “Universal Waste-Lamp(s),” or “Waste Lamp(s)” or “Used Lamp(s).”
64. The EPA therefore alleges that Respondent violated 11 Miss. Admin. Code Pt. 3, R. 1.21 [40 C.F.R. § 273.14(e)], by failing to contain its universal waste lamps in containers clearly marked with the words “Universal Waste-Lamp(s),” or “Waste Lamp(s)” or “Used Lamp(s).”
65. At the time of the CEI, the inspectors observed six containers holding universal waste fluorescent lamps in Room R for which Respondent was unable to demonstrate the length of time the spent lamps had been stored.

66. The EPA therefore alleges that Respondent violated 11 Miss. Admin. Code Pt. 3, R. 1.21 [40 C.F.R. § 273.15(c)], by failing to be able to demonstrate the length of time that universal waste fluorescent lamps had accumulated at the Facility from the earliest date that any universal waste in the container became a waste or was received.
67. At the time of the CEI, the inspectors observed that pieces of broken universal waste fluorescent lamps were located on the floor in Room R and had not been cleaned-up or otherwise properly contained.
68. The EPA therefore alleges that Respondent violated 11 Miss. Admin. Code Pt. 3, R. 1.21 [40 C.F.R. § 273.17], by failing to immediately contain all releases of universal waste and other residues from universal waste, and determine if any material resulting from the release is hazardous waste, and if so, manage the hazardous waste in compliance with all applicable regulations.
69. At the time of the CEI, the inspectors observed that various buckets, pans, and other containers of used oil, having been either improperly labeled or not labeled with the words "Used Oil," were located throughout the Facility, including but not limited to the locomotive area, the Weigh House, and the Auto Repair Shop.
70. The EPA therefore alleges that Respondent violated 11 Miss. Admin. Code Pt. 3, R. 1.22 [40 C.F.R. § 279.22(c)(1)], by failing to label or mark clearly containers holding used oil with the words "Used Oil."
71. At the time of the CEI, the inspectors observed used oil which had been spilled, leaked, or otherwise released to the floor of the Auto Repair Shop, in both the North and South Ditch, beneath the Pumping Station, and in and around the pit beneath the locomotive repair spur.
72. The EPA therefore alleges that Respondent violated 11 Miss. Admin. Code Pt. 3, R. 1.22 [40 C.F.R. § 279.22(d)], by failing to clean up and manage properly the released used oil and other materials immediately upon detection of a release of used oil to the environment.

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

73. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
74. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO, and the same do not constitute an admission of liability by Respondent.
75. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.

76. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*
77. Respondent 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 CA/FO.
78. Respondent 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 CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
79. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA. Complainant further acknowledges that Respondent has actively cooperated by providing information and addressing concerns arising from the inspectors' observations during the CEI at the Facility.
80. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
81. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
82. Each party will pay its own costs and attorneys' fees.

VI. PAYMENT OF CIVIL PENALTY

83. Respondent consents to the payment of a civil penalty in the amount of **FIFTY-SIX THOUSAND DOLLARS (\$56,000.00)**, which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
84. Payment 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. 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

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
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

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"

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: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

85. Respondent shall submit a copy of the payment to the following individuals:

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

and to:

Brooke York, Environmental Engineer
Hazardous Waste Compliance and Enforcement Section
Enforcement and Compliance Branch
RCR Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

86. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required 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. Interest, at the statutory judgment rate provided

for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement or, if paying in installments, not paid in accordance with the installment schedule provided above. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
- b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
- c. 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 six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

87. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).
88. This CA/FO is solely for the purpose of settlement of the violations alleged herein and is neither an admission of liability for conditions at or near the Facility nor a waiver of any right, cause of action or defense to which Respondent is otherwise entitled.

VII. PARTIES BOUND

89. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
90. No change in ownership, partnership, corporate or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
91. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

92. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the 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 or the environment.

93. Complainant reserves the right to take enforcement action against Respondent for any *future* violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
94. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, 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.

IX. OTHER APPLICABLE LAWS

95. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

96. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in this proceeding:

Gregory D. Luetscher
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Luetscher.greg@epa.gov
(404) 562-9677

97. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

David Little
General Manager
Yazoo City Nitrogen Complex
CF Industries, Inc.
P.O. Box 1348
4608 Highway 49 East
Yazoo City, Mississippi 39194

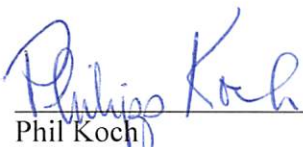
XI. SEVERABILITY

98. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO 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 CA/FO shall remain in force and shall not be affected thereby.

XII. EFFECTIVE DATE


99. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO: CF Industries, Inc. – Yazoo City Plant

By: 
Phil Koch
Senior Vice President, Manufacturing

Dated: 9/24/15

United States Environmental Protection Agency

By:  for
César A. Zapata, Chief
RCRA and OPA Enforcement and Compliance Branch
RCR Division

Dated: 09/25/15

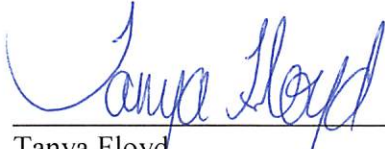
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2015-4016(b)
)	
)	
CF Industries, Inc. – Yazoo City Plant)	
4608 Highway 49 East)	Proceeding Under Section 3008(a) of the
Yazoo City, Mississippi 39194)	Resource Conservation and Recovery Act,
EPA ID No.: MSD008161432)	42 U.S.C. § 6928(a)
)	
Respondent)	
_____)	

FINAL ORDER

The foregoing Consent Agreement is 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 Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 28th day of September, 2015.

BY: 
Tanya Floyd
Regional Judicial Officer
EPA Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), *in the Matter of CF Industries, Inc. – Yazoo City Plant, Docket Number: RCRA-04-2015-4016(b)*, and have served the parties listed below in the manner indicated:

Gregory D. Luetscher
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Luetscher.greg@epa.gov

(Via EPA's electronic mail)

Quantindra Smith
Enforcement and Compliance Branch
RCR Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

David Little
General Manager
Yazoo City Nitrogen Complex
CF Industries, Inc.
P.O. Box 1348
4608 Highway 49 East
Yazoo City, Mississippi 39194

(Via Certified Mail -
Return Receipt Requested)

Michael A. Peters
Ryan Whaley Coldiron Jantzen Peters & Weber, PLLC
900 Robinson Renaissance
119 North Robinson Avenue
Oklahoma City, Oklahoma 73102

(Via Certified Mail -
Return Receipt Requested)

Date: _____

9-29-15



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511