

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the matter of Releases and Discharges of
Perfluorochemicals At and From Sites in
Washington County, Minnesota, and Certain
Related Matters.

**SETTLEMENT AGREEMENT
AND
CONSENT ORDER**

Pursuant to the Minnesota Environmental
Response and Liability Act, Minn. Stat.
§§ 115B.01 to 115B.20, the Water Pollution
Control Act, Minn. Stat. ch. 115, and Minn. Stat.
ch. 116.

Based on the information available to the parties on the effective date of this
SETTLEMENT AGREEMENT and CONSENT ORDER, and without trial or adjudication of
any issues of fact or law, the parties hereto agree and it is hereby ordered as follows:

I.

Jurisdiction

In entering this SETTLEMENT AGREEMENT and issuing this CONSENT ORDER the
Minnesota Pollution Control Agency (MPCA) is acting pursuant to the Minnesota
Environmental Response and Liability Act, Minn. Stat. §§ 115B.01 to 115B.20 (MERLA), and
Minn. Stat. chs. 115 and 116, for the purpose of providing for remedial investigations and
response actions to address certain discharges to waters of the State and releases or threatened
releases to the environment in order to minimize or abate pollution of waters of the State and to
protect public health and welfare and the environment.

A. The parties to this Agreement have disputed and continue to dispute the
jurisdiction of MPCA under MERLA with respect to releases and threatened releases of PFCs at



MN.064.0103.000002

the 3M Cottage Grove Site, the 3M Oakdale Disposal Site and the 3M Woodbury Disposal Site. MPCA asserts that all jurisdictional prerequisites necessary to act under MERLA with respect to releases and threatened releases of certain PFCs at the 3M Cottage Grove Site, the 3M Oakdale Disposal Site and the 3M Woodbury Disposal Site have been met. 3M disagrees with MPCA's assertion and specifically denies that releases of PFCs at these Sites constitute hazardous substances or pollutants or contaminants as those terms are defined in MERLA. 3M further affirmatively asserts that releases and threatened releases of PFCs at these Sites do not constitute hazardous substances or pollutants or contaminants as defined in MERLA.

B. Notwithstanding the disagreement of the parties as stated in Paragraph A, for purposes of this Agreement from and after its effective date, and for no other purpose whatsoever, 3M consents to the issuance of this Consent Order, and to the application of MERLA to the interpretation, performance and enforcement of this Agreement consistent with the terms and conditions herein. 3M specifically agrees to undertake all actions required of it by the terms and conditions of this Agreement within the timeframes specified herein.

C. In entering this Agreement, MPCA and 3M are settling a disputed matter, and do not waive or compromise their respective legal arguments on MERLA jurisdiction. 3M expressly retains the right to contest the applicability of MERLA to releases and threatened releases of PFCs at these Sites in a proceeding by MPCA to issue a Request For Response Action under MERLA for any of the Sites and in any other proceeding except a proceeding to implement or enforce this Agreement. Nothing in this Agreement shall be construed as an admission by 3M.

D. Nothing in this Paragraph shall preclude 3M from seeking judicial review of a Commissioner's order as provided in Part X, Paragraph G or H, with respect to whether response

actions required or performed by the Commissioner are reasonable and necessary to protect public health and welfare and the environment. In an action to enforce Part XXIII (Recovery of Expenses), nothing in this Paragraph shall relieve the MPCA of the burden to show that the costs incurred are reasonable and necessary as provided in Part XXIII, Paragraph F.

II.

Parties

This Agreement shall apply to and be binding upon the following parties:

- A. 3M Company; and
- B. the Minnesota Pollution Control Agency.

Unless specified otherwise in this Agreement, where this Agreement identifies actions to be taken by the MPCA, the action may be taken by the Commissioner or by a person delegated by the Commissioner to take such action.

III.

Statement of Facts

For purposes of this Agreement, the following constitutes a summary of the facts upon which this Agreement is based. None of the facts related herein shall be considered admissions by either party with respect to any person not a party to this Agreement or to any proceeding other than a proceeding to implement or enforce this Agreement. 3M reserves the right to dispute any fact stated herein in a proceeding other than a proceeding to enforce this Agreement, including in any proceeding for the issuance of a Request For Response Action for one or more of the Sites.

- A. Facts Related To The 3M Cottage Grove Site.

1. The 3M Cottage Grove Site is located in the City of Cottage Grove, Washington County, Minnesota. A map of the 3M Cottage Grove Site is attached as Attachment 1.

2. The Site was listed on the State's Superfund Permanent List of Priorities (PLP) in October 1984.

3. On January 22, 1985, the MPCA issued a RFRA to 3M to address VOC contamination as a result of disposal of hazardous substances in disposal pits on the Site.

4. On May 30, 1985, the MPCA and 3M entered into a Consent Order which required 3M to investigate the releases of VOCs and implement appropriate response actions. The terms of the 1985 RFRA and Consent Order do not address the investigation and implementation of response actions concerning the release of PFOA or PFOS at or from the 3M Cottage Grove Site, and the Consent Order does not affect MPCA's authority to enter into this Agreement.

5. In February 2002, 3M informed the MPCA staff that PFOA and PFOS had been detected in ground-water production wells at the 3M Cottage Grove Site. Subsequent sampling requested by MPCA staff confirmed ground-water contamination by PFOA and PFOS near one of the on-site disposal areas on February 13, 2003. MPCA staff subsequently requested that 3M conduct a facility-wide assessment to determine extent and magnitude of potential releases of PFOA and PFOS to the environment.

6. In December 2004, 3M submitted a facility-wide work plan to assess releases of PFCs at the 3M Cottage Grove facility. This work plan was approved by the MPCA staff in January 2005. 3M implemented this work plan in 2005 and submitted reports to MPCA which documented releases of PFOA and PFOS to ground water, soil, surface water, and sediments at

the 3M Cottage Grove facility and in the adjacent Mississippi River. In June 2006, the MPCA staff requested that 3M conduct a second phase investigation to determine the extent and magnitude of releases of PFOA and PFOS to the environment at the 3M Cottage Grove Site, and to evaluate appropriate response actions to address the releases. This request included the requirement that 3M was to expand the sample analyte list for additional PFCs. This expanded list included PFBA and was to be used for all future investigations at the 3M Cottage Grove Site, the 3M Oakdale Disposal Site and 3M Woodbury Disposal Site.

7. In August, 2006, 3M submitted a phase II work plan in response to MPCA staff's request. The work plan was approved by MPCA staff in September 2006. Sampling activities have been completed for this second phase.

8. MPCA staff has requested reimbursement of agency oversight costs incurred for 2004 through 2006 related to the PFC investigations at the 3M Cottage Grove Site and 3M has reimbursed the MPCA for these oversight costs through the last annual request for reimbursement.

B. Facts Related To The 3M Oakdale Disposal Site.

1. The 3M Oakdale Disposal Site is in the City of Oakdale, Washington County, Minnesota. A map of the Site is attached to this Agreement as Attachment 2.

2. The 3M Oakdale Disposal Site was listed on the PLP in October 1984. The 3M Oakdale Disposal Site was also listed on the Federal National Priorities List in September 1983.

3. On July 26, 1983, the MPCA and 3M entered into a Response Order by Consent (Consent Order) to investigate and implement response actions at the 3M Oakdale Disposal Site to address releases of VOCs at the Site. This Consent Order was amended on May 22, 1984. The USEPA was also a party to the 1983 Consent Order. The terms of the 1983 Consent Order

do not address the investigation and implementation of response actions concerning the release of PFOA or PFOS at or from the 3M Oakdale Disposal Site, and the Consent Order does not affect MPCA's authority to enter into this Agreement.

4. In July, 2004, the MPCA staff requested 3M to collect ground water samples from wells at the 3M Oakdale Disposal Site to be analyzed for PFOA and PFOS. In September, 2004, 3M informed the MPCA that PFOA and PFOS had been detected in on-site ground water wells at the 3M Oakdale Disposal Site.

