

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
FOUR PENN CENTER – 1600 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PENNSYLVANIA 19103-2852**

In the Matter of:

Stoner, Inc.
1070 Robert Fulton Highway
Quarryville, Pennsylvania 17566,

Respondent.

1070 Robert Fulton Highway
Quarryville, Pennsylvania 17566,

Facility.

Administrative
Compliance Order on Consent
EPA Docket No. CAA-03-2022-0098DA

ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT

A. PRELIMINARY STATEMENT

1. This Administrative Compliance Order on Consent (“Order”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 113(a)(3)(B) of the Clean Air Act, as amended (“CAA” or “the Act”), 42 U.S.C. § 7413(a)(3)(B). Under Section 113(a)(3)(B) of the Act, the Administrator of EPA has the authority to issue orders requiring any person who is in violation of certain sections of the CAA, including Section 112(r)(7), 42 U.S.C. § 7412(r)(7), to comply with such requirements of the CAA.
2. On 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 Stoner, Inc., a corporation doing business in the Commonwealth of Pennsylvania, and a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).
4. Respondent signs this Order on consent.
5. Respondent neither admits nor denies the allegations set forth in Section C (Findings), stated below, and will not contest EPA’s authority or jurisdiction to issue or enforce the provisions of this Order.

B. STATUTORY AND REGULATORY BACKGROUND

6. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the Act, 42 U.S.C. § 7412(r), which requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain substances listed pursuant to Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3).
7. Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances, with threshold quantities, and defines the stationary sources that will be subject to the accident prevention regulations mandated by Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7). The list of regulated substances and threshold levels are codified at 40 C.F.R. § 68.130.
8. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68 (the “Risk Management Program Regulations” or “RMP Regulations”), which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). The RMP Regulations require owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a

prevention program, and an emergency response program. The risk management program is described in a risk management plan that must be submitted to EPA. The risk management plan must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.

9. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and its RMP Regulations at 40 C.F.R. § 68.10(a) and 68.150(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must submit a risk management plan to EPA no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.
10. Section 112(r)(2)(C) of the Act, 42 U.S.C. § 7412(r)(2)(C), defines “stationary source,” as “any buildings, structures, equipment, installations, or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur.”
11. Section 302(e) of the Act, 42 U.S.C. § 7602(e), defines “person” as including an individual, corporation, partnership, association, State, municipality, political subdivision of a State and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

12. The RMP Regulations at 40 C.F.R. § 68.3 define “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.
13. The RMP Regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, listed in 40 C.F.R. § 68.130, Tables 1-4, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.
14. The RMP Regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA in 40 C.F.R. § 68.130.
15. As used herein, the term “day” shall mean calendar day.
16. All terms not defined herein shall have the meanings set forth in the CAA.

C. FINDINGS

17. Respondent is a chemical company that manufactures and/or stores various chemicals in warehouse facilities. Respondent owns and operates a manufacturing facility for specialized cleaners, lubricants, and coatings located at 1070 Robert Fulton Highway in Quarryville, Pennsylvania (“Facility”). Respondent uses and stores flammable chemicals at the Facility.
18. On December 7, 2021, EPA issued an information request to Respondent pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, to determine whether Respondent was in

compliance with Section 112(r)(7) of the CAA, at the Facility. Respondent submitted written responses to the information request on January 6, 2022, and thereafter.

19. Based on its observations during the inspections and its review of documents received from Respondent during the investigation, EPA determined that Respondent had the following chemicals present at its Facility, among other chemicals, in approximately the following amounts, from 2016 through 2021:
 - 30,691 pounds of dimethyl ether;
 - 41,852 pounds of 1,1-difluoroethane; and
 - 21,645 pounds of AB-46.
20. Dimethyl ether, Chemical Abstract Service (“CAS”) # 115-10-6, and 1,1-difluoroethane, CAS # 75-37-6, are regulated substances listed in accordance with CAA Section 112(r)(3), 42 U.S.C. § 7412(r)(3), in the list of regulated substances compiled at 40 C.F.R. § 68.130, each with a threshold quantity of 10,000 pounds.
21. According to its safety data sheet, AB-46 is a flammable mixture containing at least one percent each of propane, CAS # 74-98-6, and/or butane CAS # 106-97-8, with a fire rating of 4 under the National Fire Protection Association 704, Standard System for the Identification of the Hazards of Materials for Emergency Response. As such, the flammable mixture constitutes a regulated substance listed at 40 C.F.R. § 68.130, with a threshold quantity of 10,000 pounds. 40 C.F.R. § 68.115(b)(2).
22. Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and Section 68.150(a) of the RMP Regulations, 40 C.F.R. § 68.150(a), require the owner and operator of a stationary source to submit a risk management plan that includes the information required by 40 C.F.R. §§ 68.155-68.185 for all covered processes. The RMP Regulations

specify that the risk management plan should be submitted no later than June 21, 1999; three years after the date on which a regulated substance is first listed under 40 C.F.R. § 68.130; or the date on which a regulated substance is first present above a threshold quantity in a process. 40 C.F.R. § 68.150(a)-(b).

