

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:

Lancaster County Solid Waste	:	2Q17 thru 1Q19 CEM Reports;
Management Authority	:	Title V and Data Availability Violations
1299 Harrisburg Pike	:	Conoy Township, Lancaster County
P.O. Box 4425	:	
Lancaster, PA 17603	:	

and

Covanta Lancaster, Inc	:
1911 River Road	:
Bainbridge, PA 17502-9360	:

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty (CACP) is entered into this 23 day of June 2021 by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (Department), and the Lancaster County Solid Waste Management Authority (LCSWMA), and Covanta Lancaster, Inc. (Covanta).

The Department has found and determined the following:

- A. The Department is the agency with the duty and authority to administer and enforce the Air Pollution Control Act (APCA), Act of January 8, 1960, P.L. 2119 (1959), *as amended*, 35 P.S. § 4001 *et seq.*; Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P. L. 177, *as amended*, 71 P.S. § 510-17 (Administrative Code) and the rules and regulations promulgated thereunder.
- B. LCSWMA is a municipal authority created pursuant to the Municipal Authorities Act of 1945 (Act of 1945, P.L. 382 No. 164), having a mailing address of 1299 Harrisburg Pike, P.O. Box 4425, Lancaster, PA 17603. Covanta is a Pennsylvania corporation, having a mailing address, for the purposes of this CACP, of 1911 River Road, Bainbridge, PA 17502-9360.
- C. At all times relevant to this matter, LCSWMA owned a waste-to-energy plant known as the Lancaster County Resource Recovery Facility (Facility) located in Conoy Township, Lancaster County, Pennsylvania. Also, at the times relevant to this matter Covanta operated the Facility under contractual agreements with LCSWMA.
- D. The Facility includes three Ogden Martin refuse-fired combustion units, each controlled by a lime injection system, selective non-catalytic reduction system and activated carbon injection system in series with a fabric collector (hereinafter referred to as "MWI 1", "MWI 2", and "MWI 3" or, collectively, "Three MWI Units").
- E. The Three MWI Units are all air contamination sources as defined by Section 3 of the APCA, 35 P.S. § 4003.

- F. At the times relevant to this matter, the operation of the Three MWI Units was authorized by Title V Permit #36-05013 (T5 Permit), issued on 1/19/17.

**Relevant Title V Permit Conditions:**

- G. Condition No. 007 in Section B of the T5 Permit (T5 B 007) as well as 25 Pa Code §§ 127.25 and 127.444, provide in relevant part that the permittee shall comply with the conditions in the T5 permit.
- H. Condition No. 010 in Section C of the 2017 T5 Permit (T5 C 010) as well as 25 Pa Code §121.7, provide in relevant part that no person may permit air pollution as that term is defined in the APCA.
- I. Conditions 001(d) in Group G01 and 001(a) in G05 in Section E of the T5 Permit (“T5 E G01 001d” and “T5 E G05 001a”, respectively) provide in relevant part that visible air contaminants shall not equal or exceed 10% for more than three minutes in any one-hour period and shall not equal or exceed 30% opacity at any time (Opacity Standards).
- J. Conditions 006 in Group G04 in Section E of the T5 Permit (T5 E G04 006) and T5 E G05 001a, as well as 40 CFR §60.34b(a), provide in relevant part that Carbon Monoxide (CO) emissions from each of the Three MWI Units shall not exceed 100 ppmv, at 7% O<sub>2</sub>, dry basis on an hourly basis (CO Standard).
- K. Conditions 001 in Group G04 in Section E the T5 Permit (T5 E G04 001) and T5 E G05 001a, provide in relevant part that the emission limit for sulfur dioxide (SO<sub>2</sub>) contained in the gases discharged to the atmosphere from each of the Facility's combustors is 30 ppm on an hourly basis (1-hr SO<sub>2</sub> Standard) and 29 ppm on a 3-hour block (3-hr SO<sub>2</sub> Standard) basis or 90 percent reduction (by weight) on an 8-hour block average (SO<sub>2</sub> Removal Standard), corrected to 7 percent oxygen (dry basis), whichever is less stringent (SO<sub>2</sub> Standards).
- L. Condition 001(b) in Group G05 in Section E Title V Permit (T5 E G05 001b), as well as 25 Pa. Code Section 139.111, provide in relevant part that CO and furnace temperature monitoring systems shall meet the following minimum data availability requirements: i. 100% of the data hours shall be valid hours. ii. at least 90% of the data required to be collected each hour shall be valid data (DA Standards).
- M. T5 E G05 001a and Condition 004 in Group G05 in Section E of the T5 Permit (T5 E G05 004), provide in relevant part that the permittee shall install, certify, operate and/or maintain continuous emission monitoring systems (CEMS) in accordance with 25 Pa. Code Chapter 139 and the applicable performance testing provisions of 40 CFR Section 60.58b, for opacity, SO<sub>2</sub>, NO<sub>x</sub>, HCl, CO, CO<sub>2</sub>, O<sub>2</sub>, temperature (at the furnace combustion zone roof and at the inlet of the fabric collectors) and steam load (CEMS Requirement).

