

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

FILED

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EXPEDITED SETTLEMENT AGREEMENT (ESA)

REGIONAL HEARING CLERK
EPA REGION VI

DOCKET NO: 06-2014-3321

This complaint is issued to: Odfjell Terminals Inc.

At: 12211 Port Road, Seabrook, Texas 77586
for violating Section 112(r)(7) of the Clean Air Act.

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region 6, by its duly delegated official, the Director, Compliance Assurance and Enforcement Division, and by Respondent pursuant to Section 113(a)(3) and (d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On August 13, 2003, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

On December 11, 2013, an authorized representative of the EPA conducted a compliance inspection of the subject facility (Respondent) to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Act. EPA found that the Respondent had violated regulations implementing Section 112(r) of the Act by failing to comply with the regulations as noted on the Alleged Violations and Proposed Penalty Sheet ("FORM"), which is attached hereto and hereby incorporated by reference.

SETTLEMENT

In consideration of the factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), including Respondent's size of business, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the entire record the parties enter into the ESA in order to settle the violations, described in the attached FORM for the total penalty amount of \$13,400.

This settlement is subject to the following terms and conditions:

The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein, and consents to the assessment of the penalty as stated above. Respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the violations listed in the attached FORM and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$13,400 in payment of the full penalty amount to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The DOCKET NUMBER OF THIS EXPEDITED SETTLEMENT AGREEMENT must be included on the certified check. (The DOCKET NUMBER is located at the top left corner of this Expedited Settlement Agreement.)

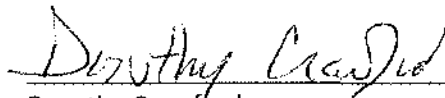
This original Settlement Agreement and a copy of the certified check must be sent by certified mail to:

Dorothy Crawford
Enforcement Officer
Air Toxics Enforcement Section (6EN-AT)
U.S. Environmental Protection Agency Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Certificate of Service

I certify that the original and one copy of the following 'Expedited Settlement Agreement' issued pursuant to 40 CFR 22.13(b) was filed on 1/15, 2015, with the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733; and that on the same date a copy of the same was sent to the following, in the manner specified below:

Name: Mr. John Heil
Address: 1121 Port Road
Seabrook, Texas 77586

A handwritten signature in cursive script, reading "Dorothy Crawford", is written over a horizontal line.

