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

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
INOVA ALEXANDRIA HEALTH SERVICES CORPORATION
FOR
INOVA ALEXANDRIA HOSPITAL
Registration No. 70268

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 Alexandria Health Services Corporation regarding Inova Alexandria 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. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

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

4. "Facility" means the Alexandria Hospital, located at 4320 Seminary Road, Alexandria, Virginia, which is located in the City of Alexandria, Virginia.

5. "FCE" means a full compliance evaluation by DEQ staff.

6. "Inova" means Inova Alexandria Health Services Corporation, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. 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. "NO_X" means oxides of nitrogen.

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

10. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.

11. "Permit" means a Minor New Source Review permit to modify and operate, one Caterpillar C32 diesel generator set, two Caterpillar 3512 diesel generator sets, and two Babcock & Wilcox Boilers with Power Flame CMAX Burners, which was issued under the Virginia Air Pollution Control Law and the Regulations to Inova Health Care Services on February 1, 2012, which supersedes the permit dated September 19, 2008.

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

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

14. "VAC" means the Virginia Administrative Code.

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 and operates the Facility in Alexandria, Virginia. The Facility is the subject of the Permit which allows Inova to modify and operate one Caterpillar C32 diesel generator set (G-3), two Caterpillar 3512 diesel generator sets (G-1 and G-2), and two Babcock & Wilcox Boilers (B-1 and B-2) with Power Flame CMAX Burners.

2. On April 19, 2012, Department staff conducted a FCE of the Facility for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the evaluation and review of the Facility records, Department staff made the following observations:

a. Inova exceeded the operational limit of 350 hours per twelve (12) month period for engine-generator G-3 (September 2010 to June 2011).
b. Inova exceeded the engine emission limit of 3.38 tons per year of Nitrogen Oxides (as NO_2) for engine-generator G-3 (September 2010 to June 2011).
c. Inova failed to maintain records on-site showing the facility's annual hours of operation of engine-generator sets G-1, G-2, and G-3, calculated monthly as the sum of each consecutive twelve month period.
d. Inova failed to maintain records on-site showing the facility's monthly operational hours of the engine-generators and reasons for operation.
e. Inova failed to maintain records on-site showing the facility's annual consumption of natural gas.
f. Inova failed to maintain records on-site showing the facility's annual consumption of distillate oil.
g. Inova failed to maintain records or logs on-site of the facility's maintenance schedule (unscheduled) and operator training.
h. Inova failed to maintain a copy on-site of the facility's most current Virginia air permit.

3. Permit Condition 6 requires that "the engine-generator set (Ref No. G-3) shall not operate more than 350 hours per year, calculated monthly as the sum of each consecutive twelve month period."

4. Permit Condition 15 requires that "[e]missions from the operation of the engine generator (G-3) shall not exceed the limits specified below:

Nitrogen Oxides (as NO_2)	19.33 lbs./hr	3.38 tons/yr

These emissions are derived from the estimated overall emission contribution from operating limits. Exceedance of the operating limits may be considered credible evidence of the exceedance of emission limits. Compliance with these emission limits may be determined as stated in Conditions 2, 6, and 7."

5. Permit Condition 23 requires that records shall be maintained. Such records shall include, but are not limited to:

a. "Annual hours of operation and reason operated (as defined per Condition 4) for each engine-generator set (Ref. No.'s G-1 through G-3), calculated monthly as the sum of each consecutive twelve-month period."

b. "A monthly log shall be maintained of all hours each unit is operated, including testing, training, and maintenance, and shall provide dates and reason unit was operated."

c. "Annual throughput of natural gas consumed by the boilers (Ref. No.'s B-1 and B-2), calculated monthly as the sum of each consecutive twelve-month period."

d. "Annual throughput of distillate oil consumed by the boilers (Ref. No.'s B-1 and B-2), calculated monthly as the sum of each consecutive twelve-month period."
e. "A developed maintenance schedule and a log of scheduled and unscheduled maintenance, and operator training."

7. Permit Condition 32 requires that the "permittee shall keep a copy of this permit on the premises of the facility to which it applies."

8. On May 9, 2012, based on the FCE and review of Facility files, the Department issued a Notice of Violation to Inova for the violations described in paragraphs C(2) through C(7), above.

9. On May 11, 2012, Inova submitted a written response to the NOV.

10. On May 24, 2012, representatives of Inova met with the Department to discuss the NOV and the written response.

11. At the meeting and on June 1, 2012, representatives of Inova submitted documentation and records to demonstrate the operation of the equipment at the Facility and the implementation of a complete environmental audit of Inova system.

