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July 24, 2009

VIA US MAIL

Regional Hearing Clerk
U.S. EPA Region 5
77 West Jackson Blvd., E-13J
Chicago, IL 60604

Re: Sauder Woodworking Cogeneration Facility, Archbold, Ohio; Respondent
Docket No.: CAA-05-2009-0025

Dear Clerk:

Please find enclosed the original and two copies of Respondent's Request for a Hearing and Response to Administrative Complaint and Penalty Order in the above captioned matter. I ask that you please file and return a time-stamped copy to me for my records. I have enclosed a self-addressed, stamped envelope for your convenience. Thank you for your time and assistance in this matter

Very truly yours,

Summer K. Plantz

SKP/lrb

Enclosure

cc: Garrett Tinsman (w/encl.)
Carol Crisenbery (w/encl.)
Vaughn Bentz (w/encl.)
Ben Gurwell (w/encl.)
William D. Hayes (w/encl.)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	:	**Docket No. CAA-05-2009-0025**
	:	
Sauder Woodworking Cogeneration Facility	:	**Proceeding to Assess a**
Archbold, Ohio,	:	**Civil Penalty Under Section 113(d)**
	:	**of the Clean Air Act,**
RESPONDENT.	:	**42 U.S.C. §7413(d)**

RESPONDENT'S REQUEST FOR A HEARING AND RESPONSE TO ADMINISTRATIVE COMPLAINT AND PENALTY ORDER

Now comes Sauder Woodworking Co., improperly identified in the Complaint as Sauder Woodworking Cogeneration Facility, ("Respondent"), pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. §7413(d) and 40 C.F.R. Part 22, and files this Request for a Hearing and Response to Administrative Complaint and Penalty Order (hereinafter "Administrative Complaint") in the above-referenced matter.

For its Response, Respondent states as follows:

1. The allegations set forth in paragraphs 1 and 2 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. To the extent any response is required of Respondent, it denies the same.

2. In response to the allegations set forth in paragraph 3 of the Administrative Complaint, Respondent denies that Sauder Woodworking Cogeneration Facility is a corporation doing business in Ohio. Respondent admits that Sauder Woodworking Co. is a corporation doing business in Ohio. Sauder Woodworking Co. owns the Cogeneration Facility, located at 820 West Barre Road in Archbold, Ohio ("Cogeneration Facility"), that provides power to Respondent's furniture manufacturing operations, which are located in Archbold, Ohio. To the extent paragraph 3 contains any additional allegations against Respondent, it denies the same.

3. In response to the allegations set forth in paragraphs 4 through 8 of the Complaint, Sauder admits that on August 19, 1992, the Ohio Environmental Protection Agency ("Ohio EPA") issued Permit to Install ("PTI") 03-05740 to Respondent (Facility ID: 03-26-00-0160). In July 1993, Ohio EPA determined that Respondent's furniture manufacturing operations and the Cogeneration Facility would be treated as separate facilities for purposes of permitting because these operations are subject to different SIC codes. As a result, Ohio EPA assigned Facility ID No. 03-26-00-0079 to the Cogeneration Facility.

On October 24, 2001, Ohio EPA issued Respondent a Title V permit for the Cogeneration Facility (Facility ID: 03-26-00-0079). A minor modification to the Title V permit was made on February 17, 2005, and on March 1, 2005, Ohio EPA issued an administrative amendment to the Title V permit. The Title V permit expired on October 24, 2006. Prior to this, on December 16, 2005, Respondent submitted a Title V Permit Renewal Application to Ohio EPA for the Cogeneration Facility.

On October 4, 2007, Ohio EPA modified the PTI (03-5740) for the Cogeneration Facility to reflect the correct boiler rating of 63.75 mmBTU/hr for the two wood and natural gas fired boilers located at the Cogeneration Facility.

4. The allegations set forth in paragraphs 9 through 17 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. To the extent any response is required of Respondent, it denies the same.

5. The allegations set forth in paragraphs 18 and 19 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. Respondent asserts that the permit referred to in paragraphs 18 and 19 speaks for itself. To the extent any response is required of Respondent, it denies the same.

6. The allegations set forth in paragraphs 20 through 29 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. To the extent any response is required of Respondent, it denies the same.

7. The allegations set forth in paragraph 30 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. Respondent asserts that the permit referred to in paragraph 30 speaks for itself. To the extent any response is required of Respondent, it denies the same.

8. The allegations set forth in paragraph 31 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. Respondent asserts that the permit referred to in paragraph 30 speaks for itself. 40 C.F.R. §60.43c(c) provides that facilities that combust wood are prohibited from emitting visible emissions over 20 percent opacity, as a six-minute average, "except for one 6-minute period per hour of not more than 27 percent opacity." Further, 40 C.F.R. §60.43c(d) provides that the 20 percent opacity limitation does not apply during periods of startup, shutdown or malfunction. To the extent any response is required of Respondent, it denies the same.

