

CAA112(r) INSPECTION REPORT

Name: TOBA, Inc/Wald Family Foods, LLC (formerly TOBA, Inc/DI Manufacturing, LLC)	
Address: 1144 Bridger Court, McPherson, Kansas	Date of Inspection: January 23-25, 2024
County: McPherson	Case No: 24KS0123
Phone: (620) 242 - 1888	RMP No: 100000197459
High Risk:	FRS No: 110000446991
CAA Title V: No	Program Level: Program 3
Mailing Address: (Registered Agent) 2621 W. Hwy 30, Grand Island, NE 68803	
Process: 311412, Frozen Specialty Food Manufacturing	

SUMMARY OF OBSERVATIONS

A review of the Wald Family Foods, LLC documents and facility revealed the following deficiencies:

1. **Wald Family Foods failed to update the offsite consequence analysis at least once every five years as is required by 40 C.F.R. 68.36(a).** *(This finding was added after inspection and after reviewing documents obtained during inspection.)*
2. **Wald Family Foods failed to include a block diagram or simplified process flow diagram pertaining to the technology of the process as is required by 40 C.F.R. 68.65(c)(1)(i).**
3. **Wald Family Foods failed to document that equipment complies with recognized and generally accepted good engineering practices (RAGAGEP) as is required by 40 C.F.R. 68.65(d)(2). This includes the following RAGAGEP:**
 - a. Wald failed to install a minimum of one eyewash/safety shower unit outside of the machinery room that was located no further than 55 feet from the outside of the machinery room door as stated shall be performed by IIAR 2-2021, Chapter 6, Machine Rooms, 6.7 Eyewash/Safety Showers: Outside of Machinery Rooms, 6.7.2.
 - b. Wald failed to clearly identify the shut-off switch located outside and adjacent to the principal machinery room door as stated as shall be clearly identified in IIAR 2-2021, Chapter 6, Machine Rooms, 6.12 Emergency Control Switches, 6.12.1 Emergency Stop Switch.
 - c. Wald failed to post signage or schematic drawings at the location that is readily accessible to trained refrigeration staff and trained emergency responders that included the information described in IIAR 2-2021, Chapter 5, General System Design Requirements, 5.14, Signage, Labels and Pipe Markings, 5.14.1 System Signage, 5.14.1.1 - 1-5.

- d. Wald failed to post an NFPA 704 placard for the Health, Flammability, and Instability ratings for Anhydrous Ammonia at the restricted entrance (door labeled E7) to the machinery/engine room that has been identified as likely to be accessed by emergency response personnel, as is described in IIAR 2-2021, Chapter 5, General System Design Requirements, 5.14, Signage, Labels and Pipe Markings, 5.14.2 NFPA 704 Placards.
 - e. Wald failed to ensure that the emergency exhaust ventilation design is vented vertically upward from the machinery/engine room as is described in IIAR 2-2021, Chapter 6 Machine Rooms, 6.14 Ventilation: 6.14.3, Exhaust Ventilation, 6.14.3.4.
- 4. **Wald Family Foods failed to promptly address Process Hazard Analysis (PHA) findings and resolve in a timely manner and develop a written schedule for when the actions are to be completed as is required by 40 C.F.R. 68.67(e)**
 - 5. **Wald Family Foods failed to update and revalidate the PHA every five years as is required by 40 C.F.R. 68.67(f).**
 - 6. **Wald Family Foods failed to develop and implement operating procedure steps for emergency operations as is required by 40 C.F.R. 68.69(a)(1)(v) and for startup following a turnaround, or after an emergency shutdown as required by 40 C.F.R. 68.69(a)(1)(vii).**
 - 7. **Wald Family Foods failed to conduct and certify a compliance audit which evaluates compliance with 40 CFR Part 68 at least every three years as is required by 40 C.F.R. 68.79(a).**
 - 8. **Wald Family Foods failed to develop a report of the findings of the compliance audit as is required by 40 C.F.R. 68.79(c).**
 - 9. **Wald Family Foods failed to include the date the investigation began on incident investigation forms as is required by 40 C.F.R. 68.81(d)(2).**
 - 10. **Wald Family Foods, as a nonresponding facility, failed to ensure that the facility is included in the community emergency response plan as is required by 40 C.F.R. 68.90(b)(1) and failed to perform annual emergency response coordination activities as required by 40 CFR 68.90(b)(4) and 40 CFR 68.93.**
 - 11. **Wald Family Foods failed to provide the facility's Emergency Action Plan to the local emergency planning and response organizations as is required by 40 C.F.R. 68.93(b).**
 - 12. **Wald Family Foods failed to update the emergency response plan as required by 40 C.F.R. 68.95(a)(4).**
 - 13. **Wald Family Foods failed to submit a Risk Management Plan to EPA at least every five years as is required by 40 C.F.R. 68.190(b)(1).**

INTRODUCTION

I, Lynelle Ladd, a Compliance Inspector with the U.S. Environmental Protection Agency (EPA), Region VII, inspected Wald Family Foods, LLC (Wald) on January 23-25, 2024. The facility is in McPherson, Kansas, in the county of McPherson. The inspection was part of EPA's National Compliance and Enforcement Initiative for 2024 – 2027, focusing on Chemical Accident Risk Reduction which includes facilities manufacturing, processing, using, or storing anhydrous ammonia.

Additionally, Wald was selected for inspection because of the late filing of the Risk Management Plan on the EPA Central Data Exchange (CDX), [RMP*Info](#).

I attempted to arrange for the inspection on January 19, 2024, with Mr. Aaron Klug, via a phone call. I called (620) 242 - 1888, the number listed as the emergency contact phone number listed in the RMP submitted on November 5, 2023, in CDX. This number was answered by a company receptionist who took my information and stated Mr. Klug was in the facility but working on a maintenance issue. I left my contact information for Mr. Klug to contact me at his earliest convenience. I followed up this conversation with the receptionist with an email to Mr. Klug and Mr. Dennis Sample, listed in the November 5, 2023, RMP, as the person responsible for Part 68 (RMP) implementation. In this email (Appendix 27) I provided some information on CAA 112(r) and CERCLA non 313, as well as some details about the inspection focus.

The purpose of the inspection was to determine if the facility complies with Section 112(r) of the Clean Air Act (CAA), as amended in 1990.

An inspection covering the reporting provisions of the Emergency Planning and Community Right to Know Act ([EPCRA](#)) and the release reporting provisions of the Comprehensive Environmental Response, Compensation, and Liability Act ([CERCLA](#)) was not performed by EPA during this inspection. However, I did cover the reporting provisions of CERCLA during the inspection.

An inspection covering the Kansas Tier II reporting provisions of EPCRA Section 311 was conducted by Mr. Michael Seastrom, EPCRA Compliance/Enforcement Officer for the Kansas Department of Health and Environment (KDHE) (Appendix 26).

EPA has published a document, "Guidance for Implementation of General Duty Clause Clean Air Act Section 112(r)(1)" ([EPA 550-B00-002 dated May 2000](#)). This publication is intended solely for the guidance of government personnel but is available to the public at the EPA's website.

The finalized inspection report as well as the photos and facility diagram (Appendix 1) will be transmitted via mail or e-mail to the registered agent of record and an e-mail copy will be sent to the facility owner/ operator. A copy of this inspection report, documents obtained, photographs taken during the inspection, checklists and completed forms will be maintained in the EPA facility file.

HISTORY OF BUSINESS

Wald is a specialty frozen food manufacturing facility that produces gluten-free frozen pizzas. The company operates under a primary North American Industry Classification System (NAICS) 311412, Specialty Frozen Food Manufacturing. Wald is owned or operated by TOBA, Inc. located at 2621 W. Highway 30, Grand Island, Nebraska. Wald employees 140-150 employees most of which are fulltime although the company employs some temporary employees hired through a local temp agency. The bakery part of the plant operates 5 days per week, with three, 8-hour shifts each day. The toppings area operates two, 10-hour shifts four days per week.

Cleaning and maintenance occur in a 4-hour shift when other operations are shutdown. LoTemp, an industrial refrigeration company, located at 8707 North 29th Street, Omaha, Nebraska, is the main contractor used by Wald for consulting, compliance monitoring, and response to major maintenance service.

The building was built in 1998 and previously housed Nation Pizza Products, which purchased the plant in 2002 and had operations until April or May of 2014. At that time, Nation Pizza closed the facility, removed all anhydrous ammonia from the refrigeration system and filled it with nitrogen gas. In August of 2017, TOBA, Inc. purchased the building and began doing business in the building as DI Manufacturing on May 4, 2018. During the time between August 2017 and May 4, 2018, TOBA, Inc. was preparing the facility for their food processing operations. TOBA, Inc. updated the facility name to Wald Family Foods, Inc. prior to the November 5, 2023, RMP submittal.

Based on the 2022 U.S. Census there are 13,865 residents in McPherson, which is in McPherson County in Kansas.

