

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103

U.S. EPA-REGION 3-RHC  
FILED-19DEC2018AM10:22

In Re: :  
:  
E. John Schmitz and Sons, Inc. :  
37 Loveton Circle : Docket No. RCRA-03-2019-0012  
Sparks, MD 21152 :  
:  
RESPONDENT. :  
:  
E. John Schmitz and Sons, Inc. : Proceeding under Section 3008(a) and  
37 Loveton Circle : (g) of the Resource Conservation and  
Sparks, MD 21152 : Recovery Act, as amended, 42 U.S.C.  
EPA Facility Id. No.: MDD985386564 : § 6928(a) and (g)  
:  
FACILITY. :

## CONSENT AGREEMENT

### I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant”), and E. John Schmitz and Sons, Inc., (“Respondent”), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“*Consolidated Rules of Practice*”), 40 C.F.R. Part 22, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. The *Consolidated Rules of Practice*, at 40 C.F.R. § 22.13(b), provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement (“CA”) and the accompanying Final Order (“FO”), collectively referred to herein as the “CAFO,” simultaneously commences and concludes this administrative proceeding against Respondent.
3. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the State of Maryland has been granted final authorization to administer its hazardous waste management program, set forth at the Code of Maryland Regulations (“COMAR”),

Title 10, Subtitle 51 *et seq.*, *in lieu* of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g. The State of Maryland Hazardous Waste Management Regulations (“MdHWMR”) originally were authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13, were authorized by EPA effective July 31, 2001, September 24, 2004, and October 31, 2016. The provisions of the revised federally-authorized program have thereby become requirements of RCRA Subtitle C and are enforceable by the United States Environmental Protection Agency (“EPA” or the “Agency”) pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

4. Factual allegations or legal conclusions in this CA that are based on provisions of federally-authorized MdHWMR requirements cite those respective provisions as the authority for such allegations or conclusions. Factual allegations or legal conclusions in this CA that are based solely on provisions of the federal hazardous waste management program for which the State of Maryland has not yet received authorization alternatively cite the associated federal provisions as the authority for those particular allegations or conclusions.
5. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA. Respondent is hereby notified of EPA’s determination that Respondent has violated RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and federally-authorized MdHWMR requirements, at its facility located at 37 Loveton Circle, Sparks, Maryland 21152, EPA Facility Identification No. MDD985386564 (“Facility”).
6. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), EPA notified the State of Maryland (hereinafter, the “State”), through the Solid Waste Program Administrator of the Maryland Department of the Environment (“MDE”), of EPA’s intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

## **II. GENERAL PROVISIONS**

7. Respondent admits the jurisdictional allegations set forth in this CAFO.
8. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in this CAFO, except as provided in Paragraph 7, immediately above, of this CA.
9. Respondent agrees not to contest EPA’s jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement of the CAFO.
10. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.
11. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.

12. Respondent shall bear its own costs and attorneys' fees.

### **III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW**

In accordance with the *Consolidated Rules of Practice* at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:

13. Respondent is a corporation organized under the laws of the State of Maryland, engaged in business in the State of Maryland, with its principal office located at the Facility, and is a "person" as defined by RCRA Section 1004(15), 42 § Section 6903(15) and COMAR 26.13.01.03B(61).
14. Respondent is, and has been, the "operator" and the "owner" of a printing business located at 37 Loveton Circle, Sparks, Maryland 21152, EPA Facility Identification No. MDD985386564, as these terms are defined by COMAR 26.13.01.03.B (58) and (59), during the period of the violations alleged in this CA.
15. As described below and at all times relevant to the allegations set forth in this CAFO, Respondent has been a "generator" of "solid waste" and "hazardous waste" at the Facility, as these terms are defined in COMAR 26.13.01.03.B(29), (73) and (31), and has engaged in the "storage" of "solid waste" and "hazardous waste" in "container[s]" at the Facility, as those terms are defined in COMAR 26.13.01.03.B(76), (73), (31) and (9).
16. The Facility is, and at all times herein relevant has been, a hazardous waste storage "facility" as that term is defined in COMAR 26.13.01.03B(23).
17. Respondent submitted to EPA a Notification of Hazardous Waste Activity ("Notification"), pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, for its operations at the Facility, which includes operation as a large quantity generator of hazardous waste.
18. A duly authorized representative of the EPA ("EPA Inspector") performed a compliance evaluation inspection ("CEI") at the Facility on June 21, 2016, and sent a request for information ("RFI"), dated March 28, 2017, to which the Facility responded by providing documents and written responses on April 25, 2017, in order to assess the Respondent's compliance with federally-authorized MdHWMR requirements at the Facility.
19. On March 19, 2018, EPA sent a Request to Show Cause letter to the Facility advising Respondent of EPA's preliminary findings of MdHWMR violations at the Facility and offering Respondent the opportunity to provide additional information that it believed the Agency should review and consider before reaching any final conclusions as to the Respondent's MdHWMR compliance status at the Facility.
20. On the basis of the information collected by EPA during the Facility CEI and in response to the RFI, EPA concludes that Respondent has violated certain requirements and provisions of

RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and federally-authorized MdHWMR requirements promulgated thereunder.

21. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and COMAR 26.13.07.01, with exceptions not relevant to this matter, no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility.
22. At no time did the Respondent have a permit, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or COMAR 26.13.07.01, for the storage of hazardous waste at the Facility.
23. At no time did Respondent have interim status pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), or COMAR 26.13.07.23.

**Permit Exemption Conditions - Accumulation Time Requirements**

24. COMAR 26.13.03.05E(1) provides, in relevant part, that a generator may accumulate hazardous waste on-site in containers or in tanks without a permit or without having interim status, for 90 days or less, so long as the hazardous waste is accumulated in accordance with a number of conditions set forth in that section, including, *inter alia*:
  - a. the condition set forth at COMAR 26.13.03.05E(1)(g), which requires, with an exception that is not herein applicable, that owners and operators of all hazardous waste facilities have and comply with the “Contingency Plan and Emergency Procedures” requirements of COMAR 26.13.05.04, including the provisions of COMAR 26.13.05.04C(3), which provides, in relevant and applicable part, that “[t]he plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services. . . .” and COMAR 26.13.05.04C(5), which provides, in relevant and applicable part, that “[t]he plan shall include a list of all emergency equipment at the facility. . . .”
  - b. the condition set forth at COMAR 26.13.03.05E(1)(g), which incorporates by reference COMAR 26.13.05.02G, requires the owner or operator of a hazardous waste facility provide introductory hazardous waste training and an annual review of such initial training to those employees managing hazardous waste at the Facility and the owner or operator maintain those records which document the training completed by facility personnel who manage hazardous waste.
  - c. the condition set forth at COMAR 26.13.03.05E(1)(d), which incorporates by reference COMAR 26.13.05.09D, requires the owner or operator of a hazardous waste facility storing containers of hazardous waste to keep the containers closed except when it is necessary to add or remove waste.
  - d. the condition set forth at COMAR 26.13.03.05E(1)(d), which incorporates by reference COMAR 26.13.05.09E, requires the owner or operator of a hazardous waste facility to

- inspect, at least weekly, areas where containers of hazardous waste are being stored for leaks and/or deterioration of containers and the containment system caused by corrosion or other factors.
- e. the condition set forth at COMAR 26.13.03.05E(1)(f)(ii) which requires that each container of hazardous waste is “[l]abeled or marked clearly with the words ‘Hazardous Waste’, while being accumulated on site.”

