

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
BEFORE THE ADMINISTRATOR

**FILED**

**Nov 20, 2024**

**8:28 am**

**U.S. EPA REGION 3  
HEARING CLERK**

In the Matter of:

Stoney Ridge Fabricators, LLC  
945 Mauch Chunk Road  
Palmerton, PA 18071,

Respondent.

EPA Docket No. CAA-03-2025-0026DA

Administrative Compliance Order on Consent

**ADMINISTRATIVE COMPLIANCE ORDER**

**A. PRELIMINARY STATEMENT**

1. This Administrative Compliance Order (“Order”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 113(a) of the Clean Air Act (the “Act”), 42 U.S.C. § 7413(a).
2. On the EPA’s behalf, the Director of the Enforcement & Compliance Assurance Division is delegated the authority to issue this Order under Section 113(a) of the Act.
3. Respondent is Stoney Ridge Fabricators, LLC, a company doing business in the Commonwealth of Pennsylvania. Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).
4. Respondent signs this Order on consent.

**B. STATUTORY AND REGULATORY BACKGROUND**

5. Section 112(d) of the CAA requires the EPA to establish national emission standards for hazardous air pollutants (“NESHAP”) for both major and area sources of hazardous air pollutants (“HAP”) that are listed for regulation under Section 112(c) of the CAA.

6. A major source means any stationary source that emits or has the potential to emit 10 tons per year (“tpy”) or more of any single HAP or 25 tpy or more of any combination of HAP. 40 C.F.R. § 63.2. An area source is any stationary source that is not a major source.  
*Id.*
7. Section 112(k)(3)(B) of the CAA calls for the EPA to identify at least 30 HAP which, as the result of emissions from area sources, pose the greatest threat to public health in the largest number of urban areas. The EPA implemented this provision in 1999 in the Integrated Urban Air Toxics Strategy, (64 FR 38715, July 19, 1999). In the Strategy, the EPA identified 30 HAP that pose the greatest potential health threat in urban areas, and these HAP are referred to as the “30 urban HAP.” Section 112(c)(3) requires the EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP are subject to regulation.
8. On July 23, 2008, the EPA promulgated National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Nine Metal Fabrication and Finishing Source Categories for a subset of the source categories listed pursuant to Sections 112(c)(3) and (k) of the CAA (73 FR 43000, July 23, 2008) which are codified at 40 C.F.R. Part 63, Subpart XXXXXX (“Metal Fabricating and Finishing NESHAP”).
9. The Metal Fabricating and Finishing NESHAP applies to owners or operators of an area source that is primarily engaged in operations in one of nine source categories, which include both Fabricated Metal Products and Fabricated Plate Work.
10. The provisions of the Metal Fabricating and Finishing NESHAP apply to affected sources, which include machining affected sources, that use materials that contain metal

fabrication and finishing metal HAP (“MFHAP”), or that have the potential to emit MFHAP. Compliance with the Metal Fabricating and Finishing NESHAP must be achieved by July 25, 2011 for affected sources that commenced construction or reconstruction before April 3, 2008; and by July 23, 2008 or upon startup, whichever is later, for affected sources that commenced construction or reconstruction on or after April 3, 2008.

11. Metal fabrication and finishing HAP or MFHAP means any compound of the following metals: Cadmium, chromium, lead, manganese, or nickel, or any of these metals in the elemental form, with the exception of lead. 40 C.F.R. § 63.11522. Material containing MFHAP means a material containing one or more MFHAP. Any material that contains cadmium, chromium, lead, or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), and contains manganese in amounts greater than or equal to 1.0 percent by weight (as the metal), as shown in formulation data provided by the manufacturer or supplier, such as the Material Safety Data Sheet for the material, is considered to be a material containing MFHAP. *Id.*

### **C. FINDINGS**

12. Since 1999, Respondent has owned and operated a custom plate and miscellaneous steel fabrication facility located at 945 Mauch Chunk Road in Palmerton, Pennsylvania (the “Facility”).
13. Pursuant to the EPA’s authority under Section 114 of the CAA, 42 U.S.C. § 7414, EPA Inspectors conducted an inspection of the Facility on May 11, 2022 to determine compliance with applicable federal regulations (the “Inspection”). The EPA issued

Request for Information letters following the Inspection pursuant to the same authority on February 28, 2023, May 16, 2024 and June 10, 2024.

14. Based on the observations of the EPA Inspectors and on Respondent's responses to the EPA information request letters, the EPA has determined that Respondent is subject to the Metal Fabricating and Finishing NESHAP based on information showing that: (1) the Facility is an area source because, upon information and belief, it emits and likely has a potential to emit less than 10 tpy or more of any single HAP and less than 25 tpy or more of any combination of HAP; (2) Respondent commenced construction or reconstruction of the equipment necessary to perform machining operations before April 3, 2008; (3) at least 50 percent of production at the Facility involves fabricating metal products or plate work, and (4) the Facility conducts machining operations that on occasion uses material containing cadmium, chromium, lead, or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), or manganese in amounts greater than or equal to 1.0 percent by weight (as the metal), or material that has the potential to emit cadmium, chromium, lead, manganese, or nickel, or any of these metals in the elemental form, with the exception of lead.
15. Pursuant to 40 C.F.R. § 63.11519, the Metal Fabricating and Finishing NESHAP requires owners or operators to submit an Initial Notification including the information set forth at 40 C.F.R. § 63.11519(a)(1), a Notification of Compliance Status including the information set forth at 40 C.F.R. § 63.11519(a)(2), and Annual Certifications and compliance reports in accordance with the requirements of paragraphs 40 C.F.R. § 63.11519 (b)(2) through (7).

