

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for John Kilborn 9/14/12  
Name of Case Attorney Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number CAA-01-2012-0051

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Suddekar LLC  
240 Bowles Road  
Agawan, MA 01001

Total Dollar Amount of Receivable \$ 118,600 Due Date: 10/13/12

SEP due? Yes  No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

- 1<sup>st</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office

Phone Number \_\_\_\_\_



U. S. ENVIRONMENTAL PROTECTION AGENCY – NEW ENGLAND  
5 POST OFFICE SQUARE, SUITE 100 (OES04-3)  
BOSTON, MA 02109-3912



**HAND DELIVERY**

September 14, 2012

Ms. Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Re: *In the Matter of Süddekor LLC/Docket CAA 01-2012-0051*

Dear Ms. Santiago:

Attached for filing in the above-referenced matter are an original and one copy of a Consent Agreement and Final Order (“CAFO”) that the U.S. Environmental Protection Agency, Region 1 (“EPA”) has entered into with Suddekor, LLC. The CAFO has been signed by all parties and the Acting Regional Judicial Officer. Also attached are an original and one copy of a Certificate of Service.

EPA has also sent copies of the CAFO, the Certificate of Service, and this letter to the Respondents by certified mail and email

Thank you for your assistance. Please call me if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "John W. Kilborn".

John W. Kilborn  
Senior Enforcement Counsel

cc:

Lisa Verville, Suddekor, LLC  
Christine Sansevero, EPA



Therefore, before taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

**A. PRELIMINARY STATEMENT**

1. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, its officers, directors, successors and assigns.

2. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondent waives any defenses it might have as to jurisdiction and venue. Respondent consents to the terms of this CAFO.

3. Respondent neither admits nor denies the specific factual and legal allegations below in Section B. For purposes of this CAFO and any action necessary to enforce it, Respondent hereby waives its right to request a judicial or administrative hearing or otherwise to contest the allegations in this CAFO. Respondent waives any right to appeal this CAFO.

4. Under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Civil Monetary Inflation Rule (see Pub. L. 104-134 and 40 C.F.R. Part 19), EPA may assess penalties of up to (i) \$27,500 for each day of each violation of the Act occurring after January 30, 1997 through March 15, 2004, (ii) \$32,500 for each day of each violation of the Act occurring after March 15, 2004 through January 12, 2009, and (iii) \$37,500 for each day of each violation of the Act occurring after January 12, 2009.

5. Section 113(d) of the Act limits EPA's authority to issue administrative complaints to matters where the total penalty sought does not exceed \$200,000 and the first alleged date of violation occurred no more than twelve months prior to the initiation of the action, unless the EPA Administrator and the Attorney General for the U.S. Department of

Justice (“DOJ”) jointly determine that a matter involving a larger penalty or longer period of violation is appropriate for administrative action. Pursuant to the DCIA and its implementing regulations, the above-described penalty cap has been raised to \$295,000 for violations occurring after January 12, 2009.

6. This CAFO alleges violations that occurred more than twelve months ago. EPA and DOJ have jointly determined that this matter is appropriate for administrative action.

**B. EPA FINDINGS**

7. Respondent owns and operates a facility located at 240 Bowles Road in Agawam, Massachusetts (the “Agawam Facility”).

8. Respondent prints decorative papers at the Agawam Facility. Respondent was incorporated in 1999 and began operations at the Agawam Facility on April 17, 2000.

9. On January 14, 2003, Respondent obtained a Conditional Approval from the Massachusetts Department of Environmental Protection (“MassDEP”) for two printing presses at the Agawam Facility. This approval restricted emissions of volatile organic compounds (“VOC”) from the two printing presses but did not otherwise restrict the Agawam Facility’s emissions of hazardous air pollutants (“HAPs”).

**Printing NESHAP**

10. Sections 112(a)(1) and 501 of the CAA, 42 U.S.C. §§7412(a)(1) and 7661, define the term “major source” to include any source that has the potential to emit more than 10 tons per year of any single HAP or 25 tons per year of combined HAPs.

