



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140

COPY

OFFICE OF
COMPLIANCE AND ENFORCEMENT

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO:

This ESA is issued to:

CAA-10-2019-0011
Bellingham Cold Storage Company (Orchard)
P.O. Box 895
600 Orchard Drive
Bellingham, Washington 98225-1753

Bellingham Cold Storage Company (Squalicum)
P.O. Box 895
2825 Roeder Avenue
Bellingham, Washington 98225-1753

RECEIVED
19 FEB 13 PM 2:11
HEARINGS CLERK
EPA - REGION 10

This Expedited Settlement Agreement (ESA) is being entered into by the U.S. Environmental Protection Agency Region 10 (EPA), by its duly delegated official, and by Bellingham Cold Storage ("Respondent") pursuant to Section 113(a)(3) and (d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On December 9, 2016, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

EPA has determined that Respondent violated the Risk Management Program (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act (CAA), as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary ("Summary"), which is hereby incorporated by reference.

SETTLEMENT

In consideration of the penalty assessment factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), and upon consideration of the entire record, the parties enter into the ESA in order to settle the violations described in the enclosed Summary for the total penalty amount of **\$14,500**.

This settlement is subject to the following terms and conditions:

Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein and in the Summary, and consents to the assessment of the penalty as stated above.

Respondent waives its rights to contest the allegations contained herein or in the Summary, to a hearing afforded by Section 113(d)(2)(A) of the CAA, 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 Respondent has corrected the violations listed in the enclosed Summary.

Respondent agrees to submit payment in full of the \$13,600 within 30 days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk.

Payment instructions are included on the enclosed "Payment Instructions," which is hereby incorporated by reference.

This original ESA must be sent by certified mail to:

David G. Magdangal, 112(r) Enforcement Officer
Office of Compliance and Enforcement
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155, Mail Stop: OCE-201
Seattle, Washington 98101

Upon Respondent's submission of the signed original ESA, signature by EPA, filing with the Regional Hearing Clerk, and timely payment of the penalty, EPA will take no further civil penalty action against Respondent for the alleged violations of the CAA referenced in the Summary. EPA does not waive its right to any other enforcement action for any other violations of the CAA or any other statute.

If the signed original ESA is not returned to the EPA Region 10 at the above address by Respondent within 45 days of the date of Respondent's receipt of it (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein and in the Summary.

This ESA is binding on the parties signing below.

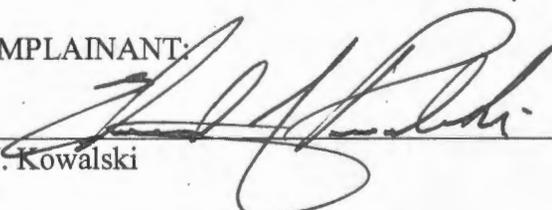
This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature: 
Name (print): DOUGLAS THOMAS
Title (print): PRESIDENT + CEO
Cost to correct violation(s): WELL OVER \$1,000,000.00

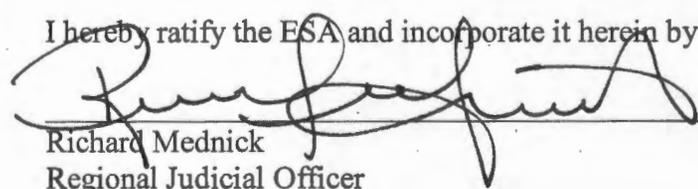
Date: 12/20/18

FOR COMPLAINANT:


Edward J. Kowalski
Director
Office of Compliance and Enforcement

Date: 1/31/2019

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.


Richard Mednick
Regional Judicial Officer

Date: 2/13/19



U.S. ENVIRONMENTAL PROTECTION AGENCY

Risk Management Program Inspection Findings and Alleged Violations Summary Region 10

REASON FOR INSPECTION: This inspection is for the purpose of determining compliance with Section 112(r)(7) accidental release prevention requirements of the Clean Air Act, as amended 1990. The scope of this inspection may include, but is not limited to: reviewing and obtaining copies of documents and records; interviews and taking of statements; reviewing of chemical storage, handling, processing, and use; taking samples and photographs; and any other inspection activities necessary to determine compliance with the Act.