Maximum Intended Inventory	Amount of Anhydrous Ammonia in Pounds
Quantity On-site at Time of Inspection	18,395
Quantity Listed in RMP	18,395
Maximum Daily Quantity per Tier II Forms	
--2021	Not submitted
--2022	Not submitted
--2023	18,395

OPENING CONFERENCE

I arrived at the Wald facility at 8:15 AM and parked in the visitor parking in front of their main office entrance. I entered the office and signed into the visitor's log. Mr. Michael Seastrom, EPCRA Compliance/Enforcement Officer with the Kansas Department of Health and Environment (KDHE) also arrived to conduct an inspection for Kansas EPCRA Section 311 and 312 Tier II reporting, as well as to observe the EPA RMP inspection.

Brief introductions were made, and we were escorted through a secured door to a conference room. I set up my scanner, computer, and notebook to initiate the opening conference with the necessary EPA Inspection Forms to be completed during the inspection. Introductions were made and I passed around the Opening Meeting sign-in sheet (Appendix 3) for signatures of attendees for the opening conference. I commenced the Opening Conference at 8:24 AM and explained the reason for the inspection and what would be covered during the inspection. Mr. Eric Pro, Director of Maintenance and Reliability arrived after the Field Tour and completed the sign-in sheet at that time.

PERSONS INTERVIEWED AND INDIVIDUAL RESPONSIBILITIES

Dennis Sample	General Manager
Michael Woosley	LoTemp
Matt Wilson	Plant Maintenance Manager
Jason Barker	Director of Safety and Loss Prevention
Aaron Klug	Maintenance Lead
Eric Pro	Director of Maintenance and Reliability

I provided Mr. Dennis Sample, General Manager, a copy of the United States EPA CBI Notice of Questions and Answers and explained their right to claim Confidential Business Information. I showed them the United States Environmental Protection Agency Proprietary and Confidential Business Information Form and explained that I would be scanning documents and taking digital images of the covered process and safety equipment. I explained that any document or photo I take during the inspection that they deem as CBI will be noted at the end of the inspection on the CBI form, of which they would receive a copy.

I explained that for any documents scanned or images taken that are not CBI, I would document those on a receipt for those documents. I showed the EPA Receipt for Samples and Documents form that I would complete.

I explained that at the end of the inspection there would be a closing conference and at that time I would provide them with the preliminary findings from the inspection. I explained that these findings are preliminary and additional findings may be added to the inspection report or the preliminary findings may be changed after I have had more opportunity to perform an additional review of the documents taken during the inspection.

I explained the United States Code Title 18, Section 1001 and 1002 concerning the criminality of falsifying statements and/or records and provided them with a copy of those sections of US code.

I asked about how they had notified employees of the inspection or if they had posted the email information I had sent and was told that the email was posted in the main office entrance to the building. I stated that I would take a photo of it prior to taking the field tour of the facility.

I and Mr. Sample, General Manager, signed the Notice of Inspection Form (Appendix 2) and Mr. Sample received a yellow copy of the signed form.

FIELD TOUR

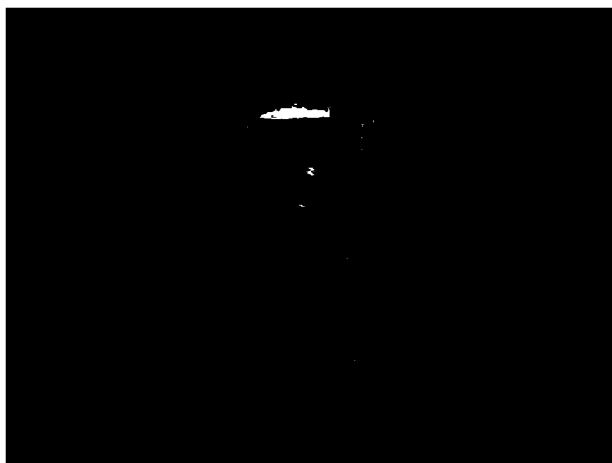
Prior to starting the tour of the facility and covered processes, I was provided with the Wald's Visitor and Contractors GMP Policy (Appendix 5). Also, I requested to have a copy of a facility map or diagram of the processes. Prior to the inspection, Mr. Aaron Klug provided me, via email (Appendix 27), with the Wald's facility P&ID (Appendix 6). The facility provided me with a black and white full facility drawing and with four colored maps of specific areas of the plant, which are included with the photolog (Appendix 1). I asked if the facility had a map of the machinery/engine room that identified the equipment in the covered process and was told that there was no specific map that the facility had available for the machinery/engine room, and it is noted that the maps I was provided also did not identify the machinery/engine rooms or include information about the covered processes in those rooms. As a result, I made rough hand-drawings of the machinery/engine rooms while on the tour that is included in the notes taken during the inspection (Appendix 4). For more clarity, I recreated the hand drawn maps, and it is part of the photo log (Appendix 1). I have also added the P&ID drawing labeled R-301 from the P&ID document provided pre-inspection to the photo log (Appendix 1).

The drawings made by the inspector are not to scale and do not replace the facility P&ID drawing. The drawings were made solely to document where photos were taken during the tour.

I started the tour at approximately 10:30 AM CST. The camera used to take the photos was set to Eastern Standard Time, so the digital image record shows that the photos were taken starting at 11:30 AM EST. This time discrepancy is noted in the photolog (Appendix 1).

I saw the Notice of Inspection email that I had sent to the company which they had posted in the main entrance to the office and took digital images (P1230001.JPG and P1230002.JPG). From there we went into the plant, washed hands, donned lab coats, hardhats, hairnets, hearing protection and gloves. We started the tour in the East Sanitation room (see map labeled "East End" in Appendix 1). This is one of the locations where the facility keeps small quantities of cleaning chemicals. I observed and took photos of an eyewash/safety shower in this room (P1230003.JPG – P1230017.JPG). I observed and took photos of several barrels of different chemicals located behind secure fencing (P1230018.JPG – P1230024.JPG).

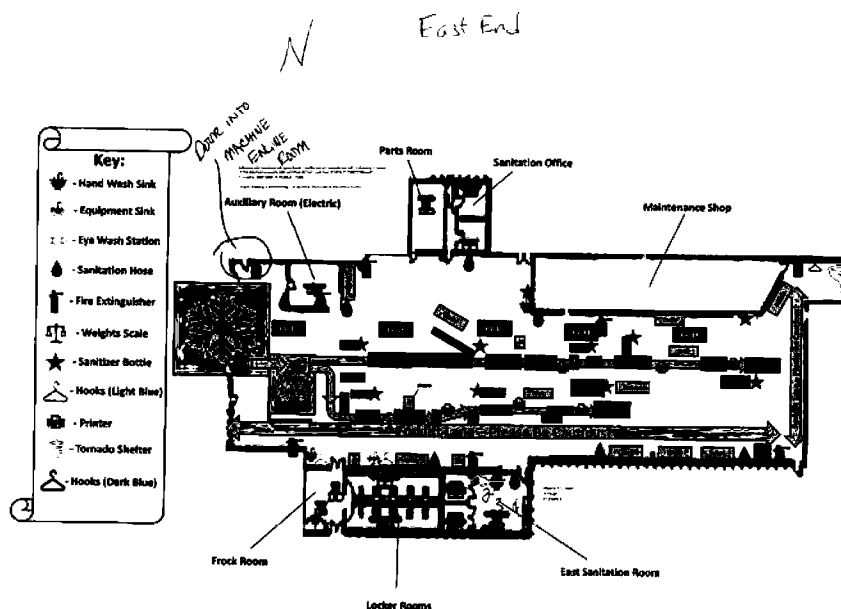
Next, we went to the machinery/engine rooms where the anhydrous ammonia compressors and other refrigeration equipment is housed. Before entering I observed signage on the door separating the machinery/engine room from the rest of plant. I observed that the door was secure. I observed a sign stating that only authorized personnel were allowed to enter. Mr. Wilson stated that only specific employees had the key fobs that allowed entry (P1230025.JPG - P1230027.JPG). I observed a red box on the wall that was unlabeled/unidentified as to its purpose and was told that this was the emergency shutdown device (P1230028.JPG - P1230029.JPG).



P1230028.JPG

I also observed an Emergency Action Map on the wall above the emergency shutdown switch, that was legible, but the colors were fading (P1230030.JPG - P1230031.JPG).

Before entering the main machinery/engine room, I was looking for an eyewash/safety shower outside of the machinery/engine room and did not see one in the area. I referred to the facility's color map of the area that also identifies safety systems including fire extinguishers and eyewash stations and observed that one was not identified on the map in the vicinity of the machinery/engine room door (see map labeled "East End" in Appendix 1). This is discussed below in the **PROCESS SAFETY INFORMATION (PSI)** section of this inspection report.



