

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:

Lancaster County Solid Waste	:	2Q21 thru 4Q22 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 3rd day of May 2024, 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 Facility was authorized to operate by one of the following Title V Operating Permits:

<u>Authorization</u>	<u>Effective</u>	<u>Hereinafter referred to as</u>
#36-05013	2/1/22	2022 T5 Permit Renewal
#36-05013	2/1/17	2017 T5 Permit Renewal

The 2017 T5 Permit Renewal and the 2022 T5 Permit Renewal, shall, when referred to collectively, be hereinafter referred to as the T5 Permits.

**Relevant Title V Permit Conditions:**

G. Condition 007 in Section B of the 2017 T5 Permit Renewal , and Condition 008 in Section B of the 2022 T5 Permit Renewal (Compliance Conditions), as well as 25 Pa. Code Sections 127.25 and 127.444, provide in relevant part that the permittee shall comply with the conditions in the T5 Permits.

H. Condition 010 in Section C of the 2017 T5 Permit Renewal, and Condition 002 in Section B of the 2022 T5 Permit Renewal (121.7 Conditions), as well as 25 Pa. Code Section 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 Permits (Opacity Standards) 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.

J. The T5 Permits contain the following CO Requirements for the Three MWI Units:

i. Condition 006 in Group G04 in Section E of the T5 Permits, and 40 CFR Section 60.34b(a) from Subpart Cb—Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed on or Before September 20, 1994, provide in relevant part that: *“The emission limit for carbon monoxide contained in the gases discharged to the atmosphere from each of the facility's combustors is 100 parts per million by volume, corrected to 7 percent oxygen (dry basis), on a 4-hour block average.”*

ii. Condition 001(a) in Group G05 in Section E of the T5 Permits contains a table summarizing the various CEMS-monitored limits, including CO: 4-hr block average: 100 ppmdv

K. The T5 Permits contain the following Baghouse Inlet Temperature Requirements for the Three MWI Units:

i. Condition 003 in Group G04 in Section E of the T5 Permits, and 40 CFR Section 60.58b(i)(9) as referenced from Subpart Cb, provide in relevant part that: *“For each particulate matter control device employed at the affected facility, the maximum demonstrated particulate matter control device temperature shall be determined during the initial performance test for dioxins/furans and each subsequent performance test during which compliance with the dioxin/furan emission limit specified in §60.52b(c) is achieved. The maximum demonstrated particulate matter control device temperature shall be the highest 4-hour arithmetic average temperature achieved at the*

*particulate matter control device inlet during four consecutive hours during the most recent test during which compliance with the dioxin/furan limit was achieved... ”*

- ii. Condition 006 in Group G04 in Section E of the T5 Permits, and 40 CFR Section 60.53b(c), as referenced from Subpart Cb, provide in relevant part that: *“The permittee shall not operate the combustors at a temperature, measured at the particulate matter control device inlet, exceeding 17 °C above the maximum demonstrated particulate matter control device temperature as defined in §60.51b, except as specified in paragraphs (c)(1) and (c)(2) of this section. The averaging time is specified under §60.58b(i). The requirements specified in this paragraph apply to each particulate matter control device utilized at the affected facility.”* The exceptions specified in 60.53b(c)(1) and (2) are not relevant to the events addressed in this CACP.
  - iii. Condition 001(a) in Group G05 in Section E of the T5 Permits contains a table summarizing the various CEMS-monitored limits, including Baghouse Inlet Temperature: 4-hr block average: 17 degrees C above maximum demonstrated temperature.
- L. Condition 001(b) in Group G05 in Section E of the Title V Permits (Data Availability Conditions), 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.
- M. Condition 001(a) in Group G05 in Section E of the Title V Permits (CEMS Operating Conditions 1) provide in relevant part that, *“The following continuous emission monitoring systems (CEMS) must be installed, approved by the Department, operated and maintained in accordance with the requirements of 25 Pa. Code Chapter 139, Subchapter C (relating to requirements for source monitoring for stationary sources), and the "Submittal and Approval", "Record Keeping and Reporting", and "Quality Assurance" requirements of Revision No. 8 of the Department's Continuous Source Monitoring Manual, 274-0300-001.”*

*For Source: Units No. 1, 2, & 3 [list only includes monitors relevant to this CACP]*