FACILITY NAME: Bellingham Cold Storage Company (Squalicum & Orchard Facilities)	<input checked="" type="checkbox"/> PRIVATE # EMPLOYEES: 162	<input type="checkbox"/> GOVERNMENTAL/MUNICIPAL POPULATION SERVED: Click here
FACILITY LOCATION: 2825 Roeder Avenue, Bellingham, Washington 98225 (Squalicum) 600 Orchard Drive, Bellingham, Washington 98225 (Orchard)	INSPECTION START DATE AND TIME: 5/24/2017 at 8:30 am (Squalicum) 5/25/2017 at 8:30 am (Orchard)	
MAILING ADDRESS: PO Box 895, Bellingham, Washington 98225	INSPECTION END DATE AND TIME: 5/24/2017 at 4:30 pm (Squalicum) 5/25/2017 at 2:30 pm (Orchard)	
RESPONSIBLE OFFICIAL, TITLE, PHONE NUMBER: Douglas Thomas, President, (360) 305-1178	EPA FACILITY ID# 1000 0012 2575 (Squalicum) 1000 0014 1973 (Orchard)	
FACILITY REPRESENTATIVE(S), TITLE(S), PHONE NUMBER(S): Mr. Gary White, Maintenance & Engineering Manager Mr. Arturo Telles, Engineering Supervisor	INSPECTOR NAME(S), TITLE(S), PHONE NUMBER(S) Ms. Terry Garcia, US EPA SEE Grantee, Lead RMP Inspector Mr. Robert Hales, US EPA SEE Grantee, RMP Inspector Mr. Peter Phillips, US EPA SEE Grantee, RMP Inspector Mr. James Petersen, Ecology and Environment, Inc., EPA START Contractor	
	INSPECTOR SIGNATURE 	DATE 11/26/18

INSPECTION FINDINGS

IS FACILITY SUBJECT TO RMP REGULATION (40 C.F.R. § 68)?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DATE RMP FILED WITH EPA: June 24, 1999 (Orchard) and June 22, 1999 (Squalicum) DATE OF LATEST RMP UPDATE: May 28, 2014 (Orchard) and May 22, 2014 (Squalicum)		

1) PROCESS/NAICS CODE: 49312	PROGRAM LEVEL: <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 3
REGULATED SUBSTANCE: Anhydrous Ammonia	MAX. QUANTITY IN PROCESS (lbs.): 50,000 (Squalicum) and 34,000 (Orchard)

DESCRIPTION OF ALLEGED VIOLATIONS

CAA Section 112(r) and its implementing regulations in 40 C.F.R. Part 68 require an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance (listed in § 68.130) in a process, to develop a Risk Management Plan (RMP) and Risk Management Program.

Three EPA representatives and an EPA contractor inspected the Squalicum and Orchard facilities on May 24, 2017 and May 25, 2017, respectively. Based upon this inspection, the Squalicum and Orchard facility is in violation of the following risk management program elements:

- Hazard Assessment:** 40 C.F.R. § 68.30(c) requires Squalicum and Orchard to use the most recent Census data, or other updated information, to estimate the population potentially affected. At the time of the May 24-25, 2017 inspection, Squalicum and Orchard provided EPA with Census data for the year 2000.
- Hazard Assessment:** 40 C.F.R. § 68.39(a) requires Orchard to document for worst case scenarios: a description of the vessel or pipeline and substance selected, assumptions and parameters used, the rationale for selection, and anticipated effect of the administrative controls and passive mitigation on the release quantity and rate. At the time of the May 25, 2017 inspection, Orchard did not provide EPA with worst case scenarios for Dock 5 Building and South Side Building.