**COUNT I**  
**(Operating Without a Permit or Interim Status)**

25. The allegations of Paragraphs 1 through 24 of this CA are incorporated herein by reference.
26. On June 26, 2016, at the time of the CEI, the EPA Inspector asked Facility personnel to provide him with certain Facility records, including the Contingency Plan maintained by the Respondent at the Facility.
27. At the time of the CEI, the Contingency Plan maintained by the Respondent at the Facility did not describe arrangements with local authorities nor did it list the emergency equipment at the Facility, as required by COMAR 26.13.03.05E(1) which incorporates by reference COMAR 26.13.05.04C(3) and (5).
28. At the time of the CEI, Respondent failed to maintain a written description of both introductory and continuing training that will be given to each person filling a position related to hazardous waste management, as required by COMAR 26.13.03.05E(1) which incorporates by reference COMAR 26.13.05.02G(4)(c), and failed to keep documentation that the introductory and annual refresher hazardous waste training had been provided to all Facility employees who managed hazardous waste, as required by COMAR 26.13.03.05E(1) which incorporates by reference COMAR 26.13.05.02G(2), (3) and (4)(d).
29. At the time of the CEI, Respondent failed to keep closed four satellite accumulation area containers of blanket wash waste which is a D001 (characteristic for ignitability) hazardous waste and a box of waste lamps as required by COMAR 26.13.03.05E(1) which incorporates by reference COMAR 26.13.05.09D.
30. At the time of the CEI, Respondent failed to properly label or mark a box of waste lamps with the words “Hazardous Waste” as required by COMAR 26.13.03.05E(1)(f)(ii).
31. From January 1, 2013 to November 2, 2015, Respondent conducted inspections of its hazardous waste storage area on a monthly basis instead of the weekly basis required by COMAR 26.13.05.09E for leaks and/or deterioration of containers and the containment system caused by corrosion or other factors.
32. Respondent exceeded the 90 day limit, set forth in COMAR 26.13.03.05E(1), for storing D001 (characteristic for ignitability) hazardous waste at the Facility on the following dates: August 26, 2014 to November 4, 2014 (70 days); February 4, 2015 to April 14, 2015 (69

days); July 15, 2015 to September 23, 2015 (71 days); and December 24, 2015 to February 8, 2016 (46 days)

33. For each of the reasons and during the time periods identified in Paragraph 32, above, Respondent failed to comply with the permit exemption conditions set forth in COMAR 26.13.03.05E(1), as identified in Paragraphs 24(a) – (e), above, for temporary (*i.e.*, 90 days or less) accumulation of hazardous waste by a generator at the Facility, as required pursuant to COMAR 26.13.03.05E(1), and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
34. For each of the reasons and during the time periods identified in Paragraph 32, above, Respondent engaged in the operation of a hazardous waste storage facility without having interim status or obtaining a permit for the Facility pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, or COMAR 26.13.07.
35. Respondent violated COMAR 26.13.07.01A and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility without a permit, interim status or valid exemption to the permitting/interim status requirements.

#### **COUNT II**

#### **(Failure to Describe Arrangements with Local Authorities and List Emergency Equipment in Contingency Plan)**

36. The allegations of Paragraphs 1 through 35 of this CA are incorporated herein by reference.
37. The requirements and provisions of COMAR 26.13.05.04C(3) and (5), pertaining to “Contingency and Emergency Procedures” requirements applicable to owners and operators of hazardous waste treatment, storage and disposal facilities, are set forth, in relevant and applicable part, in Paragraph 24(a), above.
38. Respondent violated the Contingency and Emergency Procedures “Content of Contingency Plan” requirements of COMAR 26.13.05.04C(3) and (5) at the time of the June 21, 2016 CEI, as previously described in Paragraph 27, above, as a result of its failure to include, within the Contingency Plan, the arrangements with local authorities and the emergency equipment at the Facility.

#### **COUNT III**

#### **(Failure to Maintain Hazardous Waste Training Records)**

39. The allegations of Paragraphs 1 through 38 of this CA are incorporated herein by reference.
40. The provisions of COMAR 26.13.05.02G pertaining to hazardous waste training records are set forth, in relevant and applicable part, in Paragraph 24(b), above.
41. Respondent violated the requirements of COMAR 26.13.05.02G at the time of the June 21, 2016 CEI, as previously described in Paragraph 28, above, as a result of its failure to

maintain a written description of both introductory and continuing training that will be given to each person filling a position related to hazardous waste management, as required by COMAR 26.13.05.02G(4)(c), and its failure to keep documentation that the introductory and annual refresher hazardous waste training had been provided to all Facility employees who managed hazardous waste, as required by COMAR 26.13.05.02G(2), (3) and (4)(d).

**COUNT IV**

**(Failure to Conduct Weekly Inspections of Hazardous Waste Storage Areas)**

42. The allegations of Paragraphs 1 through 41 of this CA are incorporated herein by reference.
43. The provisions of COMAR 26.13.05.09E pertaining to hazardous waste storage area inspections are set forth, in relevant and applicable part, in Paragraph 24(d), above.
44. From January 1, 2013 through November 2, 2015, Respondent violated the requirements of COMAR 26.13.05.09E, as previously described in Paragraph 31, above, as a result of its failure to conduct weekly inspections of areas where containers of hazardous waste were stored as required by COMAR 26.13.05.09E.