5. MPCA staff subsequently requested 3M to develop a work plan and conduct an investigation to determine ground water impacts from PFOA and PFOS at the 3M Oakdale Disposal Site. This work plan was submitted by 3M and approved by the MPCA in January 2005. 3M implemented this work plan, and submitted a report to MPCA which documented releases of PFOA and PFOS to ground water and surface water at the 3M Oakdale Disposal Site.

6. Based on the information gathered during this 2005 investigation, in September 2005, the MPCA staff requested 3M conduct a supplemental investigation to determine the extent and magnitude of releases of PFOA and PFOS to the environment at the 3M Oakdale Disposal Site. 3M completed this supplemental investigation in September 2006. To assist in determining appropriate response actions to address the releases, 3M proposed additional investigative work to fill in data gaps and the MPCA subsequently approved of this additional work in December 2006. This investigation utilized the expanded PFC sample analyte list as requested by MPCA, which included PFBA. Sampling activities have been completed for this supplemental phase.

7. 3M has reimbursed the MPCA for its oversight costs related to the investigations at the 3M Oakdale Disposal Site.

8. In 2005, 3M entered into an agreement with the City of Oakdale to install a carbon treatment system to reduce the levels of PFOA and PFOS, which had been detected in municipal drinking water wells, to below Health Based Values for PFOA and PFOS set by the Minnesota Department of Health.

C. Facts Related To The 3M Woodbury Disposal Site.

1. The 3M Woodbury Disposal Site lies on the border between the cities of Cottage Grove and Woodbury in Washington County, and is located in the area encompassed by Woodbury Drive (County Road 19) and Cottage Grove Drive. A map of the 3M Woodbury Disposal Site is attached to this Agreement as Attachment 3.

2. The 3M Woodbury Disposal Site is not listed on the PLP, and the MPCA has not entered any settlement, Consent Order, or other agreement with 3M or any other party with respect to the 3M Woodbury Disposal Site.

3. A report entitled "3M Woodbury, Minnesota Site History" dated August 1992 estimated that 3M disposed of approximately 200,000 yards of scrap wastes, including waste adhesive, rolls of film, rags, resins and off-specification materials, approximately 400,000 gallons of liquid waste solvents (of which 200,000 gallons was isopropyl ether), and 18,000 yards of wet scrap, at the 3M Woodbury Disposal Site.

4. 3M installed four "barrier" pumping wells at the 3M Woodbury Disposal Site between 1967 and 1973 and has operated them continuously since installation. The ground water withdrawn at the 3M Woodbury Disposal Site is conveyed in underground piping to the 3M Cottage Grove facility for use as non-contact process water at the facility and is ultimately discharged to the Mississippi River without treatment under a National Pollutant Discharge Elimination System (NPDES) Permit.

5. In 1992, 3M entered the MPCA's Voluntary Investigation and Cleanup (VIC Program). Under the VIC program, 3M conducted response actions including installation of a soil cap over the former disposal area and ground-water monitoring. In addition, 3M recorded a Declaration of Restrictions and Covenants on the property which requires the approval of the MPCA Commissioner to discontinue the barrier well system or to conduct activities that disturb the soil.

6. In July, 2004, 3M reported to MPCA that pump out water from the 3M Woodbury Disposal Site contained PFCs including PFOA and PFOS.

7. In early 2005, 3M sampled each of the four barrier wells at the 3M Woodbury Disposal Site and the combined discharge from the barrier wells. With the exception of barrier well B-2, all sampling locations detected PFOA and PFOS. In June 2005, the MDH sampled 15 residential wells surrounding the 3M Woodbury Disposal Site for PFOA and PFOS, and neither chemical was detected. In December 2006, barrier and monitoring wells at the 3M Woodbury Disposal Site were sampled for seven PFCs including PFBA. PFBA results ranged from 0.476 to 118 parts per billion (ppb) of PFBA.

8. In 2006, municipal and private drinking water wells in southern Washington County downgradient from the 3M Woodbury Disposal Site were sampled for PFBA. The results showed that PFBA was present in municipal wells in Cottage Grove, Newport and St. Paul Park, and in private wells in that vicinity at concentrations up to 5 ppb.

9. In a letter dated February 1, 2007, the MPCA requested that 3M submit a comprehensive Response Action Plan for the 3M Woodbury Disposal Site by March 1, 2007, that addresses the following:

a. Evaluate the current barrier well system's ability to capture all PFC's including PFOA and PFOS and enhance the system as necessary.

b. Install a network of sentinel monitoring wells between the 3M Woodbury Disposal Site and adjacent residences.

c. Reassess the feasibility of reducing the volume of PFC-contaminated wastes including PFOA and PFOS remaining in the Northeast Disposal Area of the 3M Woodbury Disposal Site.

d. Determine if the effluent discharge pipeline between the 3M Woodbury Disposal Site and the 3M Cottage Grove facility is leaking.

e. Develop a monitoring plan to conduct quarterly monitoring of PFCs including PFOA and PFOS in residential wells and sentinel wells that surround the 3M Woodbury Disposal Site.

MPCA has conditionally approved Site Reports for the 3M Woodbury Disposal Site which were submitted to MPCA by 3M in a letter dated March 20, 2007. These reports address barrier well capture zone evaluation, sentinel monitoring well installation, assessment of the former northeast disposal area, conveyance line assessment, monitoring plan and reporting and schedule.

D. Other Facts Leading To This Agreement.

1. On November 20, 2002, in response to a request from MPCA, Minnesota Department of Health (MDH) established Interim Soil Reference Values (SRVs) for PFOA and PFOS in soil, and Health Based Values for Groundwater (HBVs) for PFOA and PFOS. Residential SRVs were set at 30 parts per million (ppm) for PFOA and 6 ppm for PFOS. The 2002 HBVs were set at 7 ppb for PFOA and 1 ppb for PFOS. On February 26, 2007, MDH

established more stringent HBVs for PFOA and PFOS. The current MDH HBV for drinking water for PFOA is 0.5 ppb and for PFOS is 0.3 ppb.

2. On April 24, 2007, the MPCA Citizens Board considered the issuance of a Request For Response Action (RFRA) to 3M under MERLA for releases and threatened releases of PFCs at and from the 3M Cottage Grove Site, the 3M Oakdale Disposal Site, and the 3M Woodbury Disposal Site. The Board voted to postpone consideration of the RFRA and directed the Commissioner to negotiate a consent order to address response actions at the three sites and other related matters with 3M, and to make a recommendation to the Board regarding its approval of such a Consent Order or issuance of the RFRA at a subsequent Board meeting. This Agreement is the result of those negotiations.

IV.

Definitions

A. Unless otherwise explicitly stated, the definitions provided in Minn. Stat. § 115B.02 shall control the meaning of the terms used in this Agreement.

B. For the purpose of this Agreement:

1. "MPCA Commissioner" or "Commissioner" means the Commissioner of the Minnesota Pollution Control Agency or a person exercising authority delegated by the Commissioner.

2. "Day" means calendar day, provided that when a deadline for an action or submittal under this Agreement falls on a Saturday, Sunday or legal holiday, the action or submittal is timely if taken or received by the first business day after the deadline.

3. "3M Cottage Grove Site" means the site formerly known as the 3M Chemolite Disposal Site in the City of Cottage Grove, Washington County, Minnesota, and shown in the map attached to this Agreement as Attachment 1.

4. "3M Oakdale Site" means the 3M Oakdale Disposal Site in the City of Oakdale, Washington County, Minnesota, and shown in the map attached to this Agreement as Attachment 2.

5. "3M Woodbury Site" means the 3M Woodbury Disposal Site in the City of Woodbury, Washington County, Minnesota, and shown in the map attached to this Agreement as Attachment 3.

6. "Sites" means the 3M Cottage Grove Site, the 3M Oakdale Site and the 3M Woodbury Site.