23. Respondent confirmed to EPA that all three chemicals, dimethyl ether, 1,1-difluoroethane, and AB-46, are subject to Process Safety Management regulations promulgated by the Occupational Safety and Health Administration, at 29 C.F.R. 1910.119. Accordingly, the chemicals are subject to regulation under the Program 3 Prevention Program of the RMP Regulations, 40 C.F.R. Part 68, Subpart D. 40 C.F.R. § 68.10(i).
24. Respondent has not submitted a risk management plan to EPA for the regulated substances present in a process at the Facility in amounts greater than their respective threshold quantities.
25. Respondent did not produce for EPA documentation pertaining to the following components of a risk management program, as set forth in Subparts A, B and D of the RMP Regulations:
 - a. management system, as required by 40 C.F.R. § 68.15;
 - b. alternative release scenario and affected population for its hazard assessment, as required by 40 C.F.R. § 68.28-68.30;
 - c. process safety information, including safe upper and lower limits for process chemicals, and codes and standards used to design, build and operate the process(es), as required by 40 C.F.R. § 68.65;
 - d. process hazard analysis, as required by 40 C.F.R. § 68.67;

- e. operating procedures, other than filling of propellant tank, as required by 40 C.F.R. § 68.69;
 - f. documentation of initial and refresher training for all activities, including maintenance, except for filling of propellant tank, as required by 40 C.F.R. § 68.71;
 - g. written procedures for maintaining the ongoing integrity of process tanks and associated piping and process equipment in accordance with industry standards; training; and inspections and tests; as required by 40 C.F.R. § 68.73;
 - h. management of change procedures, as required by 40 C.F.R. § 68.75;
 - i. pre-startup safety review procedures for new or modified stationary sources, as required by 40 C.F.R. § 68.77;
 - j. compliance audits, as required by 40 C.F.R. § 68.79;
 - k. employee participation plans, as required by 40 C.F.R. § 68.83;
 - l. hot work permits, as required by 40 C.F.R. § 68.85; and
 - m. contractor procedures, as required by 40 C.F.R. § 68.87.
26. As a corporation, Respondent is, and at all times referred to herein, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and the owner and operator of the Facility.
27. The Facility is a “stationary source” pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).
28. Respondent has been the owner and operator of a “stationary source” at all times relevant to this Order.

29. EPA has determined that more than a threshold quantity of regulated substances dimethyl ether, 1,1-difluoroethane, and AB-46 are present in a process at the Facility.
30. Respondent is subject to the requirements of Section 112(r)(7) of the CAA, 40 C.F.R. § 7412(r)(7), and the RMP Regulations, 40 C.F.R. Part 68, at the Facility because Respondent is an owner or operator of a stationary source with more than a threshold quantity of a regulated substance present in a process at the Facility.
31. Based on information collected by EPA, EPA determined that Respondent did not comply with the RMP Regulations by failing to submit a risk management plan for the regulated substances present in a process at the Facility in amounts greater than their respective threshold quantities, in violation of Section 112(r)(7) of the CAA and Section 68.150(a) of the RMP Regulations.
32. Respondent's failure to prepare and submit a risk management plan is a violation of Respondent's obligation to comply with the process safety requirements in the RMP Regulations.
33. Respondent has identified to EPA a third-party contractor competent to undertake the work specified in Section D of this Order, whom EPA has accepted.

D. ORDER

34. Respondent agrees to undertake the action and provide the information specified below (the "Work").
 - a. Within thirty (30) days of the effective date of this Order, Respondent shall submit to EPA for approval a workplan and schedule ("Workplan and Schedule") to prepare and submit a risk management plan and its associated components under Subparts A, B, D and E of the RMP Regulations for the Facility.

