UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

In the Matter of: Northern Pelagic Group, LLC, 4 Fish Island New Bedford, MA 02740, Respondent. Proceeding under Section 113(d) of the Clean Air Act and Section 325(c) of the Emergency Planning and Community Right-to-Know Act	Docket Nos.: CAA-01-2021-38 EPCRA-01-2021-37 **CONSENT AGREEMENT AND FINAL ORDER**

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(d), Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045(c), and Sections 22.13(b) and 22.18(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), as codified at 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency, Region 1 ("EPA").

3. Respondent is Northern Pelagic Group, LLC ("NORPEL"), a limited liability company doing business in the Commonwealth of Massachusetts.

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this consent agreement ("Consent Agreement" or "Agreement") and the attached final order ("Final Order" or "Order") without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this Consent Agreement and Final Order (collectively, "CAFO").

B. JURISDICTION

5. This Consent Agreement is entered into under Sections 113(a)(3)(A) and (d) of the Act, as amended, 42 U.S.C. §§ 7413(a)(3)(A) and (d), Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and the Consolidated Rules, 40 C.F.R. Part 22.

6. EPA and the United States Department of Justice jointly determined that this matter is appropriate for an administrative penalty assessment. CAA § 113(d)(1), 42 U.S.C. § 7413(d)(1); 40 C.F.R. § 19.4.

7. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

C. GOVERNING LAW

CAA Statutory Authority

8. Section 112(r) of the CAA, 42 U.S.C. § 7412(r), authorizes EPA to promulgate regulations and programs in order to prevent and minimize the consequences of accidental releases of certain regulated substances.

9. The regulations promulgated pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), are found at 40 C.F.R. Part 68.

10. The substances regulated under Part 68 ("RMP chemicals" or "regulated substances") are listed in 40 C.F.R. § 68.130, together with their associated threshold quantities. This list includes anhydrous ammonia as an RMP chemical and identifies a threshold quantity of 10,000 pounds.

11. A "process" is defined by 40 C.F.R. § 68.3 as any activity involving a regulated substance, including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities.

12. Pursuant to 40 C.F.R. § 68.10, each process in which a regulated substance is present in more than a threshold quantity ("covered process") is subject to one of three risk management programs. A covered process is subject to Program 3 if the process does not meet the eligibility requirements for Program 1 and is either in a specified NAICS code or subject to the Occupational Safety and Health Administration's process safety management ("PSM") standard at 29 C.F.R. § 1910.119. Pursuant to 40 C.F.R. § 68.12(a) and (d), the owner or operator of a stationary source with a process subject to Program 3 requirements must, among other tasks, submit a Risk Management Plan, develop a management system to implement the risk management program, and implement the release prevention requirements of 40 C.F.R. §§ 68.65-87.

13. Sections 113(a) and (d) of the CAA, 42 U.S.C. §§ 7413(a) and (d), provide for the assessment of civil penalties for violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). Statutory maximum penalties, as adjusted for inflation, are set out in 40 C.F.R. Part 19.

EPCRA Statutory and Regulatory Authority

14. In accordance with Section 311(a) of EPCRA, 42 U.S.C. § 11021(a), the owner or operator of a facility who is required to prepare or have available a material safety data sheet (now and hereinafter referred to as "safety data sheet" or "SDS") for a hazardous chemical under the Occupational Safety and Health Act of 1970 ("OSHA") shall submit to the state emergency response commission ("SERC"), local emergency planning committee ("LEPC"), and the fire department with jurisdiction over the facility, a SDS for each chemical present at the facility in quantities equal to or greater than the chemical-specific minimum threshold level.

15. In accordance with Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), the owner or operator of a facility that is required under OSHA to prepare or have available an SDS for a hazardous chemical must prepare and submit an emergency and hazardous chemical inventory form ("Tier I" or "Tier II" form) to the SERC, LEPC, and the local fire department. Tier I or Tier II forms must be submitted annually, on or before March 1, and are required to contain chemical inventory information with respect to the preceding calendar year. Additionally, Section 312(b) of EPCRA, 42 U.S.C. § 11022(b), authorizes EPA to establish minimum threshold levels of hazardous chemicals for the purposes of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

16. The regulations promulgated pursuant to 312 of EPCRA, 42 U.S.C. § 11022, are found at 40 C.F.R. Part 370. Under 40 C.F.R. §§ 370.20, 370.40, 370.44, and 370.45, the owner or operator of a facility that has present a quantity of a hazardous chemical exceeding the minimum threshold level must prepare and submit a Tier I or Tier II form to the LEPC, SERC, and local fire department. Pursuant to 40 C.F.R. § 370.45, Tier I or Tier II forms must be submitted annually, on or before March 1, and are required to contain chemical inventory information with respect to the preceding calendar year. The LEPC, SERC, or local fire department may request that a facility submit the more comprehensive Tier II form in lieu of the Tier I form, as has the Commonwealth of Massachusetts.