Dorothy Crawford
Enforcement Officer

**Inspection Findings and Penalty
Calculation**

Facility Name: Odfjell Terminals (Houston) Inc. Seabrook, TX

8. Were liquids, other than gases liquefied by refrigeration only, considered to be released at the highest daily maximum temperature, based on data for the previous three years appropriate for a stationary source, or at process temperature, whichever is higher? [68.22(g)] Used 98° F for calculations.	☒ Y ☐ N ☐ N/A
Hazard Assessment: Worst-case release scenario analysis [68.25]	
9. Analyzed and reported in the RMP one worst-case release scenario estimated to create the greatest distance to an endpoint resulting from an accidental release of a regulated toxic substance from covered processes under worst-case conditions? [68.25(a)(2)(i)]	☒ Y ☐ N ☐ N/A
10. Analyzed and reported in the RMP one worst-case release scenario estimated to create the greatest distance to an endpoint resulting from an accidental release of a regulated flammable substance from covered processes under worst-case conditions? [68.25(a)(2)(ii)]	☒ Y ☐ N ☐ N/A
11. Analyzed and reported in the RMP additional worst-case release scenarios for a hazard class if the worst-case release from another covered process at the stationary source potentially affects public receptors different from those potentially affected by the worst-case release scenario developed under 68.25(a)(2)(i) or 68.25(a)(2)(ii)? [68.25(a)(2)(iii)]	☒ Y ☐ N ☐ N/A
12. Has the owner or operator determined the worst-case release quantity to be the greater of the following: [68.25(b)] ☒ If released from a vessel, the greatest amount held in a single vessel, taking into account administrative controls that limit the maximum quantity? [68.25(b)(1)] ☐ If released from a pipe, the greatest amount held in the pipe, taking into account administrative controls that limit the maximum quantity? [68.25(b)(2)]	☒ Y ☐ N ☐ N/A
13.a. Has the owner or operator for <u>toxic substances</u> that are <u>normally gases</u> at <u>ambient temperature</u> and handled as a gas or liquid under <u>pressure</u> :	
13.a.(1) Assumed the whole quantity in the vessel or pipe would be released as a gas over 10 minutes? [68.25(c)(1)]	☒ Y ☐ N ☐ N/A
13.a.(2) Assumed the release rate to be the total quantity divided by 10, if there are no passive mitigation systems in place? [68.25(c)(1)]	☒ Y ☐ N ☐ N/A
13.b. Has the owner or operator for <u>toxic gases</u> handled as <u>refrigerated liquids</u> at <u>ambient pressure</u> :	
13.b.(1) Assumed the substance would be released as a gas in 10 minutes, if not contained by passive mitigation systems or if the contained pool would have a depth of 1 cm or less? [68.25(c)(2)(i)]	☐ Y ☐ N ☒ N/A
13.b.(2) If released substance would be contained by passive mitigation systems in a pool with a depth > 1 cm; ☐ Assumed the quantity in the vessel or pipe (as determined per 68.25(b)) would be spilled instantaneously to form a liquid pool? [68.25(c)(2)(ii)] ☐ Calculated the volatility rate at the boiling point of the substance and at the conditions specified in 68.25(d)? [68.25(c)(2)(ii)]	☐ Y ☐ N ☒ N/A
13.c. Has the owner or operator for <u>toxic substances</u> that are <u>normally liquids</u> at <u>ambient temperature</u> :	
13.c.(1) Assumed the quantity in the vessel or pipe would be spilled instantaneously to form a liquid pool? [68.25(d)(1)]	☐ Y ☐ N ☒ N/A
13.c.(2) Determined the surface area of the pool by assuming that the liquid spreads to 1 cm deep, if there is no passive mitigation system in place that would serve to contain the spill and limit the surface area, or if passive mitigation is in place, was the surface area of the contained liquid used to calculate the volatilization rate? [68.25(d)(1)(i)]	☐ Y ☐ N ☒ N/A

**Inspection Findings and Penalty
Calculation**

Facility Name: **Odfjell Terminals (Houston) Inc. Seabrook, TX**

20. Considered release scenarios which included, but are not limited to, the following: [68.28(b)(2)]	☒ Y ☐ N ☐ N/A
☒ Transfer hose releases due to splits or sudden hose uncoupling? [68.28(b)(2)(i)]	
☒ Process piping releases from failures at flanges, joints, welds, valves and valve seals, and drains or bleeds? [68.28(b)(2)(ii)]	
☒ Process vessel or pump releases due to cracks, seal failure, or drain, bleed, or plug failure? [68.28(b)(2)(iii)]	
☒ Vessel overfilling and spill, or overpressurization and venting through relief valves or rupture disks? [68.28(b)(2)(iv)]	
☒ Shipping container mishandling and breakage or puncturing leading to a spill? [68.28(b)(2)(v)]	
21. Used the parameters defined in 68.22 to determine distance to the endpoints? [68.28(c)]	☒ Y ☐ N ☐ N/A
22. Determined the rate of release to air by using the methodology in the RMP Offsite Consequence Analysis Guidance, any other publicly available techniques that account for the modeling conditions and are recognized by industry as applicable as part of current practices, or proprietary models that account for the modeling conditions may be used provided the owner or operator allows the implementing agency access to the model and describes model features and differences from publicly available models to local emergency planners upon request? [68.28(c)]	☒ Y ☐ N ☐ N/A
What modeling technique did the owner or operator use? [68.25(g)] Other: CHARM	
23. Ensured that the passive and active mitigation systems, if considered, are capable of withstanding the release event triggering the scenario and will be functional? [68.28(d)] used dikes	☒ Y ☐ N ☐ N/A
24. Considered the following factors in selecting the alternative release scenarios: [68.28(e)]	☒ Y ☐ N ☐ N/A
☒ The five-year accident history provided in 68.42? [68.28(e)(1)]	
☒ Failure scenarios identified under 68.50? [68.28(e)(2)]	

Hazard Assessment: Defining off-site impacts--Population [68.30]

25. Estimated population that would be included in the distance to the endpoint in the RMP based on a circle with the point of release at the center? [68.30(a)] used RMPSubmit, no calculations were available for verification.	☒ Y ☐ N ☐ N/A
26. Identified the presence of institutions, parks and recreational areas, major commercial, office, and industrial buildings in the RMP? [68.30(b)] used local maps	☒ Y ☐ N ☐ N/A
27. Used most recent Census data, or other updated information to estimate the population? [68.30(c)] 2009 census	☒ Y ☐ N ☐ N/A
28. Estimated the population to two significant digits? [68.30(d)]	☐ Y ☐ N ☒ N/A