12. On August 1, 2012, Inova notified DEQ that as a result of environmental audit of the Inova system, it was determined that a 1,600 kW emergency generator was constructed and is operating at the Inova Central Laboratory without an air permit.

13. 9 VAC 5-80-1120(A) requires that "[n]o owner or other person shall begin actual construction, reconstruction or modification of any stationary source without first obtaining from the board a permit to construct and operate or to modify and operate the source."

14. Based on the results of the April 19, 2012, evaluation, the May 24, 2012, meeting, and the documentation submitted on May 24, 2012, and June 1, 2012, the Board concludes that Inova has violated Permit Conditions 4, 6, 15, 23, and 32, and 9 VAC 5-80-1120(A) as described in paragraphs C(3) through C(7), C(12), and C(13) above.

15. In order for Inova to return to compliance, DEQ staff and representatives of Inova have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Inova Alexandria Health Services Corporation, and Inova Alexandria Health Services Corporation agrees to:

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

2. Pay a civil charge of $16,140.75 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

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

Inova Alexandria Health Services Corporation 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).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Inova for good cause shown by Inova, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, 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 admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Inova 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 declares it has received fair and due process under the Administrative Process Act 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 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 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Inova shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Inova 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 and any 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. Nevertheless, Inova 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. The Director or his designee terminates the Order after Inova has completed all of the requirements of the Order;

b. Inova 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

c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Inova.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Inova 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 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 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 to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Inova.

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 voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 24th day of September, 2012.

Thomas A. Faha

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

Inova Alexandria Health Services Corporation voluntarily agrees to the issuance of this Order.

Date: 9/20/2012 By: _____, Chief Financial Officer TB
(Person) (Title)
Inova Alexandria Health Services Corporation

Commonwealth of Virginia
City/County of FAIRFAX

The foregoing document was signed and acknowledged before me this 20th day of September, 2012, by Richard C. Magenheimer who is Chief Financial Officer of Inova Alexandria Health Services Corporation, on behalf of the corporation.

_____
Notary Public

7328815
Registration No.

My commission expires: May 31, 2014
Notary seal:

UMA SINGH
Notary Public
Commonwealth of Virginia
7328815
My Commission Expires May 31, 2014

APPENDIX A
SCHEDULE OF COMPLIANCE

1. **Air Compliance Corrective Actions**

Inova Alexandria Health Services Corporation shall:

a. Within 15 days of the execution of this Order, submit a complete and approvable Form 7 air permit application to DEQ for the 1,600 kW emergency generator located at the Inova Central Laboratory.

b. Within 60 days of the execution of this Order submit a schedule for review and approval, for the implementation of corrective actions identified by the air quality compliance audit performed in 2012 for the following facilities: Inova Alexandria Hospital; Inova Fair Oaks Hospital; Inova Fairfax Hospital; Inova Loudoun Hospital; Inova Leesburg Medical Center; Inova Mount Vernon Hospital; Nokes Data Center; and Inova's Central Laboratory.

c. Within 90 days of the execution of this Order, submit to a schedule for review and comment, for the completion of the following for each of the facilities listed in (b) above:

i) Preparation of an air compliance manual, including a copy of the latest air permits.

ii) Preparation and presentation of training to key facility personnel and management on air quality regulations and air permit compliance.

iii) Preparation of an air compliance calendar.

Once prepared, submit the drafted documents listed above in *i, ii, iii,* to DEQ for review and comment.

d. Within 18 months of the execution of this Order, complete a subsequent air quality compliance audit for each of the facilities listed in (b) above.

e. Within 30 days of the completion of (d) above, submit for review and comment, the results of the subsequent air quality compliance audit.

f. Submit monthly status reports in the form of a letter by the 10th of each month documenting the progress of items a, b, and c above. These reports may be provided via electronic mail, and must be submitted until the subsequent audit, detailed in (d) above is completed.

2. **Certification of Documents and Reports**

In accordance with 9 VAC 5-20-230(A), in all documents or reports, including, without limitation, the SEP Completion Report, submitted to DEQ pursuant to this Consent Order,

Inova Alexandria Health Services Corporation, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

3. **DEQ Contact**

Unless otherwise specified in this Order, Inova Alexandria Health Services Corporation shall submit all requirements of Appendix A of this Order to:

Enforcement
Virginia Department of Environmental Quality
Northern Regional Office
13901 Crown Court
Woodbridge, VA 22193