



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

April 1, 2021

VIA E-MAIL
DELIVERY RECEIPT REQUESTED

William (Bill) Hefner, Associate General Counsel
3M Company
11900 East Eight Mile Road
Detroit, Michigan 48205

Email: whefner@mmm.com

Dear Mr. Hefner:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves 3M Company – Detroit, docket no. CAA-05-2021-0013. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on April 1, 2021.

Pursuant to paragraph 29 of the CAFO, 3M Company – Detroit must pay the civil penalty within 30 days of the filing date. Your electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Marcy A. Toney, Office of Regional Counsel, Section Chief, (312) 886-3186.

Sincerely,

**BRIAN
DICKENS**

Digitally signed by BRIAN
DICKENS
Date: 2021.03.17 15:55:00
-05'00'

Brian Dickens, Chief
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/via electronic mail
Regional Hearing Clerk/via electronic mail
Marcy A. Toney/via electronic mail
Jenine Camilleri/via electronic mail
Mina McLemore/via electronic mail

Consent Agreement and Final Order
In the matter of: 3M Company – Detroit
Docket Number: **CAA-05-2021-0013**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA-05-2021-0013, which was filed on April 1, 2021, in the following manner to the following addressees:

Copy by E-mail to Respondent: William (Bill) Hefner
whefner@mmm.com

Copy by E-mail to Attorney for Complainant: Marcy A. Toney
tony.marcy@epa.gov

Copy by E-mail to Attorney for Respondent: William (Bill) Hefner
whefner@mmm.com

Copy by E-mail to Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: _____
LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No.
)	
3M Company)	Proceeding to Assess a Civil Penalty
Detroit, Michigan)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
<hr/>)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is 3M Company (3M), a corporation doing business in Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. On May 6, 1980, EPA approved R 336.1201 (“Rule 201”) as part of the federally approved Michigan State Implementation Plan (SIP). *See* 45 Fed. Reg. 29,790. Rule 201 at Rule 201(1) requires that a person must be issued a permit to install any process or process equipment, including control equipment. Rule 201 at Rule 201(3) further provides that a permit to install may be subject to any condition specified in writing that is reasonably necessary to assure compliance with all applicable requirements.

10. On May 6, 1980, EPA approved R 336.1910 (“Rule 910”) as part of the federally approved Michigan SIP. *See* 45 Fed. Reg. 29,790. Rule 910 provides that “an air-cleaning device shall be installed, maintained and operated in a satisfactory manner and in accordance with these rules and existing law.”

11. On July 7, 2006, EPA approved R 336.1911 (“Rule 911”) as part of the federally approved Michigan SIP. *See* 71 Fed. Reg. 31,093. Rule 911 requires that “upon the request of the department, a person responsible for the operation of a source of an air contaminant shall prepare a malfunction abatement plan (MAP) to prevent, detect, and correct malfunctions or equipment failures resulting in emissions exceeding any applicable emission limitation.”

12. Rule 911 at 911(2)(a) further provides that sources must specify “a complete preventative maintenance program, including identification of the supervisory personnel

responsible for overseeing the inspection, maintenance, and repair of air-cleaning devices, a description of the items or conditions that shall be inspected, the frequency of the inspections or repairs, and an identification of major replacement parts that shall be maintained in inventory for quick replacement.”

13. The Administrator of EPA (“Administrator”) may assess a civil penalty of up to \$48,192 per day of violation up to a total of \$385,535 for violations that occurred after November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

14. Section 113(d)(1) limits the Administrator’s authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

15. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

16. 3M owns and operates an abrasive products manufacturing facility at 11900 East Eight Mile Road, Detroit, Michigan. The facility operates an emissions unit, EU-ABRASIVEPAPER, identified in Permit to Install (PTI) No. 318-01F.

17. 3M owns or operates an “emission source” within the meaning of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore, 3M is subject to the requirements of Section 114(a)(1).

18. On October 8, 2013, the Michigan Department of Environment, Great Lakes & Energy (EGLE), formerly the Michigan Department of Environmental Quality (MDEQ), issued PTI No. 318-01F to 3M for its facility located at 11900 East Eight Mile Road, in Detroit, Michigan (“facility”).