DESCRIPTION OF ALLEGED VIOLATIONS (Cont'd)

3. **Hazard Assessment:** 40 C.F.R. § 68.39(b) requires Orchard to document for alternative release scenarios: a description of the scenarios identified, assumptions and parameters used, the rationale for the selection of specific scenarios, and anticipated effect of the administrative controls and mitigation on the release quantity and rate. At the time of the May 25, 2017 inspection, Orchard did not provide EPA with alternative release scenarios for Dock 5 Building and South Side Building.
4. **Hazard Assessment:** 40 C.F.R. § 68.39(c) requires Orchard to estimate quantity release, release rate, and duration of release. At the time of the May 25, 2017 inspection, Orchard did not provide EPA with an estimate of quantity release, release rate, and duration of release for Dock 5 Building and South Side Building.
5. **Hazard Assessment:** 40 C.F.R. § 68.39(d) requires Orchard to identify the methodology used to determine distance to endpoints. At the time of the May 25, 2017 inspection, Orchard did not provide EPA with methodology used to determine distance to endpoints for Dock 5 Building and South Side Building.
6. **Hazard Assessment:** 40 C.F.R. § 68.39(e) requires Orchard to identify data used to estimate population and environmental receptors potentially affected. At the time of the May 25, 2017 inspection, Orchard did not provide EPA with worst case scenarios and alternative release scenarios for Dock 5 Building and South Side Building.
7. **Process Safety Information:** 40 C.F.R. § 68.65(c)(1)(iii) requires Squalicum to complete written process safety information for Squalicum's maximum intended inventory of anhydrous ammonia. At the time of the May 24, 2017 inspection, Squalicum provided EPA with incorrect calculations for their maximum intended inventory. Squalicum calculated 81,000-pounds of anhydrous ammonia for their maximum intended inventory. The correct calculation is 50,000-pounds. Squalicum confirmed this calculation was incorrect in an email sent to EPA on June 27, 2017.
8. **Process Safety Information:** 40 C.F.R. § 68.65(d)(1)(iv) requires Squalicum and Orchard to complete written process safety information for Squalicum's relief system design and design basis equipment. At the time of the May 24-25, 2017 inspection, Squalicum and Orchard did not provide EPA with relief system design calculations for all pressure relief valves currently in use. More specifically, Orchard did not provide EPA with relief system design calculations for Dock 5 Building and South Side Building. Squalicum's and Orchard's Piping & Instrumentation Diagrams did not identify any pressure relief valves currently or previously in use. On September 29, 2017, Squalicum and Orchard provided EPA with new relief system design calculations. The new calculations¹ show "... [all of Squalicum's and Orchard's] relief lines are [not designed] to the current code"².
9. **Process Safety Information:** 40 C.F.R. § 68.65(d)(1)(v) requires Squalicum and Orchard to complete written process safety information for Squalicum's and Orchard's ventilation system design. At the time of the May 24, 2017 inspection, Squalicum did not provide EPA with ventilation system design calculations for Engine Room #1 and Engine Room #2. On September 29, 2017, Squalicum provided EPA with new ventilation system design calculations for Engine Room #1 and Engine Room #2. The new calculations show Squalicum's Engine Room #2 ventilation system is inadequately exhausting the contents of the room. At the time of the May 24, 2017 inspection, Squalicum's Engine Room #2 ventilation system was equipped to exhaust 25,000 cubic feet per minute. The new calculations performed require the ventilation system in Engine Room #2 to exhaust 27,403 cubic feet per minute in normal ventilation situations to keep the machine room temperature below 104°F.³ At the time of the May 25, 2017 inspection, Orchard did not provide EPA with ventilation system design calculations for Dock 5 Building and South Side Building. On September 29, 2017, Orchard provided EPA with new ventilation system design calculations for Dock 5 Building and South Side Building. The new calculations allow Orchard to return to compliance.
10. **Process Safety Information:** 40 C.F.R. § 68.65(d)(2) requires Squalicum to document that equipment complies with recognized and generally accepted good engineering practices. At the time of the May 24, 2017 inspection, Squalicum did not provide EPA with industry standards and codes they were following for their ammonia refrigeration equipment's ventilation and relief valves. At the time of the May 25, 2017 inspection, Orchard did not provide EPA with industry standards and codes they were following for their ammonia refrigeration equipment located in Dock 5 Building and South Side Building.
11. **Process Hazard Analysis:** 40 C.F.R. § 68.67(d) requires Squalicum to perform a process hazard analysis by a team with expertise in engineering and process operations. The team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used. At the time of the May 24, 2017 inspection, Squalicum did not provide EPA with a list of the team, their title, and the date the PHA was performed.
12. **Process Hazard Analysis:** 40 C.F.R. § 68.67(e) requires Squalicum to establish a system to promptly address the team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions. At the time of the May

