



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

REPLY TO THE ATTENTION OF:

(AE-17J)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Katherine O'Halleran  
Senior Counsel, Environmental & Safety  
Kraft Foods Global, Inc.  
3 Lakes Drive  
Northfield, Illinois 60093

Re: In the Matter of: Kraft Foods, Inc.  
Docket No. **CAA-05-2010-0043**

Dear Ms. O'Halleran:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) that resolves the matter of: Kraft Foods Global, Inc., Docket No. **CAA-05-2010-0043**. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on July 12, 2010.

Pursuant to paragraph 102 of the CAFO, Kraft Foods, Inc. must pay the civil penalty within 30 days of the date this CAFO was filed. Your check or electronic funds transfer must display the case name, docket number **CAA-05-2010-0043**, and the billing document number **2751003A043**.

Please direct any questions regarding this case to Ann Coyle, Associate Regional Counsel, at (312) 886-2248.

Sincerely,

A handwritten signature in cursive script that reads "Bonnie Bush".

Bonnie Bush  
Air Enforcement and Compliance Assurance  
Section MI/WI

Enclosure

cc: Byron Taylor, Sidley Austin LLP

RECEIVED

JUL 12 2010

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

In the Matter of:	)	Docket No. CAA-05-2010-0043
	)	
Kraft Foods Global, Inc.	)	Proceeding to Assess a Civil Penalty
Naperville, Illinois,	)	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 Act), 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 Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is Kraft Foods Global, Inc., a corporation doing business in Illinois.
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 entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

**Jurisdiction, Admissions and Denials, and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations, neither admits nor denies the factual allegations and denies the violations alleged 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. Sections 107 and 110 of the Clean Air Act, 42 U.S.C. §§ 7407 and 7410, require each state to adopt and submit to the Administrator of EPA (the Administrator), a plan that provides for implementation, maintenance and enforcement of national ambient air quality standards within the state (state implementation plan or SIP).

10. The federally approved Illinois SIP and plan revisions are set forth at 40 C.F.R. Part 52, Subpart O (40 C.F.R. §§ 52.719 through 52.744).

11. EPA approved 35 IAC §§ 211.370, 211.1950, 211.4370, 211.6130, 211.6370 211.7150 and 218.104 as part of the federally enforceable SIP for Illinois on October 11, 1994. (59 Fed. Reg. 46562).

12. EPA approved portions of 35 IAC Part 218, Subpart TT, specifically 35 IAC §§ 218.980 and 218.986, as part of the federally enforceable SIP for Illinois on November 20, 1996. (61 Fed. Reg. 54556).

13. Pursuant to 40 C.F.R. § 52.23, failure to comply with any provision of 40 C.F.R. Part 52, or with any approved regulatory provision of a state implementation plan, or with any permit limitation or condition contained within an operating permit issued under an EPA-approved program that is incorporated into the SIP, renders the person failing to comply in

violation of a requirement of an applicable implementation plan and subject to enforcement under Section 113 of the Act, 42 U.S.C. § 7413.

14. The Administrator 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, through January 12, 2009, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

15. 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 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 and Alleged Violations**

17. At all times relevant to this matter, Respondent owned and operated a facility located at 1555 West Ogden Avenue, Naperville, Illinois (facility).

18. From approximately 2004 through May 2008, Respondent manufactured Cocoa Pebbles breakfast cereal on a dedicated process line at the facility (Cocoa Pebbles line).

19. During the operation of the Cocoa Pebbles line, Respondent applied liquid flavoring to puffed rice through two spray coating reels (coating reels).

20. At all times relevant to this matter, the liquid flavoring applied by the coating reels contained malted milk and vanilla flavorings.