7. "Each Site" refers individually to the 3M Cottage Grove Site, the 3M Oakdale Site and the 3M Woodbury Site.

8. "Perfluorochemical" or "PFC" means any chemical in a family of synthetic chemicals manufactured by 3M which is a perfluorinated (fully fluorinated) carbon chain consisting of 1 to 16 carbon atoms with a functional end group consisting of at least one double bond.

9. "PFOA" or "perfluorooctanoate" refers to an eight-carbon carboxylate perfluorochemical, including the chemicals identified by Chemical Abstract Service (CAS) numbers in the document entitled "Data For Derivation Of Ground Water Health Based Value (HBV)," which is attached to the February 26, 2007 MDH Memorandum establishing an IIBV for PFOA.

10. "PFOS" or "perfluorooctane sulfonate" means an eight-carbon sulfonate perfluorochemical, including the chemicals identified by CAS numbers in the document entitled "Data For Derivation Of Ground Water Health Based Value (HBV)," which is attached to the February 26, 2007 MDH Memorandum establishing an HBV for PFOS.

11. "PFBA" or "Perfluorobutanoate" means a four-carbon carboxylate perfluorochemical.

12. "Health Based Value for Groundwater" or "HBV" means the concentration of a substance or chemical found in ground water which poses little or no risk to health even when consumed daily as drinking water over a lifetime. HBVs are developed by MDH and used as interim advice for human consumption of drinking water in which a substance or chemical has been detected.

13. "Health Risk Limit" or "HRL" means a concentration of a groundwater contaminant, or a mixture of contaminants, that is considered safe when consumed daily in drinking water over a lifetime. An HRL is adopted by MDH by rule under Minn. Stat. § 103H.201.

14. "Volatile organic compounds" or "VOCs" means organic chemicals that have a high vapor pressure and easily form vapors at normal temperature and pressure including organic solvents.

15. "Washington County Landfill" means a closed, formerly MPCA-permitted mixed municipal waste landfill located in the City of Lake Elmo, in Washington County, Minnesota, which is a "qualified facility" as that term is used in Minn. Stat. § 115B.39.

V.

Scope of Agreement

A. Obligations of 3M for the Sites.

3M agrees to perform the following response actions to address the releases and threatened release of PFCs at each Site, and the release and threatened release of VOCs for the 3M Woodbury Disposal Site, in accordance with the terms and conditions of this Agreement:

1. Design and implement a Remedial Investigation (RI) as described in Part VI of this Agreement and the appropriate Exhibit referenced in Paragraph B of this Part V;

2. Conduct a Feasibility Study (FS) as described in Part VII of this Agreement and the appropriate Exhibit referenced in Paragraph B of this Part V;

3. Develop a Response Action Plan (RAP) (to include a detailed design for response action) and implement the MPCA-selected Response Actions (RAs) as described in Part VIII of this Agreement and the appropriate Exhibit referenced in Paragraph B of this Part V;
and

4. Reimburse the MPCA's costs as provided in Part XXIII of this Agreement.

B. Exhibits.

The Exhibits setting forth the response actions for each Site are as follows:

1. 3M Cottage Grove Site

a. Exhibit A--Remedial Investigation/ Feasibility Study;

b. Exhibit B--Remedial Design/Response Action Plan

2. 3M Oakdale Site

a. Exhibit C--Remedial Investigation/ Feasibility Study;

b. Exhibit D--Remedial Design/Response Action Plan

3. 3M Woodbury Site

- a. Exhibit E--Remedial Investigation/ Feasibility Study;
- b. Exhibit F--Remedial Design/Response Action Plan.

Each of Exhibits A to F is appended to and is an integral and enforceable part of this Agreement. In the event of any ambiguity or inconsistency between Parts VI to VIII and the Exhibits to this Agreement, the Exhibits shall govern.

C. Releases of PFCs Included Within Scope of Parts VI to VIII.

It is understood and agreed by the Parties that, as of the effective date of this Agreement, the releases and threatened releases of PFCs to be addressed at each Site pursuant to Parts VI to VIII of this Agreement are releases and threatened releases of PFOA and PFOS. The parties further agree that, at such future time as the MDH adopts or issues an HRL or an HBV for purposes of advising the public concerning the safety of drinking water supplies with respect to any PFC other than PFOA and PFOS, including PFBA, the releases and threatened releases to be addressed pursuant to Parts VI to VIII of this Agreement shall include releases and threatened releases of such additional PFC for which an HRL or HBV has been issued and exceeded.

D. Other Obligations of 3M.

3M agrees to:

- 1. Provide information as required in Part XIII.B. of this Agreement.
- 2. Cooperate with MPCA and MDH in developing health and toxicological studies and data needed by MDH to develop HBVs and HRLs for PFCs as provided in Part XIII.C of this Agreement.
- 3. Take actions with respect to discharges of PFCs other than those described in Part V.C. into waters of the State as provided in this Part V.E.

4. Perform the obligations related to the Washington County Landfill as provided in this Part V.F.

E. Releases of Other PFCs.

In addition to the requirements in Part V.C., if a PFC other than PFOA and PFOS, including PFBA, is detected in a release or threatened release from any of the Sites and the source of the other PFC is not effectively controlled by actions under Parts VI to VIII, 3M shall take reasonable and necessary investigative action as requested by the Commissioner to determine the scope and extent of any release or threatened release of such PFC from the affected Site or Sites. If investigation of the release or threatened release indicates that there is an ongoing discharge of the PFC into the waters of the state, 3M shall take such additional reasonable and necessary response action as requested by the Commissioner to evaluate and implement actions to control, minimize or abate the source of the discharge. The Commissioner shall set a reasonable schedule for submittals and actions under this Part V.E.

F. Washington County Landfill.

Releases and threatened releases of PFCs have been identified and alternative remedies are currently being evaluated by the MPCA at the Washington County Landfill under the Minnesota Landfill Cleanup Act, Minn. Stat. § 115B.39 to 115B.445. In the early 1970s, 3M disposed of wastes containing PFCs at the Washington County Landfill, which also received non-3M industrial waste and municipal waste. The State took over long-term operation and maintenance at the site. 3M has cooperated with the State in the implementation of the Landfill Cleanup Act. Investigations of releases of PFCs at the 3M Oakdale Disposal Site and at the Washington County Landfill indicate that there is a commingling of ground water containing PFCs from the two sites.

3M agrees to provide technical resources and to transfer any technology knowledge, including any proprietary process, to the MPCA to assist in identifying possible alternative remedial approaches to the current operation and maintenance program at the Washington County Landfill. In addition, 3M agrees to provide to the MPCA a grant of up to Eight Million Dollars (\$8,000,000) for the purpose of implementing remedial actions at the Washington County Landfill selected by the MPCA. This grant is intended to provide for the incremental cost of the remedial measures attributable to the releases and threatened releases of PFCs. For purposes of this Agreement, the cost of implementing remedial actions includes the cost of design, construction, operation and maintenance of the actions.

3M agrees to pay Five Million Dollars (\$5,000,000) of this grant to the MPCA within 30 days after receipt of written notice from the MPCA that the agency has selected remedial actions which MPCA intends to implement at the Washington County Landfill. To the extent that the cost of implementing MPCA's selected remedial actions for the Washington County Landfill exceeds \$5,000,000, 3M agrees to pay 50 percent of that portion of the cost which exceeds \$5,000,000, up to an additional amount of \$3,000,000. In no event shall the total amount of the grant which 3M is obligated to make under this Paragraph F exceed \$8,000,000. Subject to the limitations stated in this Paragraph F, 3M agrees to pay additional amounts for costs exceeding \$5,000,000 within 30 days of written notice from MPCA that the agency has incurred obligations exceeding \$5,000,000 under one or more contracts entered into by the agency for the implementation of remedial actions for the Washington County Landfill.