17. In accordance with Sections 311(b) and 312(b) of EPCRA, 42 U.S.C. §§ 11021(b) and 11022(b), 40 C.F.R. §§ 370.10(a) and 355 establish minimum threshold levels for hazardous chemicals that trigger reporting requirements for the purposes of Part 370. Minimum threshold limits of 500 pounds are established for specific extremely hazardous substances, including ammonia.

18. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), allows EPA to assess civil penalties for violations of EPCRA Section 312. Statutory maximum penalties as adjusted for inflation are provided in 40 C.F.R. Part 19.

D. ALLEGED VIOLATIONS

19. Northern Pelagic Group, LLC ("NORPEL"), operates a seafood processing and distribution facility located along Route 6 at 4 Fish Island in New Bedford, Massachusetts, (the "Facility"). Approximately 15,000 people live within one mile of the Facility.

20. NORPEL is a "person" within the meaning of Section 302(e) of the Act, 42 U.S.C. § 7602(e), against whom an administrative penalty order may be issued under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3). NORPEL is also a "person" under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and 40 C.F.R. § 370.66.

21. The Facility is a building or structure from which an accidental release may occur and is therefore a "stationary source," as defined at Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3. For EPCRA purposes, the Facility is also a "facility" as defined in 40 C.F.R. § 370.66.

22. At all times relevant to the violations alleged herein, Respondent was the "owner or operator" of the Facility.

23. NORPEL uses anhydrous ammonia in a refrigeration "process" as defined by 40 C.F.R. § 68.3, in a series of interconnected pipes and vessels at the Facility (the "Process").

24. According NORPEL's 2012, 2013, 2014, 2015, and 2016 Reporting Year Tier II reports, the facility maintained an average daily inventory of 28,000 lbs. of anhydrous ammonia on site in its two refrigeration systems.

25. Accordingly, the anhydrous ammonia Process at the Facility is a "covered process" subject to the RMP provisions of Part 68.

26. The endpoint for a worst-case release of the amount of anhydrous ammonia used in the process is greater than the distance to a public receptor.

27. Additionally, the Process is subject to OSHA's PSM requirements at 29 C.F.R. § 1910.119 because it uses anhydrous ammonia in an amount over the threshold quantity of 10,000 pounds.

28. Therefore, in accordance with 40 C.F.R. § 68.10, Respondent's use, storage, and handling of anhydrous ammonia in the Process is subject to the requirements of RMP Program 3.

29. In light of the potential hazards posed by the mishandling of anhydrous ammonia, industry trade associations have issued standards outlining the recognized and generally accepted good engineering practices ("RAGAGEP") in the ammonia refrigeration industry. Examples of the standards of care as understood by EPA to have been adopted by industry by 2016 through the present are set out in Attachment A.

30. EPA visited the Facility (the "Inspection") and reviewed documents to assess NORPEL's compliance with Part 68. EPA and NORPEL entered into a consent order in 2018 to resolve compliance concerns identified by EPA.

31. As of January 4, 2021, Respondent reviewed its compliance with key safety measures for ammonia refrigeration systems posted by EPA at https://www.epa.gov/sites/production/files/2018-05/documents/listofkeymeasurements.pdf and determined that the measures largely were in place. Improved documentation for operating procedures and preventative maintenance is in progress, and Respondent plans to evaluate risks associated with hydraulic shock and liquid slugs.

32. Complainant alleges the following violations of Part 68.

Count 1: Failure to File a Risk Management Plan

33. Complainant realleges and incorporates by reference Paragraphs 1 through 32 of this document.

34. The owner or operator of a facility covered by 40 C.F.R. Part 68 is required to submit a risk management plan to EPA, including a registration for its covered process. 40 C.F.R. §§ 68.10, 68.12, and 68.150.

35. NORPEL filed its first risk management plan on December 29, 2017, despite having had over the threshold amount of anhydrous ammonia in its Process for years before that.

