COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703) 583-3800 Fax (703) 583-3821
www.deq.virginia.gov

L. Preston Bryant, Jr
Secretary of Natural Resources

David K. Paylor
Director

STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION
ORDER BY CONSENT
ISSUED TO
INOVA LOUDOUN HOSPITAL
Registration No. 72307

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Inova Loudoun Hospital, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable Permit and regulations.

SECTION B: Definitions

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

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.

2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.

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

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Facility" means Inova Loudoun Hospital, located at 44045 Riverside Parkway, Leesburg in Loudoun County, Virginia, which operates a 155-bed hospital.

6. "Inova" means Inova Loudoun Hospital, a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Inova is a "person" within the meaning of Va. Code § 10.1-1300.

7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.

8. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.

9. "Order" means this document, also known as a Consent Order.

10. "Permit" means a minor New Source Review (NSR) Permit to modify and operate a medical facility, which was issued in the name of the Board to Inova Loudoun Hospital on September 20, 2007.

11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 Chapters 10 through 80.

12. "Va. Code" means the Code of Virginia (1950), as amended.

13. "VAC" means the Virginia Administrative Code.

14. "VEE" means a Visible Emissions Evaluation, as determined by EPA Method 9 (reference 40 CFR 60, Appendix A).

15. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et. seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. Inova owns the Facility which operates a medical facility located in Loudoun County, Virginia.

2. The Facility is subject to the Permit, consisting of: three natural gas/distillate oil fired hot water boilers, Unilux Model # ZF-1200 W with Low NOx burners, each rated at 12.4 MMBtu/hr, 315 BHP; one emergency diesel driven engine-generator rated at 600kW, 702 BHP; and three emergency diesel driven engine-generator sets, Caterpillar Model 3412, rated at 500 kW each

3. DEQ staff conducted an inspection of the Facility on August 13, 2008. During the inspection, DEQ staff observed violations of the Facility's NSR Permit as follows:

a. Failure to conduct initial performance tests for NO_2 and the VEE's for HB 1-3 in accordance with Condition 16 & 17 of the Permit.

b. Failure of Facility to maintain recordkeeping for emissions data and operating parameters to demonstrate compliance with the Permit in accordance with Condition 20 of the Permit (this includes conditions 3, 4, 5, 9, and 13).

c. Failure to notify DEQ of construction, start-up dates, and anticipated date of initial performance tests of HB 1-3 in accordance with Condition 22 of the Permit and failure to submit the semi-annual fuel reports for HB 1-3 in accordance with Condition 23 of the Permit.

4. As a result of these violations, DEQ issued a Notice of Violation (NOV) to Inova on August 29, 2008.

5. On March 4, 2009, Inova conducted initial performance tests for NO_2 for HB 1 & 2 and conducted initial visible emissions evaluations (VEE) for HB 3.

6. During the stack tests conducted March 4, 2009, DEQ staff observed that Inova did not follow the approved protocol and did not operate either of the tested Boilers, HB-2 or HB-3, at greater than 90 percent of the manufacturer's maximum rated capacity, a requirement of Condition 16 of the Permit.

7. On May 11, 2009, DEQ accepted the results of the March 4, 2009 initial performance tests for NO_2 and VEE for HB 1-3 due to the fact that the boilers complied with the emissions limits of the Permit.

8. As detailed in the findings of fact above, DEQ concludes that Inova is in violation of the NSR Permit dated September 20, 2007, 9 VAC 5-50-30 and 9 VAC 5-50-410.

SECTION D: Agreement and Order

By virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and -1316 and upon consideration of Va. Code § 10.1-1186.2, the Board orders Inova Loudoun Hospital, and Inova Loudoun Hospital agrees:

1. To perform the actions described in Appendix A of this Order; and

2. To a civil charge of $8,593.00 in settlement of the violations cited in this Order, to be paid as follows:

a. Inova Loudoun Hospital shall pay $2,578.00 of the civil charge within 30 days of the effective date of this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Inova Loudoun Hospital shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

b. Inova Loudoun Hospital shall satisfy $6,015.00 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) described in Appendix A of this Order.

c. The net project costs of the SEP to Inova Loudoun Hospital shall not be less than the amount set forth in Paragraph D.2.b. If it is, Inova Loudoun Hospital shall pay the remaining amount in accordance with Paragraph D.2.a of this Order, unless otherwise agreed to by the Department. "Net project cost" means the net present after-tax cost of the SEP, including tax savings, grants, and first-year cost reductions and other efficiencies realized by virtue of project implementation. If the proposed SEP is for a project for which the party will receive an identifiable tax savings (e.g., tax credits for pollution control or recycling equipment), grants, or first-year operation cost reductions or other efficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEPs that are funded by state or federal low-interest loans, contracts, or grants shall be deducted.

d. By signing this Order Inova Loudoun Hospital certifies that it has not commenced performance of the SEP.

e. Inova Loudoun Hospital acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by Inova Loudoun Hospital to a third party, shall not relieve Inova Loudoun Hospital of its responsibility to complete the SEP as described in this Order.

f. In the event it publicizes the SEP or the SEP results, Inova Loudoun Hospital shall state in a prominent manner that the project is part of a settlement of an enforcement action.

g. The Department has the sole discretion to:

i. Authorize any alternate, equivalent SEP proposed by the Facility; and

ii. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.

