

U.S. Department of Labor

Office of the Solicitor
John F. Kennedy Federal Building - Rm. E-375
Boston, Massachusetts 02203



Reply to the Attention of: SOL: JLPolianites:wjm
SOL: 09-34238

TEL: (617) 565-2500
FAX:(617) 565-2142

June 2, 2009

Ray Darling, Jr., Executive Secretary
Occupational Safety & Health Review Commission
One Lafayette Centre - Suite 990
1120 20th Street, N.W.
Washington, D.C. 20036-3419

JUN 3 2009
RECEIVED

Subject: Secretary of Labor v. Covanta SEMASS
OSHRD Docket No. 09-0769
Inspection No. 312101447

Dear Mr. Darling:

Enclosed for filing is the Secretary's Complaint in the above captioned matter.

We have served upon the Respondent a copy of the Complaint on this date.

Sincerely,

Michael D. Felsen
Acting Regional Solicitor

James L. Polianites, Jr.
Attorney

Enclosure

cc: Beth Hurley, Vice President
and Daniel F. Hurley, Secretary-Treasurer

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR, United States *
Department of Labor, *

Complainant, *

v. *

COVANTA SEMASS, *

Respondent. *

DOCKET NO. 09-0769

REGION I

INSPECTION NO. 312101447

COMPLAINT

Inspection has disclosed that at the times and in the manner hereinafter stated, the provisions of section 5 (a)(2) of the Occupational Safety and Health Act of 1970 (84 Stat. 1590, 29 U.S.C. 651, et seq.), hereinafter referred to as the Act, and the Occupational Safety and Health standards promulgated thereunder have been violated. It is, therefore, averred and charged that:

I.

Jurisdiction of this action is conferred upon the Occupational Safety and Health Review Commission by Section 10(c) of the Act.

II.

Respondent is, and at all times hereinafter mentioned was a corporation, with an office and place of business located at 141 Cranberry Highway in West Wareham, Massachusetts and is engaged in a waste to energy business.

III.

During the course of business activities, Respondent and its employees are engaged in receiving, handling and otherwise working on and with goods and materials that are moving or have moved across state lines in interstate commerce. By virtue of aforesaid activities, Respondent is an employer engaged in a business affecting commerce within the meaning of section 3 (5) of the Act.

IV.

As a result of an inspection of Respondent's worksite at 141 Cranberry Highway in West Wareham, Massachusetts, by an authorized representative of Complainant on October 9, 2008, Respondent, an employer within the meaning of the Act, was issued Serious Citation 1, Items 1, 2, 3 and 4 dated April 2, 2009.

V.

The Citation, attached hereto as Exhibit A, identifies the specific standards alleged to have been violated, describes said alleged violations, specifies the abatement date proposed for said alleged violations and sets forth the penalties for said alleged violations.

VI.

At or about the time of the inspection herein, Respondent violated the standards set out in Exhibit A in the manner described therein.

VII.

The violations alleged in Citation 1, Items 1, 2, 3 and 4, in the attached Exhibit A, are Serious violations within the meaning of Sections 17(b) and 17(k) of the Act in that there was

substantial probability that death or serious physical injury could result from the conditions that existed and the Respondent knew, or with the exercise of reasonable diligence should have known of the presence of the violations.

VIII.

The Citation, attached hereto as Exhibit A, sets forth the penalties proposed for said alleged violations. Considering the gravity of the violations, the size of Respondent's business, Respondent's history of previous violations and good faith, as required under Section 17(j) of the Act, said penalties are appropriate.

IX.

The abatement date set forth on the Citation, attached hereto as Exhibit A, represent the earliest practicable time in which the Respondent could reasonably have been expected to abate the violations.

X.

On April 2, 2009, Serious Citation 1, Items 1, 2, 3 and 4 and the Notification of Penalty proposed, were mailed to the Respondent, proposing the penalties referenced in Paragraph V above.

XI.

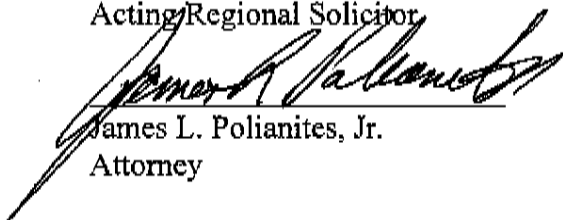
On April 15, 2009, the Respondent filed with a representative of the Secretary of Labor a notification of intent to contest the aforesaid Serious Citation 1, Items 1, 2, 3 and 4 and the proposed penalties. This notification was duly transmitted to the Occupational Safety and Health Review Commission, pursuant to Section 10 (c) of the Act.

WHEREFORE, the aforesaid Serious Citation 1, Items 1, 2, 3 and 4 and the proposed penalties should be affirmed.