3M agrees not to seek reimbursement, indemnification or recovery of its grant or any portion thereof made under this Part V.F whether by a contribution action or by making any insurance claim against an insurer that has settled the liability of its policyholders, including 3M,

for the Washington County Landfill with the State of Minnesota under the Landfill Cleanup Act, as provided in the release given to that insurer under the Landfill Cleanup Act.

VI.

Remedial Investigation

3M shall design, propose, initiate, complete and report upon an RI of each Site in accordance with the requirements and time schedules set forth in the appropriate Exhibit referenced in Part V.B. of this Agreement. The purpose of the RI is to identify the source and extent of the releases or threatened releases of PFCs at and from each Site, and VOCs from the 3M Woodbury Site.

VII.

Feasibility Study

3M shall propose, initiate, complete, and report upon an FS for each Site in accordance with the requirements and time schedules set forth in the appropriate Exhibit referenced in Part V.B. of this Agreement. The purpose of the FS is to identify and evaluate alternative actions for response to the release or threatened release of PFCs at and from each Site, and VOCs from the 3M Woodbury Site, as identified through the RI conducted pursuant to Part VI of this Agreement.

VIII.

Response Action Plan and Response Action Implementation

A. Following completion of the RI and the FS, and selection of RAs by MPCA, 3M shall design and propose a RAP and implement selected RAs for each Site in accordance with the requirements and time schedules set forth in the appropriate Exhibit referenced in Part V.B. of this Agreement. The purpose of the RAP is to provide a detailed design for the

implementation of MPCA-selected RAs. The purpose of implementing the MPCA-selected RAs is to prevent, minimize or eliminate the release or threatened release of PFCs at and from each Site, and VOCs from the 3M Woodbury Site, in order to protect public health and welfare and the environment.

B. 3M's response action obligations under this Part VIII include all response actions, including construction, installation, replacement, and operation and maintenance, that are reasonable and necessary to provide alternative sources of drinking water for all persons whose drinking water is contaminated with PFCs in a concentration that exceeds an HBV or HRL issued or adopted by the Minnesota Department of Health, including water containing two or more PFCs for which HBVs or HRLs have been adopted if the combined PFC levels exceed a Hazard Index of 1.0 based on those HBVs or HRLs and MDH has issued an advisory against human consumption of the water.

C. Notwithstanding anything to the contrary in the remedy selection criteria in the Exhibits referenced in Part V.B, and to the extent consistent with site-specific response action objectives specified by the Commissioner, response actions at the Sites shall address the source of releases and threatened releases of PFCs to ground water. Such response actions shall include (1) excavation and destruction of PFCs, or excavation, engineered isolation and containment of PFCs, and (2) other technically feasible response actions, which are reasonable and necessary to provide for a comprehensive and effective long-term response that protects public health and welfare and the environment. Primary consideration shall be given to alternative (1) consistent with Minn. Stat. § 115B.02, subd. 16 (c). For purposes of implementation of this Agreement, the MPCA agrees that it will not consider any excavated material from the sites to be hazardous wastes under Minnesota or federal law or regulations solely by virtue of the presence of PFCs in

such wastes. Additionally the MPCA agrees to provide expedited permitting and approval processes to facilitate the management of any excavated material.

D. Before selecting a remedy for a Site, MPCA shall hold a public meeting in the affected community to explain and receive public comment on the proposed remedy. This requirement is in addition to the public notice and opportunity for comment required under Minn. Stat. § 115B.17, subd. 2b.

IX.

Review and Approval of Submittals

The review of each submittal, document, report, or schedule (collectively referred to as "Submittal") which is required to be submitted to and reviewed by the MPCA Commissioner under this Agreement shall be as follows:

A. The MPCA Commissioner shall review each Submittal made by 3M within forty-five (45) calendar days of receipt and notify 3M in writing of the Commissioner's approval, disapproval, or modification of the Submittal. If the Submittal is approved, it shall become an integral and enforceable part of this Agreement. If the Submittal is disapproved in whole or part, the MPCA Commissioner shall notify 3M and shall explain the amendments or revisions that are necessary to bring the Submittal into compliance with this Agreement. If the Submittal is modified, the MPCA Commissioner shall notify 3M of the specific modifications made to the Submittal and the reasons for making them.

B. Within thirty (30) calendar days of receipt of any notice of disapproval or modification 3M shall (1) submit revisions necessary to bring the Submittal into compliance with this Agreement, (2) respond to the modifications or (3) state in writing the reasons why the Submittal, as originally submitted, should be approved.

C. If, within thirty (30) calendar days from the date of 3M's submission under paragraph B above, the parties have not reconciled all issues with respect to the Submittal, the MPCA Commissioner shall make final modifications of the Submittal as the Commissioner deems necessary and shall notify 3M of the final modifications. Unless 3M initiates dispute resolution under Part X (Resolution of Disputes) within fourteen (14) days after receipt of notice of the final modifications, the Submittal with the final modifications made by the MPCA Commissioner shall become an integral and enforceable part of this Agreement.

D. All Submittals or final modifications thereto shall be technologically feasible and in accordance with sound engineering practices.

E. The MPCA and 3M shall provide the opportunity to consult with each other during the review of Submittals.

X.

Resolution of Disputes

This Part X is intended to provide 3M with a means of seeking to resolve disputes that it may have with MPCA under this Agreement, including disputes regarding any MPCA final modification or disapproval of Submittals. 3M shall continue to implement those portions of the Agreement not in dispute which can be reasonably implemented pending final resolution of the issues in dispute and may request an extension of schedule under Part XXVIII for obligations that 3M believes cannot be reasonably implemented during the dispute.

A. Within fourteen (14) days after the receipt of notice of final modifications of a Submittal, or after the date that a dispute arises regarding any other matter under this Agreement, 3M shall provide the MPCA Commissioner with a written statement which includes: (1) an explanation of the matter in dispute and of 3M's position on the matter; (2) a summary of the

information 3M is relying upon to support its position; and (3) notice of whether 3M will suspend work on any portions of the response actions required under Parts V to VIII during the dispute.

B. During the fourteen (14) days following the date the Commissioner receives a statement from 3M under Paragraph A of this Part, the MPCA Commissioner shall provide an opportunity to resolve the matter through informal negotiations. The Commissioner may exercise discretion to extend the informal negotiation period.

C. If 3M and the MPCA Commissioner do not agree upon a written resolution of the dispute during the informal negotiation period, the MPCA Commissioner shall issue an order deciding the issues in dispute, which shall include an explanation of the reasons for the decision and a summary of the information upon which the decision is based.

D. Within fourteen (14) days of the date of receipt of the MPCA Commissioner's order, 3M shall notify the MPCA Commissioner either that 3M intends to comply with the MPCA Commissioner's order, or that 3M does not intend to comply with the MPCA Commissioner's order in whole or in part, and intends to suspend work on those portions of the order that are in dispute. In the event that 3M does not notify the MPCA Commissioner as required in this Paragraph D within fourteen (14) days of the date of receipt of the MPCA Commissioner's order, 3M's failure shall be construed as a waiver of its right to challenge the order and the MPCA Commissioner's order shall become final and an integral and enforceable part of this Agreement.

E. If the MPCA Commissioner receives a timely notice from 3M that it does not intend to comply with the MPCA Commissioner's order, the MPCA Commissioner shall notify

3M, within forty-five (45) days of the date that notice was received from 3M, whether the MPCA intends to perform any of the response actions which 3M has suspended or intends to suspend.

F. If the MPCA decides to perform any response actions that 3M has suspended or intends to suspend pursuant to its notice to the Commissioner under Paragraph D, the MPCA may recover any reasonable and necessary expenses incurred by the MPCA to perform the response actions under Part XXIII of this Agreement.