Should the Department determine that Inova Loudoun Hospital has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify Inova Loudoun Hospital in writing. Within 30 days of being notified, Inova Loudoun Hospital shall pay the amount specified in Paragraph D.2.b, above, as provided in Paragraph D.2.a, above.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent Inova Loudoun Hospital for good cause shown by Inova Loudoun Hospital, or on its own motion pursuant to the Administrative Process Act after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Inova Loudoun Hospital admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Inova Loudoun Hospital consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. Inova Loudoun Hospital declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Inova Loudoun Hospital to comply with any of the terms of this Order 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 or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Inova Loudoun Hospital shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Inova Loudoun Hospital shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Inova Loudoun Hospital shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

   a. the reasons for the delay or noncompliance;

   b. the projected duration of any such delay or noncompliance;

   c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

   d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

   Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Inova Loudoun Hospital. Nevertheless, Inova Loudoun Hospital agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

    (a) Inova Loudoun Hospital petitions the Director or his designee to terminate the order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

    (b) the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Inova Loudoun Hospital.

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Inova Loudoun Hospital from its obligation to comply with any statute,

regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Inova Loudoun Hospital and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Inova Loudoun Hospital certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Inova Loudoun Hospital to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Inova Loudoun Hospital.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Inova Loudoun Hospital voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 16th day of October, 2009.

Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Inova Loudoun Hospital voluntarily agrees to the issuance of this Order.

Date: 10/14/09 By: Susan Carroll, COO
(Person) (Title)
Inova Loudoun Hospital

Commonwealth of Virginia
City/County of Loudoun

The foregoing document was signed and acknowledged before me this 14th day of October, 2009, by Susan Carroll who is COO of Inova Loudoun Hospital on behalf of the corporation.

Rebecca Payne
Notary Public

153190
Registration No.

My commission expires: 11/31/12

Notary seal:

REBECCA PAYNE
Notary Public
Commonwealth of Virginia
153190
My Commission Expires Nov 30, 2012

APPENDIX A

Inova Loudoun Hospital shall perform the SEP identified below in the manner specified in this Appendix.

1. The SEP to be performed by Inova Loudoun Hospital is to design and install supplemental insulation for exposed areas of the hot water and steam boilers increasing the efficiency of the system in the Inova Loudoun Hospital for an estimated total annual savings of natural gas for all 6 boilers of 2,970,000 CF, equivalent to an emission reduction of 148.5 Lbs of NOx per year. The project will reduce an estimated 40 Lbs/Yr of Emissions for each steam boiler and 9.5 Lbs/Yr for each hot water boiler.

2. The SEP shall be completed in a timely manner with the installation of the supplemental insulation being completed within 90 days of the execution of this Order.

3. Inova Loudoun Hospital shall submit a written report on the SEP, verifying that the SEP has been completed in accordance with the terms of this Order, and certified either by a Certified Public Accountant or by a responsible corporate officer or owner. Inova Loudoun Hospital shall submit the report and certification to the Department within 30 days of completion of the SEP.

4. If the SEP has not or can not be completed as described in the Order, Inova Loudoun Hospital shall notify DEQ in writing no later than 90 days from the execution of this Order. Such notification shall include:
    a. An alternate SEP proposal, or
    b. Payment of the amount specified in paragraph D.2 as specified in paragraph D.1.

5. Inova Loudoun Hospital hereby consents to reasonable access by DEQ or its staff to property or documents under the party's control, for verifying progress or completion of the SEP.

6. Inova Loudoun Hospital shall submit to the Department written notification of the final overall and net project cost of the SEP in the form of a certified statement itemizing costs, invoices and proof of payment, or similar documentation within 30 days of completion of the SEP. For the purposes of this submittal, net project costs can be either the actual, final net project costs or the projected net project costs if such projected net project costs statement is accompanied by a CPA certification or certification from Inova Loudoun Hospital's Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.

7. Inova Loudoun Hospital shall submit to the Department written documentation of the fuel usage and hours of operation for a 12 month period starting from 6 months prior to installation of the supplemental insulation through 6 months after installation is complete in order to show the reduction of fuel use. This documentation shall be submitted within 7 months of completion of the supplemental insulation installation. DEQ may use this information as a basis for determining if Inova Loudoun Hospital has satisfactorily completed the SEP in accordance with the Order.

8. Documents to be submitted to the Department, other than the civil charge payment described in Section D of this Order, shall be sent to:

Virginia Department of Environmental Quality
Attn: Enforcement Staff
13901 Crown Court
Woodbridge, VA 22193