



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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CONSENT AGREEMENT

WITH

Virginia Electric and Power Company
P.O. Box 26666
Richmond, Virginia 23261

Registration No. 70225

SECTION A: Purpose

This Agreement establishes a Reasonably Available Control Technology (RACT) standard for the Virginia Electric and Power Company for the control of volatile organic compounds (VOC) and nitrogen oxides (NO_x) emissions at the Possum Point Generating Station as required by Sections 120-04-0407 and 120-04-0408 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 and NO_x 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.

"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.

"Combustion Turbine" (See definition of "Unit.")

"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.

"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.

"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.

"NO_x" means nitrogen oxides as defined by Section 120-01-02 of the SAPCB Regulations.

"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, located in Springfield, Virginia.

"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.

"Units" means the individual electrical generating systems at Virginia Power's Possum Point Station, several of which utilize boilers to produce steam externally to the generator turbines, and the remainder of which are combustion turbines in which the combustion of fuel oil directly powers the generator turbines. Each of Virginia Power's eleven units are uniquely designated by one of the numbers from 1 through 11.

"Virginia Power" or "affected facility" means Virginia Electric and Power Company's Possum Point Generating Station located at 19000 Possum Point Road, Dumfries, 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. Virginia Power operates an electric power generating station at 19000 Possum Point Road in Prince William County, near Dumfries, Virginia.
2. Sections 120-04-0407 and 120-04-0408 of the SAPCB Regulations, which became effective on July 1, 1991 and January 1, 1993,

respectively, require RACT for all non-CTG major stationary sources of VOC emissions and all major stationary sources of NO_x emissions 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. By letter dated February 25, 1993, DEQ notified Virginia Power that Virginia Power may be subject to RACT for both VOC and NO_x emissions. The letter required Virginia Power to notify DEQ of Virginia Power's RACT applicability status, make a commitment to determine what would constitute RACT, and provide DEQ with a schedule for achieving compliance by May 31, 1995.
4. By letter dated April 1, 1993, Virginia Power notified DEQ that boiler Units 3, 4, and 5 at the Possum Point Power Station are subject to RACT for NO_x emissions. The letter stated that boiler Units 1 and 2 and all of the combustion-turbine units (Units 6-11) are exempt due to their annual capacity factors being less than 5 percent, the exemption level set by Section III. C. 2. of Appendix T of the SPCB Regulations. The letter further stated that the Possum Point Station is subject to RACT for VOC emissions, but that the conclusion presented to the DEQ in letters dated October 1, 1991 and April 1, 1992 that no VOC emissions control would be appropriate as RACT is still valid.
5. By letter dated May 21, 1993, Virginia Power presented to DEQ a schedule for RACT implementation. The schedule had a due date of January 1, 1994 for Virginia Power to submit a NO_x RACT determination and assumed that EPA review and public comment would be complete by March 1, 1994.
6. By letter to Virginia Power dated June 15, 1993, DEQ stated that Virginia Power was not allowing enough time in the schedule proposed May 21, 1993, for DEQ and EPA review and public comment following submission of the RACT determination. The letter further stated that a new RACT determination was necessary for VOC emissions.
7. By letter dated September 30, 1993 and corrections dated October 19, 1993, Virginia Power submitted to DEQ a VOC RACT determination with analysis that concluded that no technology beyond the combustion efficiency of the boilers as designed is available for control of VOC emissions from coal-fired boilers. It also demonstrated that VOC emissions controls on the combustion turbines would not be cost effective.
8. Virginia Power determined and presented in its letter to DEQ dated October 19, 1993 that the theoretical potential to emit VOC emissions from the Possum Point Station units is as follows:

Unit 1	20.6	tons per year		
Unit 2	20.6	"	"	"
Unit 3	13.6	"	"	"
Unit 4	28.2	"	"	"
Unit 5	180.8	"	"	"
All Combustion Turbines	<u>117.9</u>	"	"	"
Total	381.7	"	"	"

9. DEQ has estimated that the theoretical potential to emit NO_x emissions for each of the units at the Possum Point Station is as follows:

Unit 1	1,158	tons per year		
Unit 2	1,155	"	"	"
Unit 3	2,571	"	"	"
Unit 4	5,311	"	"	"
Unit 5	8,889	"	"	"
All Combustion Turbines	<u>4,843</u>	"	"	"
Total	23,927	"	"	"

10. DEQ recognizes that Units 1 and 2 and the combustion turbines (Units 6 through 11) operate only a small fraction of each year, so the actual emissions are much smaller than the theoretical potential to emit. However, it cannot be stated with certainty that the potential to emit for VOC emissions presented in Paragraph D.8. is greater than the actual VOC emissions, since the appropriateness of the emission factors used to determine the potential VOC emissions is uncertain.
11. By letters dated December 10 and 14, 1993, and January 17 and 21, 1994, and summarized by letter dated March 4, 1994, Virginia Power submitted to DEQ a proposal to meet NO_x RACT by complying with the maximum allowable emission rates given in Table T-1 of Appendix T of the SAPCB Regulations.
12. Virginia Power proposes to meet the emission rate limits of Appendix T of the SAPCB Regulations by applying the emission allocation system given in Section IV of Appendix T. In the system given in Section IV, a mass emission rate for each unit is calculated by multiplying the relevant emission rate limit given in Table T-1 of Appendix T by the unit's heat input rate at maximum capacity. The mass emission rates are summed for all the units subject to NO_x RACT to obtain a total limit. New individual limits can be set for each unit, so long as the sum of the products of those limits and their respective maximum heat input rates total to no more mass emissions than the total limit derived

by using the emission rate limits given in Table T-1. Compliance must be demonstrated on a daily basis.

13. By letter to DEQ, dated June 9, 1994, Virginia Power has proposed individual NO_x emission limits for Units 3, 4, and 5 which DEQ has confirmed will comply with the allocation system in Section IV of Appendix T of the SAPCB Regulations.
14. By letter to DEQ, dated March 4, 1994, Virginia Power has stated that following the installation of NO_x emissions controls it may seek a different allocation of emissions per unit, in accordance with Section IV. D. of Appendix T of the SAPCB Regulations.
15. Virginia Power proposes to comply with the NO_x RACT emission limits by the following methods:
 - a. Installing NO_x advisory systems (NAS) on Units 3 and 4. An NAS is a computerized modeling technology incorporated into a boiler control system to predict control settings to minimize NO_x emissions.
 - b. Retrofitting Unit 4 with Low-NO_x burners.
 - c. Monitoring the nitrogen content of the fuel purchased for Unit 5.
16. By letter to DEQ, dated March 10, 1994, Virginia Power requested that it be allowed to discontinue use of one or more of the NAS once the low-NO_x burners on Unit 4 are operational and if operating experience shows that the requirements of Appendix T of the SAPCB Regulations can be met without the NAS. Because the SAPCB regulations require only that a specific heat input-based emission rate be achieved and do not state that a particular (or any) control equipment be applied, the Board should allow Virginia Power to discontinue use of one or more of the NAS to the extent that the applicable limits in this agreement can still be met. However, DEQ believes that a successful compliance demonstration period of at least 90 days is necessary to show that compliance can truly be attained without the NAS.
17. Virginia Power proposes to demonstrate compliance with NO_x RACT emission limits by obtaining hourly NO_x emissions data from Units 3, 4, and 5 by means of continuous emissions monitoring (CEM) systems that Virginia Power is required to install for purposes of Title IV of the federal Clean Air Act.
18. DEQ has determined that the NO_x controls proposed by Virginia Power are acceptable control measures for achieving the RACT emission limits, but are not by themselves, evidence of compliance.