We then entered the main machinery/engine room. Upon entry I noticed the refrigeration system purger labeled PR-1 and documented with photos the ice accumulation on the unit

(P1230032.JPG - P1230036.JPG). I observed and documented by photo equipment and pipe labeling (P1230037.JPG - P1230043.JPG). I asked if Wald had an ice management policy and was told by Mr. Klug that they did not.

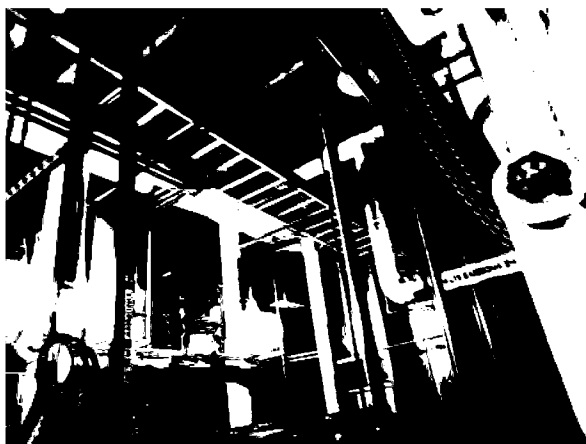
I noticed a door on the opposite side of the room, labeled as E7, and asked where it led. I was told that it was an exit to outdoors, but that they were going to replace this door soon, so I took photo documentation of this door (P1230044.JPG - P1230056.JPG) and its location in proximity to Compressor #7 (P1230057.JPG - P1230070.JPG).

I observed that the seven compressors in the main machinery/engine room all had legible manufacturer data plates and took images on Compressor #7 data plate as an example (P1230071.JPG - P1230077.JPG)

I observed and took photos of an eyewash/safety shower inside the machinery/engine room (P1230078.JPG - P1230079.JPG) that is located adjacent to the exit door E7, against the north wall and behind Compressor #6.

I continued to look at the ammonia refrigeration equipment in the room and took images of the compressors (P1230080.JPG - P1230082.JPG). I observed a significantly frosted oil pot with a bucket containing a small quantity of oil under the pipe controlled by the Deadman's switch (P1230083.JPG - P1230085.JPG). I observed oil in buckets below the oil pot drain line. I observed another refrigeration unit located behind the transfer drum that had ice/frost accumulation.

I observed that the seasonal ventilation fan was turned on and vented horizontally to the ambient air (P1230090.JPG). I also observed that the emergency ventilation in the machinery/engine room vents through horizontal exhaust fans to ambient air and took a digital photo of the ventilation (P1230091.JPG). The P&ID drawing labeled R-301 confirms that these are exhaust fans not air intake. These emergency vents discharge horizontally in the area where emergency responders would gather on the northside of the building to enter the machinery/engine room through door E7 during an emergency.



P1230091.JPG

I continued to look at equipment in the machinery/engine room and observed the audible ammonia alarm for the system (P1230093.JPG – P1230094.JPG).

I noticed an open door in the far northeast corner of the room and asked where it led and was told that additional compressors were in a smaller machinery room/engine room through the door.

We next went into the small machinery room that houses Compressors #1 and #2 (P1230095.JPG – P1230100.JPG).

I noticed a chain-operated wheel valve above Compressor #2 (P1230100.JPG) and asked if that was the King valve. I was told that the manual King Valve was on the roof and that the on/off key switch to the King Valve solenoid was on the control panel.

We then went back into the main machinery/engine room and looked at the control panel and the on/off key switch for the King Valve, exhaust fan lights, season fan light, and the low-level and high-level alarm lights. This control panel is located on the plant-side wall of the facility (P1230101.JPG). I was told that this control panel and the system has been approved to be updated. The update is a \$450,000 project and being performed because the current control system, a Frick 2006 system, has become obsolete.

I asked about their pressure relief valves (PRVs) and was told they had changed them all out in August 2023 and all were manufactured in April of 2023. I took digital images of the manufacturer data plate on Compressor #7 and verified that all compressors had new PRVs (P1230102.JPG - P1230104.JPG).

I observed and took a digital image of another oil pot that is located under the High Suction Accumulator that was iced over (P1230105.JPG - P1230106.JPG).

I took an additional picture of the high-pressure receiver anhydrous ammonia loading pipe (P1230107.JPG) also visible in images of the purger unit (PR-1)

We then went outside through door E7, and I observed that the door and area around the door on the outside of the building lacked required warning signage and other information about what was inside and also lacked labeling for the emergency switches located adjacent to the door. I was told that E7 was a way for the emergency responders to enter the machinery/engine room. There were no audible alarm or lights on the outside of E7. I took a digital photo of the stairs that lead up to the roof and observed that they were secured behind a locked fence (P1230108.JPG).

Most of the photos I had taken on the outside of E7 did not save to the camera. I noted this upon uploading the photos from the camera to my laptop and scanning through them quickly. I stated that I would need to go back out and get photos of the outside view of door E7 and that I also would like to get images of the King Valve that is located on the roof.

Due to weather conditions the previous week and at the time of the inspection, I was told that there was ice and snow on the roof making it a hazardous area. Mr. Klug volunteered to take photos of the King Valve on the roof and of the outside of door E7. I agreed that would be acceptable. Photolog digital image numbers 117 through 121 were emailed to me from Mr. Klug and do not contain file names or digital date and time stamps. The emails containing these images will be maintained as part of the official EPA file for the facility (Appendix 27).



Image 121 (taken by facility personnel)

We next went to the west end of the plant where some freezers were located. I observed EV-4, West Freezer Evaporator, was heavily iced and in need of a defrost (P1230109.JPG - P1230113.JPG) and observed EV-3 West Freezer Evaporator that was in good operational condition (P1230114.JPG).

This concluded the tour. As we headed back to the conference room, we passed an employee informational board, and I obtained digital images of Wald's 2023 U.S. Occupational and Health Administration's (OSHA) 300A Injury and Illness Summary Log (P1230115.JPG - P1230116.JPG).

GENERAL APPLICABILITY OVERVIEW

Prior to the inspection, I reviewed the Risk Management Program that was on RMP*Info in EPA's CDX. I noted that the facility was listed as Program 3 eligible, so I reviewed the eligibility requirements of Program 1 and Program 2 with the facility to verify programmatic applicability.

When asked if the facility had experienced any accidents or releases that should be reported in the five-year accident history, Messrs. Jason Barker, Matt Wilson, Aaron Klug, and Dennis Sample all answered that the site had not experienced a release or accident related to the RMP covered processes. Mr. Wilson stated that there had been OSHA-related accidents but none involving release of anhydrous ammonia. We discussed the difference between rural and urban when assessing distance to endpoint. Currently the facility uses rural to calculate the distance to endpoint.

Although the site has had no accidents, the distance to end point for the worst-case release assessment is not less than the distance to any public receptor, so the facility does not qualify for Program 1. Additionally, the facility is subject to the OSHA Process Safety Management (PSM) program, so therefore are Program 3 eligible.

GENERAL MANAGEMENT SYSTEM

I asked how the facility assigns responsibility and oversight for their Risk Management Program and was provided with the Wald written management system document (Appendix 7). The document details the program development, implementation and assigns responsibility to qualified persons and/or positions as required by 40 CFR 68.15.

HAZARD ASSESSMENT

Prior to the inspection I reviewed the May 4, 2018, and November 5, 2023, RMPs that Wald had submitted to EPA CDX. During the inspection, I asked to review the documents that the facility maintains as the basis for determining the most recent RMP submittal with analysis of the offsite worst-case and alternative case scenarios for the release of anhydrous ammonia from the covered process. I was provided the analysis from May 4, 2018 (Appendix 8). Mr. Sample stated that he is the certifier and that the company LoTemp is the preparer of the RMP that was submitted on November 5, 2023.

Mr. Michael Woosley, LoTemp, stated that he had reviewed the May 4, 2018, analysis (Appendix 8) while preparing the November 5, 2023, and stated that because nothing in the process had changed, he had only updated the population offsite impacts. The 2023 population impacts provided to me were attached to the end of the May 4, 2018 analysis (Appendix 8) and are based on 2020 census data obtained through the [Missouri Census Data Center](#) for the same distance to endpoint and quantity released in May 4, 2018 analysis (Appendix 8).

I compared the two most recent RMPs that I had downloaded from CDX and the offsite consequence analysis for toxics worst case scenario dated May 4, 2018 (Appendix 8) which was used to support the November 5, 2023, RMP submittal. I noted that the quantity in pounds released in 2018's RMP submittal was 17,849 pounds (Appendix 9) which differed by 546 pounds less than the quantity reported in the 2023 RMP submittal, which was 18,395 pounds (Appendix 10). Numerous Wald documents obtained during inspection record the maximum intended inventory on-site in the covered process as 18,395 pounds and is no longer 17,849 pounds.