11. Material Safety Data Sheets provided by Respondent indicate that the materials in use in printing operations at the Agawam Facility between 2006 and 2010 include the HAPs ethylene glycol and diethanolamine.

12. Due to the capacity of the Agawam Facility's presses and the HAP content of the inks and coatings applied, EPA alleges that printing operations at the Agawam Facility have the potential to emit more than 10 tons per year of a single HAP and more than 25 tons per year of combined HAPs.

13. Accordingly, EPA alleges that the Agawam Facility is a major source of HAPs.

14. As a major source of HAPs that operates rotogravure printing presses, EPA alleges that the Agawam Facility is subject to the Printing NESHAP. EPA also alleges that Respondent constructed a new affected source in the years 1999 and 2000 and that the new affected source was major-emitting, having the potential to emit above the major source thresholds.

15. Under 40 CFR § 63.5(b)(3), no person may construct a new affected source that is major-emitting and subject to a NESHAP without advance written approval from EPA. The owner or operator of a new source subject to a NESHAP must submit an application for approval of construction as soon as practicable before actual construction begins, as required by 40 CFR § 63.5(d).

16. Respondent submitted an application for a conditional plan approval to the Massachusetts Department of Environmental Protection ("MassDEP") on July 20, 2012. Accordingly, EPA alleges that Respondent failed to timely meet these pre-construction approval requirements.

17. The owner or operator of an affected source must provide a written initial notification to EPA indicating that the facility is subject to the Printing NESHAP, as required by 40 CFR § 63.830(b)(1) and 40 CFR § 63.9(b)(5).

18. Respondent submitted an initial written notification that the Agawam Facility is subject to the Printing NESHAP to EPA on May 9, 2012, and a revised Initial Notification of Applicability and Notification of Compliance Status on May 22, 2012. Accordingly, EPA alleges that Respondent did not timely notify EPA that the Agawam Facility is subject to the Printing NESHAP.

19. The owner or operator of an affected source subject to the Printing NESHAP must provide a notification of compliance status to EPA as required by 40 CFR § 63.830(b)(3).

20. EPA alleges that the notification of compliance status was due on or about July 31, 2000 (60 days after the first full month Respondent began operations at the Agawam Facility). Respondent submitted a notification of compliance status to EPA on May 22, 2012. Accordingly, EPA alleges that Respondent did not timely submit its notification of compliance status. The owner or operator of an affected source subject to the Printing NESHAP must submit semi-annual summary reports to EPA as required by 40 CFR § 63.830(b)(6) and 40 CFR § 63.10(e)(3)(v).

21. EPA alleges that the first semi-annual summary report was due on or about January 30, 2001. Respondent submitted its first semi-annual summary report to EPA for the Agawam Facility on June 14, 2012. Accordingly, EPA alleges that Respondent did not timely submit semi-annual summary reports.

#### **Title V Operating Permit**

22. Section 503(c) of the Act and EPA regulations at 40 CFR § 70.5 require a major source to apply for and obtain a Title V operating permit within 12 months of becoming subject to a state's operating permit program. EPA alleges that Respondent's Agawam Facility is a

major source of HAPs that became subject to the Massachusetts operating permit program when it commenced operation in the year 2000.

23. Respondent first applied for a Title V operating permit on July 20, 2012.

Accordingly, EPA alleges that Respondent did not timely apply for a Title V operating permit, as required by Section 503(c) of the Act and 40 CFR § 70.5.

#### **Summary of Findings**

24. Based on the forgoing, EPA alleges that Respondent has violated the Printing NESHAP at the Agawam Facility. In summary, EPA alleges that Respondent:

- a. failed to timely submit an application for approval of construction. Accordingly, Respondent violated 40 CFR § 63.5(d);
- b. failed to timely submit an initial notification to EPA. Accordingly, Respondent violated 40 CFR § 63.830(b)(1);
- c. failed to timely submit a notification of compliance status to EPA. Accordingly, Respondent violated 40 CFR § 63.830(b)(3); and
- d. failed to timely submit semi-annual summary reports to EPA. Accordingly, Respondent violated 40 CFR § 63.830(b)(6).

