

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the Matter of:

Covanta Environmental Solutions, LLC :
101 River Park Drive : Solid Waste Management Act
New Castle, PA 16101 :

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty is entered into this 11th day of December 2019, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Covanta Environmental Solutions, LLC.

The Department has found and determined the following Findings:

A. The Department is the agency with the duty and authority to administer and enforce the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, *as amended*, 35 P.S.

§§ 6018.101- 6018.1003 ("Solid Waste Management Act"); 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 ("Regulations").

B. Covanta Environmental Solutions, LLC is a Pennsylvania registered limited liability company that maintains a business mailing address of 101 River Park Drive, New Castle, PA 16101 and is a "person," as that term is defined in Section 103 of the Solid Waste Management Act, 35 P.S. § 6018.103 ("Covanta").

C. Covanta owns and operates a facility located at 101 River Park Drive in the City of New Castle, Lawrence County, Pennsylvania ("Facility"). At the Facility, Covanta accepts, handles, processes, and disposes of certain industrial wastes.

D. The Facility was previously owned and operated by Advanced Waste Services of Pennsylvania, LLC ("Advanced Waste"). On January 1, 2017, Advanced Waste merged with Covanta, and Advanced Waste dissolved as a result of the merger.

E. On March 9, 2010, the Department issued a residual waste permit, Permit No. 301353, for the Facility to Advanced Waste Services of Pennsylvania, LLC ("Permit").

F. On August 3, 2017, the Permit was revised to reflect Covanta as the new operator.

G. The Facility's Annual Operations Report for 2016, submitted by Covanta, revealed that the Facility had accepted, handled, and processed residual wastes in 2016 without approval from the Department.

H. On August 23, 2017, December 12, 2017, January 3, 2018, and March 2, 2018, Covanta submitted additional information to the Department that indicated the following:

1. Covanta had exceeded Department-approved waste acceptance volumes. A list of Covanta's exceedances of Department-approved waste acceptance volumes is attached and incorporated as Exhibit A;

2. Covanta had accepted residual waste streams after the expiration of the Department's approval for those waste streams, and Covanta had accepted unapproved residual waste streams. A list of unapproved and expired waste streams accepted by Covanta is attached and incorporated as Exhibit B; and

3. Covanta failed to maintain complete daily operational records.

I. On July 31, 2018, the Department inspected the Facility and discovered that Covanta had not been conducting odor control inspections or maintaining odor patrol logs.

J. The Facility is a "residual waste processing facility," as defined in Section 103 of the Solid Waste Management Act, 35 P.S. § 6018.103 and 25 Pa. Code § 287.1 of the Regulations.

K. The industrial waste accepted, handled, processed, and disposed by Covanta at the Facility is "residual waste" and "solid waste," as those terms are defined in Section 103 of the Solid Waste Management Act, 35 P.S. § 6018.103, and 25 Pa. Code § 287.1 of the Regulations.

L. Pursuant to Sections 302 and 610(4) of the Solid Waste Management Act, 35 P.S. §§ 6018.302 and 6018.610(4), it shall be unlawful for any person or municipality to dispose, process, store, or permit the disposal, processing, or storage of residual waste in a manner which is contrary to the rules and regulations of the Department or to any permit or to the terms or condition of any permit or any order issued by the Department.

M. Pursuant to Section 610(2) of the Solid Waste Management Act, 35 P.S. § 6018.610(2), it shall be unlawful for any person to construct, alter, operate, or utilize a solid waste storage, treatment, processing, or disposal facility without a permit from the Department or in violation of the rules or regulations or any term or condition of any permit.

N. Pursuant to 25 Pa. Code § 297.201(b) and (c), and Section D (*Waste Acceptance*) of the Permit, Covanta may not allow residual waste to be accepted, handled, or processed at the Facility unless the Department has specifically approved the processing of the waste.

O. Pursuant to 25 Pa. Code § 297.261 and Section C (*Operating Conditions*) of the Permit, Covanta shall make and maintain an operational record for each day that residual waste is received, processed, or transported offsite.

P. Pursuant to Form P – Operating Plan, Section 3.0 (*Odor Monitoring*) of the Permit, Covanta shall conduct on-site odor monitoring inspections several times each day and conduct off-site odor monitoring inspections at least once daily at specified locations, and shall maintain odor patrol logs.

Unlawful Conduct

Q. Covanta's acceptance, handling, and processing of residual waste at the Facility without Department approval as set forth in Paragraphs H.1. and H.2., above, violates 25 Pa. Code § 297.201(b) and (c), and the Permit.

R. Covanta's failure to maintain complete daily operational records as set forth in Paragraph H.3, above, violates 25 Pa. Code §§ 297.201(b) and 297.261, and the Permit.