36. Accordingly, NORPEL failed to file a risk management plan when due and thus operated the Process in violation of 40 C.F.R. §§ 68.12(a), 68.150, and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 2: Failure to Comply with Hazard Assessment Requirements

37. Complainant realleges and incorporates by reference Paragraphs 1 through 36 of this document.

38. The owner or operator of a facility covered by 40 C.F.R. Part 68 is required to prepare a worst-case release scenario analysis and provide a five-year accident history for all accidental releases from the covered process, as provided in 40 C.F.R. §§ 68.25 and 68.42. Further, pursuant to 40 C.F.R. § 68.28, the owner or operator of a facility covered by 40 C.F.R. Part 68 is required to identify and analyze at least one alternative release scenario for each regulated toxic substance held in a covered process. The owner or operator is required to review and update these offsite consequence analyses at least once every five years pursuant to 40 C.F.R. § 68.36. Prior to its registration and initial RMP

filing on December 29, 2017, Respondent had not reported preparation of either of the offsite consequence analyses.

39. Accordingly, Respondent violated the hazard assessment requirements of 40 C.F.R. §§ 68.25, 68.36, and 68.42, and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 3: Failure to Comply with Process Hazard Analysis Requirements

40. Complainant realleges and incorporates by reference Paragraphs 1 through 39 of this document.

41. Pursuant to 40 C.F.R. § 68.67, the owner or operator of a Program 3 process is required, among other things, to perform an initial process hazard analysis ("PHA") on each covered process. The PHA must identify, evaluate, and control the hazards involved in the process. The owner or operator must update the PHA every five years and when a major change in the process occurs. Additionally, pursuant to 40 C.F.R. § 68.67(e), the owner or operator must establish a system to promptly address the recommendations identified in the PHA, including by defining a schedule for completing the action items, taking the actions as soon as possible, and documenting the resolution of the recommendations.

42. Respondent documented completion of a PHA in conjunction with its New Facility Pre-Startup Review Verification, dated May 10, 2004.

43. Respondent reported completion of a PHA on October 6, 2016, in its initial RMP filing on December 29, 2017, and completed a PHA initial validation review in January 2018. Pursuant to 40 C.F.R. §§ 68.10(a)(3) and 68.12(d), Respondent should have complied with the Program 3 PHA requirements, including performance of periodic PHA updates and revalidations, between 2004 and 2016. Further, although Respondent identified the hazard of vehicular impacts to the ammonia receivers in its 2004 PHA, at the time of the Inspection, the hazard had still not been fully controlled.

44. Accordingly, Respondent violated 40 C.F.R. §§ 68.10(a)(3) and 68.12(d), the PHA requirements of 40 C.F.R. § 68.67(a) and (e), and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), for the Process.

Count 4: Failure to Comply with Process Safety Information Requirements

45. Complainant realleges and incorporates by reference Paragraphs 1 through 44 of this document.

46. Pursuant to 40 C.F.R. § 68.65(a), the owner or operator of a Program 3 process is required, among other things, to compile written process safety information before completing the PHA. This includes information pertaining to the hazards of the RMP

chemical in the process (§ 68.65(b)) and information pertaining to the technology and equipment of the process (§§ 68.65(c) and (d)(1)). Pursuant to 40 C.F.R. § 68.65(d)(2) and (3), the owner or operator must also document that the equipment complies with recognized and generally accepted good engineering practices and document that any equipment designed according to outdated standards is designed, maintained, inspected, tested, and operating in a safe manner.

47. At the time of Inspection, Respondent had not compiled all of the necessary process safety information pertaining to the technology and equipment of the Process, as required by 40 C.F.R. § 68.65(d)(1). Specifically, Respondent did not have (i) piping and instrument diagrams for the entire facility that reflected as-built conditions and that labeled and listed key valves (including valves required for emergency shutdown of the system) and (ii) ventilation system design documentation.

48. Additionally, as more fully described in Attachment A, at the time of the Inspection Respondent had also failed to document that the Process equipment complied with recognized and generally accepted good engineering practices ("RAGAGEP") and that equipment designed according to outdated standards was designed, maintained, inspected, tested, and operated in a safe manner. Specifically, among other things, Respondent did not have required certificates for pressure vessels; sufficient labeling on piping and valves; an eyewash/safety shower inside or directly outside the ammonia machinery room ("AMR"); sufficient ventilation for the AMR; high pressure receivers protected from potential vehicle impacts; an accessible isolation valve for one of its high pressure receivers; a properly-located emergency shutoff switch; quick-closing valves on oil pots; adequate ammonia detection alarms; sealed piping penetrations into the AMR to prevent escape of ammonia vapor; or tight-fitting doors to the AMR outfitted with panic bars. Also, there was clutter (including combustible items) around the high-pressure receivers and in the AMR, which could impede access and create a fire hazard.