16. Based on the observations of the EPA Inspectors and on Respondent's responses to the EPA information request letters, the EPA has determined that Respondent failed to timely submit: the Initial Notification that was required by July 25, 2011, the Notification of Compliance Status that was required by November 22, 2011, and the Annual Certification and compliance reports that were required beginning January 31, 2012, and therefore is in violation of the Metal Fabricating and Finishing NESHAP.
17. Pursuant to 40 C.F.R. § 63.11516(b), the Metal Fabricating and Finishing NESHAP requires owners or operators of machining affected sources to take measures necessary to minimize excess dust in the surrounding area to reduce MFHAP emissions, as practicable; and to operate all equipment associated with machining according to manufacturer's instructions for each machining operation that uses materials that contain MFHAP, or has the potential to emit MFHAP. As of the date of this Order, Respondent has not demonstrated that it is complying with the standards and management practices for machining required by 40 C.F.R. § 63.11516(b) that were applicable since July 25, 2011.
18. Pursuant to 40 C.F.R. § 63.11517, the Metal Fabricating and Finishing NESHAP requires owners or operators to conduct visual determinations of fugitive emissions according to the procedures of EPA Method 22, of 40 C.F.R. Part 60, Appendix A-7 while the equipment and activities necessary to perform machining operations are operating under normal conditions. The duration of each EPA Method 22 test must be at least 15 minutes, and visible emissions will be considered to be present if they are detected for more than six minutes of the fifteen-minute period. The schedule for conducting Visual

determination of fugitive emissions under the Metal Fabricating and Finishing NESHAP is set forth at 40 C.F.R. § 63.11517(b). As of the date of this Order, Respondent has not demonstrated that it is complying with the monitoring provisions in 40 C.F.R.

§ 63.11517 that were applicable since the first day on or after July 25, 2011 the equipment and activities necessary to perform machining operations were operating under normal conditions.

19. Pursuant to 40 C.F.R. § 63.11519, the Metal Fabricating and Finishing NESHAP requires owners or operators to keep records of notifications, applicability determinations, visual determinations of fugitive emissions, and manufacturer's instructions in accordance with the provisions of 40 C.F.R. § 63.11519(c). As of the date of this Order, Respondent has not demonstrated that it is complying with the record keeping provisions in 40 C.F.R. § 63.11519(c) that were applicable since July 25, 2011.

#### **D. ORDER**

20. Respondent is ordered to conduct the compliance program described in this section of this Order.
21. Within 30 days of the effective date of this Order, Respondent shall submit an Initial Notification that includes the information set forth at 40 C.F.R. § 63.11519(a)(1).
22. For one year from the effective date of this Order:
- a. Respondent must determine and document for each supply of metals it receives whether it is 'material containing MFHAP' as defined at 40 C.F.R. § 63.11522;
  - b. For metal supplies determined to be 'material containing MFHAP', Respondent must comply with:

- i. the standards and management practices described at 40 C.F.R. § 63.11516(b), including:
  - 1. taking measures necessary to minimize excess dust in the machining operations surrounding area to reduce MFHAP emissions, as practicable; and
  - 2. operating all equipment associated with machining according to manufacturer's instructions.
- ii. the monitoring requirement described at 40 C.F.R. § 63.11517(a) and (b), including performing visual determinations of fugitive emissions according to:
  - 1. the procedures of EPA Method 22, of 40 C.F.R. Part 60, Appendix A-7 while the affected source is operating under normal conditions. The duration of each EPA Method 22 test must be at least 15 minutes, and visible emissions will be considered to be present if they are detected for more than six minutes of the fifteen minute period; and
  - 2. the graduated schedule set forth at 40 C.F.R. § 63.11517(b)(1)-(4).
- iii. the notification, record keeping, and reporting requirements described at 40 C.F.R. § 63.11519, including:
  - 1. submitting a Notification of Compliance Status that includes the information set forth at 40 C.F.R. § 63.11519(a)(2)(i), (ii) and (iv) within 90 days of the effective date of this Order;

2. submitting an initial Annual Certification and Compliance Report containing the information set forth at 40 C.F.R. § 63.11519(b)(4) and (b)(5) for the period up through December 31, 2024 by no later than January 31, 2025; and
3. keeping records as described at 40 C.F.R. § 63.11519(c), according to the requirements of 40 C.F.R. § 63.11519(c)(15), including:
  - a. general compliance and applicability records as described at 40 C.F.R. § 63.11519(c)(1);
  - b. visual determination of fugitive emissions records as described at 40 C.F.R. § 63.11519(c)(2);
  - c. if applicable, control device manufacturer specifications as described at 40 C.F.R. § 63.11519(c)(4); and
  - d. equipment manufacturer instructions as described at 40 C.F.R. § 63.11519(c)(13).

