

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:

Lancaster County Solid Waste : 2Q19 thru 4Q20 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 12 day of November, 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. 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 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.
- K. 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, SO2, NOx, HCl, CO, CO2, O2, temperature (at the furnace combustion zone roof and at the inlet of the fabric collectors) and steam load (CEMS Requirement).

CEMS Violations:

- L. CEMS data for Fourth Quarter of 2020 indicates that LCSWMA and Covanta failed to record with the MWI 3 CO ppm CEMS 100% valid hours/quarter; the actual recorded data was 99.95% valid hours.
- M. CEMS data for Second Quarter of 2019 through Third Quarter of 2020 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%
Second Quarter of 2019	MWI 1	6/30/2019	39	0
Second Quarter of 2019	MWI 2	6/30/2019	16	0
Second Quarter of 2019	MWI 3	6/30/2019	18	0
Third Quarter of 2019	MWI 2	9/11/2019	72	0
Third Quarter of 2019	MWI 3	9/11/2019	19	0
First Quarter of 2020	MWI 2	3/12/2020	0	3
Third Quarter of 2020	MWI 2	7/30/2020	1	0

N. On 6/22/21, the Department received an e-mail response from Covanta describing the causes of the conditions noted in Paragraphs L and M as follows:

- For DA Standards, Covanta stated, *"The LWTE lost one hour of CO data on Unit #3 on 10/31/20. The cause was a loose wire on the terminal strip of the datalogger. Although Covanta agrees with the penalty assessment for data availability, this was an extremely rare issue and is not expected to occur in the future."*
- For Opacity Standards, Covanta cited suspected iodine contaminated waste, which resulted in purple plume, for the Third Quarter of 2017 and First Quarter of 2019. Covanta is also testing the facility's pilot sodium thiosulfate addition system under controlled conditions in order to reduce the potential for future opacity events from iodine contaminated waste. This testing resulted in the 3Q20 opacity violation.

Violation Summary:

- O. By causing or permitting the conditions outlined in Paragraphs L and M above, LCSWMA and Covanta violated T5 B 007, T5 C 010, T5 E G01 001d, T5 E G05 001a, T5 E G05 001b, and 25 Pa. Code §§ 121.7, 127.25, 127.444 and 139.111.
- P. The violations described in Paragraph O, 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 \$2,050.00 which LCSWMA and Covanta hereby agree to pay.
2. **Civil Penalty Settlement.** Upon signing 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 O and P. 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 P 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


William R. Weaver
Regional Manager, Air Quality


Alicia Duke
Assistant Counsel

FOR COVANTA LANCASTER, INC:

Timothy H. Gregan

Digitally signed by Timothy H. Gregan
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Date: 2021.06.25 11:46:24 -0400

Timothy H. Gregan
Vice President, Regional Operations Manager, Region 3


Kevin M. Connor
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