49. Accordingly, by failing to compile the necessary information about the technology and equipment of the Process, including documenting that the Process complied with RAGAGEP and that equipment designed to outdated standards was safe, Respondent violated 40 C.F.R. 68.65 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 5: Failure to Comply with Program 3 Mechanical Integrity Requirements

50. Complainant realleges and incorporates by reference Paragraphs 1 through 49 of this document.

51. Pursuant to 40 C.F.R. § 68.73, the owner or operator of a Program 3 process must establish and implement written procedures to maintain the ongoing integrity of certain process equipment and train employees accordingly. The owner or operator must train each employee involved in maintaining the ongoing integrity of process equipment in the procedures applicable to the employee's job task. Inspection and testing procedures shall

follow RAGAGEP, and the frequency of inspections and tests shall be consistent with the manufacturer's recommendations and good engineering practices, or more frequently if needed based on prior operating experience. The owner or operator must also document the inspections or tests on process equipment, correct deficiencies, assure that any new equipment is suitable for the process application, perform checks to ensure that equipment is installed properly, and assure that maintenance materials and spare parts are suitable for the process application.

52. At the time of the Inspection, Respondent had not performed all the necessary inspections and tests of the equipment in the Process, following RAGAGEP, and had not maintained documentation thereof, as required by 40 C.F.R. § 68.73(d). Specifically, Respondent NORPEL had not properly tested and maintained, or documented the maintenance and proper calibration of, ammonia detectors at the Facility.

53. As more fully described in Attachment A, Respondent had not corrected deficiencies in equipment that were outside of acceptable limits, as required by 40 C.F.R. § 68.73(e). Specifically, Respondent had failed to properly maintain piping, valves, and pressure vessels, which exhibited several instances of significant corrosion, including on the high pressure receivers and associated piping and pressure relief valves.

54. By failing to comply with the Program 3 mechanical integrity requirements, Respondent violated 40 C.F.R. § 68.73 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 6: Failure to Comply with Hot Work Permit Requirements

55. Complainant realleges and incorporates by reference Paragraphs 1 through 54 of this document.

56. Pursuant to 40 C.F.R. § 68.85, the owner or operator of a Program 3 process must issue a hot work permit to document the implementation of fire prevention and protection requirements for hot work operations conducted on or near a covered process. The permit is required prior to beginning hot work operations. At the Inspection, NORPEL inspectors observed evidence of hot work recently conducted in the area of the high pressure receivers. According to Facility personnel, NORPEL did not have a hot work permit program internally and did not have a hot work permit from the New Bedford fire Department.

57. In 2018, inspectors again observed grinding (hot work) being conducted on the ammonia system piping at the Facility, which again had been conducted without a hot work permit having been issued.

58. By failing to comply with the Program 3 hot work permit requirements, Respondent violated 40 C.F.R. § 68.85 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), for the Process.

Count 7: Failure to Comply with Training Documentation Requirements

59. Complainant realleges and incorporates by reference Paragraphs 1 through 58 of this document.

60. Pursuant to 40 C.F.R. § 68.71, the owner or operator of a Program 3 process is required to train employees involved in the operation of the process on the operating procedures for the process, with special emphasis given to the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks. The owner or operator is also required to document that each employee involved in operation of the process has received and understood the required training.

61. At the time of the Inspection, the Facility did not maintain the required training records for the person responsible for RMP for the ammonia refrigeration system (process), nor for the other employees involved in the operation of the process.

62. Accordingly, by not maintaining documentation of employees' training and understanding of the hazards, operations, and maintenance of the ammonia refrigeration systems, Respondent violated 40 C.F.R. § 68.71 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), for the Process.

Count 8: Failure to Submit Chemical Inventory Forms in Violation of EPCRA Section 312

63. Complainant realleges and incorporates by reference Paragraphs 1 through 62 of this document.

64. Respondent is the operator of a facility required by OSHA to prepare or have available an SDS for anhydrous ammonia, an extremely hazardous chemical.

65. Pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370, commencing on or before the March 1 following the date upon which Respondent was required to prepare or have available an SDS for anhydrous ammonia at or in connection with the Facility, and on or before the March 1 of each year thereafter, Respondent was required to submit "emergency and hazardous chemical inventory forms," containing the data regarding anhydrous ammonia at the Facility, required under Section 312, for the preceding calendar year ("Inventory Form"), to the appropriate LEPC, the SERC, and the fire department with jurisdiction over the facility.

66. At the time of the Inspection, EPA alleges an average daily inventory of 28,000 pounds of anhydrous ammonia were present at the facility, exceeding the threshold level established in 40 C.F.R. § 370.10(a)(1). Respondent had not reported the presence of this

hazardous chemical at the Facility despite being in operation with threshold amounts of ammonia since at least 2013.

