

PUBLIC NOTICE
Kraft Heinz Foods Company
431 West 16th Street
E-land, Michigan 49423



Docket No. SDWA-05-2020-0001

The U.S. Environmental Protection Agency (EPA), Region 5, is providing this notice of its intent to enter a Consent Agreement and Final Order (CAFO) with Kraft Heinz Foods Company (Respondent) which alleges Respondent failed to comply with Underground Injection Control (UIC) permit number MI-139-II-0001 (the Permit) and federal regulations at its Class I injection well in Ottawa County, Michigan. EPA has the authority to file the CAFO under Section 1423(c)(2) of the Safe Drinking Water Act (SDWA), 42 U.S.C. §300-2(c).

As set forth in the CAFO, EPA proposes that Respondent pay a civil penalty of \$48,825 to resolve the violations alleged below. EPA has determined that this penalty amount is appropriate given the nature of the violations, number of wells involved, and the expeditions resolution of the identified problems. At all times relevant to this matter, the Respondent owned and operated the Well No. 1, a Class I nonhazardous injection well in Ottawa County, Michigan. The Respondent incurred penalties for alleged violations of the Permit and the UIC regulations at 40 C.F.R. Part 144, by allegedly exceeding the 1,108 pounds per square inch/gauge maximum injection pressure on 20 separate days between July and November 2016.

The maximum injection pressure is established to ensure that Underground Sources of Drinking Water (USDWs) are protected. The maximum injection pressure should be less than or equal to the measured fracture closure pressure of the injected interval. If the injection interval pressure remains below fracture closure pressure, any existing fractures cannot open, no new fractures can form, and therefore neither can transmit fluids out of the injecting interval.

A copy of the Proposed CAFO may be viewed online at: www.epa.gov/aboutepa/epa-region-5#events by clicking on the "Proposed Consent Agreement and Final Order" link on the Region 5 events calendar for the docket number identified above. Alternatively, the CAFO may be received by contacting the Regional Hearing Clerk at the address listed below.

OPPORTUNITY FOR COMMENT: Section 1423(c)(3) of SDWA, 42 U.S.C. §300h-2(c)(3), requires that EPA provides public notice of, and reasonable opportunity to comment on any proposed order.

Any person who wishes to comment on this proposed CAFO may submit written comments, by following the procedures in 40 C.F.R. § 22.45, particularly Subpart (c) *comment by a person who is not a party*. This portion of the code of federal regulations may be accessed at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol11/pdf/CFR-2015-title40-vol11-sec22-45.pdf> or through <http://www.archives.gov/federal-register/cfr/>. You may also wish to review 40 C.F.R. Part 22 to learn more about the procedures and rules of practice governing the administrative assessment of civil penalties.

Comments should be made in writing to the Regional Hearing Clerk at:

Case Docket No. **SDWA-05-2020-0001**
Regional Hearing Clerk
Mail Code E-19J
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Written comments may be submitted to the Regional Hearing Clerk by email to whitehead.ladawn@epa.gov; by fax to (312) 692-2405; or by mail or delivery to the Clerk's address above. Your comments should include the case name, docket number, and your complete mailing address. If you plan to deliver your comments or other documents in person, please call the Regional Hearing Clerk at (312) 886-3713 for further instructions. Comments and documents sent to any EPA employee instead of the Regional Hearing Clerk will not be considered in this matter.

Note that the Agency requires your mailing address because we must use the U.S. Postal Service should we need to reply, request additional information or notify you of a hearing, and to provide a copy of any consent agreement and proposed final order.

All written comments must be received in the Regional Hearing Clerk's Office no later than 4:00 p.m., Central Time, of the Comment Period End Date shown on the Region 5 events calendar page for this docket number: www.epa.gov/aboutepa/epa-region-5#events.

All documents filed in this proceeding (including documents submitted by the Respondent or by the public) will be available for public inspection by appointment only between 9 a.m. and 4:30 p.m. (Central Time) Monday through Friday at the EPA Regional Office in Chicago, IL. An appointment for such an inspection may be made by calling (312) 886-3713 or by writing the Regional Hearing Clerk at the address above.

Any person wishing to participate in this proceeding must notify the Regional Hearing Clerk in writing within the public notice period and provide his name, complete mailing address, and state that he wishes to participate in the proceeding. *See* 40 C.F.R. § 22.45(c)(1).

If after considering any comments received EPA issues the CAFO, EPA will send a copy of the CAFO assessing a penalty to any persons who submitted written comments during the public comment period. Commenters will then have 30 days to petition the Regional Administrator to set aside the CAFO on the basis that material evidence was not considered. At that time, EPA has an opportunity to withdraw the CAFO. If EPA does not withdraw the CAFO within 15 days of receipt of a petition, a Petition Officer shall be assigned to consider and rule on the petition. The Petition Officer shall issue written findings as to, among other things, the extent to which the petition states an issue relevant and material to the issuance of the CAFO and whether resolution of the proceeding is appropriate without a hearing. *See* 40 C.F.R. § 22.45(c)(4).

If a hearing is held, EPA will provide notice of the date, time, and place of the hearing to commenters who during the public comment period submitted a written request to participate in a hearing. All commenters receiving notice of the hearing may attend and present evidence on the appropriateness of the proposed penalty assessment in accordance with the instructions set forth at 40 C.F.R. § 22.45(c)(1).