SENT BY CERTIFIED MAIL
RECEIPT CONFIRMATION REQUESTED

D.I Manufacturing, LLC
Registered Agent for Wald Family Foods, LLC
1144 Bridger Court
McPherson, Kansas 67460

Re: Notice of Potential Violation and Opportunity to Confer
Clean Air Act Chemical Accident Prevention Provisions
Wald Family Foods, LLC

Dear Registered Agent:

When Congress passed the Clean Air Act Amendments of 1990, Section 112(r) required the U.S. Environmental Protection Agency to publish regulations for chemical accident prevention at facilities using substances that pose the greatest risk of harm from accidental releases. These accidents can result in serious injuries, even fatalities, and environmental harm. The regulations, the Chemical Accident Prevention Provisions found at 40 C.F.R. Part 68 (commonly known as the Risk Management Plan Rule), are based on industry codes and standards and are intended to prevent accidental releases from occurring, and to detect and minimize the consequences of releases that do occur.

On January 25, 2024, EPA Region 7 conducted an inspection at the Wald Family Foods, LLC facility located in McPherson, KS (the Facility). The purpose of the inspection was to determine the Facility's compliance with the requirements of the CAA, and specifically the Chemical Accident Prevention Provisions. A copy of the inspection report was emailed to Dennis Sample at dsample@waldfamilyfoods.com on March 6, 2024.

The EPA has completed its review of the information collected as a result of the inspection. Information currently available to the EPA suggests that Wald Family Foods is in violation of the following requirements of the Risk Management Plan Rule:

- Failure to review and update the offsite consequence analysis at least once every five years, as required by 40 C.F.R. § 68.36(a). By failing to update the offsite consequence analysis at least once every five years, the Facility understated the potential impact of a chemical release, limiting the ability of local emergency responders to plan for and protect the surrounding community.

- Failure to include a block diagram or simplified process flow diagram pertaining to the technology of the process, as required by 40 C.F.R. § 68.65(c)(1)(i). By failing to include a block flow diagram or a simplified process flow diagram, the Facility hinders the ability of facility personnel and emergency responders to quickly understand the system layout and process operation, increasing the risks of delays or improper responses during a release.

- Failure to ensure and document that the process is designed and maintained in compliance with recognized and generally accepted good engineering practices (RAGAGEP), as required by 40 C.F.R. § 68.65(d)(2). Specifically, this includes the following RAGAGEP: (a) eyewash/safety shower not installed; (b) shut-off switch not clearly identified; (c) sign or schematic drawings not posted for staff or responders; (d) Health, Flammability, and Instability rating placard not posted; and (e) emergency exhaust not vented properly. By failing to ensure and document that the process is designed and maintained in compliance with RAGAGEP, the Facility undermines its ability to identify and control hazards associated with equipment and operations. This increases the risk of preventable process failures and delays in emergency response due to unclear signage and inadequate design.

- Failure to establish a system to promptly address Process Hazard Analysis (PHA) findings, assure they are resolved in a timely manner, and develop a written schedule for when the actions are to be completed, as required by 40 C.F.R. § 68.67(e). By failing to timely address PHA findings, the Facility may delay necessary risk mitigation measures, leaving potential process hazards unaddressed and increasing the risk of an accident.

- Failure to update and revalidate the PHA every five years, as required by 40 C.F.R. § 68.67(f). By failing to timely update and revalidate the PHA, the Facility delays the identification and resolution of potential hazards.

- Failure to develop and implement written operating procedures for emergency operations, as 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). By failing to include these operating procedures, the Facility increases the risk of operator error that can lead to accidental releases.

- Failure to certify a compliance audit which evaluates compliance with 40 CFR Part 68 at least every three years, 40 C.F.R. § 68.79(a). While compliance audits dated May 9, 2018, and August 30, 2023, are available, there is no indication that a compliance audit was performed in 2021. Compliance audits are critical to a facility's ability to prevent releases.