21. At all times relevant to this matter, the malted milk and vanilla flavorings Respondent applied to its Cocoa Pebbles product contained ethanol and/or propylene glycol.
22. Ethanol and propylene glycol are “volatile organic matter” (VOM), as that term is defined at 35 IAC §§ 218.104 and 211.7150.
23. Ethanol and propylene glycol are “air pollutants,” as that term is defined at 35 IAC §§ 218.104 and 211.370.
24. At all times relevant to this matter, Respondent’s facility was a “source,” as that term is defined at 35 IAC §§ 218.104 and 211.6130.
25. At all times relevant to this matter, Respondent’s facility was a “stationary source,” as that term is defined at 35 IAC §§ 218.104 and 211.6370.
26. At all times relevant to this matter, the Cocoa Pebbles line was an “emission unit,” as that term is defined at 35 IAC §§ 218.104 and 211.1950.
27. At all times relevant to this matter, Respondent was an “owner” and “operator,” as that term is defined at 35 IAC §§ 218.104 and 211.4370.
28. On November 11, 2003, Respondent submitted an air pollution construction permit application (construction permit) for the Cocoa Pebbles line and reported its potential to emit volatile organic matter (VOM) to be over 25 tons per year (tons/yr).
29. On March 16, 2004, the Illinois Environmental Protection Agency (IEPA) issued construction permit 03110034 to Respondent for the Cocoa Pebbles line.
30. On May 20, 2004, IEPA issued revised operating permit 72110996 to Respondent for the Cocoa Pebbles line, which limited the facility’s annual VOM emissions to below 19.54 tons/yr.

31. On May 17, 2005, Respondent submitted an application to IEPA for a federally enforceable state operating permit (FESOP) for operations at the facility, including the Cocoa Pebbles line.

32. On September 30, 2005, Respondent submitted an addendum to its FESOP application to IEPA, revising its application and requesting updated VOM emission limitations.

33. IEPA did not issue or deny Respondent's request for an updated FESOP based on the May 17, 2005, application and September 30, 2005, addendum.

34. At all times relevant to this matter, the malted milk flavoring Respondent used to produce Cocoa Pebbles contained up to 2 percent VOM.

35. At all times relevant to this matter, the vanilla flavoring Respondent used to produce Cocoa Pebbles contained up to 76 percent VOM.

36. On April 19, 2007, Respondent filed an annual emission report (AER) with IEPA for calendar year 2006 for the facility.

37. In the 2006 AER, Respondent reported that it operated the Cocoa Pebbles line a maximum of 4,712 hours in calendar year 2006.

38. On July 22, 2009, EPA conducted an inspection of the facility (the inspection).

39. During the inspection, Respondent provided EPA with copies of its draft 2007 AER and final 2008 AER for the facility.

40. In the 2007 AER, Respondent reported that it operated the Cocoa Pebbles line a maximum of 5,936 hours in calendar year 2007.

41. In the 2008 AER, Respondent reported that it operated the Cocoa Pebbles line a maximum of 2,536 hours in calendar year 2008.

42. On August 18, 2008, EPA issued to Respondent a request for information (information request) under Section 114 of the Act, 42 U.S.C. § 7414.

43. Respondent responded to EPA's August 18, 2008, information request on September 2 and 3, 2008.

44. On October 30, 2008, EPA issued to Respondent an information request under Section 114 of the Act, 42 U.S.C. § 7414.

45. Respondent responded to EPA's October 30, 2008, information request on November 21, 2008.

46. In its November 21, 2008, response, Respondent provided EPA with a spreadsheet containing monthly and aggregate annual VOM emission data from the Cocoa Pebbles line, with supporting data and calculations.

47. The spreadsheet provided in the November 21, 2008, response contains the following information for the period January 2005 through May 2008: amount of Cocoa Pebbles produced in pounds per month (lb/month), amount of malted milk flavoring used (lb/month), pounds of vanilla flavoring used (lb/month), total amount of malted milk and vanilla flavorings used (lb/month and tons/yr), VOM emissions from malted milk flavoring (lb/month), VOM emissions from vanilla flavoring (lb/month), and total VOM emissions from malted milk and vanilla flavorings (lb/month and tons/yr).

