

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

KOCH FERTILIZER, LLC

AI # 23941

PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.

\* Settlement Tracking No.  
\* SA-AE-21-0031  
\*  
\* Enforcement Tracking No.  
\* AE-PP-17-00909  
\*  
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SETTLEMENT

The following Settlement is hereby agreed to between Koch Fertilizer, LLC (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a limited liability company that owns and/or operates an ammonia fertilizer plant located in Sterlington, Ouachita Parish, Louisiana (“the Facility”).

II

On October 15, 2018, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-17-00909 (Exhibit 1).

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal

statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of ONE THOUSAND NINE HUNDRED AND NO/100 DOLLARS (\$1,900.00), of which Eight Hundred Five and 94/100 Dollars (\$805.94) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

## V

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

## VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

## VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set

forth in La. R. S. 30:2025(E) of the Act.

## VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

## IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Ouachita Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

## XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

**KOCH FERTILIZER, LLC**

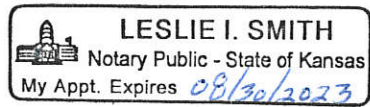
BY:   
(Signature)

Clint Bass  
(Printed)

TITLE: Operations Leader

THUS DONE AND SIGNED in duplicate original before me this 21st day of July, 20 21, at Wichita, KS.

  
NOTARY PUBLIC (ID # 1163354)

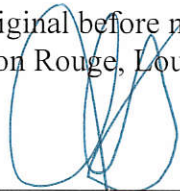


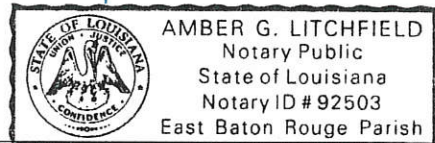
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**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
Chuck Carr Brown, Ph.D., Secretary


BY:   
Lourdes Iturralde, Assistant Secretary  
Office of Environmental Compliance


THUS DONE AND SIGNED in duplicate original before me this 15th day of October, 20 21, at Baton Rouge, Louisiana.

  
NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved:   
Lourdes Iturralde, Assistant Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		<b>NOTICE OF POTENTIAL PENALTY</b>												
Enforcement Tracking No.	AE-PP-17-00909	Certified Mail No.	7017 0530 0000 5978 6592											
Agency Interest (AI) No.	23941	Contact Name	Dr. Jacqueline Prudente											
Alternate ID No.	2160-00035	Contact Phone No.	(225) 219-3347											
Respondent:	Koch Fertilizer, LLC	Facility Name:	Sterlington Terminal											
	c/o CT Corporation System	Physical Location:	520 Solvent Avenue											
	Agent for Service of Process	City, State, Zip:	Sterlington, LA 71280											
	3867 Plaza Tower Drive	Parish:	Ouachita											
Baton Rouge, LA 70816														
This <b>NOTICE OF POTENTIAL PENALTY</b> is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and 30:2050.3(B).														
<b>FINDINGS OF FACT</b>														
An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.														
I.	The Respondent owns and/or operates Sterlington Terminal (the facility), an ammonia fertilizer plant located at 520 Solvent Avenue, in Sterlington, Ouachita Parish, Louisiana. The facility currently operates under Air Permit No. 2160-00035-04 issued on May 23, 2012.													
	<b>Date of Violation</b>	<b>Description of Violation</b>												
II.	Inspection(s) & File Review 5/30-31/2017 6/12/2018	The Respondent failed to conduct inspections at a frequency consistent with good engineering practices, and retain inspection data. Specifically, during the Mechanical Integrity portion of the Chemical Accident Prevention and Risk Management Plan inspection, the following late process equipment inspections were revealed: <ol style="list-style-type: none"> <li>1. <u>Piping line from AF-08 to F-65, circuits 262 and 264</u>: The external visual and ultrasonic thickness (UT) testing were conducted on December 13, 2011. The report indicated the next due date for the inspection was December 12, 2016, but the inspection was conducted on March 16 -17, 2017, which is approximately 15 months late.</li> <li>2. <u>Vessel AF-08</u>: The external visual and UT testing were conducted on May 26, 2011. The next testing was conducted on March 9, 2017. The external visual testing is approximately ten (10) months late. The American Petroleum Institute (API) maximum frequencies for vessel inspections are five (5) and ten (10) years for external visual and UT testing, respectively.</li> <li>3. <u>Vessel F-65</u>: The external visual and UT testing were conducted on June 17, 2005, and August 26, 2010. The external visual inspection was two (2) months late and the August 26, 2010 inspection report did not include detailed UT inspection data. The data was requested by the Department's inspector at the time of the inspection, but was unavailable.</li> </ol> <p>Each failure to perform inspections and tests of process equipment at the appropriate frequency is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.73(d)(3) and La. R.S. 30:2057(A)(2). The failure to retain the results of the UT inspection is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.73(d)(4) and La. R.S. 30:2057(A)(2). In a correspondence dated October 26, 2017, the Respondent stated that the facility's CMMS (Maximo) tracking system has been updated with the next due date of March 9, 2022, which will occur five (5) years from the date of the last inspections to ensure that inspections are completed within the timeframe required by the API standards. In the same correspondence, the Respondent stated that the self-identified issues during the internal audit were corrected by performing the following inspections:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Inspections Performed</th> <th>Inspection Date</th> </tr> </thead> <tbody> <tr> <td>API-10 External Inspection</td> <td>March 9, 2017</td> </tr> <tr> <td>API-510 On-Stream in Lieu of Internal Inspection</td> <td>March 9, 2017</td> </tr> <tr> <td>API-579 Fitness for Service Evaluation</td> <td>March 9, 2017</td> </tr> <tr> <td>Sheer Wave Examination of Welds</td> <td>March 23, 2017</td> </tr> </tbody> </table>			Inspections Performed	Inspection Date	API-10 External Inspection	March 9, 2017	API-510 On-Stream in Lieu of Internal Inspection	March 9, 2017	API-579 Fitness for Service Evaluation	March 9, 2017	Sheer Wave Examination of Welds	March 23, 2017
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<b>NOTICE OF POTENTIAL PENALTY</b>														
I.	Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.													
II.	Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Dr. Jacqueline Prudente at (225) 219-3347 within ten (10) days of receipt of this <b>NOTICE OF POTENTIAL PENALTY</b> .													
III.	The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this <b>NOTICE OF POTENTIAL PENALTY</b> . Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an													



	admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.
IV.	For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.
V.	To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

**CONTACTS AND SUBMITTAL OF INFORMATION**

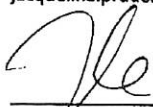
<b>Enforcement Division:</b>	<b>Physical Address (if hand delivered):</b>
Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Dr. Jacqueline Prudente	Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

**HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY**

To expedite closure of the **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.

- The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7.
- The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
- The settlement offer amount may be entered on the attached "NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE" form. The Respondent must include a justification of the offer.
- **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

If you have questions or need more information, you may contact Dr. Jacqueline Prudente at (225) 219-3347 or [jacqueline.prudente@la.gov](mailto:jacqueline.prudente@la.gov).




Lourdes Iturralde  
Assistant Secretary  
Office of Environmental Compliance

Date: 10-15-28

cc: Koch Fertilizer, LLC – Sterlington Terminal  
c/o Shawn Kimberly, VP-Operations  
520 Solvent Avenue  
Sterlington, LA 71280

Attachment  
- Request to Settle

<b>LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY</b> <b>OFFICE OF ENVIRONMENTAL COMPLIANCE</b>				
<b>ENFORCEMENT DIVISION</b> <b>POST OFFICE BOX 4312</b> <b>BATON ROUGE, LOUISIANA 70821-4312</b>		<b>NOTICE OF POTENTIAL PENALTY</b> <b>REQUEST TO SETTLE (OPTIONAL)</b>		
<b>Enforcement Tracking No.</b>	AE-PP-17-00909	<b>Contact Name</b>	Dr. Jacqueline Prudente	
<b>Agency Interest (AI) No.</b>	23941	<b>Contact Phone No.</b>	(225) 219-3347	
<b>Alternate ID No.</b>	2160-00035			
<b>Respondent:</b>	<b>Koch Fertilizer, LLC</b> c/o CT Corporation System Agent for Service of Process 3867 Plaza Tower Drive Baton Rouge, LA 70816	<b>Facility Name:</b> <b>Physical Location:</b> <b>City, State, Zip:</b> <b>Parish:</b>	Sterlington Terminal 520 Solvent Avenue Sterlington, LA 71280 Ouachita	
<b>SETTLEMENT OFFER (OPTIONAL)</b>				
(check the applicable option)				
<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.			
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in <b>NOTICE OF POTENTIAL PENALTY (AE-PP-17-00909)</b> , the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.			
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in <b>NOTICE OF POTENTIAL PENALTY (AE-PP-17-00909)</b> , the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$ _____</li> <li>• <b>DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.</b></li> </ul>			
<input type="checkbox"/>	The Respondent has reviewed the violations noted in <b>NOTICE OF POTENTIAL PENALTY (AE-PP-17-00909)</b> and has attached a justification of its offer and a description of any BEPs if included in settlement offer.			
<b>CERTIFICATION STATEMENT</b>				
I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.				
Respondent's Signature		Respondent's Printed Name		
Respondent's Physical Address		Respondent's Phone #	Date	
<b>MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:</b>				
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Dr. Jacqueline Prudente				

If you have questions or need more information, you may contact Dr. Jacqueline Prudente at (225) 219-3347 or jacqueline.prudente@la.gov.