<b>Pollutant</b>	<b>Measurement</b>	<b>% O2</b>	<b>Averaging Period</b>	<b>Standard</b>	<b>Basis</b>
CO	ppm	7.0	4-hr block average	100 ppmdv	Continuously
Baghouse Temp	Degrees F	N/A	4-hr block average	17 degrees C above max demonstrated temp.	Continuously
Opacity	percent	N/A	3-min avg/any time	10/30	Continuously

- N. Condition 004 in Group G05 in Section E of the T5 Permits (CEMS Operating Conditions 2), provide in relevant part that: *“Continuous Emission Monitoring Systems and components must be operated and maintained in accordance with the requirements established in 25 Pa. Code Chapter 139, Subchapter C (relating to requirements for source monitoring for stationary sources), the "Quality Assurance" requirements in the Department's Continuous Source Monitoring Manual, Revision No. 8, 274-0300-001. Compliance with any subsequently issued revision to the Continuous Source Monitoring Manual will constitute compliance with this permit.”*

O. On 6/8/23, DEP's Source Testing Section approved the results of the Spring 2021 stack test campaign at the Facility. With that data approved, and seeing that all test runs complied for D/F, DEP concludes that the the following standard for Baghouse Temperature for MWI 1, applies to the Facility's CEM data for periods between that stack test and the next approved stack test, including the Third Quarter of 2021:  $299^{\circ}\text{F} + 17^{\circ}\text{C} (30.6^{\circ}\text{F}) = 329.6^{\circ}\text{F}$ .

**CEMS Violations:**

P. During the Second Quarter of 2021 through the First Quarter of 2022, LCSWMA failed to record for MWI 1 and MWI 3 100% valid daily hours per quarter for the CO emissions, as follows:

Quarter	Source	Pollutant	Date	Excess Invalid Hours	% Valid hours
2Q21	MWI 1	CO ppm, data availability	Quarter	2	99.89%
2Q21	MWI 3	CO ppm, data availability	Quarter	1	99.95%
1Q22	MWI 1	CO ppm, data availability	Quarter	1	99.95%

Q. CEMS data for Third and Fourth Quarter of 2021 indicates that LCSWMA and Covanta operated MWI 1 and MWI 3 in a manner that did not comply with the CO and Baghouse Inlet Temperature Requirements as follows:

Quarter	Source	Pollutant	Date	Limit	Value
3Q21	MWI 3	CO ppm	8/31/21	$\leq 100$ ppm CO	131 ppm CO (block 5)
3Q21	MWI 1	Temperature - Bag	9/1/21	$\leq 329.6$ F	331 F (block 3)
4Q21	MWI 1	CO ppm	10/6/21	$\leq 100$ ppm CO	275.3 ppm CO (block 1)
4Q21	MWI 1	CO ppm	11/6/23	$\leq 100$ ppm CO	175.5 ppm CO (block 5)

R. CEMS data for the Fourth Quarter of 2021 indicates that LCSWMA and Covanta operated MWI 2 in a manner that did not comply with the Opacity Standards as follows:

CEM Report	Source	Exceedance Date	Excess Minutes >10%	Excess Minutes >30%
4Q21	MWI 2	10/6/21	120	108

S. The violations noted in Paragraphs P, Q, and R ceased, or were corrected, close in time to their occurrence.

**Violation Summary:**

T. By causing or permitting the conditions outlined in Paragraphs P, Q, and R, above, LCSWMA and Covanta violated:

Compliance Conditions,  
121.7 Conditions,  
Opacity Standards,  
Baghouse Inlet Temperature Requirements,  
Data Availability Conditions,  
CEMS Operating Conditions 1,  
CEMS Operating Conditions 2,  
25 Pa. Code Section 121.7  
25 Pa. Code Section 127.25  
25 Pa. Code Section 127.444  
25 Pa. Code Section 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.

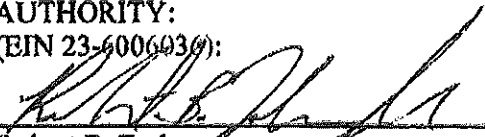
After full and complete negotiation of all matters set forth in this CACP and upon mutual exchange of covenants contained herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ASSESSED by the Department and AGREED to by LCSWMA and Covanta as follows:

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 \$4,740.00 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 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:  
(EIN 23-6006030):

  
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Alexander Henderson, III  
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