

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 REGION III  
 1650 Arch Street  
 Philadelphia, Pennsylvania 19103-2029**

**In the Matter of:** )  
**Nupro Industries Corporation** )  
**2925 Ontario Street** )  
**Philadelphia, Pennsylvania 19134,** )  
  
**Respondent.** )  
  
**Nupro Industries Corporation** )  
**2925 Ontario Street** )  
**Philadelphia, Pennsylvania 19134,** )  
  
**Facility.** )  


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**EPA Docket Nos. CAA-03-2015-0023;  
 EPCRA-03-2015-0023**

**Proceedings Pursuant to Sections 112(r)  
 and 113 of the Clean Air Act,  
 42 U.S.C. §§ 7412(r) and 7413, Sections  
 304 and 325 of the Emergency Planning  
 and Community Right-to-Know Act,  
 42 U.S.C. §§ 11004 and 11045**

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**CONSENT AGREEMENT**

**STATUTORY AUTHORITY**

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA” or the “Agency”) by Section 113 of the Clean Air Act (“CAA”), as amended, 42 U.S.C. § 7413, under the authority vested in the President of the United States by Section 325 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045, and under the authority provided by the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits” (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (“Part 22”). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region III, who has in turn delegated them to the Director, Hazardous Site Cleanup Division, EPA Region III (“Complainant”).

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as “CA/FO”) as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b), and having consented to entry of this CA/FO, agree to comply with the terms of this CA/FO. The parties enter into this CA/FO to avoid the costs and uncertainties of prolonged litigation.

### **JURISDICTION**

1. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).
2. The Regional Judicial Officer has the authority to approve this settlement and conclude this proceeding pursuant to 40 C.F.R. §§ 22.4(b) and 22.18(b)(3).
3. For the purpose of this proceeding, Nupro Industries Corporation (“Respondent”) admits to the jurisdictional allegations in this Consent Agreement and agrees not to contest EPA’s jurisdiction with respect to the execution or enforcement of this Consent Agreement.
4. Except as provided in Paragraph 3, above, Respondent neither admits nor denies EPA’s Findings of Fact and EPA’s Conclusions of Law set forth in this Consent Agreement, but expressly waives its rights to contest said allegations in this proceeding.

### **STATUTORY AND REGULATORY BACKGROUND: CAA**

5. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), the owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur. Section 112(r)(1) is hereinafter referred to herein as the “General Duty Clause.”
6. The General Duty Clause applies to any stationary source producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, or other extremely hazardous substances. Extremely hazardous substances include, but are not limited to, regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, and chemicals on the list of extremely hazardous substances published under the Emergency Planning and Community Right-to-Know Act at 40 C.F.R. Part 355, Appendices A and B. *Id.*
7. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines “stationary source,” in part, as any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

**STATUTORY AND REGULATORY BACKGROUND: EPCRA**

8. Section 302(a) of EPCRA, 42 U.S.C. § 11002(a), requires the Administrator of EPA to publish a list of EPCRA Extremely Hazardous Substances (“EPCRA EHSs”) and to promulgate regulations establishing that quantity of any EHS the release of which shall be required to be reported under Section 304(a) through (c) of EPCRA, 42 U.S.C. § 11004(a) through (c), (“EPCRA Reportable Quantity” or “EPCRA RQ”). The list of EPCRA EHSs and their respective RQs is codified at 40 C.F.R. Part 355, Appendices A and B.

9. Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), as implemented by 40 C.F.R. Part 355, Subpart C, requires, in relevant part, the owner or operator of a facility at which hazardous chemicals are produced, used, or stored to notify the State Emergency Response Commission (“SERC”) and Local Emergency Planning Committee (“LEPC”) immediately following a release of a hazardous substance or an EPCRA EHS in a quantity equal to or exceeding its EPCRA RQ.

**EPA’S FINDINGS OF FACT - GENERAL**

10. Respondent, Nupro Industries Corporation, is a corporation organized and incorporated in the Commonwealth of Pennsylvania, with its principal place of business located at 2925 Ontario Street, Philadelphia, Pennsylvania (“Facility”).

11. At all times relevant to this matter, Respondent was the owner and operator of the Facility. Operations at the Facility during the relevant time period fell under NAICS Code of 31225 (Fats and Oils Refining and Blending). On the north side of the Facility, Respondent manufactures oil lubricants from animal fats (“Neatsfoot Operation”). On the southeast side of the Facility, Respondent manufactures esters which are sold to the cosmetic, metal working lubricant, and plastics industries.

12. The Facility is located in an industrial area. A residential area is located 200 yards west of the Facility. Approximately 8,636 people live within a 0.6-mile radius of the Facility. The Facility is located approximately 0.3 miles west of the Delaware River.

13. Respondent’s operations at the Facility involved the handling and/or storage of anhydrous ammonia, Chemical Abstracts Service (“CAS”) Number 7664-41-7 (hereinafter, “ammonia”), as a refrigerant in connection with the Neatsfoot Operation at the Facility. The ammonia was stored at the Facility in a 2,000-pound ammonia storage tank as part of an ammonia refrigeration system. This ammonia refrigeration system was installed and started up in 1970 in connection with the Neatsfoot Oil operating area as presently operated.

14. Ammonia is an irritant and is corrosive to the skin, eyes, respiratory tract, and mucous membranes. Exposure to liquid ammonia or rapidly expanding ammonia gases may cause severe chemical burns and frostbite to the eyes, lungs, and skin. Ammonia has a National

Fire Prevention Association (“NFPA”) Standard 704 fire rating of one (1) and a health rating of three (3).

15. Respondent handles and/or stores and has handled and/or stored ammonia in its ammonia refrigeration system at all times relevant to this Consent Agreement.

16. Sometime between April 6, 2012 and April 8, 2012, a release of ammonia occurred at the Facility (hereinafter the “Release”). The Respondent has stated to EPA that it initially thought the April 2012 Release was caused by a mechanical failure of a pressure safety valve (“PSV”) that was still within its five-year service life. Respondent subsequently replaced all system PSVs during April, May, and June 2012.