19. DEQ has determined that Virginia Power's findings in Paragraph D.7. that no control of VOC emissions from the boilers is reasonably available beyond that resulting from good combustion efficiency of the boilers as designed, and that VOC emissions controls on the combustion turbines would be unreasonably expensive are correct. However, DEQ has determined that striving for the maximum combustion efficiency is contrary to the measures that reduce NO_x emissions and that Virginia Power needs to apply good combustion practices that are standard for the utility industry, although such practices may not necessarily result in the highest possible boiler efficiency.
20. For any units that are determined by Virginia Power to be exempt from NO_x RACT on the grounds that their annual capacity factors have historically been less than 5 percent and that exceed a 5 percent annual capacity factor in the future, Section III. C. 2. of Appendix T of the SAPCB Regulations provides that those units then become subject to SAPCB Regulations regarding NO_x RACT.
21. Setting VOC emissions limits on the basis of estimates calculated from EPA Publication AP-42, Table 1.1-11 emission factors is questionable, since actual VOC emission rates are extremely dependent on the particular boiler and fuel in question. Furthermore, the emission rate of VOC emissions may vary due to factors such as temperature fluctuation or variation in coal VOC content while Virginia Power is operating within the constraints of RACT, in other words, good combustion practices. Therefore, no fixed VOC emission limit should be set as part of this agreement.
22. SAPCB Regulations 120-04-0406 and 120-04-0408 stipulate that RACT subject facilities must achieve "compliance with the emission standard as expeditiously as possible but no later than May 31, 1995." However, despite Virginia Power's commencement of activities prior to the signing of this agreement to implement the anticipated RACT, it became apparent long ago that, with respect to NO_x, Virginia Power could not comply with the statutory compliance deadline, but could meet a May 31, 1996 deadline. By letter to DEQ, dated March 4, 1994, Virginia Power indicated that it requires a lead time of 16 and 1/2 months in order to order and install the low-NO_x burners for Unit 4. The letter also explains that the low-NO_x system is likely to perform better if a reasonable extension beyond the due date is granted. In addition, if given an extension until May 31, 1996, Virginia Power (and potentially its customers) will save approximately \$700,000 in additional fuel expenses that would otherwise be incurred as a result of deviating from the planned maintenance schedule. Meanwhile, the additional NO_x emissions will result in a difference in daily NO_x emissions for the Washington SMSA (based on Metropolitan Council of Governments data) of only 0.25 percent. A set of milestones should be set to ensure that Virginia Power is making progress toward complying with RACT as expeditiously as possible. The imposition, effective May 31, 1995 and lasting

throughout the extension period, of NO_x limits reflective of the application of the NO_x advisory systems (NAS) on Units 3 and 4 would be an appropriate milestone.

23. DEQ believes that appropriate interim NO_x limits reflective of application of the NAS during the extension period cannot be established prior to trial operation of the units with and without the NAS. Interim limits are nevertheless necessary, since combustion adjustments continuously recommended by the NAS will not be made automatically and Virginia Power may find that it would be more economical to operate without the adjustments. The interim limits should not necessarily represent the lowest NO_x emissions rates achievable using the NAS, but should represent reasonable interim progress toward meeting the RACT limits to be imposed at the end of the extension period while maintaining a reasonable cost to benefit ratio. Virginia Power has reported that Unit 3 has been out of service for repairs since the spring of 1994 and is expected to return to service in January, 1995. Federal monitoring regulations require that the CEM system on Unit 3 be certified within 90 days after the unit resumes operation. Virginia Power experience with other CEM systems suggests that the full 90 days may be needed. Being that the NAS will be the first two ever put in service, it may take months to optimize their performance. Therefore, especially if the repair or certification schedule slips, it may be difficult for interim NO_x limits to be set by May 31, 1995 on the basis of trial operation. Nevertheless, a milestone on the path to full RACT emissions reductions must be reached by that date, so default emissions limits based on potential reductions assumed in the RACT analysis will be imposed.
24. Unit 5 will not require any modifications in order to comply with the NO_x emissions limits of Appendix T of the SPCB regulations, whether by itself or under Virginia Power's proposed allocation plan; therefore, emission limits should be made effective May 31, 1995 and not postponed until the total allocation plan goes into effect by May 31, 1996.
25. By letter to DEQ, dated June 9, 1994, Virginia Power has stated that CO and particulate emissions may increase from Unit 4 as a result of applying low-NO_x burners. Virginia Power requests that this agreement recognize the so-called "WEPCO Rule" (40 CFR 52.21(b)(2)(iii)(h)) that exempts projects exclusive to air pollution control which benefit the environment and for which DEQ has not determined that a violation of the National Ambient Air Quality Standards (NAAQS) or any PSD increments will result. Virginia does not currently have a regulation to implement the WEPCO Rule, therefore, the Board cannot acknowledge its application to Virginia Power. However, the Board will honor the intent of the federal WEPCO Rule; thus, language consistent with that of 40 CFR 52.21(b)(2)(iii)(h) is provided in the agreement.

