

Memorandum of Agreement  
between  
Kansas Department of Health and Environment and  
U.S. Environmental Protection Agency, Region 7 for  
the purpose of

TERMINATING the June 12, 2003, Memorandum of Agreement  
Providing Regulatory Oversight for the RCRA Post-Closure Permit  
Issued to Koch Nitrogen Company - Dodge City Facility

**Background**

On June 12, 2003, the Kansas Department of Health and Environment ("KDHE") and the U.S. Environmental Protection Agency, Region 7 ("EPA") (collectively, the "Parties") entered into a Memorandum of Agreement ("MOA") to define the Parties' roles in implementing the RCRA Post-Closure Permit ("Permit") transferred to Koch Nitrogen Company for the Dodge City facility formerly owned by Farmland Industries, Incorporated. The MOA designated EPA as the lead agency for implementing the Permit. To date, all Permit conditions and post-closure care have not been completed.

**RCRA Corrective Action Authorization**

At the time the MOA was executed, the EPA administered the RCRA Corrective Action Program in the State of Kansas. On September 20, 2013, the United State Environmental Protection Agency granted KDHE authorization to administer RCRA Corrective Action in Kansas. Under the terms of a June 27, 2013, Kansas Corrective Action Memorandum of Agreement, KDHE will take the lead in drafting and/or implementing certain Kansas RCRA facility permits, with the EPA assistance as requested.

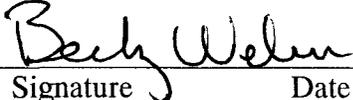
**Termination of MOA**

The Parties have agreed that, in the interest of facilitating efficient implementation of the Permit, the MOA shall be TERMINATED and KDHE shall be the lead regulatory agency for the Permit, subject to the terms of the Permit and the June 27, 2013, Kansas Corrective Action Memorandum of Agreement.

**Effective Date**

This Memorandum of Agreement Terminating the MOA will take effect immediately upon signature by the Secretary of KDHE, and the Director, Air and Waste Management Division, of the EPA.

\_\_\_\_\_  
Signature                      Date  
Robert Moser, MD  
Secretary  
Kansas Department of Health and Environment  
State Of Kansas

 1/16/14  
\_\_\_\_\_  
Signature                      Date  
Rebecca Weber  
Director  
Air and Waste Management Division  
U.S. EPA Region 7

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**Purpose**

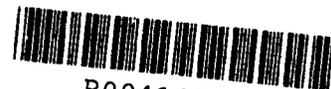
This Memorandum of Agreement ("Agreement") is entered into between the Kansas Department of Health and Environment ("KDHE") and the U.S. Environmental Protection Agency, Region 7 ("EPA") for the purposes of defining each agency's roles and responsibilities and facilitating efficient implementation of the RCRA Post-Closure Permit ("Permit") issued to the Farmland Industries, Inc., Dodge City, Kansas facility on March 21, 2003 and subsequently transferred to Koch Nitrogen Company on May 20, 2003. Therefore, the Director, Division of Environment of KDHE and the Director, Air, RCRA and Toxics Division, of EPA hereby enter into the following Agreement.

**Authority**

KDHE has the authority to enter into this Agreement pursuant to K.S.A. 65-3431. EPA in accordance with Section 3008(a) of RCRA and 40 CFR § 271.19 has the authority to take action against the holder of a KDHE issued permit for not complying with the requirements of this Permit.

**Responsibilities of Parties**

The intent of this Agreement is to establish EPA as the lead regulatory agency for Parts I and II of the Permit. This will facilitate the attainment of EPA RCRA Corrective Action Environmental Indicators (EI) for the above facility. Additionally, this will allow the implementation of the Permit without duplication of efforts by either the agencies or Permittee. As the lead agency, EPA will assume primary responsibility for implementing Permit tasks as defined in Table 1. EPA will also serve as the primary point of contact for the Permittee to submit any required plans, reports or other deliverables. In accordance with the following procedure, EPA and KDHE will provide each other an opportunity to review and comment on all draft correspondence, prior to sending it to the Permittee.