**CEMS Violations:**

- N. CEMS data for the Third Quarter of 2017 and 2018 indicates that LCSWMA and Covanta operated MWI 1 in a manner that did not meet the CO Standards as follows:

MWI 1:	Third Quarter of 2017 (1 day):	August 10	(1 block: 188.3 ppm)
MWI 1:	Third Quarter of 2018 (1 day):	July 23	(1 block: 120 ppm)

- O. CEMS data for Fourth Quarter of 2018 indicates that LCSWMA and Covanta operated MWI 2 in a manner that did not meet the SO2 Standards on 11/12/18, as follows:

1-hr Standard:               Block 11     43 ppm SO2  
 SO Reduction Standard:   Block 3       0% Reduction

- P. CEMS data for Third and Fourth Quarter of 2017 as well as the Second and Third Quarter of 2018 indicates that LCSWMA and Covanta operated the Three MWI Units in a manner that did not comply with the DA Standards as follows:

CEM Report	Source	Pollutant	% Valid of time subject to monitoring
Third Quarter of 2017	MWI 2	CO ppm	99.95
Fourth Quarter of 2017	MWI 1	CO ppm	99.95
Second Quarter of 2018	MWI 1	Temperature °F	99.95
Second Quarter of 2018	MWI 1	CO ppm	99.95
Second Quarter of 2018	MWI 2	Temperature °F	99.95
Second Quarter of 2018	MWI 2	CO ppm	99.95
Second Quarter of 2018	MWI 3	Temperature °F	99.94
Second Quarter of 2018	MWI 3	CO ppm	99.94
Third Quarter of 2018	MWI 1	CO ppm	99.95
Third Quarter of 2018	MWI 2	CO ppm	99.95
Third Quarter of 2018	MWI 3	CO ppm	99.95

- Q. CEMS data for Third Quarter of 2017 and First Quarter of 2019 indicates that LCSWMA and Covanta operated the Three MWI Units in a manner that did not comply with the Opacity Standards as follows:

CEM Report	Source	Exceedance Date	Excess Minutes >10%	Excess Minutes >30%
Third Quarter of 2017	MWI 2	8/11/2017	9	0
First Quarter of 2019	MWI 1	3/28/2019	73	40
First Quarter of 2019	MWI 2	3/28/2019	41	1
First Quarter of 2019	MWI 3	1/26/2019	1	1
First Quarter of 2019	MWI 3	3/28/2019	67	33

- R. On 12/20/19, the Department received an e-mail response from Covanta describing the causes of the conditions noted in Paragraphs P and Q as follows:

- For DA Standards, Covanta cited calibration of the primary and secondary analyzers during Third and Fourth Quarter of 2017, and a plant trip for Second and Third Quarter of 2018.
- For Opacity Standards, Covanta cited iodine contaminated waste, which resulted in purple plume, for the Third Quarter of 2017 and First Quarter of 2019. Also for the First Quarter of 2019, Covanta cited a DCS communication issue, which caused the baghouse dampers to malfunction.