26. DEQ recognizes that the installation of low-NO_x burners on Unit 4 will be environmentally beneficial, and will very likely be more beneficial over a period of years, having been granted an extension of the period before compliance is due, than would be the case if Virginia Power were forced to modify the unit without adequate design, construction, and testing time.
27. Virginia Power, with letters dated September 9, 1994 and November 18, 1994, respectively, submitted a final, combined NO_x and VOC RACT analysis and corrections, incorporating all of the relevant information and decisions presented in the earlier correspondences.
28. The theoretical potential to emit emission rates for Virginia Power after full implementation of this agreement would be as follows:

UNIT	NO _x		VOC*	
	<u>lbs/hr</u>	<u>tons/yr</u>	<u>lbs/hr</u>	<u>tons/yr</u>
1	264	1158	4.8	21
2	264	1155	4.8	21
3	531	2324	2.3	10
4	863	3779	4.7	21
5	1948	8534	40.6	178
6 - 11	<u>1106</u>	<u>4843</u>	<u>26.9</u>	<u>118</u>
Total	4976	21,793	84.1	369

* No limits on VOC emissions are included in this agreement, so emission rates shown represent the estimated theoretical potential for the type of boilers and fuel.

SECTION E: Agreement

Accordingly, the Board and Virginia Power agree that:

1. VOC and NO_x emissions from the affected facility shall be controlled and reduced as outlined in this Agreement.
2. NO_x emissions shall be controlled from the boilers of Units 3 and 4 by a NO_x advisory system (NAS), the definition of which is an on-line, computer software-based system that will constantly evaluate data from plant operations and predict appropriate settings for controllable parameters affecting the production of NO_x emissions. This requirement may be amended or deleted by the Board following the installation of the low-NO_x burners required by Paragraph E.4. of this agreement, if Virginia Power can demonstrate that the affected facility complies each day for a period of 90 days with the limits of Paragraph E.7. or alternative limits that meet the specifications of Paragraph E.7. for becoming a Board-approved revision to Paragraph E.7. (a revision does not actually have to be approved by the Board prior to or during the demonstration period). Prior to discontinuing the use of the NAS on either boiler for purposes of commencing the 90-day compliance demonstration of this paragraph, Virginia Power shall notify the Regional Director of the date on which it intends to cease use of the NAS. In order to effect any necessary adjustments, Virginia Power is allowed up to ten days from the date that NAS use first ceases until the first of the 90 consecutive days that Virginia Power will use to demonstrate compliance for the purposes of requesting that the Board amend or delete the NAS requirement. If for any day following the 10-day adjustment allowance period, Virginia Power fails to comply with the limits, the demonstration period shall be suspended immediately, and use of the NAS shall be resumed within 24 hours. The Regional Director shall be informed of the demonstration failure within one business day. Commencement of a new demonstration period at a later date is at the discretion of the Board.
3. NO_x emissions shall be further controlled from the boiler of Unit 4 by application of low-NO_x burners.
4. No NO_x emissions control is mandatory for Unit 5; however, Virginia Power shall apply whatever measures are necessary, to ensure that compliance with the emission limit in Paragraph E.7. of this agreement is maintained. Such measures may include, but are not limited to monitoring the nitrogen content of the fuel oil. Measures that result in any increase in other types of emissions shall not be applied unless approved by the Regional Director.
5. VOC emissions shall be controlled from the boilers of Units 3, 4, and 5 by maintaining good combustion practices. Good combustion practices are defined as those combustion practices which are

commonly recognized in the utility industry as essential to maintain optimal performance from utility boilers while operating in compliance with all emission limits, and include, but not limited to reasonable vigilance of the operating parameters and reasonable preventive maintenance of the boilers.