17. Respondent discovered the Release on April 9, 2012 when employees returned to the Facility after the Easter holiday weekend and the ammonia refrigeration system would not work. Respondent’s ammonia system maintenance contractor subsequently determined that the system was empty, and the Respondent concluded that a release had occurred at some time during the prior weekend.

18. On April 9, 2012, Respondent contacted the National Response Center and reported the Release, stating that approximately 1,000 to 2,000 pounds of ammonia had been released to the ambient air. On or around April 20, 2012, Respondent amended its estimate of the quantity of ammonia released to 1,400 pounds.

19. Respondent subsequently undertook an incident investigation, which indicated that the cause of the Release was the failure of a high pressure cutout switch on the ammonia refrigeration compressors which occurred due to inadequate preventative maintenance of the anhydrous ammonia refrigeration system and inadequate procedures and checklists for checks of the system by weekend operators.

20. Respondent has represented that it arranged for an outside anhydrous ammonia refrigeration system contractor to conduct an inspection of the ammonia system on May 2, 2012.

21. Respondent has represented that it conducted a Process Hazard Analysis (“PHA”) of the ammonia refrigeration system on May 30, 2012 and June 2, 2012.

22. EPA conducted an inspection of the Facility on June 6, 2012, to assess Respondent’s compliance with Section 112(r)(1) and (7) of the CAA, 42 U.S.C. § 7412(r)(1) and (7), Section 103 of CERCLA, 42 U.S.C. § 9603, and Sections 302, 303, 304, 311 and 312 of EPCRA, 42 U.S.C. §§ 11002, 11003, 11004, 11021, and 11022 (“Inspection”).

23. Respondent presented EPA with a draft PHA report at the time of the Inspection.

**EPA'S FINDINGS OF FACT - CAA**

24. Ammonia is a substance listed in 40 C.F.R. § 68.130, pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3).
25. A PHA is a thorough, orderly, and systematic approach for identifying, evaluating, and controlling the hazards of processes involving highly hazardous chemicals. See [http://www.epa.gov/region10/pdf/rmp/cepp\\_newsletter\\_0708.pdf](http://www.epa.gov/region10/pdf/rmp/cepp_newsletter_0708.pdf)
26. EPA determined that, based on the Inspection and the review of information obtained from Respondent, Respondent failed to maintain a safe facility with respect to the hazards posed by the storage and handling of ammonia, as required by the General Duty Clause because Respondent had not fully resolved and/or implemented the recommendations set forth in the Process Hazard Analysis ("PHA") for the ammonia system in accordance with applicable industry standards.
27. EPA determined that the deficiencies set forth in Paragraph 26 constituted violations of the General Duty Clause.
28. On March 21, 2014, EPA and Respondent entered into an Administrative Settlement Agreement and Order on Consent, Docket No. CAA-03-2014-0073DA ("March 21 Order"), to correct alleged violations of the General Duty Clause.
29. Respondent is in the process of implementing the requirements of the March 21 Order.
30. Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B), as amended pursuant to the Debt Collection Improvement Act of 1996, authorizes EPA to commence an administrative action to assess civil penalties of not more than \$37,500 per day for each violation of Section 112(r) of the CAA that occurs after January 12, 2009.

**EPA'S CONCLUSIONS OF LAW- CAA**

31. The findings of fact contained in Paragraphs 1 through 30 of this CA/FO are incorporated by reference herein as though fully set forth at length.
32. The ammonia, which is stored at the Facility, is a substance listed in 40 C.F.R. § 68.130, pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3).
33. At all times relevant to this Consent Agreement, ammonia has been present in a process at the Facility.
34. Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

35. At all times relevant to this Consent Agreement, Respondent has been the operator of a “stationary source,” as the term is defined by Section 112(r)(2)(C), 42 U.S.C. § 7412(r)(2)(C).

36. Respondent is subject to the requirements of Section 112(r)(1) of the CAA, 40 U.S.C. § 7412(r)(1), because it is the owner and/or operator of a stationary source that produces, processes, handles, or stores substances listed pursuant to Section 112(r)(3) of the CAA, 40 U.S.C. § 7412(r)(3), or other extremely hazardous substances.

37. Based on information available to EPA, Respondent has violated the requirements of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), by failing to address the hazards posed by the storage and handling of ammonia and failing to maintain a safe facility. Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

### **EPA’S FINDINGS OF FACT – EPCRA – LEPC**

38. The findings of fact contained in Paragraphs 1 through 37 of this CA/FO are incorporated by reference herein as though fully set forth at length.

39. As a corporation, Respondent is a “person” as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and its implementing regulations, 40 C.F.R. § 355.61.

40. At all times relevant to this CA/FO, Respondent has been the owner or operator of the Facility, within the meaning of Section 304 of EPCRA, 42 U.S.C. § 11004.

41. The Facility is a “facility” as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and its implementing regulations, 40 C.F.R. § 355.61.

42. The chemical ammonia is an EHS as defined under Section 302(a) of EPCRA, 42 U.S.C. § 11002(a), and 40 C.F.R. § 355.61, with an EPCRA RQ of 100 pounds, as listed in 40 C.F.R. Part 355, Appendices A and B.

43. The Release constitutes a release of a hazardous substance in a quantity equal to or exceeding its EPCRA RQ requiring immediate notification to the LEPC pursuant to Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, Subpart C.

44. The LEPC for the Facility is, and at all times relevant to this CA/FO has been, the Philadelphia Local Emergency Planning Committee, located at 240 Spring Garden Street, Philadelphia, PA 19123.

45. Respondent did not notify the LEPC of the Release until 12:17 p.m. on April 9, 2012.

46. Respondent failed to notify the LEPC of the Release of ammonia as soon as Respondent knew that a release of a hazardous substance had occurred at the Facility in an amount equal to or exceeding its RQ, as required by Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, Subpart C.

47. Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), as amended pursuant to the Debt Collection Improvement Act of 1996, authorizes EPA to commence an administrative action to assess civil penalties of not more than \$37,500 per violation of Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), that occurs after January 12, 2009.

**CONCLUSION OF LAW RELATED TO THE  
VIOLATION OF SECTION 304 OF EPCRA – LEPC**

48. Respondent's failure to notify the LEPC immediately of the Release is a violation of Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b). Respondent is, therefore, subject to the assessment of penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

**SETTLEMENT**

49. In full and final settlement and resolution of all allegations referenced in the foregoing EPA's Findings of Fact and EPA's Conclusions of Law, and in full satisfaction of all civil penalty claims pursuant thereto, for the purpose of this proceeding, Respondent consents to the assessment of a civil penalty for the violation of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), as set forth above, in the amount of **\$11,962.00**, and the assessment of a civil penalty for the violation of Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), set forth above, in the amount of **\$1,723.00**, for a total civil penalty of **\$13,685.00** ("Total Civil Penalty"), and Respondent agrees to undertake the Supplemental Environmental Project ("SEP") described herein.

50. Respondent consents to the issuance of this Consent Agreement and to perform the Supplemental Environmental Project, as set forth below.

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

51. The following SEP is consistent with applicable EPA policy and guidelines, specifically EPA's Supplemental Environmental Projects Policy, effective May 1, 1998 and EPA's Interim Guidance for Community Involvement in Supplemental Environmental Projects, effective December 5, 2003.

52. Respondent agrees to implement the SEP in order to cease use of its ammonia refrigeration system at the Facility, and replace it with a hydro-chlorofluorocarbon ("HCFC") refrigeration system using propylene glycol/water solution as a circulating heat transfer fluid (which is not a hazardous substance listed at 40 C.F.R. § 68.130 or an extremely hazardous

substance) and cease use of anhydrous ammonia as detailed in the SEP Proposal, attached as Exhibit A hereto and which is incorporated by reference. Respondent shall complete the SEP by March 1, 2015 (“SEP Completion Deadline”).

53. Respondent’s total expenditure for installation of the SEP shall not be less than \$81,300, in accordance with the specifications set forth in Exhibit A. EPA has assessed the mitigation value of the SEP to be \$32,074.00. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described in Paragraph 56 below.

54. Respondent hereby certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulations; nor is Respondent required to perform or develop the SEP by any other agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

55. For Federal Income Tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

56. Respondent shall notify EPA Risk Management Coordinator Mary Hunt, P.E., at the address noted in this Paragraph 56, below, when such implementation is complete. EPA may grant Respondent an extension of time to fulfill its SEP obligations if EPA determines, in its sole discretion, that, through no fault of Respondent, Respondent is unable to complete the SEP obligations within the time frame required by Paragraph 52 and, if extensions are granted, by this Paragraph. Requests for any extension must be made in writing within 48 hours of Respondent’s knowledge of any event, such as an unanticipated delay in obtaining governmental approvals, the occurrence of which renders the Respondent unable to complete the SEP within the required time frame (“force majeure event”), and prior to the expiration of the applicable SEP Completion Deadline. Any such requests should be directed to EPA Risk Management Coordinator Mary Hunt, P.E., at the address noted in this Paragraph 56.

#### SEP Completion Report

a. Within thirty (30) days after completion of the SEP, as set forth in Paragraph 52, Respondent shall submit to EPA a SEP Completion Report via first class mail or overnight delivery to Mary Hunt, P.E., U.S. EPA Region III, 1650 Arch Street (Mailcode 3HS61), Philadelphia, PA 19103, and via email, [hunt.mary@epa.gov](mailto:hunt.mary@epa.gov). The SEP Completion Report shall contain the following information:

- (i) detailed description of the SEP as implemented;
- (ii) a description of any problems encountered and the solution thereto;  
and
- (iii) itemized costs.



b. Respondent shall sign the report required by this Paragraph and certify under penalty of law that the information contained therein is true, accurate, and not misleading by including and signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fines and imprisonment.

c. Respondent agrees that failure to submit the report required by this Paragraph shall be deemed a violation of this CA/FO and, in such an event, Respondent will be liable for stipulated penalties pursuant to Paragraph 59 below.

d. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. If the report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

57. Respondent agrees that EPA may inspect the Facility, in order to confirm that the SEP is being undertaken in conformity with the representations made herein and as required by this CA/FO.

58. EPA Acceptance of SEP Completion Report

a. Upon receipt of the SEP Completion Report, EPA may exercise one of the following options:

- (i) notify the Respondent in writing that the SEP Completion Report is deficient, provide an explanation of the deficiencies, and grant Respondent an additional thirty (30) days to correct those deficiencies;
- (ii) notify the Respondent in writing that EPA has concluded that the SEP has been satisfactorily completed; or
- (iii) notify the Respondent in writing that EPA has concluded that the SEP has not been satisfactorily completed, and seek stipulated penalties in accordance with Paragraph 59 herein.

b. If EPA elects to exercise option (i) above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Completion Report. If agreement cannot be reached within this thirty (30) day period, EPA shall provide to the Respondent a written statement of its decision on the adequacy of the completion of the SEP, which shall be final and binding upon Respondent. In the event either the SEP is not completed as required herein or the SEP Completion Report is not submitted to EPA, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Paragraph 59 herein.