G. If the MPCA decides to perform any response actions which 3M has suspended or intends to suspend, there shall be no judicial review of the MPCA Commissioner's order or of the response actions performed by the MPCA Commissioner unless the MPCA Commissioner brings an action to enforce Part XXIII of this Agreement to recover costs incurred to perform the response actions. In any such action, judicial review of the MPCA Commissioner's order, or of response actions performed by the MPCA Commissioner, shall be limited to review of whether the response actions required under the MPCA Commissioner's order or performed by the MPCA Commissioner are reasonable and necessary to protect the public health and welfare and the environment. The MPCA Commissioner's order shall be affirmed unless 3M shows that the decision of the MPCA Commissioner in the disputed matter is not supported by substantial evidence in the administrative record or is otherwise contrary to law or to any term or condition of this Agreement. Nothing in this Paragraph shall relieve the MPCA of the burden to show that the costs incurred by the MPCA are reasonable and necessary as provided in Part XXIII, Paragraph F.

H. If the MPCA Commissioner notifies 3M that the Commissioner does not intend to perform response actions which 3M has suspended or intends to suspend, 3M may bring an action to review the MPCA Commissioner's order within thirty (30) days after receipt of the

notice from the MPCA Commissioner. Such action shall be brought in Washington County District Court as an action to enforce this Agreement. In any such action, review of the MPCA Commissioner's order shall be limited to review of whether the response actions required under the MPCA Commissioner's order are reasonable and necessary to protect the public health and welfare and the environment. The MPCA Commissioner's order shall be affirmed unless 3M shows that the decision of the MPCA Commissioner in the disputed matter is not supported by substantial evidence in the administrative record or is otherwise contrary to law or to any term or condition of this Agreement. If 3M does not commence such an action within the time provided in this Paragraph H, the MPCA Commissioner's order shall become final and an integral and enforceable part of this Agreement.

I. For the purpose of any review of an MPCA Commissioner's order as provided in this Part, the administrative record on which review shall be based shall consist of the following documents: this Agreement; any Submittals that have become an integral and enforceable part of this Agreement; any Submittal that is the subject of the dispute including any modifications made by the MPCA Commissioner and any response submitted by 3M under Part IX., Paragraph B; the statement submitted by 3M under Paragraph A of this Part; the MPCA Commissioner's order issued under Paragraph C of this Part; and any information referenced in 3M's statement under Paragraph A or in the MPCA Commissioner's order upon which 3M or the Commissioner have relied for support of their respective positions.

XI.

Permits

A. The implementation of this Agreement may require the issuance of governmental permits, authorizations or orders (hereinafter referred to as "permit") by the MPCA, other state or

federal agencies, or other governmental bodies. This Agreement is based upon the expectation that the terms and conditions of any necessary permits will be issued consistent with the response actions required by this Agreement.

B. 3M shall notify the MPCA Commissioner of all non-MPCA permits which are needed to implement the requirements of this Agreement as soon as 3M become aware of the need for the permit. 3M shall provide the MPCA Commissioner with a copy of all such permit applications at the time the application is submitted to the governmental body issuing the permit.

C. If a permit is not issued, or is issued or is renewed in a manner which is materially inconsistent with the requirements of the approved RI, FS, RAP or RAs, 3M shall notify the MPCA Commissioner of its intention to propose modifications to the RI, FS, RAP or RAs. Notification by 3M of its intention to propose modifications shall be submitted to the MPCA Commissioner within seven (7) calendar days of receipt by 3M (1) of notification that (a) a permit will not be issued; or (b) a permit has been issued or reissued; and (2) of notification that a judicial action with respect to issuance of a permit has been filed. Within thirty (30) days after the date it submits its notice of intention, 3M shall submit to the MPCA Commissioner its proposed modifications to the RI, FS, RAP or RAs with an explanation of its reasons in support thereof; however, if 3M decides in its sole discretion to contest the denial of a permit, or if a judicial action concerning the permit has been filed, modifications shall be submitted within fifteen (15) days of 3M's receipt of notification that a final judicial determination has been entered.

D. The MPCA Commissioner shall review and approve, disapprove or modify 3M's proposed modifications to the RI, FS, RAP or RAs in accordance with Part IX [Review and Approval of Submittals] of this Agreement.

E. During any judicial review of any permit needed to implement this Agreement or during the MPCA Commissioner's review of any of 3M's proposed modifications as provided in paragraph D above, and during any subsequent judicial proceedings taken in accordance with the provisions of Part X [Resolution of Disputes], 3M shall continue to implement those portions of the RI, FS, RAP and RAs which can be reasonably implemented pending final resolution of the judicial proceedings.

XII.

Creation of Danger

If the MPCA Commissioner determines that it is necessary to stop implementation of this Agreement because of a danger to the health or welfare of the people on one or more of the Sites or in the surrounding area or to the environment, the MPCA Commissioner may order 3M to stop further implementation of this Agreement for the period of time needed to abate the danger, or may petition a court of appropriate jurisdiction for such an order. 3M shall comply with the order from the MPCA Commissioner upon receipt.

XIII.

Reporting; Information on PFCs; False Statements

A. By 30 days after the end of each calendar quarter 3M shall submit to the MPCA Commissioner a written progress report which describes the actions which 3M has taken during the previous quarter to implement the requirements of this Agreement for each Site and for other obligations under this Agreement. Progress reports shall also describe the activities scheduled to be taken during the upcoming quarter. Progress reports shall be submitted beginning on July 30 following the effective date of this Agreement. The progress reports shall include a detailed statement of the manner and extent to which the requirements and time schedules set out in the

Exhibits to this Agreement are being met. 3M shall propose in the progress reports any additional activities it believes to be necessary which are not included in the approved RI, FS, RAP or RAs and shall describe the impact of the additional activities on the other activities conducted pursuant to this Agreement. The MPCA Commissioner may, in the Commissioner's discretion, direct that progress reports be submitted at extended intervals or that no further reports be submitted.

B. Within 60 days after the effective date of this Agreement, 3M will establish a process satisfactory to MPCA to ensure that MPCA has access to all documents within 3M's possession or control, except for documents subject to attorney-client privilege or to protection as attorney work product, which address or relate to: (1) the health or environmental effects of any PFC; (2) actions or precautions considered or recommended by 3M for managing, treating or disposing of wastes containing any PFC; and (3) any characteristic of any PFC or PFC waste that might cause the PFC or waste to be considered a hazardous substance or a hazardous waste as those terms are used in MERLA or in the hazardous waste rules of the MPCA, Minn. R. ch. 7045. 3M will provide MPCA with copies of such documents that MPCA may request. 3M agrees to provide representatives to meet with MPCA, whether periodically or on specific request, to explain the context and substance of any documents relating to PFCs for which access or copies have been provided to MPCA under this Paragraph. MPCA agrees to classify any documents provided by 3M under this Paragraph as non-public data as provided in Part XXII of this Agreement.

C. 3M agrees to cooperate with MPCA and MDH in developing and implementing health and toxicological studies needed by MDH to develop HBVs and HRLs for PFCs. It is

anticipated that a final report of the 90 day feeding study for PFBA will be available by March 31, 2008. Preliminary data from this study will be shared with MDH as it becomes available.

D. 3M shall not knowingly make any false statement, representation or certification in any record, report, plan or other document filed or required to be submitted to the MPCA under this Agreement. 3M shall immediately upon discovery report to the MPCA and correct any errors in such record, report, plan or other document.

XIV.

Notification; Primary Contact

All notices required under this Agreement shall be in writing. Unless otherwise specified by MPCA, notices, progress reports and any other Submittals made by 3M pursuant to this Agreement shall be sent by certified mail, return receipt requested or hand delivered to:

Kathy Sather, Director, Remediation Division
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155

Notices and other documents sent to 3M shall be addressed as follows unless 3M

specifies otherwise:

Gary A. Hohenstein
Manager, Special Projects
EHS Operations
3M Company
Building 42-2E-05
St. Paul, MN 55144

XV.

Project Managers

The MPCA and 3M shall each designate a Project Manager and Alternate (hereinafter jointly referred to as Project Manager) for each Site for the purposes of overseeing the

implementation of this Agreement. 3M's Project Manager for the Sites is Gary A. Hohenstein. Within ten (10) days of the effective date of this Agreement, 3M shall notify the MPCA Commissioner of the name and address of its Alternates.