48. On February 24, 2009, EPA issued to Respondent an information request under Section 114 of the Act, 42 U.S.C. § 7414.

49. Respondent responded to EPA's February 24, 2009, information request on March 6, 2009.

50. On February 29, 2008, EPA issued a Notice of Violation to Respondent for violations of the Illinois SIP regulation at 35 IAC § 218.986(a) and Condition 1a of the construction permit for the calendar year 2005.

51. On April 9, 2008, EPA and Respondent held a conference to discuss the February 29, 2008, Notice of Violation.

52. On September 3, 2009, EPA issued a Notice of Violation to Respondent for violations of Conditions 2a and 13d of the operating permit from July 2006 through May 2008.

53. On October 21, 2009, EPA and Respondent held a conference to discuss the September 3, 2009, Notice of Violation.

#### **Count I**

54. 35 IAC § 218.980(b) states that a source is subject to 35 IAC Part 218, Subpart TT, if it has the potential to emit 25 tons or more of VOM per year, in aggregate, from emission units that are not regulated by 35 IAC Part 218, Subparts B, E, F, H, Q, R, S, T, V, X, Y, Z, or BB.

55. At all times relevant to this matter, the Cocoa Pebbles line was not regulated by 35 IAC Part 218, Subparts B, E, F, H, Q, R, S, T, V, X, Y, Z, or BB.

56. 35 IAC § 218.986 states that every owner or operator of an emission unit subject to 35 IAC Part 218, Subpart TT, must comply with the requirements of subsection (a), (b), (c), (d), or (e).

57. Under 35 IAC § 218.986(c), an owner or operator of an emission unit subject to 35 IAC Part 218, Subpart TT, must comply with an equivalent alternative control plan that has been approved by IEPA and EPA in a federally enforceable permit.

58. Condition 1a of Respondent's construction permit and Condition 2a of Respondent's operating permit state that VOM emissions from the vanilla/malted milk flavoring mixture on the Cocoa Pebbles line may not exceed 5.22 pounds per hour (lb/hr) or 19.54 tons/yr.

59. Condition 2b.ii of Respondent's operating permit states that the limitations set forth in Condition 2a are established pursuant to 35 IAC Part 218, Subpart TT, and ensure that the Cocoa Pebbles line is not subject to the control requirements of 35 IAC Part 218, Subpart TT.

60. In September 2006, Respondent's vanilla flavoring hourly VOM emissions and total hourly VOM emissions from the Cocoa Pebbles line exceeded the 5.22 lb/hr VOM emission limit in Condition 1a of its construction permit and Condition 2a of its operating permit; therefore, Respondent violated Condition 1a of its construction permit and Condition 2a of its operating permit in September 2006.

61. In March 2007, Respondent's vanilla flavoring hourly VOM emissions and total hourly VOM emissions from the Cocoa Pebbles line exceeded the 5.22 lb/hr VOM emission limit in Condition 1a of its construction permit and Condition 2a of its operating permit; therefore, Respondent violated Condition 1a of its construction permit and Condition 2a of its operating permit in March 2007.

62. In May 2007, Respondent's total hourly VOM emissions from the Cocoa Pebbles line exceeded the 5.22 lb/hr VOM emission limit in Condition 1a of its construction permit and Condition 2a of its operating permit; therefore, Respondent violated Condition 1a of its construction permit and Condition 2a of its operating permit in May 2007.

63. In June 2007, Respondent's vanilla flavoring hourly VOM emissions and total hourly VOM emissions from the Cocoa Pebbles line exceeded the 5.22 lb/hr VOM emission limit in Condition 1a of its construction permit and Condition 2a of its operating permit;

therefore, Respondent violated Condition 1a of its construction permit and Condition 2a of its operating permit in May 2007.