59. Stipulated Penalties

a. In the event that Respondent fails to comply with any of the terms or provisions of this CA/FO relating to the performance of the SEP described in Paragraph 52, above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the costs of the SEP required by Paragraph 53, above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- (i) Except as provided in subparagraph (iii) below, if the SEP has not been completed satisfactorily pursuant to this CA/FO, Respondent shall pay a stipulated penalty to EPA in the amount of the value of the SEP, \$32,074.00, as set forth in Paragraph 53.
- (ii) If the SEP is not completed in accordance with Paragraph 52, but the Complainant determines that the Respondent: (a) made good faith and timely efforts to complete the project; and (b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.
- (iii) If the SEP is completed in accordance with Paragraph 52, but the Respondent spent less than 90 percent of the amount of money required to be spent for the SEP, Respondent shall pay a stipulated penalty to EPA in the amount of \$5,000.00.
- (iv) If the SEP is completed in accordance with Paragraph 52, and the Respondent spent at least 90 percent of the amount of money required to be spent for the SEP, Respondent shall not be liable for any stipulated penalty.

(v) For failure to submit the SEP Completion Report required by Paragraph 56, above, Respondent shall pay a stipulated penalty in the amount of \$500.00 for each day after the report was originally due until the report is submitted.

b. The determination of whether the SEP has been satisfactorily implemented and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

c. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties, in accordance with the provisions of Paragraphs 60 and 62, below. Interest and late charges shall be paid as set forth in Paragraphs 65 through 68, below.

### **PAYMENT TERMS**

60. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalties described in this CA/FO, Respondent shall pay the civil penalty of \$13,685.00, by either check or electronic wire transfer, in the manner described below.

61. The civil penalty of \$13,685.00 set forth in Paragraph 60, above, may be paid in three (3) installments with interest on the outstanding principal balance in accordance with the following schedule:

- a. 1st Payment: The first payment in the amount of \$4,561.66, consisting of a principal payment of \$4,561.66 and an interest payment of \$0.00, shall be paid within sixty (60) days of the date on which this CA/FO is mailed or hand-delivered to Respondent;
- b. 2nd Payment: The second payment in the amount of \$4,584.47, consisting of a principal payment of \$4,561.67 and an interest payment of \$22.80, shall be paid within ninety (90) days of the date on which this CA/FO is mailed or hand-delivered to Respondent;
- c. 3rd Payment: The third payment in the amount of \$4,565.47, consisting of a principal payment of \$4,561.67 and an interest payment of \$3.80, shall be paid within one-hundred and twenty (120) days of the date on which this CA/FO is mailed or hand-delivered to Respondent.

62. Payment of the civil penalty shall be made in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the relevant Docket Numbers of this action, **CAA-03-2015-0023 and EPCRA-03-2015-0023**;
- b. All checks shall be made payable to United States Treasury;
- c. All payments made by check and sent by regular mail shall be addressed to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000  
Contact: Heather Russell (513-487-2044)

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. EPA  
Fines and Penalties  
U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account No. = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:

D 68010727 Environmental Protection Agency

g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX /Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking  
Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737  
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

h. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV  
Enter sfo 1.1 in the search field.  
Open and complete the form.

i. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

63. Respondent shall submit copies of the check, or verification of wire transfer or ACH, to the following persons:

Lydia Guy  
Regional Hearing Clerk (3RC00)  
(3RC42)U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

James F. Van Orden  
Senior Assistant Regional Counsel  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

64. The civil penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and Section 325(b)(1)(C) of EPCRA, 42 U.S.C. § 11045(b)(1)(C). The civil penalty is consistent with 40 C.F.R. Part 19 and the Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68 (June 2012) and the Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency

Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act (September 30, 1999).

65. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment by the final due date or to comply with the conditions of this CA/FO shall result in the assessment of late payment charges, penalties and/or administrative costs of handling delinquent debts.

66. Interest on the amount of the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a); provided, however, that should the civil penalty be paid within 30 days after the Effective Date of the Final Order, Respondent shall not be liable on such interest.

67. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix B of EPA's Resource Management Directives – Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the final due date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

68. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

69. Failure of Respondent to pay the penalty assessed by the Final Order in full by the final due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 113 of the CAA, 42 U.S.C. § 7413, and Section 325 of EPCRA, 42 U.S.C. § 11045. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

#### **GENERAL PROVISIONS**

70. By entering into this CA/FO, Respondent does not admit any liability for the civil claims alleged herein.

71. For purposes of this proceeding, Respondent expressly waives its right to hearing and to appeal the Final Order pursuant to Section 113 of the CAA, 42 U.S.C. § 7413, and Section 325 of EPCRA, 42 U.S.C. § 11045.

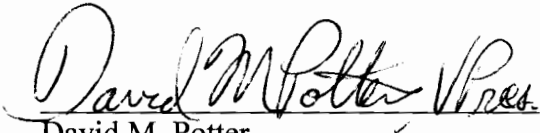
72. This CA/FO does not constitute a waiver, suspension or modification of the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), or Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b).

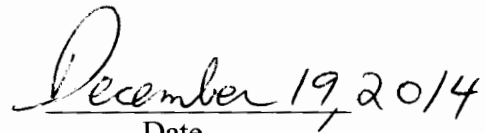
73. The provisions of the CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of the Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

74. This CA/FO resolves only those civil claims which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including the Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.

75. Each party to this action shall bear its own costs and attorney's fees.

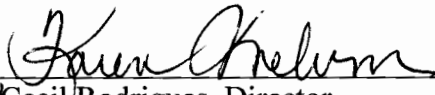
FOR NUPRO INDUSTRIES CORPORATION

  
David M. Potter  
General Manager and Vice President

  
Date



FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

  
\_\_\_\_\_  
Cecil Rodrigues, Director  
Hazardous Site Cleanup Division

**JAN 12 2015**  
\_\_\_\_\_  
Date

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

In the Matter of:	)	EPA Docket Nos. CAA-03-2015-0023;
Nupro Industries Corporation	)	EPCRA-03-2015-0023
2925 Ontario Street	)	
Philadelphia, Pennsylvania 19134,	)	
	)	
Respondent.	)	Proceedings Pursuant to Sections 112(r)
	)	and 113 of the Clean Air Act,
Nupro Industries Corporation	)	42 U.S.C. §§ 7412(r) and 7413, Sections
2925 Ontario Street	)	304 and 325 of the Emergency Planning
Philadelphia, Pennsylvania 19134,	)	and Community Right-to-Know Act,
	)	42 U.S.C. §§ 11004 and 11045
	)	
Facility.	)	
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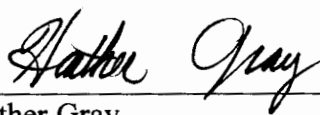
**FINAL ORDER**

Pursuant to Section 113 of the Clean Air Act, 42 U.S.C. § 7413, and Section 325 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11045, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” codified at 40 C.F.R. Part 22, and based on the representations in the Consent Agreement, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to pay the \$13,685.00 and otherwise comply with the terms of the referenced Consent Agreement.