Hazard Assessment: Defining off-site impacts--Environment [68.33]

29. Identified environmental receptors that would be included in the distance to the endpoint based on a circle with the point of release at the center? [68.33(a)] used USGS data, RMPSubmit only	☒ Y ☐ N ☐ N/A
30. Relied on information provided on local U.S.G.S. maps, or on any data source containing U.S.G.S. data to identify environmental receptors? [Source may have used LandView to obtain information] [68.33(b)]	☒ Y ☐ N ☐ N/A

Hazard Assessment: Review and update [68.36]

31. Reviewed and updated the off-site consequence analyses at least once every five years? [68.36(a)] RMPSubmit only	☒ Y ☐ N ☐ N/A
32. Completed a revised analysis and submit a revised RMP within six months of a change in processes, quantities stored or handled, or any other aspect that might reasonably be expected to increase or decrease the distance to the endpoint by a factor of two or more? [68.36(b)] no major process change	☐ Y ☐ N ☒ N/A

**Inspection Findings and Penalty
Calculation**

Facility Name: Odfjell Terminals (Houston) Inc. Seabrook, TX

Prevention Program- Safety information [68.65]

1. Has the owner or operator compiled written process safety information, which includes information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process, before conducting any process hazard analysis required by the rule? [68.65(a)] Does the process safety information contain the following for hazards of the substances: [68.65(b)] ☒ Material Safety Data Sheets (MSDS) that meet the requirements of the OSHA Hazard Communication Standard [29 CFR 1910.1200(g)]? [68.48(a)(1)] ☒ Toxicity information? [68.65(b)(1)] ☒ Permissible exposure limits? [68.65(b)(2)] ☒ Physical data? [68.65(b)(3)] ☒ Reactivity data? [68.65(b)(4)] ☒ Corrosivity data? [68.65(b)(5)] ☒ Thermal and chemical stability data? [68.65(b)(6)] ☒ Hazardous effects of inadvertent mixing of materials that could foreseeably occur? [68.65(b)(7)]	☒ Y ☐ N ☐ N/A
2. Has the owner documented information pertaining to technology of the process? ☒ A block flow diagram or simplified process flow diagram? [68.65(c)(1)(i)] ☐ Process chemistry? [68.65(c)(1)(ii)] N/A, storing chemicals only ☒ Maximum intended inventory? [68.65(c)(1)(iii)] ☒ Safe upper and lower limits for such items as temperatures, pressures, flows, or compositions? [68.65(c)(1)(iv)] ☒ An evaluation of the consequences of deviation? [68.65(c)(1)(iv)]	☒ Y ☐ N ☐ N/A
3. Does the process safety information contain the following for the equipment in the process: [68.65(d)(1)] ☒ Materials of construction? 68.65(d)(1)(i)] ☒ Piping and instrumentation diagrams [68.65(d)(1)(ii)] ☒ Electrical classification? [68.65(d)(1)(iii)] ☒ Relief system design and design basis? [68.65(d)(1)(iv)] ☐ Ventilation system design? [68.65(d)(1)(v)] N/A, all processes in open air ☒ Design codes and standards employed? [68.65(d)(1)(vi)] ☐ Material and energy balances for processes built after June 21, 1999? [68.65(d)(1)(vii)] N/A ☒ Safety systems? [68.65(d)(1)(viii)]	☒ Y ☐ N ☐ N/A
4. Has the owner or operator documented that equipment complies with recognized and generally accepted good engineering practices? [68.65(d)(2)]	☒ Y ☐ N ☐ N/A
5. Has the owner or operator determined and documented that existing equipment, designed and constructed in accordance with codes, standards, or practices that are no longer in general use, is designed, maintained, inspected, tested, and operating in a safe manner? [68.65(d)(3)]	☒ Y ☐ N ☐ N/A
Prevention Program- Process Hazard Analysis [68.67]	
6. Has the owner or operator performed an initial process hazard analysis (PIHA), and has this analysis identified, evaluated, and controlled the hazards involved in the process? [68.67(a)] 2008/2009 only	☒ Y ☐ N ☐ N/A