### **Review and Comment Procedure**

For all deliverables submitted by Permittee in accordance with the requirements of this Permit, the review and comment will proceed as follows:<sup>1</sup>

1. Permittee submits deliverable to EPA and KDHE. Although the Permit provides for the Permittee to send the deliverable to both agencies, in case the Permittee only sends the deliverable to one of the agencies, the Project Manager will provide a copy of the deliverable to his/her counterpart at the other agency within 7 days.
2. KDHE will have 30 days upon receipt of any deliverables, from either the Permittee or from EPA, to provide EPA any written comments it may have. KDHE will have 7 days to provide comments on draft review documents generated by EPA.
3. Within 7 days, the EPA Project Manager will incorporate KDHE's comments on the Permittee's deliverables or on EPA's draft review document, as appropriate, into a response document to the Permittee.
4. If EPA does not receive any comments from KDHE in step 2 above during the specified time period, EPA will send the response document to the Permittee (with a carbon copy to KDHE).

If necessary, any of the review deadlines above can be modified by the mutual agreement of the KDHE and EPA Project Managers.

### **Enforcement Authorities**

Under this Agreement, although EPA is the lead agency for the Permit and will oversee the implementation of Koch's activities performed under Part I (in accordance with Table 1), KDHE retains enforcement authority for the Part I requirements of the Permit. However, if necessary, pursuant to Section 3008(a) of RCRA and 40 CFR § 271.19, EPA may take action against the Permittee for not complying with the Part I requirements. EPA has enforcement authority for all Hazardous and Solid Waste Amendments (HSWA) Part II requirements of the Permit.

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<sup>1</sup>This section was written assuming that EPA is the lead agency for a particular deliverable. If KDHE is the lead agency for the deliverable, then the roles for the Review and Comment will be reversed.

**Effective Date**

Unless otherwise stipulated, this Agreement will take effect immediately upon signature by the Director, Division of Environment of KDHE, and the Director, Air, RCRA and Toxics Division of EPA.

**Amendments**

Except as otherwise provided for in the "Review & Comment Procedure" section, this Agreement may be amended or modified by future mutual agreement(s) signed by the Director, Division of Environment of KDHE, and the Director, Air, RCRA and Toxics Division of EPA.

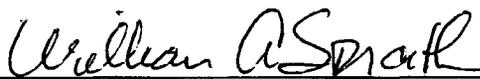
**Termination**

This Agreement shall terminate upon the completion of the permit conditions and post-closure care at the Koch Nitrogen Company Dodge City facility.



Ronald F. Hammerschmidt, Director  
Division of Environment  
Kansas Department of Health and Environment

Date 6/12/03



William A. Spratlin, Director,  
Air, RCRA and Toxics Division  
Environmental Protection Agency, Region 7

Date 6/12/03

**Table 1**  
**KDHE and EPA Responsibilities for Implementing the RCRA Post-Closure Permit**  
**for Koch Nitrogen Company, Dodge City, Kansas Facility**

Permit/Tasks	KDHE	EPA	Comments
<b>General</b>			
1. Both agencies will fulfill their duties in connection with public participation requirements for this project	X	X	Agencies may choose to conduct joint public participation.
<b>Part I Requirements</b>			
1. Section I - General Permit Conditions	X		These administrative tasks are under KDHE authority.
2. Section II, Conditions A - G, and J	X		These administrative tasks are under KDHE authority.
3. Section II, Conditions H and I		X	Technical tasks related to closure and post-closure care of the regulated unit are under EPA lead.
4. Section III, Conditions A, D - G	X		Condition A is the unit description and no tasks are associated with this condition. Conditions D-G, including permit modifications, are administrative tasks under KDHE authority.
5. Section III, Conditions A - C		X	Technical tasks related to closure and post-closure care of the regulated unit are under EPA lead. Any such tasks which involve a Part I permit modification will be reviewed by both agencies.
6. Section IV - Conditions A - F		X	Technical tasks related to groundwater corrective action of the regulated unit are under EPA lead. Any such tasks which involve a Part I permit modification will be reviewed by both agencies.
7. Section IV - Conditions A and G	X		Condition A is the unit description and no tasks are associated with this condition. Condition G, permit modification, is an administrative task under KDHE authority.
<b>Part II Requirements</b>			
1. HSWA Corrective Action Requirements		X	Technical tasks of Part I will be fulfilled through the implementation of HSWA requirements.
2. Permit Modifications		X	EPA has administrative responsibility for permit modifications related to Part II.
<b>Compliance and Enforcement</b>			
1. Part I requirements	X	X	If KDHE chooses not to enforce these requirements, EPA may pursue enforcement.
2. Part II requirements		X	
3. O&M, CME Inspections	X		KDHE will perform inspections related to Part I requirements.
4. Five-year review of Part I of Permit	X		KDHE may review/modify the requirements of Part I based on review of investigation/monitoring data.