**Effective Date**

This Final Order shall become effective upon the date of its filing with the Regional Hearing Clerk.

Date: 1-30-15

  
\_\_\_\_\_  
Heather Gray  
Regional Judicial Officer/Presiding Officer

# EXHIBIT A

## **Nupro Industries Corporation Supplemental Environmental Project**

### **Summary**

Nupro Industries Corporation (Nupro) is submitting this proposed Supplemental Environmental Project (SEP) to offset part or all of a potential settlement amount currently being discussed with the U.S. Environmental Protection Agency (EPA) in connection with the anhydrous ammonia release that occurred in April 2012.

The proposed SEP is to decommission and drain the anhydrous ammonia refrigeration system outside Building 10 (Bldg 10) and replace it with a package hydrochlorofluorocarbon refrigeration unit and a circulating system that utilizes propylene glycol/water as a circulating heat transfer fluid. Building 10 houses the production facilities for the Neatsfoot Oil Refineries (Neatsfoot), an operating division of Nupro. As described below, this change in the refrigeration system will eliminate the use of anhydrous ammonia at Neatsfoot and thereby eliminate the hazard of a potential release of anhydrous ammonia to the area and community around the Nupro site.

### **Project Description**

Anhydrous ammonia is used as a refrigerant at the Neatsfoot operation located at 2925 East Ontario Street in Philadelphia. The anhydrous ammonia refrigeration system provides cooling to the chilled water that circulates through the cooling jackets on the five "Seeder" vessels inside Bldg. Ten. The circulating water operates at 32 degrees F and the flowrate to each individual seeder is controlled by manually adjusting the chilled water inlet valves to each seeder. This existing process is shown, schematically, in Figure 1.