67. Respondent was required to submit Inventory Forms to the SERC, LEPC, and the fire department with jurisdiction over the Facility, on or before March 1, 2016, for the reporting year 2015.

68. At the time of the EPA Inspection, Respondent had not submitted Inventory Forms to the appropriate LEPC, the SERC, and the fire department with jurisdiction over the Facility.

69. Pursuant to EPCRA Section 325(c)(3), 42 U.S.C. § 11045(c)(3), each day that Respondent failed to timely submit an Inventory Form for anhydrous ammonia to the appropriate LEPC, SERC, and fire department constitutes a separate violation of Section 312 of EPCRA, 42 U.S.C. § 11022.

70. Accordingly, Respondent's failure to submit the required Inventory Forms for reporting year 2015 violated Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

E. TERMS OF CONSENT AGREEMENT

71. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
    (a) admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
    (b) neither admits nor denies the specific factual or legal allegations contained in this CAFO;
    (c) consents to the assessment of a civil penalty as stated below;
    (d) consents to the issuance of any specified compliance or corrective action order;
    (e) consents to the conditions specified in this CAFO;
    (f) consents to any stated Permit Action;
    (g) waives any right to contest the alleged violations of law set forth in Section D of this CAFO in this proceeding; and
    (h) waives its rights to appeal the Final Order accompanying this Consent Agreement.

72. For the purpose of this proceeding, Respondent:
    (a) agrees that this CAFO states a claim upon which relief may be granted against Respondent;
    (b) acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
    (c) waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have in this proceeding with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);

(d) consents to personal jurisdiction in any action to enforce this Consent Agreement or Final Order, or both, in the United States District Court for the District of Massachusetts; and

(e) waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the Consent Agreement or Final Order, or both, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.

73. Respondent certifies to the best of its knowledge based upon reasonable belief that it has corrected the violations alleged in this CAFO and is currently in compliance with those requirements of 40 C.F.R. Part 68 that are alleged to have been violated in this CAFO, as qualified by Paragraph 31.

74. Pursuant to Sections 113(d)(2)(B) and (e) of the CAA, 42 U.S.C. § 7413(d)(2)(B) and (e), and taking into account the relevant statutory penalty criteria and the applicable penalty policy, EPA has determined that it is fair and proper to assess a civil penalty of $220,000 for the violations alleged in this matter. Respondent consents to the issuance of this CAFO and consents for purposes of settlement to pay the civil penalty cited in Paragraph 75, below.

Penalty Payment

75. Respondent agrees to:

(a) pay the civil penalty of $220,000 ("EPA Penalty") within 30 calendar days of the Effective Date of this Agreement; and

(b) pay the EPA Penalty using any method, or combination of methods, provided on the website http://www2.epa.gov/financial/additional-instructions-making-payments-epa, and identifying each and every payment with "Docket No. CAA-01-2021-0038 and EPCRA-01-2021-0037." Within 24 hours of payment of EPA Penalty, send proof of payment to Leonard Wallace, Environmental Scientist, at U.S. EPA, Region 1, 5 Post Office Square, Suite 100, Mail Code OES 05-1, Boston, MA 02109-3912, and by email to Wallace.len@epa.gov. ("Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with "Docket No. CAA-01-2021-0038 and EPCRA-01-2021-0037").

Collection of Unpaid Civil Penalty

76. Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), specifies the consequences of failure to pay the penalty on time. Other actions EPA may take if Respondent fails to timely pay include: (a) referring the debt to a credit reporting agency or a collection agency pursuant to 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33;

(b) collecting the debt by administrative offset (i.e., the withholding of money payable by the United States or money held by the United States for a person), including referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; (c) suspending or revoking Respondent's licenses or other privileges; or (d) suspending or disqualifying Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

F. ADDITIONAL PROVISIONS

77. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

78. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

79. By signing this CAFO, Respondent acknowledges that this document will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

80. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.

81. Complainant and Respondent, by entering into this CAFO, each consents to accept digital signatures hereupon. Respondent further consents to accept electronic service of the fully executed CAFO, by e-mail, at: srichmond@bdlaw.com. Respondent understands that this e-mail address may be made public when the CAFO and Certificate of Service are filed and uploaded to a searchable database.

G. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER

82. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113 of the CAA and EPCRA Section 312 for the violations alleged above.

83. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

84. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the

parties with respect to the subject matter hereof, with the exception of the Notice of Violation and Administrative Order on Consent issued on August 7, 2018.

85. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA, EPCRA, and other federal, state, or local laws or statutes. Nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations or be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

86. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

87. Except as qualified by Paragraph 76 (overdue penalty collection), each party shall bear its own costs and fees in this proceeding including attorney's fees. Respondent specifically waives any right to recover such costs from EPA pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

H. EFFECTIVE DATE

88. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to the Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Regional Hearing Clerk.