¹ Reference: BCS Roeder Relief Summary As-Build.pdf

² Per Gary White (Vice President Engineering of Bellingham Cold Storage, Company). Document analysis references the following industry standards: ANSI/ASHRAE STANDARD 15-2016; ANSI/IIAR 2-2014; 2015 INTERNATIONAL MECHANICAL CODE; and 2015 INTERNATIONAL FIRE CODE.

³ Reference: IIAR 2-2014 - 6.14.8.1 Normal mechanical ventilation design capacity shall be the volume required to limit the room dry bulb temperature to 104°F (40°C) taking into account the ambient heating effect of all machinery in the room and with the ventilation air entering the room at a 1% ASHRAE design dry bulb (ref. 3.1). The emergency ventilation system is permitted to be used to supplement the normal ventilation.

DESCRIPTION OF ALLEGED VIOLATIONS (Cont'd)

- 24, 2017 inspection, Squalicum did not provide EPA "findings and recommendations" for the PHA performed on May 16, 2017.
13. **Process Hazard Analysis:** 40 C.F.R. § 68.67(f) requires Squalicum and Orchard to update and revalidate the process hazard analysis at least every five (5) years after the completion of the initial process hazard analysis, to assure that the process hazard analysis is consistent with the current process. At the time of the May 24, 2017 inspection, Squalicum did not provide EPA with an initial PHA or updated/revalidated PHA's. Squalicum's first time RMP submission was on June 22, 1999. Therefore, Squalicum should have shown a PHA was first initially performed in 1999 with subsequent updates/revalidations on 2004, 2009, and 2014. At the time of the May 25, 2017 inspection, Orchard did not provide EPA with an updated/revalidated PHA for the year 2014. They were late by completing the update/revalidation on May 16, 2017. Orchard's first time RMP submission was on June 24, 1999. Therefore, Orchard should have shown an update/revalidated PHA for 2014 (PHA was first initially performed in 1999 with expected updates/revalidations on 2004, 2009, and 2014).
 14. **Process Hazard Analysis:** 40 C.F.R. § 68.67(g) requires Squalicum to retain process hazards analyses and updates or revalidations for each process covered by this section, as well as the documented resolution of recommendations described in paragraph (e) of this section for the life of the process. At the time of the May 24, 2017 inspection, Squalicum did not provide EPA with an initial PHA or subsequent updates/revalidations for the years 1999, 2004, 2009, or 2014. The most current PHA Squalicum has on file was performed on May 16, 2017.
 15. **Training:** 40 C.F.R. § 68.71(a)(1) requires Squalicum and Orchard to initially train employees involved in operating a process in an overview of the process and in the operating procedures as specified in § 68.69. Moreover, the initial training shall include emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks. At the time of the May 24-25, 2017 inspection, Squalicum did not provide EPA with initial training records for ammonia operators Mr. Bruce Sines, Mr. Arturo Telles, Mr. Chris Whitman, Mr. Don Morris, Mr. Dave Richardson, Mr. Mike Barham, and Mr. Ben Dyer.
 16. **Training:** 40 C.F.R. § 68.71(a)(2) requires Squalicum and Orchard in lieu of initial training for those employees already involved in operating a process on June 21, 1999, to 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. At the time of the May 24-25, 2017 inspection, Squalicum and Orchard did not provide EPA with certifying documentation for Mr. Bruce Sines. Mr. Sines was hired by Bellingham Cold Storage Company on July 29, 1975.
 17. **Training:** 40 C.F.R. § 68.71(b) requires Squalicum and Orchard to provide refresher training at least every three years, and 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. At the time of the May 24-25, 2017 inspection, Squalicum did not provide EPA with refresher training records for operators Mr. Dave Richardson and Mr. Mike Barham.