The MPCA Project Manager and Alternate for each Site are as follows:

1. 3M Cottage Grove Site.
 - a. Project Manager--Gary Krueger.
 - b. Alternate--Fred Campbell.
2. 3M Oakdale Site.
 - a. Project Manager--Gary Krueger.
 - b. Alternate--Fred Campbell.
3. 3M Woodbury Site.
 - a. Project Manager--Gerald Stahnke.
 - b. Alternate--Mike Connolly.

Either party may change its designated Project Managers by notifying the other party, in writing, of the change. To the maximum extent possible, communications between 3M and the MPCA concerning the terms and conditions of this Agreement as they apply to response actions for the Sites shall be directed through the Project Managers. Each Project Manager shall be responsible for assuring that all communications from the other Project Manager are appropriately disseminated and processed.

Each Project Manager shall have the authority to (1) take samples or direct that samples be taken; (2) direct that work at a Site stop for a period not to exceed seventy-two (72) hours if the Project Manager determines that activities at the Site may create a danger to public health or welfare or the environment; (3) observe, take photographs and make such other reports on the

progress of the work as the Project Manager deems appropriate; (4) review records, files and documents relevant to this Agreement; and (5) make or authorize minor field modifications in the RI, FS, RAP or RAs or in techniques, procedures or design utilized in carrying out this Agreement which are necessary to the completion of those activities. Any field modifications shall be approved orally by both Project Managers. Within seventy-two (72) hours following the modification, the Project Manager who requested the modification shall prepare a memorandum detailing the modification and the reasons therefore and shall provide or mail a copy of the memorandum to the other Project Manager.

The MPCA and 3M Project Managers shall either be on the Site or available on call by telephone during all hours of work at the Site. The absence of any Project Manager from the Site shall not be cause for stoppage of work.

XVI.

Sampling Data Availability

The MPCA Commissioner and 3M shall make available to each other the results of sampling, tests or other data generated by either party, or on its behalf, with respect to the implementation of this Agreement. MPCA and 3M agree to allow split or duplicate samples to be taken by the other party during sample collection conducted as part of the implementation of this Agreement. For sampling associated with 3M's obligations for the Sites under Parts VI to VIII, 3M's Project Manager for a Site shall endeavor to notify the MPCA Project Manager for that Site not less than ten (10) days in advance of any planned 3M sample collection. If it is not possible to provide ten (10) days prior notification, 3M shall notify the MPCA Project Manager as soon as possible after becoming aware that samples will be collected. For other sampling, a

party planning to take samples shall endeavor to notify the other party's primary contact not less than ten (10) days before planned sample collection.

XVII.

Retention of Records

Notwithstanding any document retention policy to the contrary, 3M shall retain and preserve for a minimum of three (3) years after termination of this Agreement all records and documents in its possession or in the possession of its divisions, employees, agents, accountants, contractors or attorneys which relate in any way to the presence of PFCs at the Sites or to the implementation of this Agreement. Following the three (3) year document retention period, 3M shall notify the MPCA a minimum of ninety (90) days before destroying any documents and shall relinquish such documents to the MPCA upon request. Should any portion of the work performed hereunder be undertaken through contractors or agents of 3M, then 3M agrees to include in the contract with such contractors and agents a document retention requirement meeting the terms of this paragraph.

XVIII.

Access and Assurances Regarding Response Actions

A. The MPCA and its authorized employees, agents and representatives shall have authority to enter each Site at all times for the purpose of enforcing and overseeing implementation of this Agreement, and 3M shall cooperate with the MPCA in taking such actions, including but not limited to: inspecting records, operating logs, contracts and other documents relevant to implementation of this Agreement; reviewing the progress of 3M in implementing this Agreement; conducting such tests as the MPCA Commissioner or MPCA Project Manager deems necessary; verifying the data submitted to the MPCA by 3M; and taking

response actions in the event that 3M fails to take response actions as required under this Agreement, including response actions suspended as a result of a dispute under Part X (Resolution of Disputes). If records required to be retained under this Agreement are kept at locations other than each Site, the MPCA and its authorized employees, agents or representatives shall have access to such other location at all reasonable times for the purposes of inspecting the records. 3M shall honor all reasonable requests for such access by the MPCA conditioned only upon presentation of proper credentials.

B. With respect to property owned by 3M upon which 3M is obligated under this Agreement to construct, operate, maintain or monitor any wells, treatment facilities or other response actions 3M agrees not to disturb or interfere with the wells, treatment facilities or other response actions that are constructed, and not to convey any title, easement, or other interest in the property without such provision as the MPCA Commissioner deems necessary, including granting and recording by 3M of restrictive covenants or other use restrictions, to assure: (1) completion and continued operation, maintenance and monitoring of the wells, treatment facilities or other response actions required pursuant to this Agreement; (2) long-term effectiveness of the response actions to protect public health and welfare and the environment, including protection from exposure to any residual contamination after implementation of an MPCA-selected remedial action; and (3) access by the MPCA, its employees and contractors to enforce and monitor effectiveness of the response actions and use restrictions. 3M shall notify the MPCA Commissioner, by certified mail, at least thirty (30) days prior to any conveyance of the property, of 3M's agreement to convey any interest in the property and of the provisions made to assure that 3M's obligations under this Agreement will be carried out and the response actions will remain protective after the conveyance. The MPCA may require recording of a

restrictive covenant or other institutional control that meets the requirements of this Paragraph B as a condition of termination of this Agreement under Part XXXII.

C. 3M shall use its best efforts to obtain access to property not owned by 3M upon which 3M, its contractors, and the MPCA and its authorized employees, agents or representatives will be required to enter or conduct work in order to carry out the terms of this Agreement. 3M shall be responsible for restoring to substantially its original condition any property to which access has been granted. Access agreements obtained by 3M under this Part shall provide authority for 3M and its employees, contractors, agents, successors and assigns, and for the MPCA and its authorized employees, agents or representatives, to enter the property at all reasonable times for the purpose of implementing their obligations or authorities under this Agreement.

If 3M is unable to obtain access using its best efforts, the MPCA agrees to use its authority under the statutes and regulations it administers to assist 3M in obtaining access to property necessary for the implementation of this Agreement. If MPCA designates 3M, its contractors, employees or agents as agents or representatives of the State in order to obtain access under Minn. Stat. § 115B.17, subd. 4, such designation shall be for the sole purpose of entering the designated property to take actions necessary for the implementation of this Agreement. In the event of such designation, 3M and its assigns shall indemnify and save and hold the State, its agents, and employees harmless from any and all claims or causes of action arising from or on account of the entry on to the designated property or the performance of response actions by 3M, its contractors, employees or agents.

D. If property upon which 3M is obligated under this Agreement to construct, operate, maintain or monitor any wells, treatment facilities or other response actions is not

owned by 3M, any access agreement with the owner obtained by 3M under Paragraph C of this Part XVIII must include provisions by which the owner agrees to the obligations set forth in Paragraph B.

XIX.

Hold Harmless Agreement

A. 3M agrees to indemnify and save and hold the MPCA, its agents and employees, harmless from any and all claims or causes of action arising from or on account of acts or omissions of 3M, its officers, employees, agents, or contractors in implementing this Agreement.

B. Within fourteen (14) working days of receipt by the MPCA Commissioner of notice of any claim or cause of action against MPCA arising from or on account of acts or omissions of 3M, its officers, employees, agents, or contractors in implementing this Agreement (hereinafter referred to in this Part XIX as a "claim"), the MPCA Commissioner shall give written notice to 3M of this claim. Failure of the MPCA to give such notice shall not relieve 3M of any obligation that they may have to the MPCA except to the extent 3M demonstrates that the defense of the claim is prejudiced thereby.