S. Covanta's failure to conduct odor control inspections and maintain odor patrol logs as set forth in Paragraph I, above, violates 25 Pa. Code § 297.201(b) and the Permit.

T. On August 10, 2017 and February 2, 2018, the Department sent Notices of Violation to Covanta for the violations described in Paragraphs Q and R, above.

U. On May 1, 2018, Covanta met with the Department to discuss the August 10, 2017 and February 2, 2018 Notices of Violation. Covanta identified the corrective actions implemented and future plans to address and resolve the violations.

V. On October 24, 2018 and November 13, 2018, Covanta provided additional information to the Department to correct the violation described in Paragraph R, above.

W. The violations described in Paragraphs Q, R, and S, above, constitute unlawful conduct under Sections 302, 610(2), 610(4), and 610(9) of the Solid Waste Management Act, 35 P.S. §§ 6018.302, 6018.610(2), 6018.610(4), and 6018.610(9); a public nuisance pursuant to Section 601 of the Solid Waste Management Act, 35 P.S. § 6018.601; and subject Covanta to a claim for civil penalties under Section 605 of the Solid Waste Management Act, 35 P.S. § 6018.605.

X. As of the date of this Consent Assessment of Civil Penalty, Covanta has corrected the violations identified in Paragraphs Q, R, and S, above.

After full and complete negotiation of all matters set forth in this Consent Assessment of Civil Penalty and upon mutual exchange of the covenants herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ASSESSED by the Department and

AGREED to by Covanta as follows:

1. *Assessment.* In resolution of the Department's claim for civil penalties, which the Department is authorized to pursue under Section 605 of the Solid Waste Management Act, the Department hereby assesses a civil penalty of ~~\$400,000~~, which Covanta hereby agrees to pay.

2. *Civil Penalty Settlement.* Covanta consents to the assessment of the civil penalty assessed in Paragraph 1, which shall be paid in full upon signing this Consent Assessment of Civil Penalty. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs Q, R, and S, above, and for all unauthorized acceptance of waste at the Facility through the date of this Consent Assessment of Civil Penalty. The payment shall be by corporate check or the like, made payable to the "Commonwealth of Pennsylvania," and sent to Brian A. Mummert, Environmental Group Manager, Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335.

3. *Findings.*

a. Covanta agrees that the findings in Paragraphs A through P, T, U, V and X are true and correct and, in any matter or proceeding involving Covanta and the Department, 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 Consent Assessment of Civil Penalty in any matter or proceeding.

4. *Reservation of Rights.* The Department reserves all other rights with respect to any matter addressed by this Consent Assessment of Civil Penalty, including the right to require abatement of any conditions resulting from the events described in the findings. Covanta reserves the right to challenge any action which the Department may take but waives the right to challenge the content or validity of this Consent Assessment of Civil Penalty.

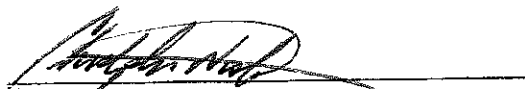
IN WITNESS WHEREOF, the parties have caused this Consent Assessment of Civil

Penalty to be executed by their duly authorized representatives. The undersigned representative of Covanta certifies, under penalty of law, as provided by 18 Pa. C.S. § 4904, that he is authorized to execute this Consent Assessment of Civil Penalty on behalf of Covanta, that Covanta consents to the entry of this Consent Assessment of Civil Penalty as an ASSESSMENT of the Department; that Covanta hereby knowingly waives any right to a hearing under the statutes referenced in this Consent Assessment of Civil Penalty; and that Covanta knowingly waives its right to appeal this Consent Assessment of Civil Penalty, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 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. Signature by Covanta's attorney certifies only that the assessment has been signed after consulting with counsel.

FOR COVANTA ENVIRONMENTAL SOLUTIONS, LLC:



Name: **Paul Stauder,** ^{NY}
Managing Member **President**



Name:
Attorney for Covanta

FOR THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION:



