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

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

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 Buss

(Printed)

TITLE: Operation Leader

THUS DONE AND SIGNED in duplicate original before me this 21st day of July, 2021, at Wichita, KS.

Leslie I. Smith

NOTARY PUBLIC (ID #1163364)

LESLIE I. SMITH
Notary Public - State of Kansas
My Appt. Expires 08/30/2023

(stamped or printed)

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 20th day of October, 2021, at Baton Rouge, Louisiana.

Amber G. Litchfield

NOTARY PUBLIC (ID #70508)

(stamped or printed)

Approved: 

Lourdes Iturralde, Assistant Secretary

SA-AE-21-0031
NOTICE OF POTENTIAL PENALTY

This NOTICE OF POTENTIAL PENALTY 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).

FINDINGS OF FACT

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, Ouschita Parish, Louisiana. The facility currently operates under Air Permit No. 2160-00035-04 issued on May 23, 2012.

<table>
<thead>
<tr>
<th>Date of Violation</th>
<th>Description of Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspection(s) &amp; File Review 5/30-31/2017 6/12/2018</td>
<td>The Respondent failed to conduct inspections at a frequency consistent with good engineering practices, and retain inspection data. Specifically, during the Chemical Accident Prevention and Risk Management Plan Inspection, the following late process equipment inspections were revealed:</td>
</tr>
<tr>
<td>1. Piping line from AF-8 to F-65, circuits 262 and 264: 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.</td>
<td></td>
</tr>
<tr>
<td>2. Vessel AF-8: 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.</td>
<td></td>
</tr>
<tr>
<td>3. Vessel F-65: 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.</td>
<td></td>
</tr>
<tr>
<td>II. The Respondent failed to perform inspections and tests of process equipment at the appropriate frequency is a violation of LAC 33:11.5901A, 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 33:11.3901A, 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:</td>
<td></td>
</tr>
<tr>
<td>Inspections Performed</td>
<td>Inspection Date</td>
</tr>
<tr>
<td>-----------------------</td>
<td>----------------</td>
</tr>
<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>Shear Wave Examination of Welds</td>
<td>March 23, 2017</td>
</tr>
</tbody>
</table>

NOTICE OF POTENTIAL PENALTY

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 NOTICE OF POTENTIAL PENALTY.

III. The Department is required by La. R.S. 30:2025(6)(B)(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 NOTICE OF POTENTIAL PENALTY. 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

AE-PP-17-00909

NOTICE OF POTENTIAL PENALTY

Page 1

NOPP FORM 1

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312

Enforcement Tracking No.: AE-PP-17-00909
Agency Interest (AI) No.: 23941
Alternate ID No.: 2160-00035

Certified Mail No.: 7017030000059786592
Contact Name: Dr. Jacqueline Prudente
Contact Phone No.: (225) 219-3347

Facility Name: Sterlington Terminal
Physical Location: 520 Solvent Avenue
City, State, Zip: Sterlington, LA 71280
Parish: Ouschita

The Respondent failed to conduct inspections at a frequency consistent with good engineering practices, and retain inspection data. Specifically, during the Chemical Accident Prevention and Risk Management Plan Inspection, the following late process equipment inspections were revealed:

1. Piping line from AF-8 to F-65, circuits 262 and 264: 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.

2. Vessel AF-8: 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.

3. Vessel F-65: 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.

Each failure to perform inspections and tests of process equipment at the appropriate frequency is a violation of LAC 33:11.5901A, 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 33:11.3901A, 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:

<table>
<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>Shear Wave Examination of Welds</td>
<td>March 23, 2017</td>
</tr>
</tbody>
</table>

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.

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 NOTICE OF POTENTIAL PENALTY.

The Department is required by La. R.S. 30:2025(6)(B)(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 NOTICE OF POTENTIAL PENALTY. 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
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

Enforcement Division:                                                    Physical Address (If hand delivered):
Louisiana Department of Environmental Quality                               Department of Environmental Quality
Office of Environmental Compliance                                         602 N Fifth Street
Air Enforcement Division                                                   Baton Rouge, LA 70802
P.O. Box 4512                                                               Baton Rouge, LA 70802
Baton Rouge, LA 70811                                                      
Attn: Dr. Jacqueline Prudente

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 331. Subpart 1. Chapter 7.
- 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.

Loursa 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
**NOTICE OF POTENTIAL PENALTY**

**REQUEST TO SETTLE (OPTIONAL)**

<table>
<thead>
<tr>
<th>Enforcement Tracking No.</th>
<th>AE-PP-17-00909</th>
<th>Contact Name</th>
<th>Dr. Jacqueline Prudente</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency Interest (AJ) No.</td>
<td>23941</td>
<td>Contact Phone No.</td>
<td>(225) 219-3347</td>
</tr>
<tr>
<td>Alternate ID No.</td>
<td>2160-00035</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Respondent:**
- Koch Fertilizer, LLC
- c/o CT Corporation System
- Agent for Service of Process
- 3867 Plaza Tower Drive
- Baton Rouge, LA 70816
- Facility Name: Sterlington Terminal
- Physical Location: 520 Solvent Avenue
- City, State, Zip: Sterlington, LA 71280
- Parish: Ouachita

**SETTLEMENT OFFER (OPTIONAL)**

(Select the applicable option)

- 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 333.Subpart1.Chapter7.
- In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-17-00909), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.

- In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-17-00909), 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.
  - Monetary component = $__________
  - Beneficial Environmental Project (BEP) component (optional) = $__________
- 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.

The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (AE-PP-17-00909) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

**CERTIFICATION STATEMENT**

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.

<table>
<thead>
<tr>
<th>Respondent’s Signature</th>
<th>Respondent’s Printed Name</th>
<th>Respondent’s Title</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Respondent’s Physical Address</th>
<th>Respondent’s Phone #</th>
<th>Date</th>
</tr>
</thead>
</table>

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

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.