C. 3M shall be entitled to participate in the defense of any claim and may elect to assume the defense if the MPCA and the Minnesota Attorney General's Office give their written approval of counsel employed for such defense. If 3M elects to assume the defense of a claim: (a) the MPCA shall have the right to employ separate counsel at its own expense and to participate in the defense thereof; (b) no compromise or settlement thereof may be effected by 3M without the written consent of the MPCA and the Minnesota Attorney General's Office (which shall not be unreasonably withheld) unless the sole consideration required by the settlement is a sum of money that is paid solely and in full by 3M and MPCA obtains a full

release and discharge of all claims which were or could have been brought against MPCA in the matter; and (c) 3M shall have no liability with respect to any compromise or settlement thereof effected by MPCA unless MPCA obtains written consent of 3M, which consent shall not be unreasonably withheld.

D. If 3M is obligated to indemnify the MPCA but elects not to assume, or fails to assume, the defense of a claim, the MPCA shall be entitled to assume the defense and prosecute or settle the claim with counsel of its own choice, at the expense of 3M.

E. If a claim is asserted against both 3M and the MPCA and there is a conflict of interest which renders it inappropriate for the same counsel to represent both 3M and the MPCA, 3M shall be responsible for paying for separate counsel for the MPCA.

F. Nothing in this Part XIX waives or modifies any immunity from or limitation of liability of the MPCA under the Minnesota Tort Claims Act, Minn. Stat. §§ 3.732, et seq., or other applicable law.

XX.

Other Claims

Nothing herein is intended to bar or release any claims, causes of action or demands in law or equity by MPCA or 3M against any person, firm, partnership or corporation not a signatory to this Agreement for any liability such other person or entity may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, disposal or release of any PFCs at, to, or from the Sites or of VOCs from the 3M Woodbury Disposal Site.

The MPCA shall not be held as a party to any contract entered into by 3M to implement the requirements of this Agreement.

XXI.

Other Applicable Laws

All actions required to be taken pursuant to this Agreement shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. If there is a conflict in the application of federal, state or local laws or regulations, the most stringent of the conflicting provisions shall apply.

XXII.

Confidential Information

3M may make a request in accordance with the procedural rules of the MPCA for non-public treatment of information submitted pursuant to this Agreement to the extent such treatment is authorized under Minn. Stat. ch. 13 and Sections 115B.17, subd. 5, or 116.075. Information determined to be non-public by the MPCA Commissioner shall be afforded protection as provided in Minn. Stat. ch. 13 and §§ 115B.17, subd. 5 and 116.075 and applicable procedural rules of the MPCA. If no request for non-public treatment accompanies the information when it is submitted to the MPCA Commissioner, the information may be made available to the public by the MPCA Commissioner without further notice to 3M.

XXIII.

Recovery of Expenses

A. Within thirty (30) days of the effective date of this Agreement, 3M shall pay to the State of Minnesota, by check payable to the Minnesota Pollution Control Agency, the sum of Five Hundred Ninety-eight Thousand Six Hundred Ninety-two Dollars (\$598,692.00) as reimbursement of the MPCA's costs as provided in Part XXIII.C. Payment of this sum shall be

in full and complete satisfaction of 3M's obligation to reimburse costs under Part XXIII.C. incurred by MPCA through April 30, 2007.

B. 3M agrees to reimburse the MPCA for reasonable and necessary costs incurred by MPCA to implement or oversee implementation of this Agreement including administrative and legal expenses, including costs incurred to perform response actions which 3M suspends or intends to suspend pending resolution of a dispute under Part X of this Agreement (Resolution of Disputes).

C. 3M agrees to reimburse MPCA for all reasonable and necessary costs incurred by MPCA under Minn. Stat. § 115B.17, subd. 2, which are related to PFCs for which response actions are required as provided in Part V. A to C of this Agreement, whether the costs incurred relate to the Sites or to other releases that are associated with wastes generated by 3M facilities in Minnesota. Releases from the Washington County Landfill are not included in this Part XXIII.C.

D. 3M agrees to provide to MPCA a grant in an amount up to Five Million Dollars (\$5,000,000) for expenses not reimbursable under Paragraphs B and C incurred for the purpose of investigating and assessing the presence and effects in the environment and biota of any PFC for which response actions are required under Parts V to VIII of this Agreement, including sampling and analysis of any or all of the following: ground water and leachate at closed and operating landfills; discharges from wastewater treatment plants; ambient air and ground water; and surface water, sediment and biota samples. MPCA will consult with 3M on the scope of such investigation and assessment and will consider 3M's comments in the selection of appropriate research.

3M agrees to pay \$2,000,000 of the grant agreed to in this Paragraph D thirty days after written request for payment by the MPCA. In addition, 3M agrees to pay 50 percent of the cost of research as described in this Paragraph D. incurred by MPCA in State fiscal years 2009 to 2011, up to an additional amount of \$1,000,000 in each of those fiscal years. Subject to the limitations as provided in this Paragraph D, 3M agrees to make payments in fiscal years 2009 to 2011 within 30 days of written notice from MPCA that the agency has incurred contract obligations, or staff or administrative costs, in that fiscal year for research as described in this Paragraph D. In no event shall the total amount of the grant which 3M is obligated to make under this Paragraph F exceed \$5,000,000.

3M agrees to meet and confer with MPCA during State fiscal year 2011 concerning MPCA's plans for additional research as described in this Paragraph D and the estimated cost of such additional research and, if requested by MPCA, 3M agrees to enter into discussions concerning 3M's possible future participation in the cost of such additional research.

E. 3M shall pay any sum required to be reimbursed under Paragraph B or C of this Part to the State of Minnesota by check payable to the Minnesota Pollution Control Agency within sixty (60) days following receipt of the MPCA Commissioner's reimbursement statement. 3M shall pay interest determined pursuant to Minn. Stat. § 549.09, subd. 1(c), on any amounts not paid to the MPCA within the time required in this Part.

F. In an action to enforce Paragraph B and C of this Part XXIII, the MPCA shall have the burden to show that the response costs for which MPCA seeks reimbursement are reasonable and necessary. For costs recoverable under Paragraph B or C, the MPCA is entitled to the presumption provided in MERLA, Minn. Stat. § 115B.17, subd. 6

XXIV.

Liability Insurance

Within 60 days of the effective date of this Agreement, 3M shall provide the MPCA Commissioner with current certificates of insurance for its work at each Site certifying coverage with respect to each Site for general liability with minimum limits of Three Million Dollars (\$3,000,000) per occurrence and with an annual aggregate of at least Six Million Dollars (\$6,000,000), exclusive of legal defense costs, for bodily injury and property damage liability that may arise from or on account of acts or omissions of 3M, its officers, employees or contractors in implementing this Agreement. The insurance coverage shall provide that it cannot be canceled for any reason except after thirty (30) days written notice to the MPCA Commissioner. The coverage shall include the MPCA as a named insured and, upon request of the MPCA Commissioner, shall include as a named insured any owner of real property where response actions are to be taken pursuant to this Agreement. These insurance limits are not to be construed as maximum limits. 3M is solely responsible for determining the appropriate amount of insurance 3M should carry for injuries or damages resulting from its activities in the implementation of this Agreement. 3M may satisfy the requirements of this Part XXIV by providing certificates of insurance showing that the required coverage has been provided by contractors retained by 3M to perform the work required under this Agreement, and that 3M is an additional named insured under such insurance.

XXV.

Covenant Not to Sue

A. In consideration for and conditioned upon 3M's performance of the terms and conditions of this Agreement, subject to the reservations set forth in Paragraph B of this Part

XXV, and based on the information known to the MPCA on the effective date of this Agreement, the MPCA covenants not to bring against 3M any administrative, legal or equitable action available to the MPCA under Minn. Stat. §§ 115.071, 115B.04, 115B.17, subd. 6 (including claims for MPCA administrative and legal expenses), or 115B.18 (including civil penalties), or other state law to require 3M to take or pay the cost of response actions to address any discharge, release or threatened release of PFCs, at or from the Sites known to the MPCA on the effective date of this Agreement.