Figure One  
Existing Chilled Water/ Refrigeration System

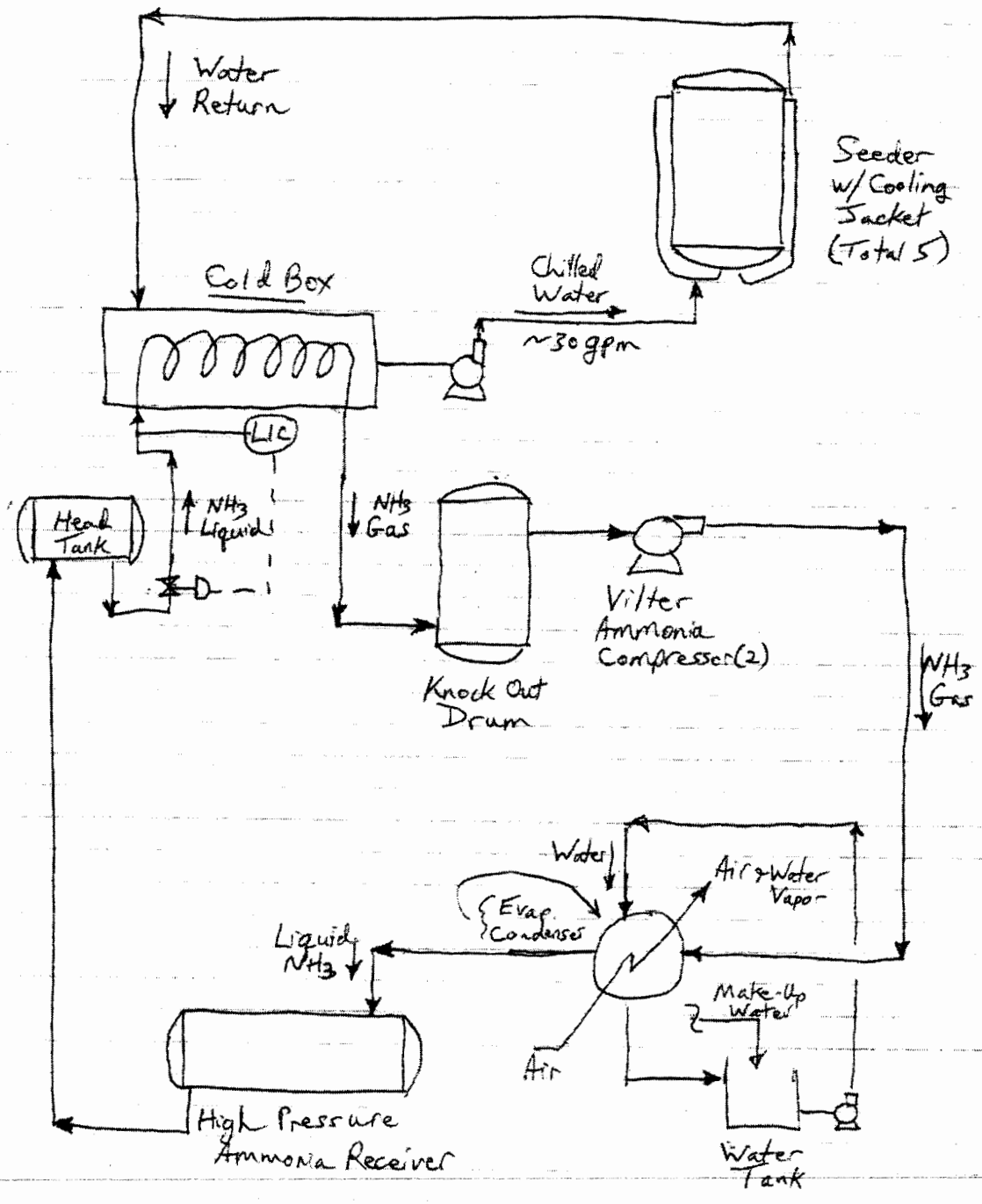
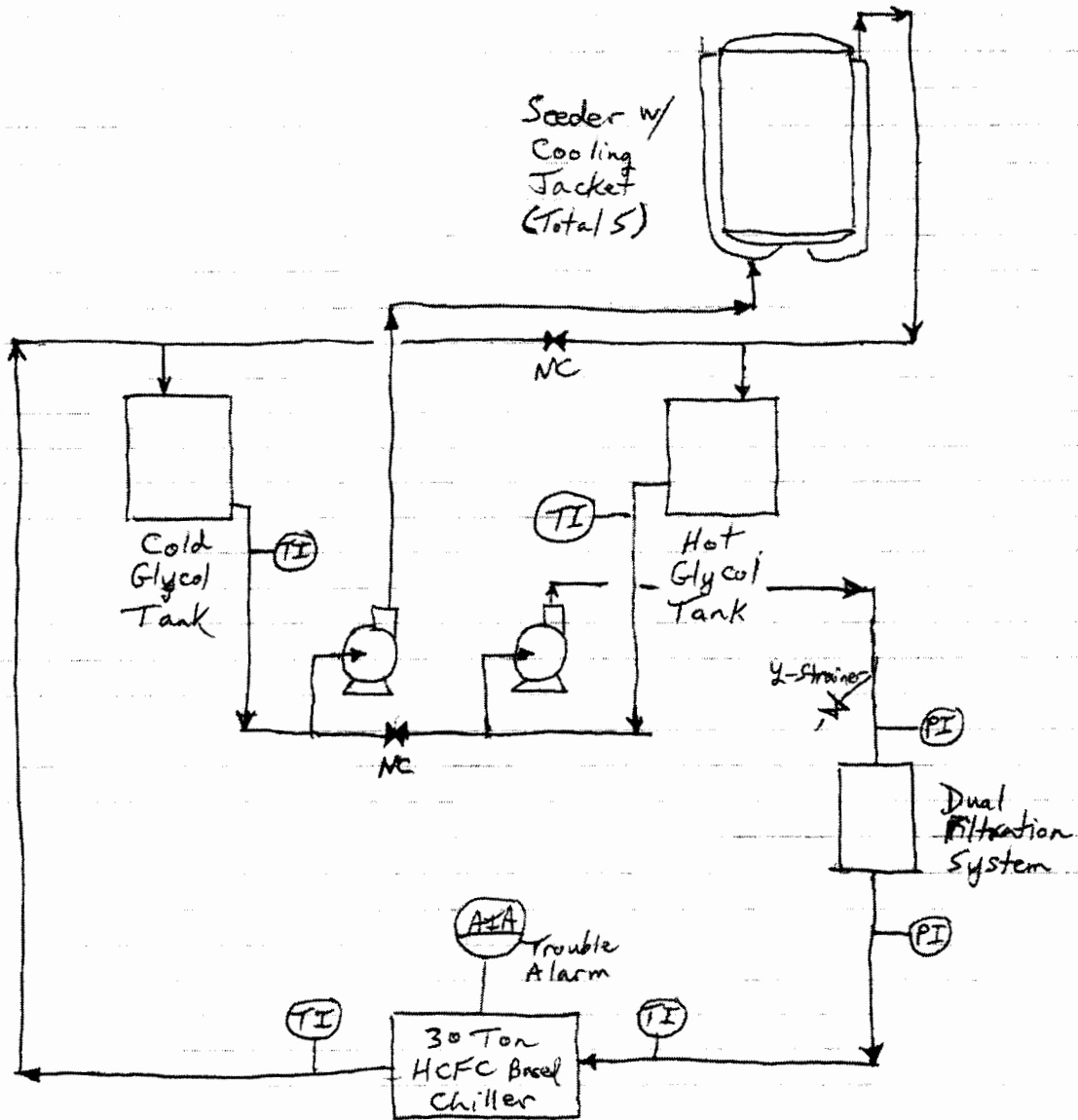


Figure Two  
New Chilled Glycol/Refrigeration System



The revised process, shown in Figure 2, utilizes a circulating propylene glycol/water solution operating at 32 degrees F. The propylene glycol is pumped in a separate circuit through a commercial chilled water refrigeration system. This is a commercially available HCFC (or CFC) refrigeration system that is generally used on the rooftop of commercial buildings to provide cooling for the building air conditioning system. In figure 2, the two pumps are tied together, via valves in a common manifold. This provides a method to operate the new system, at a reduced capacity, if one of the circulating pumps fails. In addition, by segregating the hotter "return" propylene glycol solution this system design achieves a higher temperature differential across the heat exchanger in the rooftop refrigeration unit heat exchanger thereby increasing the maximum heat transfer rate across that heat exchanger.

The commercial rooftop chilled water refrigeration package includes automatic controls to partially load the scroll compressors on the refrigeration system. This allows the system to run steady, at reduced capacity, as opposed to the on-off operation of the positive displacement compressors on the existing anhydrous ammonia refrigeration system. These controls also record operating data which allows for planned maintenance based on run-time as opposed to maintenance based on calendar time (with the existing ammonia refrigeration system).