25. EPA also alleges that Respondent violated the Title V operating permit requirements of Section 503(c) of the CAA and 40 CFR § 70.5.

#### **C. TERMS OF SETTLEMENT**

26. In light of the statutory factors of Section 113(e) of the Act, EPA has determined that it is fair and proper to assess a civil penalty for the violations alleged in this CAFO in the amount of \$118,600. Respondent shall pay the penalty of \$118,600 within thirty (30) days of the



effective date of this Consent Agreement and Final Order. Respondent shall submit a bank, cashier's or certified check in payment of this penalty.

27. Respondent shall make payment by submitting a bank, cashier's or certified check, to the order of the "Treasurer, United States of America," in the amount of \$118,600 to:

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

Respondent shall note the case name and docket number of this action on the check and in an accompanying cover letter, and shall simultaneously provide copies of the check and cover letter to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region I  
Suite 1100, Mail Code: ORA 18-1  
Five Post Office Square  
Boston, MA 02109-3912

and

John W. Kilborn, Senior Enforcement Counsel  
U.S. Environmental Protection Agency, Region I  
Suite 1100, Mail Code: OES4-03  
Five Post Office Square  
Boston, MA 02109-3912

28. Pursuant to Section 113(d)(5) of the Clean Air Act, 42 U.S.C. § 7413(d)(5), if Respondent fails to pay any penalty amount, it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Pursuant to Section 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 the civil penalty if it is not paid within thirty (30) calendar days of the

effective date of this CAFO. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2), promulgated under 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees in accordance with 31 C.F.R. § 901.9(c). In addition, a penalty charge of six 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 in accordance with 31 C.F.R. § 901.9(d). Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due.

**D. GENERAL PROVISIONS**

29. The civil penalty under Paragraph 26, above, any interest, and the nonpayment penalties and/or charges as described in Paragraph 28, above, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes, and shall not be deductible for purposes of state, or local taxes unless allowed by law.

30. This CAFO constitutes a settlement by EPA of all claims against Respondent for civil penalties pursuant to Section 113 of the Act for the violations alleged in Section B of this CAFO. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state, or local law. EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

31. Each party shall bear its own costs and fees in this proceeding, including attorneys fees, and specifically waives any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law

32. Each party certifies that at least one of their undersigned representatives is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to this document.

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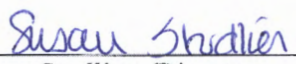
FOR SÜDDEKOR LLC

Name JOE HOELZER 

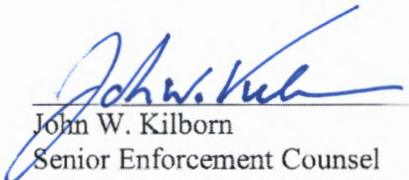
Date AUGUST 28, 2012

Title PRESIDENT & CEO

FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

  
Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region I

09/07/12  
Date


  
John W. Kilborn  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency, Region I

September 5, 2012  
Date

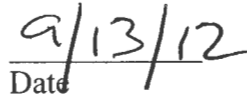
FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, which will become effective on the date it is filed with the Regional Hearing Clerk.

U.S. ENVIRONMENTAL PROTECTION AGENCY



Carl Dierker, Acting Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 1



Date

EPA DOCKET NO.: CAA-01-2012-0051  
In Re: Suddekor LLC

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date and in the manner noted below:

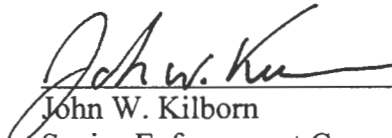
Original and one copy,  
hand-delivered:

Ms. Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3812

Copy, by email and  
Certified Mail

Ms. Lisa Verville, PHR  
Suddekor, LLC  
240 Bowles Road  
Agawam, Massachusetts 01001

Dated: September 14, 2012

  
\_\_\_\_\_  
John W. Kilborn  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency,  
Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3812  
(617) 918-1893  
Kilborn.john@epa.gov