6. During the months of June, July, and August, there shall be no planned shutdown of Unit 4 unless Unit 3 is also down simultaneously.
7. NO_x emissions (measured as if converted to NO₂) shall be limited to the following:

<u>Boiler</u>		<u>Per million Btu's heat input</u>
Unit 3	-	0.47 lbs
Unit 4	-	0.37 lbs
Unit 5	-	0.24 lbs

taken as the average of hourly (or more frequent) readings of the mass emission rates and the heat input rates over each calendar day. After the effective date of this agreement, Virginia Power may request a revision to any or all of the limits of this paragraph, so long as the new limits would not result in a greater total emission rate (lbs/million Btu) from the three units operating at their maximum capacity. The revised limits shall supersede the limits above only with the consent of the Board. Granting of consent is at the Board's discretion. The emissions limits of this paragraph shall become effective May 31, 1995, except that prior to May 31, 1996 the emissions limits for Units 3 and 4 shall be as determined by paragraph E.8. and as inserted by May 31, 1995 in the blanks below:

Interim Limits for Units 3 and 4

<u>Boiler</u>	<u>Limit</u>
Unit 3	_____ lbs per million Btu heat input
Unit 4	_____ lbs per million Btu heat input

If the interim limits for Units 3 and 4 are not established per paragraph E.8 by May 31, 1995, default NO_x interim limits of 0.47 lbs per million Btu shall become effective for Units 3 and 4 on May 31, 1995 until either interim limits can be established per paragraph E.8 or May 31, 1996, whichever comes first.

8. Not more than 45 days prior to the NO_x advisory systems (NAS) becoming operational, but no later than May 15, 1995, a record of continuously monitored NO_x emissions data (for a duration to be approved by the Regional Director) without the use of NAS and a

similar record of continuously monitored data obtained while conscientiously using the NAS as designed shall be collected for both Units 3 and 4 and submitted to the Regional Director. The Board shall then set individual NO_x emissions limits for Units 3 and 4 on a pounds of emissions per million Btu heat input basis that are no more stringent than limits that represent 80 percent of the average reduction achieved by the use of the NAS over the similar period without NAS. The Board shall propose the limits to Virginia Power for comment no later than May 22, 1995. The limits, which may be revised following comment from Virginia Power, shall become effective on May 31, 1995 and shall be added to Paragraph E.7.

9. Actual NO_x emissions shall be determined by continuous monitoring. A continuous emissions monitoring (CEM) system shall be installed on each flue from Units 3, 4, and 5 to measure the mass emission rate of NO_x. The CEM systems required by this paragraph shall be operated and maintained in accordance with 40 CFR, Part 75 Subpart C. Unless already completed, a 45-day notification prior to the certification testing of the CEM systems and subsequent required notifications are to be submitted to the Regional Director. Within 60 days of completion of the CEM systems certification testing or prior to May 31, 1995, whichever is earlier, the Department shall be furnished with two copies of a report of the certification testing of all monitoring devices required by this agreement.
10. Quarterly compliance reports of data from the NO_x CEM systems and the heat input records shall be submitted to the Regional Director within 30 days following each calendar quarter. As a minimum the compliance reports shall contain:
 - a. Unit operating hours during the quarter.
 - b. The paragraph E.7 NO_x emission rate limit for each unit.
 - c. All hourly NO_x emission rates (lbs/10⁶ Btu).
 - d. A table of the average NO_x emission rate per million Btu's for each unit for each calendar day during the quarter.
 - e. Reasons for any violations of the emission limits and any corrective action taken.
 - f. Dates and times of all CEM system outages and corrective actions taken.
 - g. Results of the daily CEM system calibration drift checks.
 - h. Results of the 40 CFR, Part 75, quality assurance audits.