The foregoing Consent Agreement In the Matter of Northern Pelagic Group, LLC, Docket Nos. CAA-01-2021-0038 and EPCRA-01-2021-0037, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Signature _____ Date FEBRUARY 4, 2021

Printed Name: BRADY M. SCHOFIELD

Title: PRESIDENT + CEO

Address: 4 FISH ISLAND, NEW BEDFORD, MA 02740

The foregoing Consent Agreement In the Matter of Northern Pelagic Group, LLC, Docket No. CAA-01-2021-0038 and EPCRA-01-2021-0037, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

JAMES CHOW Digitally signed by JAMES CHOW
Date: 2021.02.12 12:09:21 -05'00'

_____ _____

James Chow, Deputy Director for Karen McGuire, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency
Region 1 – New England

Date

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

In the Matter of: Northern Pelagic Group, LLC, 4 Fish Island New Bedford, MA 02740 Respondent. Proceeding under Section 113(d) of the Clean Air Act and Section 325(c) of the Emergency Planning and Community Right-to-Know Act	Docket Nos.: CAA-01-2021-38 EPCRA-01-2021-37

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) and (c) of EPA's Consolidated Rules of Practice and Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Consent Agreement is incorporated by reference into this Final Order and is hereby ratified. Respondent, Northern Pelagic Group, LLC, is ordered to pay the civil penalty amount in the amount of $220,000 in the manner indicated. The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

SO ORDERED THIS ___ DAY OF _____, 2021.

SHARON WELLS Digitally signed by SHARON WELLS
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Attachment A

Recognized and Generally Accepted Good Engineering Practices

EPA inspectors and their contractors found several conditions at the NORPEL Facility, listed in the table below, that give rise to RMP violations. Many of these conditions indicate that the Facility was not following Recognized and Generally Accepted Good Engineering Practices ("RAGAGEP").

In collaboration with the American National Standards Institute, the International Institute of Ammonia Refrigeration ("IIAR") has issued (and updates) "Standard 2: *Standard for Safe Design of Closed-Circuit Ammonia Refrigeration Systems ("ANSI/IIAR 2");* Standard 4: *Installation of Closed-Circuit Ammonia Mechanical Refrigeration Systems* ("ANSI/IIAR 4"), Standard 6: *Standard for Testing, Inspection, and Maintenance of Closed-Circuit Ammonia Refrigeration Systems* ("ANSI/IIAR 6"), and Standard 7: *Developing Operating Procedures for Closed-Circuit Ammonia Mechanical Refrigerating Systems* ("ANSI/IIAR 7"), *inter alia*, along with other applicable standards and guidance. Bulletins and guidance include, without limitation, IIAR Bulletin No. 109, *Guidelines for IIAR Minimum Safety Criteria for a Safe Ammonia Refrigeration System* (1997, and in effect until 2019 when ANSI/IIAR 6 replaced it) ("IIAR Bull. 109"); IIAR Bulletin No. 110, *Guidelines for Start-Up, Inspection, and Maintenance of Ammonia Mechanical Refrigerating Systems* (1993, most recently updated in 2007, and in effect until 2019 when ANSI/IIAR 6 replaced it) ("IIAR Bull. 110"); IIAR Bulletin No. 114, *Guidelines for Identification of Ammonia Refrigeration Piping and Components* (1991, most recently updated in 2018) ("IIAR Bull. 114"); IIAR Bulletin No. 116, *Guidelines for Avoiding Component Failure in Industrial Refrigeration Systems Caused by Abnormal Pressure or Shock* (1992) ("IIAR Bull. 116"); and the Ammonia Refrigeration Management Program (2005, most recently updated in 2019) ("IIAR ARM Program"), which is intended to provide streamlined guidance to facilities that have less than 10,000 pounds of ammonia. Also, in collaboration with the American National Standards Institute, the American Society of Heating, Refrigerating and Air-Conditioning Engineers ("ASHRAE") has issued (and updates) "Standard 15: Safety Standard for Refrigeration Systems." These standards are consistently relied upon by refrigeration experts and are often incorporated into state building and mechanical codes.

The standards of care cited below were in effect at the time of EPA's inspection in 2016 (after which Respondent completed its first Process Hazard Analysis). The requirements listed in the table were also required by RAGAGEP that was in effect when Respondent first started operations in 2003 (e.g., ANSI/IIAR 2-1999 and ANSI/ASHRAE 15-2002).