This difference in the quantity of anhydrous ammonia in the covered process increases the distance to endpoint for the worst-case scenario which was not accounted for in the 2023 RMP submittal because the 2018 analysis and quantity release rate in pounds per minute was used to determine distance to endpoint.

I discussed my concerns during the inspection about the difference to end point for worst-case scenario that I had identified prior to the inspection when I used [RMP*Comp](#) to determine the distance to endpoint using 18,395 pounds.

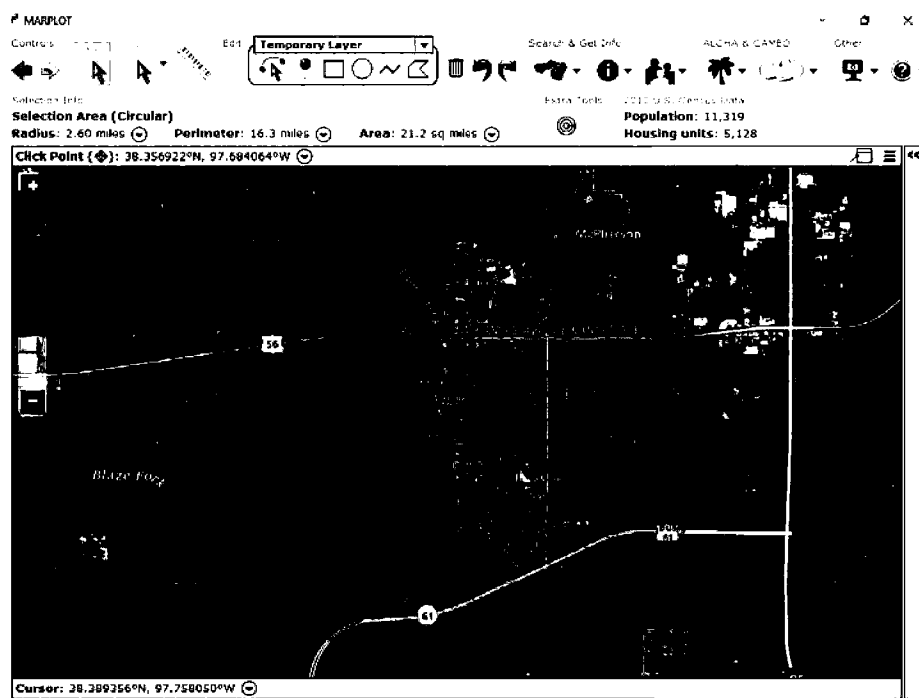
The release rate for 18,395 pounds, according to RMP*Comp would be 1,840 pounds per minute, not 1,785 pounds per minute, as is reported in Wald's November 5, 2023, RMP (Appendix 10).

When using the quantity reported in the 2023 RMP renewal of 18,395 pounds, the result is a slightly larger radius to endpoint of 2.6-miles. The quantity reported in 2018 RMP, 17,849 pounds, results in a 2.47-mile radius.

As required by 40 C.F.R. 68.25(a)(2)(i), the owner or operator shall analyze and report in the RMP one worst-case release scenario that is estimated to create the greatest distance in any direction to an endpoint provided in appendix A of this part resulting from an accidental release of regulated toxic substances from covered processes under worst-case conditions.

A larger distance to endpoint would also result in a change in the population impacted by a worst-case scenario.

Using RMP*Comp and MARPLOT, I obtained the following circular area for worst case scenario when the anhydrous ammonia release quantity is 18,395 pounds:



Using Missouri Census Data Center, I obtained a population of 12,063 persons within the 2.6-mile radius which differs by a population of 1,442 persons greater than the population of persons impacted by the calculation made by LoTemp.

As required by 40 C.F.R. 68.30(a), the owner or operator shall estimate in the RMP the population within a circle with its center at the point of the release and a radius determined by the distance to the endpoint defined in 40 C.F.R. 68.22(a).

I explained during the inspection the importance for performing a full analysis every five years and not relying on previous RMP analysis when submitting the five-year RMP renewals. Additionally, I discussed how models for determining worst-case and alternative case can change in ways that would change the distance to endpoint radius results. The difference in quantity of anhydrous ammonia reported in the 2018 RMP versus the 2023 RMP would have triggered a full analysis of the offsite consequences.

At the end of the inspection, I did not include these findings in the Preliminary Findings document (Appendix 1), however following the inspection, and after reviewing the documents and information obtained prior to and during inspection, I have added the following deficiency:

- 1. Wald Family Foods failed to update the offsite consequence analysis at least once every five years as is required by 40 C.F.R. 68.36(a).**

Although several regulatory citations could be added as deficiencies in this section of the report, the overarching error made by LoTemp and Wald was the failure to update the offsite consequence analysis for the 2023 RMP renewal and the reliance on the 2018 analysis for the November 5, 2023, renewal.

It is critical to correctly calculate and report worst-case and alternate case offsite consequences in the RMP to ensure local, state, and federal response agencies can adequately plan for an emergency response to protect the surrounding community and environment if a release occurs.

PROCESS SAFETY INFORMATION (PSI)

Prior to the inspection, I had stated in the inspection announcement email (Appendix 27) that I would review the PSI for the covered process. During the inspection I requested to see the process safety information and was provided with the written program containing 14 sections that covered SDS, Block Flow Diagram, Process Chemistry, Maximum Inventory Levels, Safe Upper and Lower Limits, Consequences of Deviation, Materials of Construction, Piping and Instrumentation Diagrams (P&ID), Electrical Classifications, Pressure Safety Relief Design and Basis, Ventilation System Design, Material and Energy Balances, Safety Systems/Devices, and Design Codes, Standards, and Good Engineering Practices (Appendix 11).

Prior to the inspection, in my inspection announcement, I asked to receive a site flowchart or diagram of the process by Monday, January 22, 2023. On January 19, 2024, Mr. Aaron Klug emailed the current P&ID (Appendix 6) for the facility. As discussed in the **Field Tour** section above, I again asked if they had a simplified flowchart or diagram of the process that could be reviewed, or a map of the mechanical/engine room and I was told by Mr. Klug and Mr. Wilson that they did not have one.

While reviewing the contents of the PSI program, I noted that some sections were referenced to be found in other program records, such as Safe Upper and Lower Limit information and the Consequences of Process Deviation would be found in the written standard operating procedures (SOPs) program, or some records would be maintained in the PSM/RMP Coordinators office. As a result of these references, I was able to cross-reference most of the information between the PSI program and other Program 3 required records being maintained.

However, Section 2 of the PSI program deals with the Block Flow Diagram and states that it is in the PSM/RMP Coordinator's Office. I asked Messrs. Sample and Klug if there was a block diagram or simplified process flow diagram being maintained in one of their offices and was told that they were unable to find the block diagram prior to the inspection.

For this reason, I identified the following deficiency:

- 2. Wald Family Foods failed to include a block diagram or simplified process flow diagram pertaining to the technology of the process as is required by 40 C.F.R. 68.65(c)(1)(i).**

During the inspection, I reviewed the documentation provided in Section 14 of the written PSI program regarding the design codes and standards being employed in the covered process equipment and areas. Within that document was an updated list of codes and standards which included IIAR 2-2021, Standard for Design of Safe Closed-Circuit Ammonia Refrigeration Systems; IIAR 2-2-2008 with Addendum B, Equipment, Design, and Installation of Closed-Circuit Ammonia Mechanical Refrigeration Systems; and IIAR 6-2019, Inspection, Testing and Maintenance of Closed-Circuit Ammonia Refrigeration Systems.

During the inspection I used a checklist of questions I had prepared prior to the inspection to review IIAR 2-2021 (Appendix 4) with the facility and determine RAGAGEP compliance if the facility was following the newest IIAR standards.

As discussed in the **FIELD TOUR** section of this report and in the image descriptions in the Photo Log (Appendix 1) for the digital images taken during the field tour, several deficiencies with Recognized and Generally Accepted Good Engineering Practices were observed and documented.

As described in the **FIELD TOUR** section of this report, I observed a shower inside the machinery/engine room, but no eyewash/safety shower was located outside of the machinery/engine room within 55 feet of the machinery room door as is described in IIAR 2-2021, 6.7.2. as shall be installed. After the field tour while covering the questions in the IIAR 2-2021 checklist, I stated that I had not observed an eyewash/safety shower in the vicinity outside of the machinery/engine room. Mr. Wilson stated that there was not one. Mr. Woosley asked what part of IIAR 2-2021 required an eyewash/safety shower outside of the machinery/emergency shower room.

I read the IIAR 2-2021, Chapter 6, 6.7.2 that states that a minimum of one eyewash/ safety shower unit shall be located outside the machinery room and shall be no further than 55 feet from the outside of the machinery room door. Mr. Wilson stated that they had discussed installing another eyewash/safety shower in the facility nearby but were unaware of this requirement, especially the distance requirement.

