

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Regional Director, Region 9

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www.dec.ny.gov

July 28, 2020

Mr. Brian Kent (bkent@covanta.com)  
Facility/Plant Manager  
100 Energy Blvd. @56th Street  
Niagara Falls, NY 14304

Re: PFAS Incineration

Dear Mr. Kent:

For the past several years, the New York State Department of Environmental Conservation (DEC) in coordination with its partners in federal, state, and municipal government has prioritized the mitigation of risks regarding the potential environmental and public health impacts of per- or polyfluoroalkyl substances (PFAS), including but not limited to perfluoro octane sulfonate (PFOS) and perfluorooctanoic acid (PFOA). Among these efforts, DEC is taking steps to ensure the removal and appropriate treatment and disposal of Class B firefighting foam such as aqueous film-forming foam (AFFF) containing PFAS compounds avoids potential impacts to groundwater, surface waters, and drinking water supplies. The State of New York has recently enacted a ban against the use of AFFF that contains PFOA or PFOS and has spent tens of millions of dollars to date on remediation projects across the state involving the improper disposal of legacy AFFF in order to ensure the protection of public health and the environment from the actual and potential threats posed by PFOA or PFOS.

Considering these facts, we are encouraged to hear that Covanta Niagara LP is not accepting waste containing AFFF and is committing to not accept such waste going forward. We await additional details on any waste containing AFFF that Covanta Niagara reportedly accepted in the past year, having recently been told by Covanta that it did accept a small amount of such waste. **Covanta has informed DEC that it was initially unaware it received AFFF. This failure is troubling.** DEC demands Covanta to implement protocols to ensure it understands what it is receiving and to eliminate the possibility of accepting any waste containing AFFF in the future.

Currently, Covanta Niagara LP's current Air Title V Permit (DEC ID 9-2911-00113/00039) and Solid Waste Permit (DEC ID 9-2911-00113/00023) were issued without addressing PFOA, PFOS, or other emerging contaminants. Consequently, neither DEC nor the community has had an opportunity to properly assess the impacts of introducing the treatment and disposal of PFAS or other emerging contaminants into the Facility's operations. Therefore, while it is our initial understanding that Covanta does not intend to handle any AFFF, if Covanta Niagara LP proposes to thermally treat



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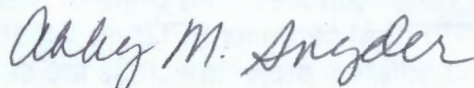
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or dispose of any substances including emerging contaminants that were not previously addressed in its existing permits at the Facility in the future, Covanta' Niagara LP must first submit to DEC a sufficient application for air permit modifications in order to address such expansion of the scope of the Facility's operations, see 6NYCRR Part 621.13(3)

DEC also recognizes the necessity of providing the community with the opportunity to comment on the overall operations of the Facility and its potential environmental impacts. In this respect, if Covanta submits a Title V permit modification application to accompany its renewal application to thermally treat or dispose of any substances including emerging contaminants that were not previously addressed in their existing permits, DEC will treat Covanta Niagara LP upcoming air permit renewal as a new application pursuant to 6 N.Y.C.R.R. Part 621.11(h)(3).

Thank you for your attention to these determinations and our ongoing oversight of the Facility. Please contact Maureen Brady at 716-851-7190 should you have any questions regarding this correspondence.

Sincerely,



Abby M. Snyder  
Regional Director

AMS:jaf