Count/RMP Violation	**Condition**	**Examples of RAGAGEP**
Count 4 68.65(d)(2) or 68.65(d)(3)	No ammonia detection A/V alarms within the ammonia machinery room, and none outside of any of the doors to the AMR.	ANSI/IIAR 2-2014, Sections 6.13.1.3 (requiring A/V alarm within AMR and additional A/V alarms located outside each AMR entrance); ANSI/ASHRAE 15-2013, Section 8.11.2.1; NFPA 1-2012, Section 53.2.3.1, 53.2.3.1.2.
Count 4 68.65(d)(2) or 68.65(d)(3)	None of the ammonia detection alarms (tied into and combined with fire alarm system) contained signs to identify the meaning of the alarms.	ANSI/IIAR 2-2014, Sections 6.15.2 and 17.6 (requiring ammonia leak detection alarms to be identified by signage adjacent to the A/V alarm devices); ANSI/ASHRAE 15-2013, Section 8.11.2.1.
Count 4 68.65(d)(2) or 68.65(d)(3)	None of the doors entering the production rooms contained warning signs indicating the presence of ammonia.	ANSI/IIAR 2-2014, Sections 6.15.1 and 6.15.3 (requiring placement of placards in accord with NFPA 704 and Mechanical Code, and warning/restricted entry signage for each AMR entrance); ANSI/ASHRAE 15-2013, Sections 8.11.8 and 11.2.4.
Count 4 68.65(d)(2) or 68.65(d)(3)	There was not readily accessible signage for refrigeration system staff and responders, including, among other things, emergency shutoff steps, quantity of ammonia in the system, type and quantity of refrigerant oil, and field test pressures.	ANSI/IIAR 2-2014, Section 5.15 (requiring directions for the emergency shutdown of the refrigeration system be readily available to staff and emergency responders and enumerating required information, including, among other things, emergency shutoff steps, quantity of ammonia in the system, type and quantity of refrigerant oil, and field test pressures); ANSI/ASHRAE 15-2013, Section 11.2.1 ; NFPA 1-2012, Section 53.2.4.1.
Count 4 68.65(d)(2)	None of the ammonia piping in either production room and the high pressure	ANSI/IIAR 2-2014, Section 5.14.5 (requiring ammonia piping to be labeled with enumerated information); ANSI/ASHRAE 15-2013, Section 11.2.2; IIAR Bulletin 109, Section 4.7.6; IIAR Bulletin 114.

Count/RMP Violation	Condition	Examples of RAGAGEP
or 68.65(d)(3)	receiver (HPR)/condenser area was labeled to identify contents, physical state, or direction of flow. Additionally, a significant amount of the piping, in the AMR did not include labels.	
Count 4 68.65(d)(2) or 68.65(d)(3)	HPR isolation valves were not properly labeled.	ANSI/IIAR 2-2014, Sections 5.14.3 (requiring emergency shutdown valves to be clearly and uniquely identified at the valve itself and in the system schematic drawings); ANSI/ASHRAE 15-2013, Section 11.2.2; IIAR Bulletin No. 109, Section 4.10.3; NFPA 1-2012, Section 53.2.4.2.
Count 4 68.65(d)(2) or 68.65(d)(3)	The AMR did not contain a safety shower inside or directly outside of the AMR at the exit.	ANSI/IIAR 2-2014, Section 6.7 (requiring each AMR to have a minimum of two eyewash/safety shower units, one located inside the AMR, and one located outside the AMR).
Count 4 68.65(d)(2) or 68.65(d)(3)	The ventilation air intake was positioned along the exterior wall adjoining the HPR/condenser area. In the event of an ammonia release in the HPR/condenser area, the AMR air intake would draw in contaminated air.	ANSI/IIAR 2-2014, Section 6.14.5.4 (requiring air intakes to be positioned to draw uncontaminated air); ANSI/ASHRAE 15-2013, Section 8.11.4.
Count 4 68.65(d)(2) or 68.65(d)(3)	The ventilation exhaust vent is positioned such that it could discharge onto	ANSI/IIAR 2-2014, Sections 6.14.3.4 and 6.14.3.5 (requiring AMR exhaust to vent vertically upwards and 20 feet or more from any opening into the building); ANSI/ASHRAE 15-2013, Section 8.11.4 and 9.7.8; NFPA 1-2012, Section 53.2.3.3.12.

