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

JUN 0 2 2008

REPLY TO THE ATTENTION OF:

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael A. Nash
Assistant General Counsel
3M Office of General Counsel
3M Center, Building 0220-09-E-02
P.O. Box 33428
St. Paul, Minnesota 55133-3428

Dear Mr. Nash:

I have enclosed a file stamped Consent Agreement and Final Order ("CAFO") which resolves case docket number **CAA-05-2008-0020** with 3M Company ("3M"). As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JUN 0 2 2008.

Pursuant to paragraph 28 of the CAFO, 3M must pay the civil penalty within 30 days of the date the CAFO is filed. Your check must display the case docket number, **CAA-05-2008-0020**, and the billing document number **2750803A018**.

If you have any questions regarding this case, please contact Kathleen Schnieders, Associate Regional Counsel at (312) 353-8912.

Sincerely,

William L. MacDowell
Chief
Air Enforcement and Compliance Assurance
Section MN/OH

cc: Jeff T. Connell, Minnesota Pollution Control Agency

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	Docket No. **CAA-05-2008-0020**
	)	
3M Company	)	Proceeding to Assess a Civil Penalty under
Abrasive Systems Division	)	§ 113(d) of the Clean Air Act, 42 U.S.C.
Cottage Grove, Minnesota	)	§ 7413(d)
	)	
Respondent	)	

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Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced under § 113(d) of the Clean Air Act (the Act), 42 U.S.C. 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b) 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 (2004).

2. Complainant is the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5.

3. Respondent is 3M Company, Abrasive Systems Division (3M), a corporation doing business in Minnesota.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, an 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) (2004).

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 entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. 3M admits the jurisdictional allegations in this CAFO, and neither admits nor denies the factual allegations in this CAFO.

8. 3M 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. Pursuant to Section 111 of the Act, 42 U.S.C. § 7411, on September 28, 1992, EPA promulgated the Standards of Performance for Calciners and Dryers in Mineral Industries (Calciner/Dryer NSPS) at 40 C.F.R. Part 60, Subpart UUU, 40 C.F.R. §§ 60.730 through 60.737.

10. The affected facility to which the Calciner/Dryer NSPS applies is each calciner and dryer at a mineral processing plant.

11. Pursuant to 40 C.F.R. § 60.734(d), the owner or operator of an affected calciner who uses a wet scrubber to comply with the mass emission standard for any affected facility shall install, calibrate, maintain, and operate monitoring devices that continuously measure and record the pressure loss of the gas stream through the scrubber and the scrubbing liquid flow rate to the scrubber.

12. Pursuant to 40 C.F.R. § 60.735(a), the owner or operator of an affected calciner must retain records of the measurements required in § 60.734 for at least 2 years.

13. Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a), authorizes the Administrator to initiate an enforcement action whenever the Administrator finds, among other things, that any person has violated or is in violation of a requirement or prohibition of Title V of the Act, or any rule promulgated, issued or approved under Title V of the Act.

14. The Administrator of EPA (the Administrator) may assess a civil penalty of up to $27,500 per day of violation of the Act up to a total of $220,000 for violations that occurred from January 31, 1997 through March 15, 2004, and may assess a civil penalty of up to $32,500 per day of violation up to a total of $270,000 for violations that occurred after March 15, 2004 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19 (2004).

15. Section 113(d)(1) of the Act 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 Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

16. 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

17. 3M owns and operates two calciners at 10746 Innovation Road, Building 112, Cottage Grove, Minnesota (hereinafter, "the Facility"). Minnesota Pollution Control Agency (MPCA) Air Emission Permit Number 16300017-002 designates the calciners as Emission Unit (EU) 008 and EU 009. The Permit designates the combined emissions from EU 008 and EU 009 as EU 010. 3M uses EU 008 and EU 009 to process an alumina mineral.

18. On October 31, 2003, the Minnesota Pollution Control Agency (MPCA) issued a Title V permit which included a requirement that 3M operate a nitrogen oxide (NO_x) continuous monitoring system (CMS) on EU10.

19. EPA inspected the Facility in October of 2006 in order to determine compliance with certain provisions of the Act.

20. 3M uses a wet scrubbing system to control NO_x and particulate matter (PM) emissions from EU 010. 3M has not installed a pressure drop CMS to measure and record the pressure drop across the wet scrubber on EU 010. 3M has not installed a scrubbing liquid flow rate CMS to measure and record the scrubbing liquid flow rate for the wet scrubber on EU 010.