19. PTI No. 318-01F identifies emissions unit EU-ABSRASIVEPAPER as an “abrasives material process consisting of web unwind, adhesive make coating application controlled by a regenerative thermal oxidizer (RTO), abrasive solids application controlled by a baghouse, a main drying oven (natural gas-fired) controlled by the RTO, final size coating application, and a web wind.”

20. Special Condition (SC) IV.2 for EU-ABSRAIVEPAPER provides that “the permittee shall not operate EU-ABRASIVEPAPER unless the RTO is installed, maintained and operated in a satisfactory condition. Satisfactory operation of the RTO includes a minimum VOC control (combined capture and destruction) efficiency of 91.2 percent (by weight), a minimum temperature of 1400°F, a minimum retention time of 0.5 seconds, and in accordance with an approved MAP as required in SC III.2 [of PTI No. 318-01F].”

21. On May 5, 2016, EPA requested information from 3M regarding its abrasive products manufacturing facility. 3M provided a response to EPA’s request on June 24, 2016.

22. On April 7, 2017, EPA requested that 3M conduct a performance test on its thermal oxidizer to demonstrate compliance with the terms of PTI No. 318-01F for EU-ABRASIVEPAPER.

23. On June 14-15, 2017, 3M conducted the performance testing, which showed a capture efficiency of 97.1% and destruction efficiency of 92.9%, for an overall control efficiency of 90.2%.

24. On June 30, 2017, 3M provided information to EPA identifying the root cause for the low-VOC control efficiency during the June 14-15, 2017, performance testing as “thermal oxidizer valves that exceeded the preventative maintenance specifications for the gap between the valve and the seat.” 3M then adjusted those valve gaps and performed a subsequent performance test which showed an overall VOC control efficiency of 91.7%.

25. On September 22, 2017, EPA issued a notice of violation (NOV) to 3M, alleging that it violated the Michigan SIP and its permit to install at SC IV.2 for EU-ABRASIVEPAPER.

26. On or about December 20, 2018, 3M replaced the thermal oxidizer’s butterfly valves with poppet valves with pneumatic actuation (“poppet valves”). According to paragraph 1.16 of the General Requirements of the 3M Bid Specification, dated March 8, 2018, the poppet valves installed would meet a VOC destruction efficiency of 99%.

27. On September 18, 2019, 3M performed a destruction efficiency test on its thermal oxidizer, testing its compliance with SC IV.2 for EU-ABRASIVEPAPER. Based on the test report dated October 31, 2019, 3M states that its overall VOC control efficiency for the abrasive maker system during this test was 94.4%.

Civil Penalty

28. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, and on Respondent’s cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$89,500.

29. Within 30 days after the effective date of this CAFO, Respondent must pay a \$89,500 civil penalty via electronic funds transfer (EFT), payable to “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should
read: "D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Respondent's name and the docket number of this CAFO.

30. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (ECA-18J)
Air Enforcement and Compliance Assurance Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Marcy Toney (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

31. This civil penalty is not deductible for federal tax purposes.

32. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the

collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

33. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

34. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: toney.marcy@epa.gov (for Complainant), and whefner@mmm.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

35. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

36. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

37. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 35, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

38. Respondent certifies that it is complying fully with the Michigan SIP.

39. This CAFO constitutes an “enforcement response” as that term is used in EPA’s Clean Air Act Stationary Civil Penalty Policy to determine Respondent’s “full compliance history” under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

40. The terms of this CAFO bind Respondent, its successors and assigns.

41. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.


42. Each party agrees to bear its own costs and attorneys’ fees in this action.

43. This CAFO constitutes the entire agreement between the parties.

**Consent Agreement and Final Order
In the Matter of: 3M Company**

3M Company, Respondent

March 3, 2021
Date


Michael Dai
Assistant Secretary
3M Company

**Consent Agreement and Final Order
In the Matter of: 3M Company**

United States Environmental Protection Agency, Complainant

03/22/2021

Date

MICHAEL HARRIS

Digitally signed by MICHAEL
HARRIS
Date: 2021.03.22 09:42:52 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order
In the Matter of: 3M Company**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

ANN COYLE

Digitally signed by ANN
COYLE
Date: 2021.04.01
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Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5