- b. EPA will review the Workplan and Schedule submitted pursuant to subparagraph 34.a, and will either accept it or direct Respondent to make changes and resubmit the document within twenty (20) days;
- c. Within seven (7) days of receipt of EPA's written acceptance of the Workplan and Schedule, submitted pursuant to subparagraph 34.a, Respondent shall initiate implementation of the EPA-accepted Workplan and complete the Workplan in accordance with the EPA-accepted Schedule;
- d. On the one-month anniversary of the Effective Date of this Order, and each thirty (30) days thereafter, Respondent shall submit electronically to EPA a written monthly progress report detailing steps taken during the preceding month to implement the EPA-accepted Workplan in accordance with the EPA-accepted Schedule;
- e. Within thirty (30) days after completing the work in accordance with the EPA-accepted Workplan and Schedule at the Facility, Respondent shall submit to EPA, for EPA's approval, a written report verifying that Respondent has complied with the requirements of subparagraph 34.c, at the Facility ("Completion Report").
The Completion Report, with the following certification, shall be signed by a responsible official of Respondent, as such term is defined in paragraph 35, below:

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

- f. EPA will review the Completion Report submitted pursuant to subparagraph 34.e, above, and will either approve it in writing or identify deficiencies in writing (“Notice of Work Deficiencies”) and direct Respondent to correct and/or re-perform any or all Work disapproved by EPA and resubmit the report for EPA approval within thirty (30) days of receiving the Notice of Work Deficiencies associated with the Completion Report.
35. Any notice, report, plan, certification, data presentation or other document submitted by Respondent under or pursuant to this Order which discusses, describes, demonstrates or supports any finding or makes any representation concerning Respondent’s compliance or noncompliance with any requirement(s) of this Order shall be certified by a responsible official of said Respondent. The term “responsible official” means: (i) the president, secretary or vice-president of the corporation in charge of principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The responsible official of a partnership or sole proprietorship means the general partners or the proprietor, respectively.
36. Respondent shall provide EPA and its representatives, including contractors and grantees, with access to the Facility for the purpose of assessing Respondent’s compliance with this Order and with the Act. Respondent shall also provide EPA and its representatives, including contractors and grantees, with access to all records relating to Respondent’s

implementation of this Order, and shall comply with all requests for information pertaining to this Order.

37. Respondent shall preserve all documents and information relating to the activities carried out pursuant to this Order for five (5) years after completion of the Work required by this Order. Upon request, Respondent shall provide EPA with copies of such documents and information.
38. All documents submitted by Respondent to EPA in the course of implementing the Order shall be available to the public unless identified as confidential by the Respondent pursuant to 40 C.F.R. Part 2, Subpart B, and determined by EPA to require treatment as confidential business information in accordance with applicable law.

E. GENERAL PROVISIONS

39. Any violation of this Order may result in a civil administrative or judicial action for an injunction or civil penalties of up to \$51,796 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 amended by the Debt Collection Improvement Act, as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.
40. 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 EPA's authority to seek compliance with any applicable law 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.

41. Nothing herein shall be construed to limit the power of 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.
42. Neither EPA nor the United States, by issuance of this Order, assumes any liability for any acts or omissions by Respondent or Respondent's employees, agents, contractors, or consultants engaged to carry out any action or activity pursuant to this Order, nor shall EPA or the United States be held as a party to any contract entered into by Respondent or by Respondent's employees, agents, contractors, or consultants engaged to carry out the requirements of this Order.
43. 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 56 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 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 EPA has provided written approval of the release of said obligations or liabilities.
44. 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 electronically 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 EPA:

Patrick Beckley, Risk Management Program Coordinator
Enforcement & Compliance Assurance Division (3ED12)
U.S. Environmental Protection Agency, Region III
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103-2852
Phone: (215) 814-3261
Email: beckley.patrick@epa.gov

cc: Cynthia T. Weiss, Sr. Assistant Regional Counsel
Office of Regional Counsel (3RC20)
U.S. Environmental Protection Agency, Region III
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2852
Phone: (215) 814-2659
Email: weiss.cynthia@epa.gov

For Respondent:

Dean Swartz, Safety, Health & Environmental Director
Stoner, Inc.
1070 Robert Fulton Highway
Quarryville, Pennsylvania 17566
Phone: (717) 786-7355
Email: dswartz@stonersolutions.com

Robert Ecklin, Jr., President
Stoner, Inc.
1070 Robert Fulton Highway
Quarryville, Pennsylvania 17566
Phone: (717) 786-7355
Email: recklin@stonersolutions.com

cc: Donald R. Wagner, Esquire
Stevens & Lee
111 North Sixth Street
Reading, Pennsylvania 19601
Phone: 610.478.2216
Email: donald.wagner@stevenslee.com

All notices and submissions shall be considered effective upon receipt.

45. To the extent this Order requires Respondent to submit any information to 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. 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, EPA may make the submitted information available to the public without further notice to Respondent.
46. 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.
47. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 1.162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of the Work identified in Section D is restitution, remediation, or required to come into compliance with the law.

F. EFFECTIVE DATE AND OPPORTUNITY FOR A CONFERENCE

48. 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 EPA concerning the alleged violations. By signing this Order, Respondent acknowledges and agrees that it has been provided an opportunity to confer with EPA prior to issuance of this Order. Accordingly, this Order will take effect upon receipt by Respondent of a fully executed copy of the Order.
49. Any reports, plans, specifications, or other submissions required by this Order are, upon acceptance by EPA, incorporated into this Order. Any non-compliance with such EPA-

accepted reports, plans, specifications, schedules, or other submissions shall be considered non-compliance with the requirements of this Order.