64. In September 2007, Respondent's total hourly VOM emissions from the Cocoa Pebbles line exceeded the 5.22 lb/hr VOM emission limit in Condition 1a of its construction permit and Condition 2a of its operating permit; therefore, Respondent violated Condition 1a of its construction permit and Condition 2a of its operating permit in September 2007.

65. At all times relevant to this matter, Respondent utilized an information system, called the "HMI system," to manage the production and packaging operations of the Cocoa Pebbles line.

66. The production and packaging data recorded in the HMI system included data about the application of liquid flavorings and vitamins at the coating reels.

67. At all times relevant to this matter, the HMI system recorded data on a rolling basis. It stored data for a 21-day period, continuously overwriting the oldest data with new data.

68. In its September 2 and 3, 2008, information request responses, Respondent provided EPA with electronic spreadsheets containing daily data for the HMI system for the period April 1 through April 23, 2008.

69. The data Respondent provided from the HMI system included: date, time, coating reel rate, vitamin application rate, syrup application rate, oil application rate and base puffs rate.

70. Based on real-time data from Respondent's HMI system for the period April 1 through April 21, 2008, Respondent failed to comply with Condition 1a of its construction permit and Condition 2a of its operating permit in April 2008.

71. During the months of August, September and October 2006, February 2007, and February and March 2008, Respondent produced similar or greater amounts of Cocoa Pebbles as it produced in April 2008.

72. During the months of August, September and October 2006, February 2007, and February and March 2008, the ratio of malted milk flavoring per pound of Cocoa Pebbles produced was the same as or within one pound of the ratio of malted milk flavoring to pound of Cocoa Pebbles produced in April 2008.

73. During the months of August, September and October 2006, February 2007, and February and March 2008, the VOM content of the malted milk flavoring Respondent applied to Cocoa Pebbles was the same as the VOM content of the malted milk flavoring it applied to Cocoa Pebbles in April 2008.

74. During the months of August, September and October 2006, February 2007, and February and March 2008, the ratio of vanilla flavoring per pound of Cocoa Pebbles produced was the same as or within one pound of the ratio of vanilla flavoring to pound of Cocoa Pebbles produced in April 2008.

75. During the months of August, September and October 2006, February 2007, and February and March 2008, the VOM content of the vanilla flavoring that Respondent applied to Cocoa Pebbles was the same as the VOM content of the vanilla flavoring it applied to Cocoa Pebbles in April 2008.

76. During at least one hour in August 2006, Respondent exceeded the 5.22 lb/hr VOM emission limit for the Cocoa Pebbles line; therefore, Respondent violated Condition 1a of its construction permit and Condition 2a of its operating permit in August 2006.

77. During at least one hour in September 2006, Respondent exceeded the 5.22 lb/hr VOM emission limit for the Cocoa Pebbles line; therefore, Respondent violated Condition 1a of its construction permit and Condition 2a of its operating permit in September 2006.

78. During at least one hour in October 2006, Respondent exceeded the 5.22 lb/hr VOM emission limit for the Cocoa Pebbles line; therefore, Respondent violated Condition 1a of its construction permit and Condition 2a of its operating permit in October 2006.

79. During at least one hour in February 2007, Respondent exceeded the 5.22 lb/hr VOM emission limit for the Cocoa Pebbles line; therefore, Respondent violated Condition 1a of its construction permit and Condition 2a of its operating permit in February 2007.

80. During at least one hour in February 2008, Respondent exceeded the 5.22 lb/hr VOM emission limit for the Cocoa Pebbles line; therefore, Respondent violated Condition 1a of its construction permit and Condition 2a of its operating permit in February 2008.

81. During at least one hour in March 2008, Respondent exceeded the 5.22 lb/hr VOM emission limit for the Cocoa Pebbles line; therefore, Respondent violated Condition 1a of its construction permit and Condition 2a of its operating permit in March 2008.