B. Nothing in this Agreement shall preclude the MPCA from exercising any administrative, legal or equitable remedy available to it to require 3M to take or pay the cost of response actions in addition to the requirements of this Agreement in the event that:

1. MPCA discovers any discharge, release or threatened release of pollutants or hazardous substances at or from any of the Sites which was not known to the MPCA on the effective date of this Agreement; or

2. the implementation of the requirements of this Agreement is insufficient to protect public health or welfare or the environment with respect to any discharge, release or threatened release of hazardous substances at or from any of the Sites which is addressed under this Agreement.

C. This Agreement shall not be construed to release 3M from any liability 3M may have for failing to disclose information responsive to Part XIII.B. to the MPCA before the effective date of this Agreement if 3M had a duty under any law to disclose such information to MPCA before the effective date of this Agreement.

D. Except as specifically identified in Paragraph A, this Agreement shall not be construed as releasing 3M from any liability arising out of or relating to the discharge, release or

threatened release of pollutants or hazardous substances at or from any of the Sites, including any liability for natural resource damages or related assessment costs.

E. Nothing in this Agreement shall limit the authority of the MPCA to seek civil penalties under Minn. Stat. § 115.071, 115B.18, subd. 1, or any other law for noncompliance with this Agreement.

F. 3M covenants not to sue and agrees not to assert any claim, which 3M could have brought against the MPCA at the time of execution of this Agreement and which arises out of or relates to the discharge, release or threatened release of PFCs or VOCs at or from any of the Sites. In addition, as of the effective date of this Agreement: (1) 3M's April 19, 2007 petition for rulemaking requesting MPCA to engage in rulemaking under Minn. Rule ch. 7045 shall be deemed withdrawn by 3M; and (2) 3M waives any rights which it may have to appeal the MPCA Board's denial of its April 19, 2007 requests for contested case hearing under Minn. R. 7045.0218 and Minn. R. 7000.1900.

XXVI.

Enforceability

The terms of this Agreement shall be legally enforceable by either party in Minnesota District Court for Washington County.

XXVII.

Failure to Comply With Obligations Under The Agreement

A. For each day that 3M fails to comply with an obligation under this Agreement, within the time required in this Agreement or any Exhibit to this Agreement, or under any other schedule approved or modified by the MPCA Commissioner pursuant to this Agreement, 3M

shall be obligated to pay to the State of Minnesota, by check payable to the Minnesota Pollution Control Agency, the sum of Five Hundred Dollars (\$500).

B. 3M shall not be liable for payment under this Part if 3M has submitted to the MPCA Commissioner a timely request for an extension of time to comply with the obligation under Part XXIX (Extension of Schedules) of this Agreement and the request has been granted.

C. Upon determination by the MPCA Commissioner that 3M has failed to comply in a timely manner with an obligation under this Agreement, the MPCA Commissioner shall give written notice to 3M of the failure, specifying the provision of the Agreement which has not been complied with and the date that penalties began to accrue under this Part XXVII. 3M retains the right to dispute under Part X (Resolution of Disputes) the factual basis for the MPCA Commissioner's determination that 3M has failed to comply with an obligation under this Agreement in a timely fashion. Notwithstanding the provisions of Part X, Paragraphs D to H, if 3M initiates a dispute under Part X of this Agreement regarding the MPCA Commissioner's determination of failure to comply, and the MPCA Commissioner issues an order deciding the dispute under Part X, Paragraph C, 3M shall have fourteen (14) days from receipt of the Commissioner's order to commence an action to review the Commissioner's decision. If an action is not commenced within that period, the Commissioner's order shall become final and an integral and enforceable part of this Agreement. In all other respects, the review of the Commissioner's decision shall be as provided in Part X, Paragraphs H and I.

D. Penalties under this Part shall accrue from the date on which 3M was required to comply with the obligation. Payments required by this Part shall cease to accrue when 3M complies with the obligation. 3M shall pay the required penalty within thirty (30) days of receipt of the MPCA Commissioner's notice of non-compliance, and shall pay any subsequently

accruing penalties within thirty (30) days after correcting the non-compliance for which the penalties were imposed.

XXVIII.

Extension of Schedules

3M may request an extension of time to comply with any obligation under this Agreement, including any deadline under Exhibits A to F to this Agreement, by submitting the request in writing at least ten days before the scheduled deadline, or as soon as possible before that date if the reason for the extension request arises less than ten days before the deadline. The request shall specify the reason why the extension is needed. Extensions shall only be granted for good cause and for such period of time as the MPCA determines is reasonable under the circumstances. A requested extension shall not be effective until approved by the MPCA.

The burden shall be on 3M to demonstrate that the request for extension is timely and that good cause exists for granting the extension.

Good cause for granting an extension includes, but is not limited to:

A. "Force majeure". For the purposes of this Agreement, "force majeure" is defined as any event arising from causes beyond the control of 3M that cannot be overcome with the exercise of due diligence and that delays or prevents the performance of any obligation under this Agreement. "Force Majeure" shall not include financial considerations such as increased costs of the remedial action or the financial condition of 3M, or the failure to timely apply for any required approvals or to provide all required information therefore in a timely manner;

B. Stoppage of work under Part XII (Creation of Danger) if the work stoppage was not the result of any noncompliance by 3M with this Agreement, including the Exhibits thereto;

C. Delays associated with the good faith invocation by 3M of Part X (Resolution of Disputes) of this Agreement, when portions of this Agreement cannot reasonably be implemented pending resolution of the dispute; and,

D. Delays which are directly attributable to any changes in permit terms or conditions or refusal to issue a permit needed to implement the requirements of this Agreement, as contemplated under Part XI (Permits) of this Agreement, if 3M filed a timely application for the necessary permit.

Good cause for an extension does not include unanticipated costs or delays in MPCA review of Submittals when the Submittals are not provided to MPCA in complete and approvable form.

XXIX.

Financial Responsibility

Before 3M commences construction of an MPCA-approved remedial action, MPCA may require 3M to submit to the MPCA evidence of financial assurance regarding the financial ability of 3M to complete construction of the remedial action, carry out long-term operation, maintenance and monitoring of the remedial action, and take contingency actions in the event that the remedial action fails to meet remedial objectives or cleanup levels. The amount and form of financial assurance required by this Part are subject to approval by the MPCA.

XXX.

Amendment of Agreement

This Agreement may be amended only by a written agreement between 3M and the MPCA.

XXXI.

Successors

This Agreement shall be binding upon 3M Company, its successors and assigns, and upon the MPCA, its successors and assigns.

XXXII.

Termination and Survival of Certain Provisions

The provisions of this Agreement shall be deemed satisfied and terminated upon receipt by 3M of written notice from the MPCA Commissioner that 3M has demonstrated to the satisfaction of the MPCA Commissioner that all the terms of this Agreement have been completed. The provisions of Parts XVII (Retention of Records), XIX (Hold Harmless Agreement), XX (Other Claims), XXV (Covenant Not To Sue), XXXI (Successors), and to the extent necessary to enforce those sections, Section XXVI (Enforceability), shall survive the termination of this Agreement.

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XXXIII.

Effective Date

This Agreement is effective upon the date that the MPCA executes this Agreement.

**BY THEIR SIGNATURES BELOW, THE UNDERSIGNED REPRESENT
THAT THEY HAVE AUTHORITY TO BIND THE PARTIES THEY
REPRESENT**

IT IS SO AGREED:

For 3M Company:

By: *Katherine E. Reed*
Katherine E. Reed, Ph.D.
Staff Vice-President
Environmental, Health and Safety Operations
3M Company

5/11/07
Date

IT IS SO AGREED AND ORDERED:

By: *Brad Moore*
Brad Moore, Commissioner
Minnesota Pollution Control Agency

5/22/07
Effective Date