21. 3M has not continuously measured and recorded pressure drop or scrubbing liquid flow rate. Therefore, 3M has not retained the required records for the previous 2 years.

22. 3M does not conduct the required pressure drop and scrubbing liquid flow rate monitoring, and therefore, 3M has not recorded the daily 2-hour pressure drop and scrubbing liquid flow rate averages for EU 010.

23. On April 13, 2007, EPA issued a Finding of Violation to 3M alleging violations of the monitoring and recordkeeping requirements of the Calciner/Dryer NSPS.

24. 3M subsequently applied for and obtained an Alternative Monitoring Plan (AMP) from EPA for compliance with the portions of the Calciner/Dryer NSPS referenced in the preceding paragraphs, sought incorporation of the AMP in its Title V permit, and undertook testing which demonstrated compliance with the applicable PM limit.

Violations

25. 3M's failure to continuously measure and record the pressure loss of the gas stream through the scrubber and the scrubbing liquid flow rate to the scrubber constitutes a violation of Section 111(e) of the Act, 42 U.S.C. § 7411(e), and regulations set forth at 40 C.F.R. § 60.734(d).

26. 3M's failure to determine and record once each day an arithmetic average over a 24-hour period of both the change in pressure of the gas stream across the scrubber and the flow rate of the scrubbing liquid constitutes a violation of section 111(e) of the Act, 42 U.S.C. § 7411(e), and regulations set forth at 40 C.F.R. § 60.735(b).

Civil Penalty

27. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, and information that 3M has submitted, EPA has determined that an appropriate civil penalty to settle this action is $ 30,000.

28. 3M must pay the $ 30,000 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America" within 30 days after the effective date of this CAFO to the following address:

US checks sent by regular US Postal Service mail:

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

US checks in US dollar sent by fedex and other non-US-Postal-Service express mail:

U.S. Bank
Government Lockbox 979077 US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

29. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Kathleen K. Schnieders, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

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

31. If 3M does not pay timely the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

32. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. 3M will pay a $15 handling charge each month that any portion of the penalty is more than 30 days past due. 3M will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). 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.

Final Statement

33. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Violations section of this CAFO.

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

35. This CAFO does not affect 3M's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations. Except as provided in paragraph 33 above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by Complainant.

36. 3M certifies that to the best of its knowledge it is complying fully with the applicable requirements of the Calciner/Dryer NSPS.

37. This CAFO constitutes an "enforcement response" as that term is used in "EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine 3M's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

38. The terms of this CAFO bind 3M, and its successors, and assigns.

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

40. Each party agrees to bear its own costs and attorneys' fees in this action.

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

U.S. Environmental Protection Agency, Complainant

5/28/08
Date

Cheryl L. Newton
Acting Director
Air and Radiation Division

CAA-05-2008-0020

CONSENT AGREEMENT AND FINAL ORDER
3M Company
Docket No. CAA-05-2008-0020

3M Company, Respondent

5/15/08
Date

Grant W. Robbins, Manufacturing Manager
Abrasive Systems Division
3M Company

CONSENT AGREEMENT AND FINAL ORDER
3M Company
Docket No. CAA-05-2008-0020

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This final order disposes of this proceeding pursuant to 40 C.F.R. § 22.18.

5/30/08
Date

Walter N. Karlovitz for
Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

In the Matter of 3M Company
Docket No. **CAA-05-2008-0020**

CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I hand delivered to the Regional Hearing Clerk, Region 5, U.S. Environmental Protection Agency, the original and one copy of the Consent Agreement and Final Order, docket number **CAA-05-2008-0020**. Further, I certify that I mailed correct copies of the Consent Agreement and Final Order, by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent by placing them in the custody of the United States Postal Service addressed as follows:

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2008 JUN 2 PM 2:56

on the 2 day of June, 2008.

Michael A. Nash
Assistant General Counsel
3M Office of General Counsel
3M Center, Building 0220-09-E-02
P.O. Box 33428
St. Paul, Minnesota 55133-3428

Loretta Shaffer

Loretta Shaffer, Secretary
AECAS (MN-OH)

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