



COMMONWEALTH of VIRGINIA  
DEPARTMENT OF ENVIRONMENTAL QUALITY

George Allen  
Governor

Becky Norton Dunlop  
Secretary of Natural Resources

Northern Virginia Region  
Springfield Office  
Springfield Corporate Center, Suite 310  
6225 Brandon Avenue  
Springfield, Virginia 22150  
(703) 644-0311  
Fax (703) 644-0296

Thomas L. Hopkins  
Director

Gregory L. Clayton  
Regional Director

CONSENT AGREEMENT

WITH

Tuscarora Incorporated  
45037 Moran Road  
Sterling, Virginia 20166

Registration No. 71814

SECTION A: Purpose

This Agreement establishes a Reasonably Available Control Technology (RACT) standard for Tuscarora Incorporated, for the control of Volatile Organic Compounds (VOC) emissions in the Northern Virginia Ozone Nonattainment Area as required by Section 120-04-0407 of the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution. This RACT standard shall be the basis for VOC emissions control for this plant.

SECTION B: References

Unless the context indicates otherwise, the following words and terms have the meanings assigned to them below:

"Agreement" means this Consent Agreement.

"ARCEL" means a polystyrene/polyethylene copolymer.

"Board" or "SAPCB" means the State Air Pollution Control Board, a collegiate body of the Commonwealth of Virginia described in § 10.1-1301 of the Code. Particular powers and duties of the Board are described in Section C of this document.

"Code" means the Code of Virginia.

"DEQ" means the Department of Environmental Quality, an agency of the Commonwealth described in § 10.1-1183 of the Code.

"Director" means the Director of the Department of Environmental Quality. Particular powers and duties of the Director are described in Section C of this document.

"EPA" means the United States Environmental Protection Agency.

"EPS" means expandable polystyrene.

"Low and reduced VOC beads" means any expandable, polystyrene-containing resin materials which are specially reformulated by the manufacturer so that the VOC content of the materials is less than conventional resin formulations.

"Major Stationary Source" means any stationary source which emits, or has the potential to emit 100 tons per year or more of any pollutant subject to regulation under the federal clean air act, or 50 tons per year or more of volatile organic compounds or nitrogen oxides in ozone nonattainment areas classified as serious in Appendix K of the SAPCB Regulations. The area in which the affected facility is located is a nonattainment area classified as serious in Appendix K of the SAPCB Regulations.

"New source review program" means a program for the preconstruction review and permitting of new stationary sources or expansions to existing ones in accordance with regulations promulgated to implement the requirements of §§ 110 (a) (2) (C), 165 (relating to permits in prevention of significant deterioration areas) and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act.

"Non-CTG" means a source type for which the EPA has not issued a Control Technique Guideline (CTG), and thus has not established RACT for that source type.

"Reasonably Available Control Technology" or "RACT" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is both reasonably available, as well as technologically and economically feasible.

"Regional Director" means the Director of the Northern Virginia Regional Office of the Department of Environmental Quality, 6225 Brandon Avenue, Suite 310, Springfield,

Virginia 22150.

"SAPCB Regulations" means the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution.

"SIP" means the State Implementation Plan.

"Theoretical potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. It is based on emissions at design capacity or maximum production and maximum operating hours (8,760 hours per year) before add-on controls, unless the source is subject to state and federally enforceable permit conditions which limit production rates or hours of operation.

"Tuscarora Incorporated" or "affected facility" means the Tuscarora Incorporated Plant, located in Sterling, Virginia.

"VOC" means volatile organic compounds as defined by Section 120-01-02 of the SAPCB Regulations.

#### SECTION C: Authority

1. Chapter 13 of Title 10.1 of the Code creates the Board and vests in it the authority to supervise and control various aspects of air pollution in the Commonwealth. Among the Board's powers is the authority to promulgate regulations "abating, controlling and prohibiting" air pollution, found in § 10.1-1308 of the Code.
2. Pursuant to its authority, the Board has promulgated the SAPCB Regulations, which first took effect March 17, 1972 and have been periodically amended.
3. Pursuant to § 10.1-1307 D of the Code, the Board has the authority to issue orders to diminish or abate the causes of air pollution and to enforce its regulations. Orders of the Board are enforceable pursuant to §§ 10.1-1316 and 10.1-1320 of the Code.
4. The Director is the executive officer of the Board. Under § 10.1-1307.2 A of the Code, the Director is to perform those duties required of him by the Board. Additionally under § 10.1-1307.3 of the Code, the Director has such powers to supervise, administer and enforce the provisions of Chapter 13 of Title 10.1 of the Code, as well as the regulations and orders of the Board, as are conferred upon him by the Board. The

powers and duties conferred and imposed upon the Director under §§ 10.1-1307.2 and 10.1-1307.3 of the Code are continued under § 10.1-1185 of the Code.

5. Under § 10.1-1307.2 B of the Code, the Director may be vested with the authority of the Board when it is not in session, subject to such regulations or delegation as may be prescribed by the Board. Appendix F of the SAPCB Regulations contains the Delegation of Authority from the Board to the Director. In Section II A of Appendix F the Director is given the authority, with some exceptions, to act for the Board when it is not in session and to issue consent orders and emergency special orders.

