



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety Administration**

901 Locust Street, Suite 480
Kansas City, MO 64106

WARNING LETTER

VIA ELECTRONIC MAIL TO: mark.luetters@kochind.com, shawn.kimberly@kochind.com

April 22, 2021

Mr. Mark Luetters
President, Koch Ag & Energy Solutions
H2D
4111 East 37th Street North
Wichita, KS 67220

CPF 3-2021-030-WL

Dear Mr. Luetters:

From April 1, 2019 through September 5, 2019, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), Central Region, pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your Koch NH₃ pipeline system of Koch Fertilizer, LLC (Koch Fertilizer), a subsidiary of Koch Ag & Energy Solutions, LLC (KAES), including procedures, facilities, and records and located near Garner, Iowa.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). PHMSA notes that after the inspection, on or about January 31, 2020, Koch Fertilizer requested to deactivate the Koch NH₃ assets (OPID 31982) as the facility and associated piping will not be used as a breakout tank jurisdictional to PHMSA. The items inspected and the probable violations are:

1. § 195.234 Welds: Nondestructive testing.

(a) . . .

(e) All girth welds installed each day in the following locations must be nondestructively tested over their entire circumference, except that when nondestructive testing is impracticable for a girth weld, it need not be tested if the number of girth welds for which testing is impracticable does not exceed 10 percent of the girth welds installed that day:

(5) Within populated areas, including, but not limited to, residential subdivisions, shopping centers, schools, designated commercial areas, industrial facilities, public institutions, and places of public assembly.

Koch Fertilizer failed to nondestructively test all girth welds installed each day associated with the GAR-14-007 pipeline repair project in 2014 and therefore failed to comply with the requirements of § 195.234(e)(5). The Garner facility is an industrial facility.

Project records for GAR-14-007 indicate that only two welds were nondestructively tested even though records and schematics indicate that ten girth welds were associated with the project. This left eight welds that were not nondestructively tested. The records do not clearly indicate which girth welds were non-destructively tested for the project. In addition, the operator failed to provide documentation that indicated nondestructive testing (NDT) was impracticable for any portion of this repair project.

Further, the NDT records associated with the GAR-14-007 pipe repair project indicate that the NDT was performed under ASME B31.3, not in accordance with API 1104 (incorporated by reference). ASME B31.3 is not referenced in either 49 CFR Part 195 or Koch Fertilizer's procedure P-195.214.

2. § 195.310 Records.

(a) A record must be made of each pressure test required by this subpart, and the record of the latest test must be retained as long as the facility tested is in use.

(b) The record required by paragraph (a) of this section must include:

(1) The pressure recording charts;

(2) Test instrument calibration data;

(3) The name of the operator, the name of the person responsible for making the test, and the name of the test company used, if any;

(4) The date and time of the test;

(5) The minimum test pressure;

(6) The test medium;

- (7) A description of the facility tested and the test apparatus;**
- (8) An explanation of any pressure discontinuities, including test failures, that appear on the pressure recording charts;**
- (9) Where elevation differences in the section under test exceed 100 feet (30 meters), a profile of the pipeline that shows the elevation and test sites over the entire length of the test section; and**
- (10) Temperature of the test medium or pipe during the test period.**

Koch Fertilizer's pressure test records associated with the December, 2017, pressure tests at Garner Terminal failed to comply with the requirements of § 195.310(b). The test medium used to perform pressure tests associated with the 150#, 300#, and 600# test segments was not consistently recorded for each pressure test. In addition, the test medium used to perform pressure tests was not recorded as required in the operator's Liquid Operations & Maintenance Manual procedure, P-195.300 Pressure Test (dated December 2015).

The Hydratight Daily Activity Report records from December 11, 2017, recorded between 15:00 and 16:30 hours that the test lost pressure and was bled down to check for leaks. However, a description of the particular facility being tested at this time was not identified in the records.

The 600# system pressure and test log (identified in the file, "Hydro Info.pdf") with the date of December 13, 2017, recorded a 100 psig pressure drop between 10:00 and 17:45 with only a 5-degree Fahrenheit drop in temperature. The Hydratight Daily Activity Report for this pressure test indicated at 18:00, "600# fail, depressure to allow contractor to retorq everything." On December 14, 2017, the Hydratight Daily Activity Report indicates that a subsequent pressure test for the 600# system was performed, but no pressure and temperature logs were provided relevant to the 600# system. In addition, the pressure test charts provided for the 600# system did not indicate the date the tests were performed.

3. §195.403 Emergency response training.

(a) . . .

(b) At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall:

- (1) Review with personnel their performance in meeting the objectives of the emergency response training program set forth in paragraph (a) of this section; and**
- (2) Make appropriate changes to the emergency response training program as necessary to ensure that it is effective.**

Koch Fertilizer's emergency response training records were inadequate and failed to comply with the requirements of § 195.403(b). Records did not indicate that the operator reviewed with personnel their performance in meeting the objectives of the emergency response training program. Further, the records did not document appropriate changes were made as necessary to ensure that the emergency response training program is effective.

Specifically, records did not exist to substantiate that supervisor or employee training had occurred for the following Garner Terminal Emergency Response Plan, Section 12.11 procedures:

12.11. Emergency Operating Procedures

EOP GARN 07 01 001 Handling Small and Large Ammonia Releases
EOP GARN 07 01 002 Handling Callouts
EOP GARN 07 01 003 Handling Chemical Spills
EOP GARN 07 01 004 Emergency Operation Due to Flare Failure
EOP GARN 07 01 005 Emergency Operation Due to Loss of SCADA
EOP GARN 07 01 006 Emergency Operation Due to Electric Power Failure
EOP GARN 07 01 007 Using a Generator During a Power Failure
ESP GARN 07 01 001 Terminal Emergency Shutdown
ESP GARN 07 01 002 Utility Fuel Gas Small/Major Leak or Fire
SUP GARN 07 01 003 Startup After a Terminal ESD
SUP GARN 07 01 001 Startup After a Power Failure
ESP GARN 07 82 001 Truck Loading Bay Emergency Stop
ESP GARN 07 85 001 Reinjection Emergency Shutdown

4. §195.422 Pipeline repairs.

(a) . . .

(b) No operator may use any pipe, valve, or fitting, for replacement in repairing pipeline facilities, unless it is designed and constructed as required by this part.

Koch Fertilizer failed to ensure that pipe, valve, or fitting, for replacement in repairing pipeline facilities was installed as required by § 195.422(b). The pressure test performed on March 27, 2014, and the associated records for the MOC GAR-14-007 repair project were inadequate.

Specifically, the pressure test performed on March 27, 2014, had a duration of only 31 minutes. This pressure test began at 8:40 a.m. and ended at 9:11 a.m. In addition, the pressure test records did not record the temperature throughout the test period or the test

medium used. Koch Fertilizer continued to operate the piping associated with the 2014 pressure test without proper pressure test documentation between 2014 and 2017.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to correct the items identified in this letter. Failure to do so will result in Koch Fertilizer being subject to additional enforcement action if the facility is reactivated as a breakout tank jurisdictional to PHMSA.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to CPF 3-2021-30-WL. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Sincerely,

Gregory A. Ochs
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

cc: Shawn Kimberly, VP Operations, shawn.kimberly@kochind.com