- Failure to include the date the investigation began on incident investigation forms, as required by 40 C.F.R. § 68.81(d)(2). By failing to contain a field to record the date an investigation begins, the Facility reduces the ability to track whether incidents are investigated promptly, potentially delaying systemic review and the implementation of corrective actions.

- Failure to coordinate response needs with local emergency planning and response organizations as required by 40 C.F.R. § 68.93. By failing to be included in the community emergency response plan and to perform annual emergency response coordination activities, the Facility undermines the ability for local emergency responders to plan for an efficient response when a release happens.

- Failure to provide the facility's Emergency Action Plan to the local emergency planning and response organizations, as required by 40 C.F.R. § 68.93(b). By failing to provide a copy of its Emergency Response and Action Plan to the local emergency planning committee (LEPC), the Facility undermines the ability for LEPC to be aware of what chemicals are on site and properly plan for an efficient response when a release happens.

- Failure to update the emergency contact information, as required by 40 C.F.R. § 68.93(b). By failing to include the current plant manager and contact information, the Facility hinders local emergency response when a release happens.

- Failure to submit a Risk Management Plan to EPA at least every five years, as required by 40 C.F.R. § 68.190(b)(1). By failing to timely submit the Risk Management Plan, the Facility hinders local emergency preparedness effort and community awareness to improved accident prevention and emergency response practices.

The EPA's primary concern is Wald Family Foods' return to full compliance as expeditiously as possible. While we appreciate Wald Family Foods' efforts to date to come into compliance, the EPA has continuing concerns whether some requirements are being met and would like to discuss them with the company. The EPA also believes that these violations are significant enough to warrant the assessment of a civil penalty. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), authorizes civil penalties for violations of CAA § 112(r)(7) requirements. To be fair and consistent in its assessment of penalties, the EPA uses the Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68 to calculate penalties. A link to this document is included in the Additional Sources of Information Enclosure.

By this letter, the EPA invites Wald Family Foods to negotiate a fair resolution of this matter before any complaint is filed. The EPA is extending to Wald Family Foods an opportunity to advise the agency, in person, via conference call, or in writing, of any further information the EPA should consider with respect to the alleged violations. A settlement of this matter through the return to full compliance and payment of an appropriate civil penalty would be memorialized in a Consent Agreement and Final Order to be signed by an authorized representative of Wald Family Foods and the EPA. If Wald Family Foods believes it does not have the financial ability to pay the proposed penalty and wants the EPA to consider its financial condition, the company should notify the EPA during settlement discussions so we can further discuss the circumstances and determine the appropriate financial documentation to substantiate this claim.

If Wald Family Foods is interested in participating in pre-filing negotiations, please contact Yan Sun, in the Office of Regional Counsel, within **20 calendar days** of receipt of this letter at (202) 564-5236. The EPA generally provides a period of 90 days to reach settlement before considering more formal enforcement options.

Your attention to this matter is greatly appreciated. If you have any questions, please do not hesitate to contact Yan Sun at (202) 564-5236, or Tim Evans, Compliance Officer, at (913) 551-7663.

Sincerely,

DAVID COZAD

Digitally signed by DAVID COZAD
Date: 2025.06.16 15:58:54 -05'00'

David Cozad
Director
Enforcement and Assurance Compliance Division

Enclosure: Additional Sources of Information

cc: Dennis Sample
dsample@waldfamilyfoods.com

Additional Sources of Information

- Information on General Duty Clause under Clean Air Act Section 112(r)(1)
  https://www.epa.gov/rmp/general-duty-clause-under-clean-air-act-section-112r1

- Information on the Risk Management Plan (RMP) Rule
  https://www.epa.gov/RMP

- Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68
  https://www.epa.gov/sites/production/files/documents/112rcep062012.pdf

- Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22
  https://www.ecfr.gov/current/title-40/chapter-I/subchapter-A/part-22

- Small Business Resources Information Sheet
  www.epa.gov/compliance/small-business-resources-information-sheet