**SECTION D: Findings**

1. Tuscarora Incorporated operates a custom expanded polystyrene production facility in Sterling, Virginia which is located in Loudoun County, Virginia.
2. Section 120-04-0407 of the SAPCB Regulations, which became effective on July 1, 1991, requires RACT for all non-CTG major stationary sources with potential VOC emissions of 50 tons per year or greater in the Northern Virginia Ozone Nonattainment Area, which includes the Cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, and the counties of Arlington, Fairfax, Loudoun, Prince William and Stafford.
3. Tuscarora Incorporated was determined to be a non-CTG major stationary source of VOC emissions in the Northern Virginia Ozone Nonattainment Area.
4. On February 25, 1993, the Board notified Tuscarora Incorporated of its requirement to develop a RACT standard for VOC emissions from the affected facility.
5. Tuscarora Incorporated performed a RACT analysis, which was dated November 1993.
6. The DEQ provided comments to Tuscarora Incorporated regarding the November 1993 RACT analysis on January 14, 1994, in a telephone conversation with Ms. Victoria Brind'Amour of Tuscarora Incorporated.
7. Tuscarora Incorporated submitted a revised RACT analysis to the DEQ on March 28, 1994.

8. The DEQ provided comments to Tuscarora Incorporated regarding the revised RACT analysis on June 3, 1994.
9. Tuscarora Incorporated submitted a final RACT analysis to the DEQ on August 8, 1994.
10. The following pre-RACT emissions are summarized in the RACT analysis:
  - a. Uncontrolled VOC emissions from the facility's EPS production operations are estimated to be 100.3 tons per year.
  - b. Uncontrolled VOC emissions from the facility's ARCEL production operations are estimated to be 4.9 tons per year.
  - c. Total uncontrolled VOC emissions from the affected facility are estimated to be 105.2 tons per year.
11. It was determined that it is cost effective to control the emissions referenced in Paragraphs D.10.a-c by utilization of low and reduced VOC beads in the production process.

**SECTION E: Agreement**

Accordingly, the Board and Tuscarora Incorporated agree that:

1. VOC emissions from the affected facility shall be controlled as outlined in this Agreement.
2. Tuscarora Incorporated shall operate all processes at the affected facility as defined in this Agreement.
3. Volatile Organic Compound (VOC) emissions from the expanded polystyrene production facility shall be controlled by the use of low and reduced VOC EPS and ARCEL beads.
4. The EPS monthly weighted average percentage of VOC shall not exceed 4.5%.
5. The ARCEL monthly weighted average percentage of VOC shall not exceed 8.5%.
6. Tuscarora Incorporated shall keep a detailed daily material log which documents the percentage of VOC contained in the EPS and ARCEL material processed at

the facility. The material log shall provide sufficient information to demonstrate compliance with the conditions of this Agreement. As a minimum, the log shall include the following:

- a. The bead type (EPS or ARCEL) and lot number;
- b. The manufacture's certified VOC content; and
- c. The quantity processed in each batch;

Additionally, a semi-annual report demonstrating compliance with all RACT requirements shall be submitted. Tuscarora Incorporated shall submit the semi-annual compliance report to the Director, Northern Virginia DEQ Office within 30 days after the end of each six (6) month period. Detailed documentation of the material log shall be available on site for inspection by the Director, Northern Virginia DEQ Office and shall be current for the most recent five (5) years.

7. At any time in the future, should Tuscarora Incorporated plan any modifications (within the context of the new source review program) of the affected facility covered by this Agreement, Tuscarora Incorporated shall have the right to apply to the Board for a new source review permit and the Board may consent to such modifications provided such modifications will meet all of the new source review permit program regulatory requirements in existence at that time.
8. The Board may modify, rewrite, or amend this Agreement with the consent of Tuscarora Incorporated, for good cause shown by Tuscarora Incorporated, or on its own motion provided approval of the changes is accomplished in accordance with SAPCB regulations, the Administrative Process Act (§ 9-6.14:1 et. seq.) and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).
9. So long as this Agreement remains in effect, Tuscarora Incorporated waives the right to any hearing pursuant to §§ 9-6.14:11 and 9-6.14:12 of the Code and to judicial review of any issue of fact or law contained herein. Nothing herein, however, shall be construed as a waiver of the right to a hearing or to judicial review of any action taken by the Board to enforce this Agreement.

10. Failure by Tuscarora Incorporated to comply with any of the terms of this Agreement shall constitute a violation of an Order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
11. Tuscarora Incorporated declares it has received fair and due process under the Administrative Process Act (§ 9-6.14:1 et. seq.).
12. This Agreement shall become effective upon signature by both parties and shall continue in effect indefinitely or until otherwise terminated by the Board.

The foregoing Consent Agreement has been executed on behalf of the STATE AIR POLLUTION CONTROL BOARD of the COMMONWEALTH OF VIRGINIA and on behalf of Tuscarora Incorporated, each by its duly authorized representatives, or self, on the dates indicated below.

DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE COMMONWEALTH OF VIRGINIA

6/17/96  
(date)

BY: [Signature]  
Thomas L. Hopkins  
Director

TUSCARORA INCORPORATED

6/5/96  
(date)

BY: [Signature]  
James H. Brakebill  
Vice President of Manufacturing

STATE OF Pennsylvania  
CITY/COUNTY OF Beaver

The foregoing instrument was acknowledged before me this 5 day of June, 1996, by James H. Brakebill, Vice President of Manufacturing, of Tuscarora Incorporated, a Pennsylvania Corporation, on behalf of the Corporation.

My commission expires August 30, 1996.

[Signature]  
Notary Public

NOTARIAL SEAL  
CHRISTINA A. STARCHER, Notary Public  
Principal Office, Beaver County, PA  
My Commission Expires August 30, 1996