### **Count II**

82. Condition 13.d of Respondent's operating permit requires Respondent to maintain monthly records of monthly and aggregate annual VOM and PM emissions from the Cocoa Pebbles line with supporting data and calculations (tons/month and tons/yr).

83. Condition 14 of Respondent's operating permit requires that all records required by the permit be retained at a readily accessible location at the source for at least three years from the date of entry.

84. During the July 22, 2009, inspection, EPA requested that Respondent provide three years of records of the monthly and aggregate annual VOM emissions from the Cocoa Pebbles line.

85. In response to EPA's request for VOM emission data records during the inspection, Respondent provided to EPA a spreadsheet showing, among other things, the following data: pounds of Cocoa Pebbles produced (lb/month); malted milk flavoring used in the Cocoa Pebbles (lb/month); vanilla flavoring used in Cocoa Pebbles (lb/month); malted milk flavoring and vanilla flavoring used in Cocoa Pebbles (lb/hr); malted milk flavoring VOM emissions (lb/month and lb/hr); vanilla flavoring VOM emissions (lb/month and lb/hr); total VOM emissions (lb/month and lb/hr) (Cocoa Pebbles VOM emissions spreadsheet) for all months in the three years prior to the inspection date.

86. In response to EPA's request for VOM emissions data records during the inspection, Respondent also provided to EPA a spreadsheet showing the mathematical formulas it used to calculate the values in the Cocoa Pebbles VOM emissions spreadsheet described in paragraph 85, above (Cocoa Pebbles VOM emissions calculation spreadsheet).

87. In its November 21, 2008, response, Respondent stated that it calculated the amount of vanilla and malted milk flavorings used in a particular month by multiplying the amount of Cocoa Pebbles produced in the month by the percent of each respective flavor in the recipe, or formula, for Cocoa Pebbles during the month.

88. In response to the February 24, 2009, information request, on March 6, 2009, Respondent provided to EPA the primary formulas for its Cocoa Pebbles cereal and the sub-formulas for its flavor coating syrup, which contain the vanilla and malted milk flavorings.

89. In the Cocoa Pebbles VOM emissions calculation spreadsheet, none of the formulas for calculating monthly malted milk flavoring usage contain the correct percent of malted milk flavoring in the Cocoa Pebbles recipe for that month.

90. In the Cocoa Pebbles VOM emissions calculation spreadsheet, none of the formulas for calculating the monthly vanilla flavoring usage contain the correct percent of vanilla flavoring in the Cocoa Pebbles recipe for that month.

91. In its November 21, 2008, response, Respondent stated that it calculated monthly VOM emissions from the malted milk and vanilla flavorings by multiplying the monthly usage of the each flavoring by the VOM content of the flavoring.

92. As noted in paragraph 35, above, the vanilla flavoring Respondent used to manufacture Cocoa Pebbles from June 2006 through May 2008 contained 76 percent VOM.

93. In the Cocoa Pebbles VOM emissions calculation spreadsheet, to calculate the VOM emissions from the vanilla flavoring, Respondent multiplied the amount of vanilla used in a particular month by .50 (50 percent).

94. By using 50 percent VOM content instead of the actual 76 percent VOM content in its calculation of VOM emission from the vanilla flavoring, Respondent under-calculated the VOM emissions from the vanilla flavoring by at least 26 percent.

95. In the Cocoa Pebbles VOM emissions calculation spreadsheet, Respondent calculated hourly malted milk flavoring VOM emissions for a particular month by multiplying the VOM emissions from the malted milk flavoring for that month by 12 (12 months in a year), and then dividing that amount by the maximum number of annual operating hours for the Cocoa Pebbles line—7,488.

96. In the Cocoa Pebbles VOM emissions calculation spreadsheet, Respondent calculated hourly vanilla flavoring VOM emissions for a particular month by multiplying the VOM emissions from the vanilla flavoring for that month by 12, and then dividing that amount by the maximum number of annual operating hours for the Cocoa Pebbles line—7,488.