9. The allegations set forth in paragraphs 32 through 35 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. Respondent asserts that the permit referred to in paragraphs 32 through 35 speaks for itself. To the extent any response is required of Respondent, it denies the same.

10. The allegations set forth in paragraphs 36 through 39 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. To the extent any response is required of Respondent, it denies the same.

11. The allegations set forth in paragraph 40 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. Respondent asserts that the permit referred to in paragraph 40 speaks for itself. To the extent any response is required of Respondent, it denies the same.

12. The allegations set forth in paragraphs 41 and 42 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. Respondent asserts that the permit referred to in paragraphs 41 and 42 speaks for itself. 40 C.F.R. §60.43c(c) provides that facilities that combust wood are prohibited from emitting visible emissions over 20 percent opacity, as a six-minute average, "except for one 6-minute period per hour of not more than 27 percent opacity." Further, 40 C.F.R. §60.43c(d) provides that the 20 percent opacity limitation does not apply during periods of startup, shutdown or malfunction. To the extent any response is required of Respondent, it denies the same.

13. The allegations set forth in paragraphs 43 through 45 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. Respondent asserts that the permit referred to in paragraphs 43 through 45 speaks for itself. To the extent any response is required of Respondent, it denies the same.

14. The allegations set forth in paragraph 46 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. Respondent asserts that the permit referred to in paragraph 46 speaks for itself. 40 C.F.R. §60.13(e) provides that "[e]xcept for system breakdowns, repairs, calibration checks, and zero and span adjustments required under [40 C.F.R. §60.13(d)], all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements"

specified in the regulation. To the extent any response is required of Respondent, it denies the same.

15. The allegations set forth in paragraph 47 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. Respondent asserts that the permit referred to in paragraph 47 speaks for itself. To the extent any response is required of Respondent, it denies the same.

16. The allegations set forth in paragraphs 48 through 50 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. To the extent any response is required of Respondent, it denies the same.

17. In response to the allegations set forth in paragraph 51, Respondent admits that it owns and operates two 63.75 mmBTU/hour wood and natural gas-fired boilers identified as Boiler #1 (B008) and Boiler #2 (B009) at its Cogeneration Facility located at 820 West Barre Road in Archbold, Ohio. The PTI initially issued to Respondent included an incorrect boiler rating of 57 mmBTU/hour. Respondent submitted documentation to Ohio EPA on April 18, 2007 requesting a modification to the PTI to reflect the correct boiler rating. Ohio EPA issued a modified permit on October 4, 2007. Respondent's Title V permit for the Cogeneration Facility was issued prior to this modification. As a result, the current Title V permit contains the incorrect boiler rating. Respondent has requested the correct boiler rating be included in the Title V permit renewal currently pending before Ohio EPA.

18. Respondent admits the allegations set forth in paragraphs 52 and 53 of the Administrative Complaint.

19. Respondent denies the allegations set forth in paragraph 54 of the Administrative Complaint. Respondent does not own or operate an existing affected metal coating source at the Cogeneration Facility.

20. Respondent admits the allegations set forth in paragraphs 55 through 63 of the Administrative Complaint.

21. In response to the allegations set forth in paragraph 64 of the Administrative Complaint, Respondent incorporates its responses set forth in paragraphs 1 through 20 of this Answer.

22. The allegations set forth in paragraphs 65 and 66 of the Administrative Complaint set forth statements of fact and conclusions of law which do not required a response of Respondent. To the extent any response is required of Respondent, it denies same.

23. The allegations set forth in paragraphs 67 through 69 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. Respondent asserts that the permits referred to in paragraphs 67 through 69 speak for themselves. 40 C.F.R. §60.43c(c) provides that facilities that combust wood are prohibited from emitting visible emissions over 20 percent opacity, as a six-minute average, "except for one 6-minute period per hour of not more than 27 percent opacity." Further, 40 C.F.R. §60.43c(d) provides that the 20 percent opacity limitation does not apply during periods of startup, shutdown or malfunction. To the extent any response is required of Respondent, it denies the same.

24. Respondent denies the allegations set forth in paragraph 70 of the Administrative Complaint that the quarterly excess emission reports ("EERs") it submitted to Ohio EPA for

2003 through 2005 disclose that Respondent did not comply with the 20% opacity limit for emission units B008 and B009 for a total of 2,676 minutes.

40 C.F.R. §60.43c(c) establishes a visible emission limit of 20 percent opacity, as a six-minute average, "except for one 6-minute period per hour of not more than 27 percent opacity." Further, 40 C.F.R. §60.43c(d) provides that the 20 percent opacity limitation does not apply during periods of startup, shutdown or malfunction.