Post Office Address:
U.S. Department of Labor
Office of the Regional Solicitor
JFK Federal Building
Room E-375
Boston, Massachusetts 02203
TEL: (617)565-2500
FAX: (617)565-2142

Carol A. DeDeo
Deputy Solicitor for National Operations

Michael D. Felsen
Acting Regional Solicitor



James L. Polianites, Jr.
Attorney

U.S. Department of Labor
Attorneys for Complainant

DATE: June 2, 2009

EXHIBIT A

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 312101447
Inspection Dates: 10/09/2008 - 10/09/2008
Issuance Date: 04/02/2009



Citation and Notification of Penalty

Company Name: Covanta SEMASS
Inspection Site: 141 Cranberry Highway, West Wareham, MA 02576

Citation 1 Item 1 Type of Violation: **Serious**

29 CFR 1910.253(b)(4)(iii): Oxygen cylinders in storage were not separated from fuel gas cylinders or combustible materials (especially oil or grease), a minimum distance of 20 feet (6.1 m) or by a noncombustible barrier at least 5 feet (1.5 m) high having a fire resistance rating of at least one half hour:

Location: Outside infeed building and outside next to Fuel Supply Door #25

Oxygen and acetylene cylinders were stored with valve caps in place side-by-side on a welding cart with no barrier between them.

Date By Which Violation Must be Abated: 04/27/2009
Proposed Penalty: \$ 1500.00

Citation 1 Item 2 Type of Violation: **Serious**

29 CFR 1910.303(b)(2): Listed or labeled electrical equipment was not used or installed in accordance with instructions included in the listing or labeling:

Location: Power block

1. Wireway access panels in the motor control center MCC INHAI were not secured in a closed position.
2. The operating apparatus was missing from two of the compartment doors in motor control center MCC INHAI creating openings that were covered up by cardboard and/or duct tape so that the integrity of the enclosure was not maintained to contain a blast in the event of equipment failure.

Date By Which Violation Must be Abated: 04/27/2009
Proposed Penalty: \$ 1875.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 312101447
Inspection Dates: 10/09/2008 - 10/09/2008
Issuance Date: 04/02/2009



Citation and Notification of Penalty

Company Name: Covanta SEMASS
Inspection Site: 141 Cranberry Highway, West Wareham, MA 02576

Citation 1 Item 3 Type of Violation: **Serious**

29 CFR 1910.305(b)(1): Unused openings in boxes, cabinets, or fittings were not effectively closed:

Location: Power Block

- 1) A knockout was missing from the 208V box 2QAP1121A on the 6th Floor between boilers 1 and 2.
- 2) An unused opening for the main breaker on the distribution panel attached to a transformer on the 7 1/2 floor between boilers 1 and 2 was partially covered with duct tape. An opening for a circuit breaker on the same panel was also open.

Date By Which Violation Must be Abated:	04/27/2009
Proposed Penalty:	\$ 1875.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

U.S. Department of Labor
Occupational Safety and Health Administration

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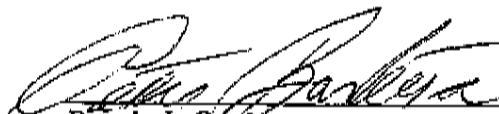
Citation 1 Item 4 Type of Violation: **Serious**

29 CFR 1910.305(g)(1)(iv)(A): Flexible cords and cables were used as a substitute for the fixed wiring of a structure:

Location: Power Block 1st Floor

A flexible cord was run from the top of MCC INHAI over the aisle and down a support column where it was powering a portable heater.

Date By Which Violation Must be Abated:	04/27/2009
Proposed Penalty:	\$ 1125.00


Brenda J. Gordon
Area Director FOR

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

NOTICE TO: COVANTA SEMASS:

You are hereby notified that you must file an Answer to this Complaint within twenty (20) days of your receipt of this Complaint. If you do not file an Answer to this Complaint within twenty (20) days, or request an extension of time to do so, judgment may be entered against you.

29 C.F.R. 2200.34 provides in pertinent part: "The answer shall contain in short and plain terms a response to each allegation of the complaint which the party intends to contest." Any allegation not denied shall be deemed to have been admitted.

For further information regarding the required content of an Answer, including the raising of any affirmative defenses, see 29 C.F.R. 2200.34.

Your Answer should be filed by mailing the original to the Occupational Safety and Health Review Commission, One Lafayette Centre, 1120 20th Street, N.W., Room 980, Washington, D.C. 20036-3419, and by mailing a copy of same to the Regional Solicitor's Office, U.S. Department of Labor, JFK Federal Building, Room E-375, Boston, Massachusetts, 02203.

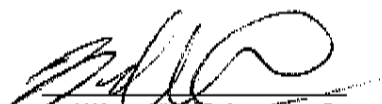
CERTIFICATE OF SERVICE

I, hereby do certify that I served the foregoing Secretary's Complaint on the 2nd day of June, 2009 to the Respondent by placing one (1) copy of the Complaint in a postage paid envelope:

Beth Hurley, Vice President
Covanta SEMASS
40 Lane Road
Fairfield, New Jersey 07007

Daniel F. Hurley, Secretary-Treasurer
UWU Local 369
120 Bay State Drive
Braintree, Massachusetts 02184

the last known address, and depositing same in the United States mail at Boston, Massachusetts.


William J. Mahoney, Jr.