**Inspection Findings and Penalty
Calculation**

Facility Name: Odjfell Terminals (Houston) Inc. Seabrook, TX

15 Do the procedures address the following: [68.69(a)] <u>Steps for each operating phase: [68.69(a)(1)]</u> ☒ Initial Startup? [68.69(a)(1)(i)] ☒ Normal operations? [68.69(a)(1)(ii)] ☐ Temporary operations? [68.69(a)(1)(iii)] N/A/N/A ☒ Emergency shutdown including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner? [68.69(a)(1)(iv)] ☐ Emergency operations? [68.69(a)(1)(v)] N/A ☒ Normal shutdown? [68.68(a)(1)(vi)] ☒ Startup following a turnaround, or after emergency shutdown? [68.69(a)(1)(vii)] <u>Operating limits: [68.69(a)(2)]</u> ☐ Consequences of deviations [68.69(a)(2)(i)] no documentation ☐ Steps required to correct or avoid deviation? [68.69(a)(2)(ii)] no documentation available <u>Safety and health considerations: [68.69(a)(3)]</u> ☒ Properties of, and physical hazards presented by, the chemicals used in the process [68.69(a)(3)(i)] ☒ Precautions necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment? [68.69(a)(3)(ii)] ☒ Control measures to be taken if physical contact or airborne exposure occurs? [68.69(a)(3)(iii)] ☒ Quality control for raw materials and control of hazardous chemical inventory levels? [68.69(a)(3)(iv)] ☐ Any special or unique hazards? [68.69(a)(3)(v)] N/A ☒ Safety systems and their functions? [68.69(a)(4)]	☐ Y ☒ N ☐ N/A \$1,200 \$1,200
16. Are operating procedures readily accessible to employees who are involved in a process? [68.69(b)]	☒ Y ☐ N ☐ N/A
17. Has the owner or operator certified annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary? [68.69(c)] no documentation available	☐ Y ☒ N ☐ N/A \$1,200
18. Has the owner or operator developed and implemented safe work practices to provide for the control of hazards during specific operations, such as lockout/tagout? [68.69(d)]	☒ Y ☐ N ☐ N/A
Prevention Program - Training [68.71]	
19 Has each employee involved in operating a process, and each employee before being involved in operating a newly assigned process, been initially trained in an overview of the process and in the operating procedures? [68.71(a)(1)]	☒ Y ☐ N ☐ N/A
20. Did initial training include emphasis on safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks? [68.71(a)(1)]	☒ Y ☐ N ☐ N/A
21. In lieu of initial training for those employees already involved in operating a process on June 21, 1999, an owner or operator may certify in writing that the employee has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as specified in the operating procedures [68.71(a)(2)] trained all	☐ Y ☐ N ☒ N/A
22. Has refresher training been provided at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process? [68.71(b)]	☒ Y ☐ N ☐ N/A

**Inspection Findings and Penalty
Calculation**

Facility Name: Odjell Terminals (Houston) Inc. Seabrook, TX

38. If a change resulted in a change in the process safety information, was such information updated accordingly? [68.75(d)]	☒ Y ☐ N ☐ N/A
39. If a change resulted in a change in the operating procedures or practices, had such procedures or practices been updated accordingly? [68.75(e)]	☒ Y ☐ N ☐ N/A

Prevention Program - Pre-startup Safety Review [68.77]

40. If the facility installed a new stationary source, or significantly modified an existing source, (as discussed at 68.77(a)) did it perform a pre-startup safety review prior to the introduction of a regulated substance to a process to confirm: [68.77(b)]	☒ Y ☐ N ☐ N/A
☒ Construction and equipment was in accordance with design specifications? [68.77(b)(1)]	
☒ Safety, operating, maintenance, and emergency procedures were in place and were adequate? [68.77(b)(2)]	
☒ For new stationary sources, a process hazard analysis had been performed and recommendations had been resolved or implemented before startup? [68.77(b)(3)]	
☒ Modified stationary sources meet the requirements contained in management of change? [68.77(b)(3)]	
☒ Training of each employee involved in operating a process had been completed? [68.77(b)(4)]	

Prevention Program - Compliance audits [68.79]