As described in the **FIELD TOUR** section of this report, I observed the emergency shut-off switch located adjacent to the primary door on the plant side of the machinery/engine room that was unlabeled to identify its purpose, as is required by IIAR 2-2021, Chapter 6, Machine Rooms, 6.12 Emergency Control Switches, 6.12.1 Emergency Stop Switch.

As described in the **FIELD TOUR** section of this report, I observed that the emergency ventilation in the machinery/engine room vents through horizontal exhaust fans to ambient air. These emergency vents would discharge in the area where emergency responders would be gathered to enter the engine/machine room from the northside of the facility. IIAR 2-2021, Chapter 6 Machine Rooms, 6.14 Ventilation: 6.14.3, Exhaust Ventilation, 6.14.3.4 states that machinery room emergency exhaust shall discharge vertically upward with a minimum discharge velocity of 2,500 ft/min (762 m/min) at the required emergency ventilation flow rate.

As described in the **FIELD TOUR** section of this report, I observed that the door labeled E7 is also an emergency entrance door that has an emergency shut-off switch located outdoors and adjacent to the E7 door. I noted that there was no signage on the door or in the area near the door that contained the information listed in IIAR 2-2021, Chapter 5, General System Design Requirements, 5.14, Signage, Labels and Pipe Markings, 5.14.1 System Signage, 5.14.1.1 - 1-5, that includes:

1. Instructions with details and steps for shutting down the system in an emergency.
2. The contact information for whom to contact in an emergency.
3. Maximum intended inventory of ammonia in the process.
4. Type of refrigerant compressor oils.
5. Lowside and highside design pressures.

As shown in the photos taken by Mr. Klug and emailed to me (photolog digital image numbers 120 and 121 in Appendix 1), Wald had signs for door E7 but because the door is planned to be replaced, Messrs. Wilson and Klug stated that they did not want to affix the signs to the outside of a door that would be removed soon because the signs could not be removed and re-affixed to the new door.

I discussed the requirements of the regulations in 40 C.F.R. 68.65(d)(2) and (d)(3). The list of codes and standards in the PSI written program (Appendix 11) is documentation that the facility follows the most recent IIAR 2-2021, however, the observations I made during the inspection did not demonstrate adherence to IIAR 2-2021 standard.

For these reasons, I identified the following deficiencies:

- 3. Wald Family Foods failed to document that equipment complies with recognized and generally accepted good engineering practices (RAGAGEP) as is required by 40 C.F.R. 68.65(d)(2). This includes the following RAGAGEP:**
- a. Wald failed to install a minimum of one eyewash/safety shower unit outside of the machinery room and that was located no further than 55 feet from the outside of the machinery room door as stated shall be performed by IIAR 2-2021, Chapter 6, Machine Rooms, 6.7 Eyewash/Safety Showers: Outside of Machinery Rooms, 6.7.2.
 - b. Wald failed to clearly identify the shut-off switch located outside and adjacent to the principal machinery room door as stated as shall be clearly identified in IIAR 2-2021, Chapter 6, Machine Rooms, 6.12 Emergency Control Switches, 6.12.1 Emergency Stop Switch.
 - c. Wald failed to post signage or schematic drawings at the location that is readily accessible to trained refrigeration staff and trained emergency responders that included the information described in IIAR 2-2021, Chapter 5, General System Design Requirements, 5.14, Signage, Labels and Pipe Markings, 5.14.1 System Signage, 5.14.1.1 - 1-5.
 - d. Wald failed to post an NFPA 704 placard for the Health, Flammability, and Instability ratings for Anhydrous Ammonia at the restricted entrance (door labeled E7) to the machinery/engine room that has been identified as likely to be accessed by emergency response personnel, as is described in IIAR 2-2021, Chapter 5, General System Design Requirements, 5.14, Signage, Labels and Pipe Markings, 5.14.2 NFPA 704 Placards.
 - e. Wald failed to ensure that the emergency exhaust ventilation design is vented vertically upward from the machinery/engine room as is described in IIAR 2-2021, Chapter 6 Machine Rooms, 6.14 Ventilation: 6.14.3, Exhaust Ventilation, 6.14.3.4.

In the Preliminary Findings I also cited 40 C.F.R. 68.65(d)(3). However, this citation is not being counted as a deficiency in this inspection report. During the inspection I discussed the purpose of 40 C.F.R. 68.65(d)(3) and explained that Wald's documentation indicates that the facility is following the IIAR 2-2021 standard, but if an older standard no longer in general use is the cause for the IIAR 2-2021 standard design discrepancies observed and discussed above, then Wald is required to document how following those standards have been determined to maintain the covered process in a safe manner. No claim was made at the time of the inspection, and no documentation provided during the inspection that substantiates that Wald is employing older codes or standards no longer in general use that are the cause of the IIAR 2-2021 standard RAGAGEP deficiencies observed and noted above.

PROCESS HAZARD ANALYSIS (PHA)

I asked to see the last two most recent process hazard analyses performed and was provided the notebooks for Nation Pizzas original 2006 PHA, their 2011 revalidation and with DI Manufacturing's April 19, 2018, revalidation based on the pre-startup of the facility after being shut down for several years and then purchased by TOBA, Inc. in August 2017.

The 2011 Nation Pizza revalidation (Appendix 12) was used for the April 19, 2018, PHA revalidation (Appendix 13). Wald incorporated recommendations from the 2011 revalidation into any additional recommendations made while reviewing the 2011 PHA.

I asked why Wald had performed a revalidation of the 2011 Nation Pizza PHA rather than a full PHA. I explained that it was my understanding that a full PHA should have been performed, rather than a revalidation. I told Messrs. Sample, Wilson, Barker, Woosley, and Klug, that I would table this discussion and a decision until I could review the PHAs and look at any EPA or OSHA guidance on when a full PHA is required to be performed.

Upon returning to the office, I looked into that part of 40 C.F.R. 68.67(f) which states: **"....Updated and revalidated process hazard analyses completed to comply with 29 CFR 1910.119(e) are acceptable to meet the requirements of this paragraph."** Wald's process is subject to OSHA PSM and their PHA was developed to demonstrate compliance with the OSHA PSM PHA requirements. I found some guidance on the subject through OSHA DOL-OSHA-DEP-2020-002, <https://www.osha.gov/laws-regs/standardinterpretations/2019-09-20>.

While OSHA DOL-OSHA-DEP-2020-002 does not explicitly state that a completely new PHA must be performed after an extended shutdown, it does discuss timeliness of performing required updates and revalidation prior to introducing highly hazardous chemicals (HHCs), or in the case of 40 CFR Part 68, hazardous substances (HS), into the process after an extended plant shutdown. It further lists the other requirements the employer would need to perform aside from the PHA revalidation that include parallel requirements in 40 C.F.R. Part 68, such as a PSSR, verifying process changes through the MOC process, review and update PSI, and review and perform necessary employee training.

This OSHA standard interpretation also addresses the potential for new hazards to be introduced into the process because of an extended plant shutdown and the potential that these new hazards would not have been previously identified, evaluated, or controlled by the initial PHA. This describes the situation surrounding the 2018 PHA revalidation, as the plant had been in an extended shutdown state, storing nitrogen gas, from April or May 2014 until the facility was purchased by TOBA, Inc. in August 2017 and reintroduced anhydrous ammonia to the process.

I asked when the facility had received its first delivery of anhydrous ammonia after purchasing the facility and Mr. Klug stated that 15,001 pounds of anhydrous ammonia was delivered on May 8, 2018. The 2018 PHA revalidation is April 19, 2018. Based on this information, Wald performed the 2018 PHA revalidation before the anhydrous ammonia was reintroduced into the covered process.

While reviewing the documents I was provided for the 2018 PHA revalidation, I observed that the 2018 revalidation had numerous recommendations that were to be performed prior to startup. While the recommended tracking form has an area to record status, most recommendations had a blank status column.

There are also references in the status to a “Corrective PHA Completed 4/19/2018. See ‘Corrective PHA for 2018 Revalidation’ contained on ‘DI-2018 PHA Revalidation’ disk or in the 2018 Revalidation binder.” I was provided the Nation Pizza 2011 PHA (Appendix 12) and the documents I scanned for the 2018 PHA Revalidation (Appendix 13) but was not provided a document titled “Corrective PHA for 2018 Revalidation” so I was unable to compare the 2011 PHA to any updates made in sections of the PHA that were said to be updated in 2018.

While reviewing the documents I was provided for the 2023 PHA revalidation (Appendix 13), I observed numerous incomplete tasks that reference 2018 recommendations. I also observed numerous recommendations that hazard analysis needed to be performed for outstanding items from Nation Pizza’s 2011 PHA.

Wald revalidated Nation Pizza’s 2011 PHA when restarting the operations, however the current state of PHA revalidations is not organized in a manner that provides ease of reference between the original Nation Pizza 2011 PHA document and Wald’s recent revalidations. Furthermore, as indicated in the 2023 PHA recommendations, it is unclear when or if updated PHAs for the referenced sections of the 2011 PHA have been completed, or if they are still needing updated. There were no dates entered when these would be planned to be completed or any the status of completion.