 18. **Training:** 40 C.F.R. § 68.71(c) requires Squalicum and Orchard to ascertain that each employee involved in operating a process has received and understood the training. The owner or operator shall prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training. At the time of the May 24, 2017 inspection, Squalicum did not provide EPA with initial training records for all operators, certifying documentation for Mr. Sines, and refresher training for Mr. Richardson and Mr. Barham.
 19. **Mechanical Integrity:** 40 C.F.R. § 68.73(b) requires Squalicum to establish and implement written procedures to maintain the on-going integrity of process equipment. At the time of the May 24, 2017 inspection, Squalicum did not provide EPA with non-destructive testing for the ammonia refrigeration piping and pressure vessels. IIAR Bulletin 110 June 2007 Sections 6.4 and 6.7 refers to routine maintenance for pressure vessels and piping, including the use of non-destructive testing, such as "ultrasonic measurements".
 20. **Mechanical Integrity:** 40 C.F.R. § 68.73(d)(3) requires Squalicum to ensure the frequency of inspections and tests of process equipment are consistent with applicable manufacturers' recommendations and good engineering practices. At the time of the May 24, 2017 inspection, Squalicum did not provide EPA with written procedures outlining the frequency of inspections/testing for the ammonia refrigeration piping and pressure vessels. IIAR recommends pressure vessels should be given an independent inspection at least once every five years except where the authority having jurisdiction requires less than the five-year interval. All insulated piping and associated components such as flanges and supports shall be inspected annually.
 21. **Compliance Audit:** 40 C.F.R. § 68.79(e) requires Squalicum and Orchard to retain the two (2) most recent compliance audit reports. At the time of the May 24, 2017 inspection, Squalicum did not provide EPA with the two most recent compliance audit report. Squalicum has a 2014 compliance audit report dated May 29, 2014 and a 2008 compliance on file. Squalicum was unable to produce the 2011 compliance audit report. At the time of the May 25, 2017 inspection, Orchard did not provide EPA with two the most recent compliance audit reports. Orchard has a 2014 compliance audit report dated May 29, 2014 and a 2008 compliance audit report. However, Orchard was unable to find the 2011 compliance audit report.
 22. **Risk Management Program:** 40 C.F.R. § 68.195(b) requires Squalicum and Orchard to submit emergency contact information required under 68.160(b)(6) within thirty-days of the change. Squalicum's RMP dated May 22, 2014, identifies Mr. Mike Clausen as the emergency contact. At the time of the May 24, 2017 inspection, Squalicum informed EPA that Mr. Clausen left the company approximately two years from the date of the inspection. The correct emergency contact is Mr. Gary White. Orchard's RMP dated May 28, 2014, identifies Mr. Mike Clausen as the emergency contact information who left the company approximately two years from the date of the May 25, 2017 inspection. The correct emergency contact is Mr. Gary White.

DESCRIPTION OF ALLEGED VIOLATIONS (Cont'd)

DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES?

YES

NO

ATTACHED CHECKLIST(S):

PROGRAM LEVEL 1

PROGRAM LEVEL 2

PROGRAM LEVEL 3

OTHER ATTACHMENTS:

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Bellingham Cold Storage Company Docket No.: CAA-10-2019-0011**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

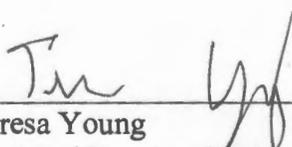
The undersigned certifies that a true and correct copy of the document was delivered to:

David G. Magdangal
1200 Sixth Avenue, Suite 155, OCE-201
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Douglas Thomas
P.O. Box 895
600 Orchard Drive
Bellingham, Washington 98225-1753

DATED this 13 day of February, 2019



Teresa Young
Regional Hearing Clerk
EPA Region 10