Data that may or must be tabulated to comply with this paragraph may be presented in the quarterly report either as one table or any number of separate tables.

11. Virginia Power shall comply with requirements of this agreement on or before the dates presented below:

May 08, 1995	The NO _x advisory systems (NAS) on Units 3 and 4 are operational for testing purposes. (See Paragraphs E.2. and E.8.)
May 15, 1995	Submission of data comparing emissions with and without NAS. (See Paragraph E.8.)
May 31, 1995	Interim NO _x emissions limits reflective of NAS. (See Paragraphs E.7. and E.8.)
" "	Maintain good combustion practices. (See Paragraph E.5.)
May 31, 1996	Low-NO _x burners installed and operating on Unit 4. (See Paragraph E.3.)
" "	No planned outage of Unit 4 without Unit 3 shutdown. (See Paragraph E.6.)
" "	NO _x emissions limits based on allocation. (See Paragraph E.7.)

Virginia Power shall comply with the remaining requirements in this agreement by May 31, 1995. Among others, the remaining requirements include the installation, performance evaluation, and performance report on the NO_x CEMs, which may be completed much earlier to comply with requirements of Title IV of the federal Clean Air Act.

12. In order to minimize the duration and frequency of excess emissions due to malfunctions of process or air pollution control equipment, including the NO_x Advisory System (NAS), Virginia Power shall develop a maintenance schedule and maintain records of all scheduled and non-scheduled maintenance, including dates and duration of any outages. These records shall be maintained on site (or available for inspection on site via computer video screen or computer printout) for a period of five years and shall be made available to the DEQ upon request.
13. For units that are determined by Virginia Power to be exempt from NO_x RACT on the grounds that their annual capacity factors have historically been less than 5 percent and that exceed a 5 percent annual capacity factor in the future, those units shall become

subject to SAPCB Regulations regarding NO_x RACT, as provided in Section III. C. 2. of Appendix T of the SAPCB Regulations.

14. DEQ has determined that the physical changes or changes in methods of operation required by this agreement, by themselves, do not subject the units to "new source" review or permitting requirements; provided, however, if DEQ subsequently determines that the changes resulting from this agreement will result in a significant net increase in annual emissions of any criteria pollutant and such increase causes or contributes to a violation of any national ambient air quality standard or PSD increment, DEQ reserves the right to alter this agreement to require the elimination or reduction of such significant net increase.
15. At any time in the future, should Virginia Power plan any modifications (as defined by the Board) of the affected facility covered by this Agreement, Virginia Power shall have the right to apply to the Board and the Board may consent to such modifications provided such modifications will meet all of the regulatory requirements in existence at that time.
16. The Board may modify, rewrite, or amend this Agreement with the consent of Virginia Power, for good cause shown by Virginia Power, or on its own motion after notice and an opportunity for a hearing.
17. So long as this Agreement remains in effect, Virginia Power 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.
18. Failure by Virginia Power to comply with any of the terms of this Agreement shall constitute a violation of an Agreement 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 nor shall it diminish Virginia Power's right to a fair hearing or judicial review of any enforcement action taken.
19. Virginia Power declares it has received fair and due process under the Administrative Process Act (§ 9-6.14:1 et. seq.).
20. 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 Virginia Electric and Power Company, each by its duly authorized representatives, or self, on the dates indicated below.

DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE COMMONWEALTH OF VIRGINIA

JUNE 15, 1995
(date)

BY: *Peter W. Schmidt*
Peter W. Schmidt
Director

VIRGINIA ELECTRIC AND POWER COMPANY

MAY 25, 1995
(date)

BY: *William R. Cartwright*
William R. Cartwright
Vice President,
Fossil and Hydro Operations

COMMONWEALTH OF VIRGINIA
CITY OF RICHMOND

The foregoing instrument was acknowledged before me this 25th day of MAY, 1995, by William R. Cartwright, Vice President, Fossil and Hydro Operations of Virginia Electric and Power Company, a Virginia Corporation, on behalf of the Corporation.

My commission expires 7/31/97

Michael H. Snow
Notary Public