For these reasons, I identified the following deficiencies:

- 4. Wald Family Foods failed to promptly address Process Hazard Analysis (PHA) findings and resolve in a timely manner and develop a written schedule for when the actions are to be completed as is required by 40 C.F.R. 68.67(e)**

As stated above, the 2018 PHA revalidation date is April 19, 2018. The most recent 2023 PHA revalidation was revalidated on July 14, 2023. The 2023 PHA update, and revalidation should have occurred by April 19, 2023. The duration of between the 2018 and 2023 PHA revalidations is 5 years, 2 months, and 25 days.

For this reason, I identified the following deficiency:

- 5. Wald Family Foods failed to update and revalidate the PHA every five years as is required by 40 C.F.R. 68.67(f).**

Other recommendations about the PHA can be found in the **OTHER RECOMMENDATIONS** section of this inspection report.

OPERATING PROCEDURES

I asked to review Wald’s standard operating procedures (SOPs) and was provided with the written procedure that had a cover page titled “Operating Procedures Review Summary and Certification Form” which also had Wald Family Foods and Operating Procedures in the header of this form (Appendix 14).

The form documented the last Operating Procedure Review. It was dated November 3, 2023, and signed by Mr. Klug, as the reviewer and person who updated the procedures.

The SOP itself is still in Nation Pizza's name and based on highlighted and crossed-out sections this was the original SOP developed by Nation Pizza in 2006.

While using a document that was developed by the previous owner is not prohibited by the regulations, the best practice would be to update the SOPs under either TOBA, Inc.'s or the Wald Family Food name and ensure that the SOP follows the most recent requirements for contents of SOPs. This is also discussed in the **OTHER RECOMMENDATIONS** section of this inspection report.

While reviewing the SOP, I observed that it does not address operating procedures for emergency operations. When I pointed this out, Messrs. Baker and Wilson stated that they would not operate in an emergency. I used the example of the recent extreme cold and inclement weather that we had experience within the past weeks and how that had impacted similar facilities to Wald's operations in other parts of Kansas, and how road closure could prevent staff from reaching the plant which would still be operating, potentially with no one able to get to the building. I explained that potential scenarios concerning emergency operations need to be considered. If in fact, after consideration of potential scenarios, the end result is that there would be no scenario in which the plant would be operating under an emergency situation, then it still needs documented in the SOP that the plant would be shut down and not operated in an emergency situation.

Additionally, the regulations require that the owner or operator address startup following a turnaround and startup after an emergency shutdown, neither of which was found in the SOP document.

For these reasons, I identified the following deficiencies:

- 6. Wald Family Foods failed to develop and implement operating procedure steps for emergency operations as is required by 40 C.F.R. 68.69(a)(1)(v) and for startup following a turnaround, or after an emergency shutdown as required by 40 C.F.R. 68.69(a)(1)(vii).**

TRAINING

I asked to review Wald's Employee Training program and was provided with various documents that had the topics that new hires are provided (Appendix 15). It didn't appear that the facility had detailed training program that covered 40 CFR Part 68 for its employees.

We discussed what the regulation means about "employees being involved in operating a process.

Messrs. Klug, Wilson and Woosley stated that the only employees who would meet that definition and are operating a covered process are the maintenance employees who have all been trained and certified by the Garden City Ammonia Program (GCAP). They reiterated that only trained and authorized employees can access the machinery/engine room.

I asked if employees other than maintenance employees operated refrigerated equipment in their processes out on the pizza lines and I was told that employees do not have direct contact or access with refrigeration equipment on the pizza lines. Mr. Wilson stated that line employees are made aware of the hazards of anhydrous ammonia through the hazard communication training and topics covered under the Safety and Health Program topic.

I asked if employee training is updated at least every three years and Mr. Wilson stated that that employees are tested on knowledge and provided a sample refresher test (Appendix 15). I also reviewed a couple completed employee training documents which I did not scan due to the records containing personal identifying information (PII).

It appears that Wald meets the requirements listed in 40 CFR 68.71 with regards to training.

Other recommendations can be found in the **OTHER RECOMMENDATIONS** section of this inspection report.

MECHANICAL INTEGRITY (MI)

I asked to review the facility's Mechanical integrity program and was provided with the most recent mechanical integrity inspection report that was performed by the facility maintenance staff with the assistance of LoTemp on July 10-12, 2023 (Appendix 16). I asked how often MI is reviewed at the facility and Messrs. Wilson and Woosley stated that there is an annual mechanical integrity inspection of systems. Mr. Klug stated that some mechanical integrity inspections were based on the equipment type and manufacturer's information that is from equipment manuals. Mr. Klug stated that there are also Preventative Maintenance schedules which contribute to ensuring that the equipment is serviced and tested as required for optimum operations. Mr. Klug stated that an annual PM activity occurred in throughout November and December of 2023.

The 2023 Mechanical Integrity report begins with a tracking report for corrections to Mechanical Integrity issues identified during the MI inspection. The document also contains checklists for different systems in the process.

Messrs. Wilson, Barker and Woosley explained that the MI performed in July is what has led to the decision to replace the current Frick 2006 control system for the refrigeration system because it has become hard to obtain replacement parts and the system has become obsolete.

The \$450,000 plant upgrade will replace electrical panels, controls on evaporation, pumps, and safety systems upgrades.

As discussed in the **FIELD TOUR** section of the report, I was unable to get on the roof due to icy conditions. Mr. Wilson stated that the MI report documents many of the problems that are planned to be fixed this spring and summer, including hail damage to piping insulation that I would have observed had I been able to tour the roof. Reviewing the MI inspection report there were several items that I observed during my inspection that are still in need of correction.

Additionally, the **FIELD TOUR** section of the report and photo log documents icing on several units that need maintenance attention and defrosting, including the LAT-1 Pot (P1230083.JPG - P1230085.JPG), the oil pot under the high suction accumulator (P1230105), the EV-4 evaporation (P1230109.JPG - P1230113.JPG) and the PR-1 purger (P1230032.JPG – P1230036.JPG). These are like images in the MI report.



P1230085.JPG



P1230032.JPG

I asked if Wald had an Ice Management Plan for dealing with ice/frost as seen in some of the images taken during the inspection and I was told that they do not have a written plan but will defrost equipment when they observe these conditions.

With the findings of the latest MI inspection and plans to begin making corrections to MI findings starting in the spring, it appears that Wald meets the requirements listed in 40 CFR 68.73 with regards to Mechanical Integrity.

MANAGEMENT OF CHANGE (MOC)

I asked to review Wald's Management of Change (MOC) procedures and how they document changes made in the covered process and was provided with DI Manufacturing's Management of Change dated April 30, 2018 (Appendix 17).

I asked to review an example record of Management of Change and was provided with the record of the three MOC examples: one was the MOC for the initial restart of the plant in 2018, and the other two were more recent MOCs, one for the replace-in-kind for an automatic three-way valve and the other was the MOC for the replacement all of the pressure relief valves on the compressors in the machinery/engine room (Appendix 17).

It appears that Wald meets the requirements listed in 40 CFR 68.75 with regards to Management of Change.

PRE-STARTUP SAFETY REVIEW (PSSR)

I asked to review Wald's PSSR procedures and was provided with DI Manufacturing's Pre-Startup Safety Review program dated April 30, 2018 (Appendix 18). I also asked if I could review an example completed PSSR document and was provided with the PSSR documentation for the plant restart in May 2018 after the equipment was on extended shutdown and included a record of employee training for the management of change (MOC) and summary of changes.

I asked if they had an example of a more recent PSSR event and Mr. Klug, who has been employed with Wald since TOBA, Inc. purchased the facility stated that they have not had any shutdowns of any kind, including preventative maintenance shutdowns since they restarted the facility in May 2018. Mr. Klug was also employed by Nation Pizza before the 2014 closure.

Based on the information available, Wald's PSSR program appeared to comply with 40 C.F.R. 68.77.

COMPLIANCE AUDITS

The last document I asked to review were the compliance audits. I asked to see the last two compliance audits performed by Wald and was provided with a compliance audit dated May 9, 2018, and one dated August 30, 2023. (Appendix 19)

I asked if one had been performed in 2021 and was told that they had not performed one in 2021, and as I reviewed the July 14, 2023, PHA revalidation I observed on Page 1 of 5 at the bottom that it had been identified that a compliance audit had not been performed when it would have been due.