23. Within 10 days of receipt of written notification from the EPA that its Initial Notification, Notification of Compliance Status, or initial Annual Certification and Compliance Report are unacceptable, Respondent shall revise and resubmit any such unacceptable notice, certification or report.

#### **E. OTHER TERMS AND CONDITIONS**

24. Respondent admits the jurisdictional allegations contained in this Order.

25. Respondent neither admits nor denies the findings in Section C (Findings) of this Order.



## **F. GENERAL PROVISIONS**

26. Any violation of this Order may result in a civil administrative or judicial action for an injunction or civil penalties of up to \$57,617 per day per violation, or both, as provided in Sections 113(b)(2) and 113(d)(1) of the Act, 42 U.S.C. §§ 7413(b)(2) and 7413(d)(1), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.
27. Nothing in this Order shall relieve Respondent of the duty to comply with all applicable provisions of the Act or other federal, state or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
28. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
29. The provisions of this Order shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the Effective Date of this Order until the Termination Date as set out in paragraph 37 below, Respondent must give written notice and a copy of this Order to any successors in interest prior to any transfer of ownership or control of any portion of or interest in the Facility. Simultaneously with such notice, Respondent

shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this Order unless the EPA has provided written approval of the release of said obligations or liabilities.

30. Unless this Order states otherwise, whenever, under the terms of this Order, written notice or other document is required to be given, it shall be directed to the individuals specified at the addresses below unless those individuals or their successors give notice of a change of address to the other party in writing:

For the EPA:

Jennifer M. Abramson, Senior Assistant Regional Counsel  
Office of Regional Counsel, Region 3  
[Abramson.Jennifer@epa.gov](mailto:Abramson.Jennifer@epa.gov)

Stafford Stewart, Inspector  
Enforcement & Compliance Assurance Division  
[Stewart.Stafford@epa.gov](mailto:Stewart.Stafford@epa.gov)

For Respondent:

Tom Szoke, Owner  
Stoney Ridge Fabricators, LLC  
[tszoke@szokebrothers.com](mailto:tszoke@szokebrothers.com)

All notices and submissions shall be considered effective upon receipt.

31. To the extent this Order requires Respondent to submit any information to the EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. Part 2, Subpart B. The EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a

confidentiality claim, the EPA may make the submitted information available to the public without further notice to Respondent.

32. Each undersigned representative of the Parties certifies that he or she is authorized to enter into the terms and conditions of this Order to execute and bind legally the Parties to this document.
33. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), Respondent's performance of paragraphs 20 through 23 is required to come into compliance with the law.
34. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In

order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at [henderson.jessica@epa.gov](mailto:henderson.jessica@epa.gov) within 30 days after the effective date of this Order, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
  - i. notify EPA’s Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the effective date of this Order per paragraph 35; and
  - ii. provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s issuance and receipt of the TIN.

#### **G. EFFECTIVE DATE AND OPPORTUNITY FOR A CONFERENCE**

35. Pursuant to Section 113(a)(4) of the Act, an Order does not take effect until the person to whom it has been issued has had an opportunity to confer with the EPA concerning the alleged violations. By signing this Order, Respondent acknowledges and agrees that it has been provided an opportunity to confer with the EPA prior to issuance of this Order. Accordingly, this Order will take effect immediately upon signature by the latter of Respondent or the EPA.

#### **H. JUDICIAL REVIEW**

36. 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 Order, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1).

#### **I. TERMINATION**

37. This Order shall terminate on the earlier of the following (the “Termination Date”) at which point Respondent shall operate in compliance with the Act:

- a. One year after the Effective Date of this Order; or
- b. Immediately upon receipt by Respondent of notice from the EPA finding that an imminent and substantial endangerment to public health, welfare, or the environment has occurred.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
BEFORE THE ADMINISTRATOR

In the Matter of:

Stoney Ridge Fabricators, LLC  
945 Mauch Chunk Road  
Palmerton, PA 18071,

Respondent.

EPA Docket No. CAA-03-2025-0026DA

Certificate of Service

**CERTIFICATE OF SERVICE**

I certify that the foregoing Administrative Order on Consent was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the Administrative Order on Consent. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing Administrative Order on Consent to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Tom Szoke, Owner  
Stoney Ridge Fabricators, LLC  
[tszoke@szokebrothers.com](mailto:tszoke@szokebrothers.com)

Copies served via email to:

Jennifer M. Abramson  
Senior Assistant Regional Counsel  
U.S. EPA, Region 3  
[Abramson.Jennifer@epa.gov](mailto:Abramson.Jennifer@epa.gov)

Stafford Stewart, Inspector  
Enforcement & Compliance Assurance Division  
U.S. EPA, Region 3  
[Stewart.Stafford@epa.gov](mailto:Stewart.Stafford@epa.gov)

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[Digital Signature and Date]

Regional Hearing Clerk  
U.S. EPA, Region 3