Christina S. Wilhelm
Program Manager
Waste Management Program
Northwest Region



Carl D. Ballard
Assistant Counsel

Exhibit A

Exceedances of Approved Form-U Waste Acceptance Volumes

EC #	Generator Name	Form-U Approval			2016-2017 Manifest Review	
		RWC	volume	period	total volume accepted	# Form-U approval periods exceeded approved volume
1079415	ANDERSON DUBOSE CO	420	1,500 gal	quarter	6,800 gal	3
908837	BAKER HUGHES	420	3,000 gal	month	6,254 gal	1
1025698	BEKAERT CORP	211	3,000 gal	quarter	10,000 gal	2
996052	BEKAERT CORP	420	10,000 gal	annual	12,778 gal	1
1025685	BEKAERT CORP	420	3,000 gal	quarter	83,014 gal	8
494701	BERNER INTL CORP	420	275 gal	quarter	27,830 gal	8
673644	BLAIR STRIP STEEL CO	104	2 drums	annual	4 drums	1
352942	BUCKEYE PKG	420	1,500 gal	month	7,500 gal	4
1113983	CALFRAC WELL SVCS CORP	420	3,000 gal	month	8,000 gal	2
579253	CARGILL	420	6,000 gal	week	1,011,945 gal	60
1088068	COL FIN SPECIALITY STEEL CORP	302	10,000 gal	annual	21,200 gal	1
993728	COMPASS PKG	420	10,000 gal	month	98,800 gal	4
989306	CONN-SELMER INC	420	210,000 gal	annual	429,400 gal	2
399400	CTM LABELING SYS	317	550 gal	quarter	4,000 gal	4
879571	CUSTOM ETCH INC	420	675 gal	month	24,000 gal	16
917268	ELLWOOD QUALITY STEELS CO	203	20,000 gal	annual	26,000 gal	1

EC #	Generator Name	<u>Form-U Approval</u>			<u>2016-2017 Manifest Review</u>	
		RWC	volume	period	total volume accepted	# Form-U approval periods exceeded approved volume
896744	ELLWOOD QUALITY STEELS CO	422	70,000 gal	annual	134,950 gal	1
917260	ELLWOOD QUALITY STEELS CO	420	135,000 gal	annual	177,400 gal	1
546476	ELLWOOD SPEC STEEL	317	250 gal	quarter	3,475 gal	3
1035383	EXPRESS CONTAINER SVC	203	5,000 gal	month	60,300 gal	1
1151468	FERRO COLOR & GLASS CORP	420	1,000 gal	one-time	1,900 gal	1
681588	GE CO TRANSP SYS	422	4,000 gal	month	62,700 gal	7
637559	GE CO TRANSP SYS	420	10,000 gal	annual	26,400 gal	2
607407	GEN TECH	420	10,000 gal	annual	20,500 gal	1
609169	IND TOTE SVC	211	550 gal	quarter	25,500 gal	7
1519295	INDSPEC CHEMICAL CORP	420	500,000 gal	one-time	769,052 gal	1
1571065	INDSPEC CHEMICAL CORP	420	400,000 gal	one-time	570,150 gal	1
525924	INTL PAPER	420	30,000 gal	month	99,500 gal	1
273845	INTL PAPER	420	15,000 gal	week	1,109,900 gal	45
984312	IPSCO KOPPEL TUBULARS LLC	203	150,000 gal	annual	298,500 gal	1
983256	IPSCO KOPPEL TUBULARS LLC	203	300,000 gal	annual	1,357,000 gal	2
1006474	IRON CITY IND CLEANING	420	5,000 gal	annual	8,700 gal	1
1241362	JEWEL ACQUISITION LLC	420	5,000 gal	one-time	5,500 gal	1
798785	KENNAMETAL INC	420	1,500 gal	annual	2,000 gal	1
931668	KEYROCK ENERGY LLC	420	3,000 gal	quarter	5,400 gal	1

EC #	Generator Name	Form-U Approval			2016-2017 Manifest Review	
		RWC	volume	period	total volume accepted	# Form-U approval periods exceeded approved volume
891168	KEYROCK ENERGY LLC	420	2,000 gal	annual	13,900 gal	2
1032163	KEYSTONE PROFILES	203	5,000 gal	month	16,000 gal	2
1091451	MANHEIM PITTSBURGH	420	6,000 gal	annual	6,200 gal	1
381157	MARLBORO MFG INC	422	275 gal	month	4,330 gal	6
601712	MARLITE DIV	420	5,000 gal	month	35,700 gal	1
920002	MATTHEWS INTL CORP	420	1,000 gal	week	170,450 gal	38
1009027	MERCURY PLASTICS INC	420	5,000 gal	month	104,300 gal	2
872894	OHIO CAT OF YOUNGSTOWN	420	10,000 gal	month	54,200 gal	2
967043	PENN STATE SPECIAL METALS LLC	203	10,000 gal	month	178,500 gal	6
984257	PERRYMAN CO	420	1,500 gal	month	105,050 gal	24
771460	PHILIPS ULTRASOUND	420	5,000 gal	month	396,766 gal	20
923011	PRECISION KIDD STEEL CO	111	7,200 gal	annual	17,100 gal	2
869390	PRINCE & IZANT COMPANY	422	1,500 gal	quarter	24,160 gal	8
361669	PTC ALLIANCE HOLDING CORP	211	2,000 gal	month	81,250 gal	12
740216	QUALAWASH	211	5,000 gal	month	17,000 gal	1
908569	REFRACTORY MACH SVC INC	414	26,350 gal	annual	69,650 gal	2
1127977	REPUBLIC ENVIRONMENTAL SYSTEMS (PA), LLC	420	20,000 gal	day	6,337,280 gal	63
547032	RICHARDSON CARLA	420	200 gal	quarter	2,004 gal	4
537496	RICHARDSON CARLA	420	150 gal	quarter	700 gal	3