Count/RMP Violation	**Condition**	**Examples of RAGAGEP**
	people and contaminate air in the building.	
Count 4 68.65(d)(2) or 68.65(d)(3)	The HPR vessels were not protected by barricades to prevent vehicular or fork truck damage.	ANSI/IIAR 2-2014, Sections 5.17.1 and 7.2.4 (requiring vehicle guarding or barricading to protect ammonia-containing equipment that is installed in an area subject to physical damage, such as an area with heavy vehicle traffic); ANSI/ASHRAE 15-2013, Section 11.1; IIAR Bulletin 109, Section 7 Inspection Checklists
Count 4 68.65(d)(2) or 68.65(d)(3) Count 5 68.73	The AMR and HPR areas were cluttered, including with combustible materials, impeding access for maintenance and emergency response, and creating potential fire hazards.	ANSI/IIAR 2-2014, Sections 5.12.1, 6.3.1, 6.3.2, and 6.4 (requiring ammonia refrigeration machinery to located in such a manner as to permit access for maintenance and to allow for egress from any part of a machinery room in the event of an emergency); ANSI/ASHRAE 15-2013, Sections 8.3, 9.12.1 and 11.6; NFPA 1-2012, Section 53.3.1.2.
Count 4 68.65(d)(2) or 68.65(d)(3)	The HPR isolation valves were located approximately eight to ten feet off the ground above the vessels and the valves were not labeled. There was no temporary or permanent ladder or work platform to access the valves in the event of an emergency.	ANSI/IIAR 2-2014, Sections 5.14.3 (requiring emergency shutdown valves identification and tagging), 6.3.3.1 (generally requiring manually operated valves to be operable by means of fixed or portable platform, ladder, or be chain operated), 6.3.3.2 (requiring manually operated emergency shutdown isolation valves to be directly operable from the floor, by chain, or from a permanent work surface), and 13.3.7 (requiring the accessibility emergency shutdown valves); ANSI/ASHRAE 15-2013, Sections 9.12.6 and 11.2.2.a; NFPA 1-2012, Section 53.2.4.2; IIAR Bulletin 109, Sections 4.10.3 and Section 7 Inspection Checklists.
Count 4 68.65(d)(2)	The AMR was not sealed tightly. Examples include an unsealed pipe	ANSI/IIAR 2-2014, Section,6.2.1(requiring AMR to be separated from remainder of the building by tight-fitting construction), 6.10.2 (requiring AMR doors to be self-closing and tight-fitting), and 6.6.2 (requiring pipes

Count/RMP Violation	Condition	Examples of RAGAGEP
or 68.65(d)(3)	penetrating the exterior wall of the AMR and an AMR door was not tightly sealed at the bottom.	penetrating the AMR separation to be sealed); ANSI/ASHRAE 15-2013, Sections 8.11.7 and 8.12 (b), (c), (d) and (f).
Count 4 68.65(d)(2) or 68.65(d)(3)	The AMR doors did not all have panic bars.	ANSI/IIAR 2-2014, Section, 6.10.2 (requiring AMR doors that are part of the means of egress to be equipped with panic hardware); ANSI/ASHRAE 15-2013, Sections 8.11.7 and 8.12 (b), (c), (d) and (f).
Count 4 68.65(d)(2) or 68.65(d)(3)	The remote emergency stop and ventilation override switches were located on the wall inside the AMR office where they could not be safely reached in an emergency.	ANSI/IIAR 2-2014, Sections 6.12.1 and 6.12.2 (requiring emergency shutoff and ventilation control, both to be located outside AMR and adjacent to designated principal AMR door); ANSI/ASHRAE 15-2013, Section 8.12(i); NFPA 1-2012, Sections 53.2.3.3.1 through 53.2.3.3.11.
Count 4 68.65(d)(2) or 68.65(d)(3)	Failure to install "dead man valves" on all oil pots to prevent release of ammonia during oil removal.	ANSI/IIAR 2-2014, Section 5.9.3 (requiring a self-closing shut-off valve for oil removal unless there is a rigid piped oil return or transfer system installed); IIAR Bulletin 110 (1993), Section 6.8.
Count 5 68.73	In places, piping, valves and pressure vessels exhibited several instances of corrosion	IIAR Bulletin No. 109, *IIAR Minimum Safety Criteria for a Safe Ammonia Refrigeration System*, Sections 4.7.4 and 4.7.5 and inspection checklists (4.7.4 -- Uninsulated refrigerant piping should be examined for signs of corrosion. If corrosion exists, the pipe should be cleaned down to bare metal and painted with a rust prevention paint. Badly corroded pipe should be replaced.); Section 53.3.1.1 of NFPA 1 (2012 ed.) (Refrigeration systems shall be operated and maintained in a safe and operable condition, free from accumulations of oil, dirt, waste, excessive corrosion, other

Count/RMP Violation	Condition	Examples of RAGAGEP
		debris or leaks, and in accordance with ASHRAE 15 and the mechanical code.)