97. Based on its AERs, Respondent operated the Cocoa Pebbles line substantially less than 7,488 hours per year in 2006, 2007 and 2008.

98. By using a larger number of operating hours in its hourly VOM emission calculation for malted milk flavoring than it actually operated, Respondent under-calculated the hourly VOM emissions from the malted milk flavoring used on the Cocoa Pebbles line.

99. By using a larger number of operating hours in its hourly VOM emission calculation for vanilla flavoring than it actually operated, Respondent under-calculated the hourly VOM emissions from the vanilla flavoring used on the Cocoa Pebbles line.

100. Respondent failed to maintain accurate supporting calculations for its monthly and aggregate annual VOM emission records in violation of condition 13.d of its operating permit.

#### **Civil Penalty**

101. 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 Respondent's cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$102,900.

102. Within 30 days after the effective date of this CAFO, Respondent must pay a \$102,900 civil penalty by cashier's or certified check or by electronic wire transfer. To pay by check, Respondent must send a cashier's or certified check payable to the "Treasurer, United States of America," to:

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

The check must note the case name, In the matter of Kraft Foods Global, Inc., the docket number of this CAFO and the billing document number. To pay by electronic wire transfer, Respondent must send the electronic wire transfer, payable to the "Treasurer, United States of America," to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, NY 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 the case name, the docket number of this CAFO and the billing document number.

103. A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send a copy of the check or electronic wire transfer and transmittal letter to:

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

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, IL 60604

Ann L. Coyle, (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

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

105. If Respondent 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.

106. Pursuant to 31 C.F.R. § 901.9, 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. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must 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.

#### **General Provisions**

107. This CAFO resolves Respondent's liability, and upon fulfillment of its obligations under paragraphs 101 through 106, above, the United States releases Respondent from liability, for federal civil penalties arising out of the facts and violations alleged in this CAFO.

108. The 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.

109. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 107, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

110. Respondent no longer owns or operates the Cocoa Pebbles line.

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

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

113. 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.

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

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

**Kraft Foods Global, Inc., Respondent**

June 29, 2010  
Date

Donald Valenzano  
Donald Valenzano, Vice President  
Kraft Foods Global, Inc.

**United States Environmental Protection Agency, Complainant**

July 7, 2010  
Date

Cheryl Newton for CLW  
Cheryl Newton, Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5 (A-18J)

**CONSENT AGREEMENT AND FINAL ORDER**  
**In the Matter of: Kraft Foods Global, Inc.**  
**Docket No. CAA-05-2010-0043**

**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.

7-8-2010

Date



---

Susan Hedman  
Regional Administrator  
U.S. Environmental Protection  
Agency, Region 5

**In the Matter of:**  
**Kraft Foods, Inc.**  
**Docket No. CAA-05-2010-0043**

**Certificate of Service**

I certify that I filed the original and one copy of the Consent Agreement and Final Order in this matter with the Regional Hearing Clerk (E-19J), United States Environmental Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that mailed by Certified Mail, Receipt No. [ ], the second original to Respondent, addressed as follows:

Katherine O'Halleran  
Senior Counsel, Environmental & Safety  
Kraft Foods Global, Inc.  
3 Lakes Drive  
Northfield, Illinois 60093-2753

that I hand-delivered a correct copy to:

Marcy Toney, Regional Judicial Officer (C-14J)  
United States Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

and that I mailed a correct copy by first class, United States mail, addressed as follows:

Ray Pilapil, Manager  
Compliance and Systems Management Section  
Bureau of Air  
Illinois Environmental Protection Agency  
1021 North Grand Avenue  
Springfield, Illinois 62702

On this 12<sup>th</sup> day of July, 2010.

  
Tracy Jamison  
MI/WI

CERTIFIED MAIL RECEIPT NUMBER: 7009 11680 0000 7667 4225