50. No informal advice, guidance, suggestions or comments by EPA regarding reports, plans, specifications, schedules, or other submissions by the Respondent or the requirements of this Order will be construed as relieving the Respondent of its obligations to obtain formal acceptance when required by this Order, and to comply with the requirements of this Order unless formally modified.
51. This Order may be modified or amended in a writing executed by the Director of the Enforcement & Compliance Assurance Division. Such modifications or amendments shall be effective on the date they are fully executed by Respondent and the Director of the Enforcement & Compliance Assurance Division or such other date as set by the Director of the Enforcement & Compliance Assurance Division. Minor modifications to the Order and/or schedule thereto may be approved by EPA's Risk Management Coordinator, Patrick Beckley.
52. In the event of an inability or anticipated inability on the part of the Respondent to perform any of the actions required by this Order in the time and manner required herein, the Respondent shall notify EPA orally within twenty-four (24) hours of such event (or, if the event occurs on a Friday or Saturday, Sunday, or legal holiday, no later than the following business day) and in writing as soon as possible, but in no event more than three (3) days after such event. Such notice shall set forth the reason(s) for, and the expected duration of, the inability to perform; the actions taken and to be taken by Respondent to avoid and mitigate the impact of such inability to perform; and the proposed schedule for completing such actions. Such notification shall not relieve

Respondent of any obligation of this Order. Respondent shall take all reasonable actions to prevent and minimize any delay.

53. Failure by Respondent to carry out any requirement of this Order in accordance with the terms and conditions specified herein may result in the initiation of an enforcement action against Respondent to require Respondent to perform such actions, in addition to any other relief that may be available to EPA pursuant to applicable law. Respondent reserves all rights, claims and defenses to respond to any enforcement by EPA pursuant to this paragraph or under any authority.

54. Nothing in this Section or any other provision of this Order shall be construed to limit any powers EPA may have under the Act or any other law or regulation, nor shall they be construed to limit any defenses that Respondent may have under the Act or otherwise.

G. JUDICIAL REVIEW

55. 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 Act, 42 U.S.C. § 7607(b)(1).

H. TERMINATION

56. This Order shall terminate on the earlier of the following (the "Termination Date"):

- a. One year after the Effective Date of this Order;
- b. The effective date of any determination by EPA that Respondent has achieved compliance with all terms of this Order; or

- c. Immediately upon receipt by Respondent of notice from EPA finding that an imminent and substantial endangerment to public health, welfare, or the environment has occurred.

57. Termination of this Order shall not, however, terminate Respondent's obligation to comply with any continuing obligations of any federal, state or local law, statute, ordinance, rule or regulations, and all continuing obligations shall continue as they did before the termination of the Order.

I. COPIES OF ADMINISTRATIVE ORDER

58. Copies of this Order will be provided to:

Michael Manley, Planning Administrator
Hazardous Materials Division, Bureau of Technological Hazards
PA Emergency Management Agency
1310 Elmerton Avenue, Harrisburg, PA 17110
Phone: 717.651.7076
Email: michaemanl@pa.gov

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3**

In the Matter of:

Stoner, Inc.
1070 Robert Fulton Highway
Quarryville, Pennsylvania 17566,

Respondent.

1070 Robert Fulton Highway
Quarryville, Pennsylvania 17566,

Facility.

Administrative
Compliance Order on Consent
EPA Docket No. CAA-03-2022-0098DA

For United States Environmental Protection Agency Region 3

[Digital Signature and Date]

Karen Melvin, Director
Enforcement & Compliance Assurance Division

For Respondent, Stoner, Inc.


[Digital Signature and Date]

Name: Robert Ecklin, Jr.
Title: President
Address: 1070 Robert Fulton Highway
Quarryville, Pennsylvania 17566

CERTIFICATION OF SERVICE

I certify that the foregoing “Administrative Compliance Order on Consent” In the Matter of Stoner Inc., Order CAA-03-2022-0098DA, was filed and copies of the same were mailed to the parties as indicated below via electronic mail:

Donald R. Wagner, Esquire
Email: donald.wagner@stevenslee.com

Dean Swartz
Email: dswartz@stonersolutions.com

Robert Ecklin, President
Email: recklin@stonersolutions.com

Cynthia T. Weiss, Sr. Assistant Regional Counsel
Email: weiss.cynthia@epa.gov

Patrick Beckley, RMP Coordinator
Email: beckley.patrick@epa.gov

[*Digital Signature and Date*]

Regional Hearing Clerk
U.S. Environmental Protection Agency