- 7. Wald Family Foods failed to conduct and certify a compliance audit which evaluates compliance with 40 CFR Part 68 at least every three years as is required by 40 C.F.R. 68.79(a).**

I reviewed the 2023 compliance audit and observed that although a report was developed, it did not address compliance with any aspects of 40 C.F.R. Part 68 programs. Unlike the language of 40 CFR Part 68.67(f) that deems PHAs which have been developed to comply with OSHA's PSM regulation as acceptable to meet the Part 68 PHA requirements, 40 C.F.R. 68.79 has no provisions that a compliance audit developed to evaluate compliance with OSHA's PSM requirements is an acceptable replacement for a compliance audit required to be performed under 40 C.F.R. 68.79.

For this reason, I have identified the following deficiency:

- 8. Wald Family Foods failed to develop a report of the findings of the compliance audit for Part 68 compliance evaluation, as is required by 40 C.F.R. 68.79(c).**

In the Preliminary Findings, I cited 40 C.F.R. 68.79(d). After review of the 2023 Compliance Audit and its lack of 40 C.F.R Part 68 compliance evaluation, I am changing the 40 C.F.R. 68.79(d) finding to a recommendation. I had noted that no tracking of corrections was being recorded on the document and had cited 40 C.F.R. 68.79(d) due to that observation. However, the 2023 Compliance Audit completed on August 30, 2023, is designed to meet OSHA's requirements, not 40 C.F.R. Part 68, therefore this citation is not applicable to this compliance audit.

If Wald develops a Part 68 Compliance Audit using the same format as is used for the PSM Compliance Audit, Wald should ensure that recommendations and deficiencies are tracked and recorded in a timely manner.

INCIDENT INVESTIGATION

I asked to review Wald's Incident Investigation procedures. I was provided with DI Manufacturing's Incident Investigation Procedure document dated April 30, 2018 (Appendix 20).

I asked to review a few recent incident investigations, including any investigations related to near misses. Mr. Wilson stated that they had not had any covered process-related incidents or anhydrous ammonia releases and asked if I would want to see incident investigations related to other accidents. I reviewed some of the companies more recent incident investigations that were unrelated to the covered processes and were employee injury reports. I did not take a copy of these incident investigations because they contained PII of Wald employees.

I asked how they document the date the investigation began, and Mr. Wilson stated that they are required to investigate all incidents based on the type and OSHA's requirements. He stated that for a fatality they'd be required to initiate investigation within 8 hours and other investigations within 48 hours. He stated that all incident investigations are completed within the required timeframe.

I observed on Page 3 of the Incident Investigation Procedure that *"DI Manufacturing would select members of the Incident Investigation Team no later than 48 hours following the incident."* However, the policy does not state that the investigation must be started within 48 hours of the incident or less if required by OSHA.

In the attachments of the Incident Investigation Procedure are example forms to be completed following an incident or accident. I observed that the Incident Investigation Procedure, Attachment A, Incident Summary (Form II-1): Incident Investigation – Ammonia Refrigeration Incident Summary, has a field to enter the Date of the Incident but there is no field or place on the document for the Date Investigation Began. The purpose of recording both the date of the incident and the date the investigation began is to demonstrate that the investigation was initiated within 48 hours following the incident.

For this reason, I identified the following deficiency.

- 10. Wald Family Foods failed to include the date the investigation began on incident investigation forms as is required by 40 C.F.R. 68.81(d)(2).**

EMPLOYEE PARTICIPATION

I asked if Wald had developed and implemented a written plan to include employee participation in the various aspects of the risk management program. I was provided with DI Manufacturing's Employee Participation document dated April 30, 2018 (Appendix 21).

Messrs. Wilson and Barker stated that Wald has a safety committee that includes shift employees, associates and management. The employees have access to a newsletter on the company website that promotes employee anhydrous ammonia safety and operational awareness. Employees are also asked to participate in PHA review and revalidation. Wald ensures employees also participate in incident investigations as appropriate to their knowledge and experience.

Based on the information available, Wald's Employee Participation program appeared to comply with 40 C.F.R. 68.83.

HOT WORK PERMIT

Prior to the inspection I stated that I would review the Hot Work Permit procedures that the facility follows. During the inspection I was provided with written Hot Work Program, from Section 14 of DI Manufacturing's Process Safety Management Programs dated April 30, 2018 (Appendix 22).

As stated previously, the best practices are to ensure that written programs are in the current owner or operator's name.

The hot work permit program appeared to comply with the requirements of 40 CFR 68.85.

CONTRACTORS

I asked how Wald evaluates contractors used on-site for work performed on the covered process and they provided me with a copy of their Contractor Qualifications from Section 10 of DI Manufacturing's Process Safety Management Programs dated April 30, 2018 (Appendix 23). The program has a checklist that is completed for any contractor that will be used. Currently, most work is provided by LoTemp and a copy of their checklist, certificate of liability insurance and welder performance qualifications that they provided to Wald was provided (Appendix 23). After the contractor has been selected Wald provides the contractor with the known potential fire, explosion and toxic release hazards related to the process or the contractor's work; the contractor is provided with the emergency action plan and is advised on the safe work practices related to entrance, presence and exit of contract employees in covered process areas. The covered process areas are restricted access and contractors must be accompanied by an approved employee with access to gain entry to the plant and particularly the engine/machine room and to the roof.

It appears that Wald meets the requirements listed in 40 CFR 68.87 with regards to contractors.

Other recommendations can be found in the **OTHER RECOMMENDATIONS** section of this inspection report.

EMERGENCY RESPONSE PLAN

I asked to review Wald's Emergency Response Plan and was provided with a copy of DI Manufacturing's Emergency Action and Response Plan dated April 20, 2018 (Appendix 24).

I asked the facility if they are a responding or nonresponding facility, and Mr. Wilson stated that they are a nonresponding facility.

I asked if they have coordinated with local emergency response authorities such as the fire department or the local emergency planning commission. Messrs. Wilson and Sample stated that they had not done so. I explained that they are required to perform annual response coordination activities with the local emergency responders and that all coordination activities or attempts to coordinate should be documented with the date of coordination activity, the names of the parties involved and the nature/description of the coordination activity.

I asked if the Wald facility was included in the community emergency response plan. Messrs. Wilson and Sample stated that they did not know if they were or not.

For these reasons, I identified the following deficiencies:

- 10. Wald Family Foods, as a nonresponding facility, failed to ensure that the facility is included in the community emergency response plan as is required by 40 C.F.R. 68.90(b)(1) and failed to perform annual emergency response coordination activities as required by 40 CFR 68.90(b)(4) and 40 CFR 68.93.**

I asked if Wald had provided a copy of their Emergency Response and Action Plan to the local emergency planning committee (LEPC) and whether the LEPC had their emergency contact information. Messrs. Wilson and Sample stated that they had not and didn't know if it had been provided previously by past plant managers or plant maintenance managers.

On January 30, 2024, I emailed Julie McClure, Director of the McPherson County Emergency Management and Communications (Appendix 25) to determine if they had received information in the past from the Wald Family Foods facility concerning emergency response, or any requests from the facility for coordination activities. Ms. McClure responded that they had invited Wald to participate in the past with emergency planning that was hosted by a neighboring facility but that the facility had not provided the LEPC with a copy of their emergency action plan. Ms. McClure also asked about their Tier II reporting and if there were chemicals on-site that should be part of the Tier II documentation. I provided Ms. McClure the maximum intended inventory quantity of anhydrous ammonia maintained on-site and connected her with Mr. Seastrom, KDHE, for more information about the Tier IIs.

For this reason, I identified the following deficiency:

- 11. Wald Family Foods failed to provide the facility's Emergency Action Plan to the local emergency planning and response organizations as is required by 40 C.F.R. 68.93(b).**

After the inspection, while reviewing my documents and my inspection notes, I observed in DI Manufacturing's Emergency Action and Response Plan (Appendix 24) that page 32 of the document references the previous plant manager as well as has blank information for phone numbers and other information, throughout the document, making the document appear to still be in draft form. I did not include this finding in the Preliminary Findings.

For these reasons, I have identified the following deficiency:

- 12. Wald Family Foods failed to update the emergency response plan as required by 40 C.F.R. 68.95(a)(4).**

RISK MANAGEMENT PLAN

In preparation for this inspection, I reviewed Wald's most recent two risk management plans that had been submitted to the EPA. As described above in the **INTRODUCTION** section of this report, I reached out to the Messrs. Klug and Sample who are listed in the 2023 RMP (Appendix 10) as the Emergency Contact and the person responsible for RMP implementation, respectively.

It was noted prior to the inspection that the most recent RMP was submitted on November 5, 2023, and the previous RMP was submitted on May 4, 2018. The duration between these two RMP submittals is 5 years and 6 months.

For this reason, I identified the following deficiency:

- 13. Wald Family Foods failed to submit a Risk Management Plan to EPA at least every five years as is required by 40 C.F.R. 68.190(b)(1).**

Starting in December 2023, the US EPA CDX is emailing notifications to the preparer and certifier at least two months in advance of when the RMP renewal is due for submission. Mailed notifications will only occur if all emails that are provided in the previous RMP bounce as undeliverable. Best practice is to utilize an electronic calendar reminder in Outlook or other application to alert you of upcoming deadlines.