**COUNT V**

**(Failure to Make Hazardous Waste Determinations)**

45. The allegations of Paragraphs 1 through 44 of this CA are incorporated herein by reference.
46. Pursuant to COMAR 26.13.03.02A, generators of solid waste, as defined in COMAR 26.13.02.02, must determine if such waste is a hazardous waste using one or more of the methods set forth in COMAR 26.13.03.02A.
47. At the time of the CEI, Respondent failed to determine whether spent aerosol cans were hazardous waste.
48. At the time of the CEI, Respondent failed to determine whether two red metal containers of approximately two to three gallons without labels were hazardous waste.
49. At the time of the CEI, Respondent failed to determine whether one metal drum of approximately 20 to 30 gallons with an unreadable label was hazardous waste.
50. At the time of the CEI, Respondent failed to determine whether one plastic jug of approximately 3 to 5 gallons without a label was hazardous waste.
51. Respondent generated the solid wastes identified in Paragraphs 47 through 50, above, but failed to make a hazardous waste determination for such wastes, as required by COMAR 26.13.03.02A.
52. On June 21, 2016, Respondent violated COMAR 26.13.02A by failing to make hazardous waste determinations for the solid wastes identified in Paragraphs 47 through 50, above.

## V. CIVIL PENALTY

53. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty of **TWENTY-FOUR THOUSAND ONE HUNDRED AND TEN DOLLARS (\$24,110.00)**, which Respondent agrees to pay in accordance with the provisions set forth below. The civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the CAFO, fully executed by the parties, approved by the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.
54. The Parties find and represent that the aforesaid settlement amount is reasonable and is based upon Complainant's consideration of a number of factors, including the penalty criteria set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), which reflect the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g), the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the January 11, 2018 memorandum by EPA Assistant Administrator Susan Parker Bodine, entitled *Amendments to the EPA's Civil Penalty Policies to Account for Inflation and Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule*.
55. Payment of the civil penalty set forth in Paragraph 53, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with the provisions of Paragraphs 56 through 60, below, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall reference Respondent's name, address and the Docket Number of this action (***Docket No. RCRA-03-2019-0012***);
  - b. All checks shall be made payable to "**United States Treasury**";
  - c. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Primary Contact: Craig Steffen (513) 487-2091  
Secondary Contact: Molly Williams (513) 487-2076



- d. All payments made by check and sent by Private Commercial Overnight Delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101

Primary Contact: Craig Steffen (513) 487-2091  
Secondary Contact: Molly Williams (513) 487-2076

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045

Beneficiary: US Environmental Protection Agency

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

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

Physical location of U.S. Treasury Facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: (866) 234-5681

h. On-Line Payment Option

<https://www.pay.gov/public/home>  
Enter **SFO 1.1** in the search field, open and complete the form.

i. Additional payment guidance is available at:

<https://www.epa.gov/financial/makepayment>

j. At the time of payment, Respondent simultaneously shall send a notice of *each* payment, *including a copy of the check or electronic wire transfer, as applicable*, to:

Bevin Esposito  
Acting Regional Hearing Clerk (3RC00)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029;

and

T. Chris Minshall, Esq.  
Sr. Assistant Regional Counsel  
Waste and Chemical Law Branch (3RC30)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

56. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
57. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
58. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid

penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

59. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
60. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this CAFO.

#### **V. CERTIFICATIONS**

61. Respondent certifies to Complainant by its respective representative's signature hereto, to the best of its knowledge and belief, that Respondent and the Facility currently are in compliance with all relevant provisions of the federally-authorized MdHWMR, and of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, for which violations are alleged in this CA.

#### **VI. OTHER APPLICABLE LAWS**

62. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

#### **VII. RESERVATION OF RIGHTS**

63. This CAFO resolves only EPA's claims for civil penalties for the specific violations which are alleged in this CA. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person(s), including the Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

#### **VIII. FULL AND FINAL SATISFACTION**

64. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), for the violations alleged in this CA. Compliance with the requirements and provisions of this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and/or regulations administered by EPA.

**IX. PARTIES BOUND**

65. This CA and the accompanying FO shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this CA on behalf of the Respondent acknowledges that he or she is fully authorized to enter into this CA and to bind Respondent to the terms and conditions of this CA and the accompanying FO.