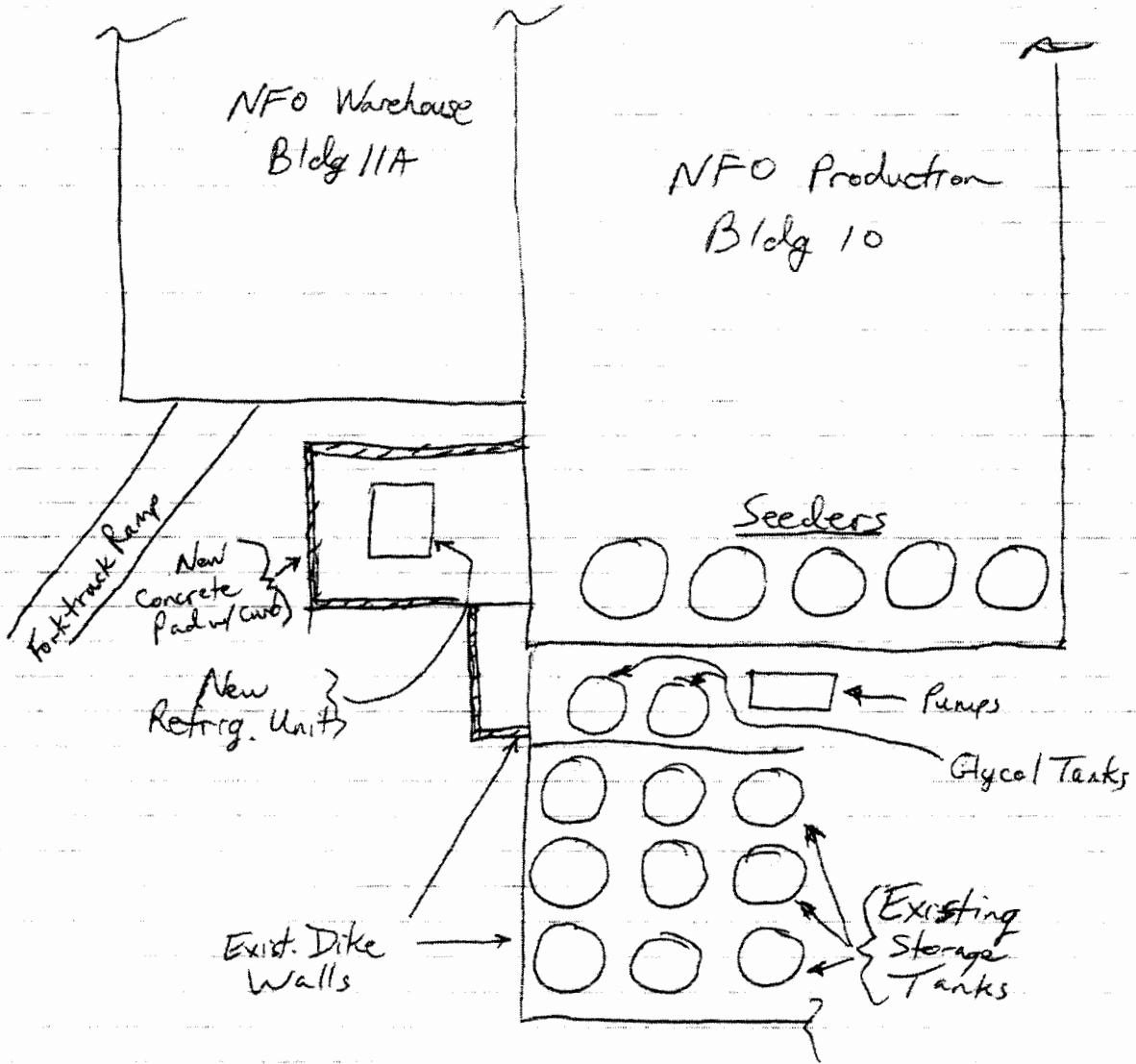
This SEP will involve the construction of necessary facilities and equipment to store the circulating propylene glycol solution, chill the propylene glycol solution, and pump the propylene glycol solution through the "Seeders" used in the Neatsfoot manufacturing process. In addition, as shown in Figure 3, a new concrete spill containment area will be provided in a location that protects the air cooling fins on the commercial refrigeration unit. This means the new concrete containment area cannot be located below and transfer piping or storage tanks that

Supplemental Environmental Project  
Nupro Industries Corporation

could potentially leak or overflow fats or oil onto the commercial refrigeration unit. Such a leak could coat the air cooling fins and thereby reduce the heat transfer capacity of the air fins.

The new concrete containment are will be provided with a drain, with a closed locked valve, that can be open to gravity drain stormwater from the containment are into the Neatsfoot Bldg 10. Normally, this valve will be locked close so it will contain a spill of the propylene glycol solution should such a spill occur.

Figure Three  
New System Schematic Layout





### **Environmental Benefits**

This SEP will eliminate the presence of anhydrous ammonia at the Nupro Industries site thereby eliminating the risk of a catastrophic release of anhydrous ammonia gas into the surrounding community.

### **Project Basis of Design**

The new chilled water/refrigeration system was sized using a couple of different methods to confirm the system sizing. The first system estimate of required system size is based on the existing system that utilizes a 60 HP Vilter positive displacement compressor. Sixty Hp converts directly to 13 Tons of cooling. However, the system uses a large block of ice as a cooling flywheel for maximum cooling demand, so the maximum cooling capacity is estimated at two to three times the compressor capacity or 25 to 40 Tons of chilling capacity.

A second method to estimate the required chilling capacity is by measuring the maximum return flowrate and maximum heat pickup in the chilled water system. The total physically measured flowrate in the system is 30 gpm, and a maximum heat pickup of 20 deg F should be sufficient to handle peak cooling demand. That converts into a maximum chilling demand of 25 tons without cooling losses to atmosphere.

A third method to estimate the maximum chilling demand is based on the maximum cooling rate of 2.5 deg F per hour for a single seeder containing 100,000 lbs of oil. That converts into 21 Tons of chilling capacity. With an estimated twenty-five percent of the chilling lost to atmosphere through the un-insulated jacket of the seeder, and an additional twenty-five percent of chilling reserved for the other four seeders (at a slow heat transfer rate), the total system requirement is estimated at 32 Tons of chilling.