EPCRA TIER II REPORTING

Prior to the inspection, I requested copies of Wald's Tier II submittals for 2020, 2021 and 2022 from the KDHE Bureau of Community Health Systems Right-to-Know Program. As a result of this request, it was determined that KDHE had nothing on file for Wald Family Foods, LLC or for any company located at 1144 Bridger Court, McPherson, Kansas. During this inspection, Mr. Seastrom with KDHE conducted an inspection based on Kansas' EPCRA law and obtained the chemical inventory and quantities stored on-site (Appendix 26). The company and I was provided a copy of the KDHE EPCRA Section 311 inspection findings (Appendix 26). While on-site, Mr. Seastrom assisted the facility complete a submittal for the 2023 Tier II. Following the inspection, I requested and was provided a copy of the 2023 Tier II (Appendix 26).

It was discussed during KDHE's inspection that the facility should have been reporting for previous years due to the maximum daily average quantity of anhydrous ammonia, as well as potentially for the quantities of lead and sulfuric acid contained in forklift batteries.

For more details about EPCRA requirements, please visit EPA's [EPCRA Hazardous Chemical Inventory Reporting](#).

CLOSING CONFERENCE

The closing conference was conducted on January 25, 2024, at 2:10 PM. I sent around the Close Out Meeting Sign-in Sheet (Appendix 3). I thanked everyone for their cooperation and asked Mr. Sample if he had a chance to review the US EPA CBI Notice of Questions and Answers and he answered affirmatively. I asked if any of the documents or images would need to be considered CBI. He answered that there were none. I handed Mr. Sample the United States Environmental Protection Agency Proprietary and Confidential Business Information Form and asked him to complete it and indicate that they were claiming no CBI (Appendix 2). I then presented Mr. Sample with the Receipt of Samples and Documents form and we both signed the document (Appendix 2) and Mr. Sample received a yellow copy.

Next, I went over the Preliminary Findings written on the Preliminary Findings form and discussed next steps in our process. I explained the report issuance timeline and that there were some items I would be researching once I was back in the office, such as the PHA questions that were discussed. I explained that I would also continue my review of the documents and photos that I had taken, and that additional findings could be added in the report or some of the preliminary findings could change. I encouraged them to start on items that could be corrected. I asked that they send correspondence of those corrections to me as soon as possible and I would include the information in the report. I explained that I would email the report to Mr. Sample and that the report would also be mailed to the Registered Agent for the company based on information obtained from the Kansas Secretary of State's Office.

I asked if there were any additional questions for me. After no further questions, Mr. Sample and I signed the Notice of Preliminary Findings (Appendix 2) and I provided Mr. Sample with a yellow copy.

OTHER RECOMMENDATIONS

As stated throughout the inspection report, while using the previous company's written programs is not a prohibited practice, a best practice following a company purchase of an existing company is to update all written programs to reflect the new ownership and/or new company name, which could include details that would not be found in the previous company's documents, such as mailing address changes or changes in management hierarchy. Making these changes demonstrates a company's serious commitment to actively reviewing and maintaining programmatic elements that demonstrate compliance with 40 C.F.R. Part 68.

As we discussed during the inspection, while there are parallel/overlapping requirements in OSHA's PSM requirements, there are aspects of 40 C.F.R. Part 68 that are unique to this regulation. Finding ways to incorporate both regulations into the company's written documentation and records, such as in compliance audits and in employee training, will ensure that all aspects of both programs are being met.

LYNELLE
LADD

Digitally signed by
LYNELLE LADD
Date: 2024.03.05
07:30:33 -06'00'

Lynelle Ladd
Compliance Inspector

DAVE
HENSLEY

Digitally signed by DAVE
HENSLEY
Date: 2024.03.05
08:58:47 -06'00'

Dave Hensley
Chemical Accident Prevention
Section Chief

APPENDICES

- 1 – Photo Log and Site Map
- 2 – Inspection Forms
- 3 – Opening and Closing Conference Sign-in Sheets
- 4 – Inspection Checklist and Notes
- 5 –Wald Visitors and Contractor GMP Policy
- 6 – Wald P&ID
- 7 - General Management System
- 8 - Hazard Assessment
- 9 - 2018 RMP from CDX
10. - 2023 RMP from CDX
- 11 - Process Safety Information
- 12 - Process Hazard Analysis – 2011 Nation Pizza
- 13 – 2018 and 2023 PHA Revalidations
- 14 - Standard Operating Procedures
- 15 - Training
- 16 - Mechanical Integrity
- 17 - Management of Change
- 18 - Pre-Startup Safety Review
- 19 - Compliance Audits
- 20 - Incident Investigation
- 21 - Employee Participation
- 22 - Hot Work Permit
- 23 - Contractors
- 24 - Emergency Response Plan
- 25 – Email Correspondence with McPherson LEPC
- 26 – EPCRA Tier II Reporting/KDHE Inspection Report/2023 Tier II/Chemical Inventory
- 27 – Email Correspondence

NOTICE OF PRELIMINARY FINDINGS Page 1 of 2 ²⁸

FIRM NAME: Wald Family Foods, LLC

RMP/TRI NO: 100000197459

FIRM ADDRESS: 1144 Bridger Court

McPherson, KS 67460

INSPECTOR: Lynelle Ladd

DATE: 01/25/2024

An inspection of the above facility has just been completed. The purpose of the inspection was to determine compliance with the requirements of the Clean Air Act Section 112r and Emergency Planning Community Right-to-Know Act. The following potential violations were identified:

CITATION	DESCRIPTION
1 40 CFR 68.190(b)(1)	Failed to submit RMP to EPA at least every five years (late)
2 40 CFR 68.65(d)(2)	Failed to document that equipment complies with RAGAGEP
3 40 CFR 68.65(d)(3)	Failed to document when existing equipment designed/constructed under codes/standards no longer in use are maintained and operating in a safe manner. This includes the horizontal emergency ventilation in engine room, signage missing and no shower/eyewash.
4 40 CFR 68.65(c)(i)(i)	Failed to provide a block diagram or simplified process flow diagram (Process Safety Information)
5 40 CFR 68.69(a)(1)	Failed to address Emergency Operations (68.69(a)(1)(v)) i.e. start up following turnaround of after emergency shut down (68.69(a)(1)(vi))

This Notice is provided to call your attention to those areas of potential noncompliance at the earliest possible time. This Notice does not constitute a Notice of Violation, Order, or Civil Action pursuant to the Emergency Planning Community Right-to-Know Act of 1986 (SARA Title III) or Section 113 of the Clean Air Act (CAA), and may not be a complete listing of all violations which may be identified as a result of this inspection.

You are encouraged to take corrective action to address these preliminary findings. Please submit the actions you take and/or a schedule of the actions to EPA in writing as soon as possible.

Lynelle Ladd

Phone: (913) 551-7138

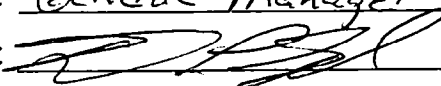
U.S. Environmental Protection Agency
11201 Renner Blvd.
Lenexa, Kansas 66219

Corrective actions you have taken may be considered in any subsequent U.S. EPA enforcement follow-up, to the extent allowed by Agency regulations, guidance, and policies.

The undersigned hereby acknowledges receipt of a copy of this Notice.

PRINTED NAME: Dennis Sample

TITLE: General Manager

SIGNATURE: 

DATE: 1-25-24

NOTICE OF PRELIMINARY FINDINGS Page 2 of 2⁸⁸

FIRM NAME: Wald Family Foods, LLC

RMP/TRI NO: 100000197459

FIRM ADDRESS: 1144 Bridger Court

McPherson, KS 67460

INSPECTOR: Lynelle Ladd

DATE: 01/25/2024

An inspection of the above facility has just been completed. The purpose of the inspection was to determine compliance with the requirements of the Clean Air Act Section 112r and Emergency Planning Community Right-to-Know Act. The following potential violations were identified:

CITATION	DESCRIPTION
6 40 CFR 68.67(e)	Failed to promptly address PHA findings, resolve in timely manner
7 40 CFR 68.67(f)	Failed to update and revalidate PHA every 5 years.
8 40 CFR 68.79(a)	Failed to conduct Compliance Audit every 3 years
9 40 CFR 68.79(c)(d)	Failed to report RMP finding in Compliance Audit
10 40 CFR 68.81(d)(2)	Incident Investigation form does not identify when investigation begins
11 40 CFR 68.90(b)(4)	Failed to perform annual emergency response coordination activities as required by 40 CFR 68.93(a)-(c).

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The undersigned hereby acknowledges receipt of a copy of this Notice.

PRINTED NAME: Dennis Sample

TITLE: General Manager

SIGNATURE: [Signature]

DATE: 1-25-24