**X. EFFECTIVE DATE**

66. The effective date of this CAFO is the date on which the FO is filed with the Regional Hearing Clerk after signature by the Regional Administrator or his designee, the Regional Judicial Officer.

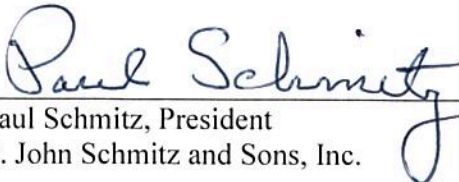
**XI. ENTIRE AGREEMENT**

67. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

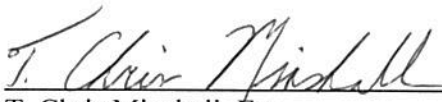
*In Re:*  
*E. John Schmitz and Sons, Inc.*

*Consent Agreement*  
*Docket No. RCRA-03-2019-0012*

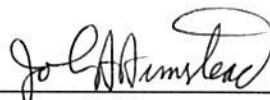
For the Respondent:

Date: 12-4-18 By:   
Paul Schmitz, President  
E. John Schmitz and Sons, Inc.

For the Complainant:

Date: 12/12/2018 By:   
T. Chris Minshall, Esq.  
Sr. Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region III

After reviewing the EPA Findings of Fact, Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 12.18.18 By:   
John A. Armstead, Director  
Land and Chemicals Division  
U.S. Environmental Protection Agency, Region III

**UNITED STATES**  
**ENVIRONMENTAL PROTECTION AGENCY**  
**REGION III**  
**1650 Arch Street**  
**Philadelphia, Pennsylvania 19103**

U.S. EPA-REGION 3-RHC  
 FILED-19DEC2018am10:23

<b>In Re:</b>	:	
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<b>37 Loveton Circle</b>	:	<b>Docket No. RCRA-03-2019-0012</b>
<b>Sparks, MD 21152</b>	:	
	:	
<b>RESPONDENT.</b>	:	
	:	
<b>E. John Schmitz and Sons, Inc.</b>	:	<b>Proceeding under Section 3008(a) and</b>
<b>37 Loveton Circle</b>	:	<b>(g) of the Resource Conservation and</b>
<b>Sparks, MD 21152</b>	:	<b>Recovery Act, as amended, 42 U.S.C.</b>
<b>EPA Facility Id. No.: MDD985386564</b>	:	<b>§ 6928(a) and (g)</b>
	:	
<b>FACILITY.</b>	:	

**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, E. John Schmitz and Sons, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of the statutory factors set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3) and EPA's RCRA Civil Penalty Policy (October 1990 and June 2003).


**NOW, THEREFORE, PURSUANT TO** Section 3008(a)(1) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(1) and (g), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **TWENTY-FOUR THOUSAND ONE HUNDRED AND TEN DOLLARS (\$24,110.00)**, plus any applicable interest, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

*In Re:*  
*E. John Schmitz and Sons, Inc.*

*Final Order*  
*Docket No. RCRA-03-2019-0012*

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: Dec 18, 2018

  
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Joseph J. Lisa  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

1650 Arch Street

Philadelphia, Pennsylvania 19103-2029

U.S. EPA-REGION 3-RHC  
FILED-19DEC2018AM10:23

In the Matter of:

E. John Schmitz and Sons, Inc.  
37 Loveton Circle  
Sparks, MD 21152

RESPONDENT.

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Docket No. RCRA-03-2019-0012  
  
Proceeding under Section 3008(a) and  
(g) of the Resource Conservation and  
Recovery Act, as amended, 42 U.S.C.  
§ 6928(a) and (g)

CERTIFICATE OF SERVICE

I certify that on DEC 19 2018, the original and one (1) copy of foregoing *Consent Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

Copy served via **Certified Mail, Return Receipt Requested, Postage Prepaid**, to:

Martin J. Blair  
CEO/Executive VP/CFO  
E. John Schmitz and Sons, Inc.  
37 Loveton Circle  
Sparks, MD 21152

Copy served via **Hand Delivery or Inter-Office Mail** to:

T. Chris Minshall  
Senior Assistant Regional Counsel  
Office of Regional Counsel (3RC30)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
(Attorney for Complainant)

Dated: DEC 19 2018

Bethina L. Duan  
Regional Hearing Clerk

U.S. Environmental Protection Agency, Region III

TRACKING NUMBER(S): 70172620 000091433023