Supplemental Environmental Project  
Nupro Industries Corporation

In sum, the required chilling capacity is conservatively estimated to be thirty (30) Tons of chilling capacity. A slightly larger chiller, rated at 35 or 40 Tons, should be considered if the cost differential is not excessive compared to a 30 Ton unit. In addition, the availability of a used chiller in 30 to 40 ton range will be determined when the project is being executed.

**Economic Considerations**

Given the anticipated cost of replacing an existing functioning refrigeration system, Nupro does not consider the SEP to be economically feasible (as described below). Nupro believes, however, that the proposed project represents significant value as a SEP when taking into account the many environmental benefits of the project, including the elimination of the risk of a catastrophic risk of a release of anhydrous ammonia. Accordingly, Nupro would be willing to implement the SEP if it would provide value to Nupro as a settlement mechanism to help offset the amount of any cash settlement with the USEPA.

**Estimated Capital Costs**

The following Capital Estimate covers the installation of a new rooftop type glycol chilled water system in parallel with the existing system. The new system will be installed in open space next to the NFO Warehouse (Bldg 11) and the NFO Production Building (Bldg 10). This will require soils preparation, a new concrete pad with curbs for spill containment, drainage to the existing NFO process/storm water system, and hookups for electrical supply and piping to the portions of the existing chilled water system that will be re-used. The new system will also include particulate filtration to protect the relatively soft chiller heat exchanger (made of copper). After Nupro cuts over to the new system and demonstrates reliable operation, Nupro will decommission the existing anhydrous ammonia refrigeration system. It is estimated that the cost

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 Nupro Industries Corporation

of decommissioning will be offset by the scrap metal and used equipment value of the existing anhydrous ammonia refrigeration system.

Estimated Capital Costs				
Item	Qty	Units	Unit Cost	Total Cost
30 Ton Air Cooled water chiller, automatic controls , HCFC/CFC –refrigerant , chilled water heat exchanger, low-ambient temperature pkg., 30 gpm chilled water flowrate	1	lot	\$25,000	\$25,000
3 x 13 inch pump, 8" impeller, CS, 40 gpm @ 80 ft diff pressure	1	ea	\$2,600	\$2,600
2,000 gallon XHDPE tank	2	ea	\$1,200	\$2,400
Particle filtration unit, 5 micron with automatic backwash and purging	1	ea	\$5,000	\$5,000
Electrical (Chiller, pumps, filtration unit)	1	lot	\$4,000	\$4,000
Instrumentation (pressure gauges, thermometers, remote shutdown connections)	1	lot	\$1,100	\$1,100
Piping, 2-inch CPVC, with fittings	200	ft	\$8	\$1,600
Insulation, closed cell , with UV coating	1	lot	\$3,000	\$3,000
Manual Valves: 2 -inch ball valves, CPVC	12	ea	\$45	\$540
Move Sprinkler line and 1-inch steam line	1	lot	\$1,500	\$1,500
Equipment Delivery (Chiller, tanks, filtration Unit, circulating pump)	1	lot	\$2,200	\$2,200
Site preparation and concrete pad with spill containment	1	lot	\$15,000	\$15,000
<b>Sub-total</b>				<b>\$65,000</b>
Contingency at 25%				\$16,300
<b>Total Estimate Cost, +/- 30%</b>				<b>\$81,300</b>

**Estimated Annual Operating Costs and Savings**

<b>Estimated Annual Operating Cost Savings</b>				
<b>Item</b>	<b>Qnt</b>	<b>Units</b>	<b>Unit Cost</b>	<b>Total Cost</b>
Electricity (30 HP, 25% utilization or 2190 hrs)	49,000	KWH	\$0.145	\$7,110
Annual Operating Labor	312	hr	\$19	\$5,930
Maintenance (Quarterly PM + 4% other capital)	1	lot	\$8,800	\$8,800
<b>Sub-total Operating Costs</b>				<b>\$21,840</b>
Electricity (60HP, 15% utilization or 1,310 hrs)	-58,600	KWH	\$0.145	-\$8,500
Annual Operating Labor	312	hr	\$19	\$5,930
-Maintenance (2013 actual)	-1	lot	\$15,115	-\$15,115
<b>Sub-total Operating Savings</b>				<b>-\$29,540</b>
<b>Estimated Net Annual Operating Cost Savings</b>				<b>-\$7,700</b>

The above estimated annual operating costs and savings were developed as follows:

- The difference in the utilization of the existing and new refrigeration compressors is based on the system design. The existing system uses a large ice block as a “flywheel” to handle peak loads. In contrast, the new system utilizes a smaller mass, in the holding tanks, and a variable loading refrigeration compressor to achieve a higher overall system efficiency as expressed in the estimated electrical use.
- Electric rates are based on the current contract rate of \$0.145/KWH.
- The operating labor for the new and existing system is based two ten minute checks per shift and three shifts per day operating five days per week. Two weekend shifts are also included at thirty minutes per day. This works out to a total of six hours per week or 312 hours per year. In essence, although the specific tasks change with the

Supplemental Environmental Project  
Nupro Industries Corporation

new and the old system, both refrigeration systems require essentially the same operating labor to do routine system checks.

- The maintenance cost for the new system is based on \$6,400 annual contract Preventative Maintenance for a similar refrigeration unit in the plant plus four percent of capital costs that do not include the refrigeration unit. The maintenance cost for the existing system is based on 2013 actual costs. As expected, an older system is more expensive to maintain.
- Unit labor rates are based on Nupro Shift Supervisor rates with adjustment for the normal weekend checks performed at overtime rates.

**Measurement of SEP Effectiveness**

This SEP is one-hundred percent effective in eliminating the risk of anhydrous ammonia release once the old system is decommissioned and anhydrous ammonia is removed from the site. This will be evidenced by receipts from the ammonia system contractor and the anhydrous ammonia supplier showing that the anhydrous ammonia has been removed from Nupro's refrigeration system. The anhydrous ammonia refrigeration system will then be decommissioned and scrapped.