EC #	Generator Name	Form-U Approval			2016-2017 Manifest Review	
		RWC	volume	period	total volume accepted	# Form-U approval periods exceeded approved volume
980625	ROSER TECH INC	420	500 gal	month	453,650 gal	23
980593	ROSER TECH INC	420	5,000 gal	month	149,800 gal	15
837753	RUSTOLEUM CORP	420	10,000 gal	month	273,912 gal	14
411170	SAFETY KLEEN SYS INC	422	10,000 gal	month	2,552,266 gal	24
657937	SAFETY KLEEN SYS INC	422	18,000 gal	month	831,588 gal	18
620824	SARTOMER CO INC	420	10,000 gal	day	3,346,888 gal	148
885920	SHARON COATING LLC	420	420,000 gal	annual	1,660,956 gal	2
1070194	SUNBELT RENTALS	420	7,000 gal	annual	12,900 gal	1
880048	SUPERIOR CARRIERS INC	420	15,000 gal	week	651,000 gal	15
1042034	TALON LOGISTIC INC	420	4,000 gal	month	52,800 gal	8
1179745	UNIFIRST CORP	203	10,000 gal	month	409,150 gal	19
1036423	UNIVAR USA INC	420	5,000 gal	month	143,150 gal	6
454167	UNIVAR USA INC	420	5,000 gal	quarter	45,350 gal	3
617382	US CHEM & PLASTICS	420	4,000 gal	quarter	29,200 gal	4
921465	WS PACKAGING GROUP INC	318	110 gal	annual	6,000 gal	1
					Total:	697

Exhibit B – No Current Form-U Approval

Expired One-Time Approvals

<u>EC#</u>	<u>Form U Issue Date</u>	<u>Approved Volume</u>	<u>Expiration Date</u>	<u>Generator</u>	<u>RWC</u>	<u>Manifest Date</u>	<u>Manifest Number</u>	<u>Gallons</u>
493165	12/22/2011	2500 gal	12/21/2012	Canfield Metal Coatings Material Sciences Corp.	211	12/26/2013	49255	1000
						5/20/2014	49045	1500
						11/10/2014	755198	1500
						3/9/2015	86284	3500
						3/9/2015	769506	3500
						6/30/2015	785394	3000
						10/20/2015	797866	4400
						2/12/2016	22016013635	4000
						5/13/2016	42016029787	4200
						7/29/2016	72016053633	4500
						11/4/2016	102016071017	4500
2/24/2017	224170	4300						
746462	7/18/2013	400 gal	7/17/2014	GE Co Transp Sys (Grove City)	399	5/12/2015	87032	4000
						8/2/2016	50441	5000
805855	12/19/2013	15000 gal	12/18/2017	Flowline Div Markovitz Enterprises	420	4/14/2015	86743	1500
						5/29/2015	87179	3500
						5/29/2015	87178	3500
						5/29/2015	87182	3500
						5/29/2015	87183	3500
						5/29/2015	87186	1500
						7/29/2015	88027	1150
						3/29/2016	91681	1500
						11/18/2016	102261	1500
						6/21/2017	112549	1000
600135	9/7/2012	2500 gal	9/6/2013	Penn State Special Metals Swagelok Processing Corp	509	4/24/2017	CES 105624	4500

Total Waste Loads Accepted After Expiration of One-Time Approval: 25

No Approval

<u>Generator</u>	<u>RWC</u>	<u>Manifest Date</u>	<u>Manifest Number</u>	<u>Gallons</u>
Beaver Falls Tubular Products	306	12/1/2017	CES 116753	3500
		12/1/2017	CES 116754	3500
Jewel Acquisitions Midland Inc		10/17/2017	CES 115102	5000
		10/17/2017	CES 115425	2500
		10/26/2017	CES 115940	250
Beaver Falls Tubular Products		3/4/2017	CES 104030	3700
		4/4/2017	CES 105247	2000
		6/9/2017	CES 106712	4500
		6/9/2017	CES 106713	1800

Total Waste Loads Accepted with No Approval: 9

Total Unapproved Loads of Waste Accepted: 34