41. Has the owner or operator certified that the stationary source has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed? [68.79(a)]	☒ Y ☐ N ☐ N/A
42. Has the audit been conducted by at least one person knowledgeable in the process? [68.79(b)]	☒ Y ☐ N ☐ N/A
43. Are the audit findings documented in a report? [68.79(c)]	☒ Y ☐ N ☐ N/A
44. Has the owner or operator promptly determined and documented an appropriate response to each of the findings of the audit and documented that deficiencies had been corrected? [68.79(d)]	☒ Y ☐ N ☐ N/A
45. Has the owner or operator retained the two most recent compliance reports? [68.79(e)] 2009 and 2011 on file	☒ Y ☐ N ☐ N/A

Prevention Program - Incident investigation [68.81]

46. Has the owner or operator investigated each incident that resulted in, or could reasonably have resulted in a catastrophic release of a regulated substance? [68.81(a)] 10/14/2010	☒ Y ☐ N ☐ N/A
47. Were all incident investigations initiated not later than 48 hours following the incident? [68.81(b)]	☒ Y ☐ N ☐ N/A
48. Was an accident investigation team established and did it consist of at least one person knowledgeable in the process involved, including a contract employee if the incident involved work of a contractor, and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident? [68.81(c)]	☒ Y ☐ N ☐ N/A
49. Was a report prepared at the conclusion of every investigation? [68.81(d)]	☒ Y ☐ N ☐ N/A
50. Does every report include: [68.81(d)]	☒ Y ☐ N ☐ N/A
☒ Date of incident? [68.81(d)(1)]	
☒ Date investigation began? [68.81(d)(2)]	
☒ A description of the incident? [68.81(d)(3)]	
☒ The factors that contributed to the incident? [68.81(d)(4)]	
☒ Any recommendations resulting from the investigation? [68.81(d)(5)]	

**Inspection Findings and Penalty
Calculation**

Facility Name: Odjell Terminals (Houston) Inc. Seabrook, TX

1.a.(1)	For stationary sources with any regulated substances held in a process above threshold quantities, is the source included in the community emergency response plan developed under 42 U.S.C. 11003? [68.90(b)(1)]	☐ Y ☐ N ☒ N/A
1.a.(2)	For stationary sources with only regulated flammable substances held in a process above threshold quantities, has the owner or operator coordinated response actions with the local fire department? [68.90(b)(2)]	☐ Y ☐ N ☒ N/A
1.a.(3)	Are appropriate mechanisms in place to notify emergency responders when there is need for a response? [68.90(b)(3)] call 911	☐ Y ☐ N ☒ N/A
2.	An emergency response plan is maintained at the stationary source and contains the following? [68.95(a)(1)] ☒ Procedures for informing the public and local emergency response agencies about accidental releases? [68.95(a)(1)(i)] ☒ Documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures? [68.95(a)(1)(ii)] ☒ Procedures and measures for emergency response after an accidental release of a regulated substance? [68.95(a)(1)(iii)]	☒ Y ☐ N ☐ N/A
3.	The emergency response plan contains procedures for the use of emergency response equipment and for its inspection, testing, and maintenance? [68.95(a)(2)]	☒ Y ☐ N ☐ N/A
4.	The emergency response plan requires, and there is documentation of, training for all employees in relevant procedures? [68.95(a)(3)]	☒ Y ☐ N ☐ N/A
5.	The owner or operator has developed and implemented procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and ensure that employees are informed of changes? [68.95(a)(4)]	☒ Y ☐ N ☐ N/A
6.	Did the owner or operator use a written plan that complies with other Federal contingency plan regulations or is consistent with the approach in the National Response Team's Integrated Contingency Plan Guidance ("One Plan")? If so, does the plan include the elements provided in paragraph (a) of 68.95, and also complies with paragraph (c) of 68.95? [68.95(b)]	☒ Y ☐ N ☐ N/A
7.	Has the emergency response plan been coordinated with the community emergency response plan developed under EPCRA? [68.95(c)] Seabrook Fire Department is practicing annually at the site.	☒ Y ☐ N ☐ N/A

Section H – Risk Management Plan [40 CFR 68.190 – 68.195]

1.	Does the single registration form include, for each covered process, the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the five- or six-digit NAICS code that most closely corresponds to the process and the Program level of the process? [68.160(b)(7)]	☒ Y ☐ N ☐ N/A
2.	Did the facility assign the correct program level(s) to its covered process(es)? [68.160(b)(7)]	☒ Y ☐ N ☐ N/A