S. On 4/1/20, the Department received an e-mail response from Covanta describing the causes of the conditions noted in Paragraphs N and O as follows:

- For SO<sub>2</sub> Standards, Covanta stated that a *"black plant resulted from complications that occurred during transformer repair preparations at 09:10. Upon restoration of power at 09:54 and subsequent boiler recovery, the facility experienced elevated SO<sub>2</sub> emissions that resulted in a Title V Permit violation for the 10:00 hour (43 ppm @ 7% O<sub>2</sub>)."*
- For CO Standards, Covanta stated that *"complications during an online water wash of Unit #1 on 8/10/17 resulted in a 4-hr CO violation during the 08:00 - 11:59 block", and, "excessive boiler fouling complicated the shutdown of Unit #1 for a cleaning outage on 7/23/18."*

**Violation Summary:**

T. By causing or permitting the conditions outlined in Paragraphs N through Q above, LCSWMA and Covanta violated T5 B 007, T5 C 010, T5 E G01 001d, T5 E G04 001, T5 E G04 006, T5 E G05 001a, T5 E G05 001b, and 25 Pa. Code §§ 121.7, 127.25, 127.444 and 139.111.

U. The violations described in Paragraph T, above, constitute unlawful conduct under Section 8 of the APCA, 35 P.S. § 4008, and subject LCSWMA and Covanta to a claim for civil penalties under Section 9.1 of the APCA, 35 P.S. § 4009.1.

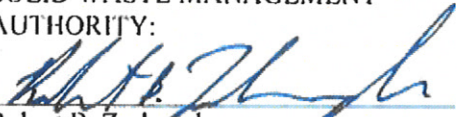
After full and complete negotiation of all matters set forth in this CACP and upon mutual exchange of covenants contained herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ASSESSED by the Department and AGREED to by LCSWMA and Covanta as follows:

1. **Assessment.** In resolution of the Department's claim for civil penalties, which the Department is authorized to pursue under 35 P.S. § 4009.1, the Department hereby assesses a civil penalty of \$8,700.00 which LCSWMA and Covanta hereby agree to pay.
2. **Civil Penalty Settlement.** Within 15 days of receipt of a fully executed copy of this CACP, Covanta shall pay the civil penalty assessed in Paragraph 1. In the event that Covanta does not pay the civil penalty, LCSWMA will be responsible for payment. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs T and U. The payment shall be by a corporate check or the like made payable to the Commonwealth of Pennsylvania - Clean Air Fund, and forwarded, together with a completed Transmittal of Penalty Payment form (enclosed) to Ms. Kelley Matty, Operations Chief, Pennsylvania Department of Environmental Protection, Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.
3. **Findings.**
  - a. LCSWMA and Covanta agree that the findings in Paragraphs A through U are true and correct and, in any matter or proceeding involving LCSWMA or Covanta and the Department, LCSWMA and Covanta shall not challenge the accuracy or validity of these findings.

- b. The parties do not authorize any other persons to use the findings in this CACP in any matter or proceeding.
4. **Reservation of Rights.** The Department reserves all other rights with respect to any matter addressed by this CACP, including the right to require abatement of any conditions resulting from the events described in the Findings. LCSWMA and Covanta reserve the right to challenge any action which the Department may take, but waives the right to challenge the content or validity of this CACP.
5. **Counterparts.** This Consent Assessment of Civil Penalty may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument. Facsimile signatures or those transmitted by electronic means shall be valid and effective.

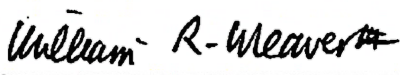
IN WITNESS WHEREOF, the parties hereto have caused this CACP to be executed by their duly authorized representatives. The undersigned representatives of LCSWMA and Covanta certify under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this CACP on behalf of LCSWMA or Covanta; that LCSWMA and Covanta consent to the entry of this CACP as an ASSESSMENT of the Department; that LCSWMA and Covanta hereby knowingly waive any right to a hearing under the statutes referenced in this CACP, and that LCSWMA and Covanta knowingly waive their right to appeal this CACP, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provision of law.

FOR THE LANCASTER COUNTY:  
SOLID WASTE MANAGEMENT  
AUTHORITY:

  
Robert B. Zorbaugh  
Chief Executive Officer

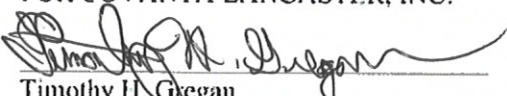
  
Alexander Henderson, III  
General Counsel

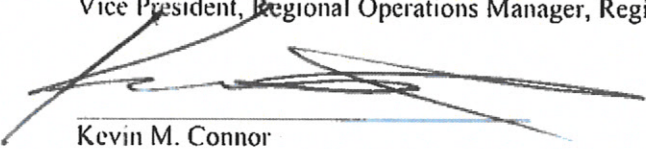
FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

  
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