Documentation provided to U.S. EPA demonstrates that the majority of the opacity exceedances that occurred at the Cogeneration Facility are exempted under 40 C.F.R. §60.43c(c) and (d). This documentation demonstrates that the opacity exceedances that may have occurred at the Cogeneration Facility total no more than 3.8 hours (228 minutes) during the period alleged in the Administrative Complaint. During this period, the total operating time for the Cogeneration Facility was 21,946 hours. These exceedences represent less than 0.02% of the total operating time for the Cogeneration Facility during this period.

28 U.S.C. §2462 provides that "any action, suit or proceeding for the enforcement of any civil fine, penalty ... or otherwise shall not be entertained unless commenced within five years from the date when the claim first accrued." As a result, U.S. EPA is precluded from assessing and recovering a penalty for the violations alleged in the Administrative Complaint that occurred prior to June 30, 2004. The documentation provided to U.S. EPA demonstrates that the opacity exceedances that may have occurred at the Cogeneration Facility total no more than 1.8 hours (108 minutes) for the third quarter of 2004 through 2005. During this time, the Cogeneration Facility operated 13,162 hours. The exceedances represent 0.02% of the total operating time for the Cogeneration Facility during this period.

25. The allegations set forth in paragraph 71 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. To the extent any response is required of Respondent, it denies the same.

26. In response to the allegations set forth in paragraph 72 of the Administrative Complaint, Respondent incorporates its responses set forth in paragraphs 1 through 25 of this Answer.

27. The allegations set forth in paragraphs 73 through 75 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. Respondent asserts that the permits referred to in paragraphs 73 through 75 speak for themselves. To the extent any response is required of Respondent, it denies the same.

28. Respondent denies the allegations set forth in paragraph 76 of the Administrative Complaint that the EERs it submitted disclose a total of 14,580 minutes of emissions of NO_x in excess of the 0.20 lb NO_x/mmBTU limit for emissions unit B008 during calendar years 2003 through 2005.

As stated previously in this response, the PTI issued to Respondent in August 1992 contained an incorrect boiler rating of 57 mmBTU/hour for emissions unit B008. EERs based on this incorrect boiler rating appear to show exceedances of the NO_x limit for emissions unit B008. In October 2007, Ohio EPA issued a modified PTI that included the correct boiler rating of 63.75 mmBTU/hour for emissions unit B008. Respondent recalculated the NO_x emissions using the correct boiler rating. Documentation showing the recalculated emissions was provided to U.S. EPA and shows a maximum of 111 hours (6,660 minutes) of excess NO_x emissions during the period alleged in the Administrative Complaint. During this period, the

total operating time for emissions unit B008 was 20,372 hours. These exceedances represent 0.55% of the total operating time for emissions unit B008 during this period.

28 U.S.C. §2462 provides that "any action, suit or proceeding for the enforcement of any civil fine, penalty ... or otherwise shall not be entertained unless commenced within five years from the date when the claim first accrued." As a result, U.S. EPA is precluded from assessing and recovering a penalty for the violations alleged in the Administrative Complaint that occurred prior to June 30, 2004. The documentation provided to U.S. EPA demonstrates that a excess NO_x emissions that may have occurred from emissions unit B008 total no more than 18 hours (1,080 minutes) for the third quarter of 2004 through 2005. During this time, emissions unit B008 operated 12,287 hours. The exceedences represent 0.2% of the total operating time of this emissions unit during this period.

29. Respondent denies the allegations set forth in paragraph 77 of the Administrative Complaint that the EERs it submitted disclose a total of 11,160 minutes of emissions of NO_x in excess of the 0.20 lb NO_x/mmBTU limit for emissions unit B009 during calendar years 2003 through 2005.

As stated previously in this response, the PTI issued to Respondent in August 1992 contained an incorrect boiler rating of 57 mmBTU/hour for emissions unit B009. EERs based on this incorrect boiler rating appear to show exceedances of the NO_x limit for emissions unit B009. In October 2007, Ohio EPA issued a modified PTI that included the correct boiler rating of 63.75 mmBTU/hour for emissions unit B009. Documentation showing the recalculated emissions was provided to U.S. EPA and shows a maximum of 39 hours (2,340 minutes) of excess NO_x emissions during the period alleged in the Administrative Complaint. During this

period, the total operating time for emissions unit B009 was 20,216 hours. These exceedances represent 0.25% of the total operating time for emissions unit B008 during this period.

28 U.S.C. §2462 provides that "any action, suit or proceeding for the enforcement of any civil fine, penalty ... or otherwise shall not be entertained unless commenced within five years from the date when the claim first accrued." As a result, U.S. EPA is precluded from assessing and recovering a penalty for the violations alleged in the Administrative Complaint that occurred prior to June 30, 2004. The documentation provided to U.S. EPA demonstrates that excess NO_x emissions that may have occurred from emissions unit B009 total no more than 15 hours (980 minutes) for the third quarter of 2004 through 2005. During this time, emissions unit B008 operated 12,292 hours. These exceedences represent 0.15% of the total operating time of this emissions unit during this period.

30. Respondent denies the allegations set forth in paragraphs 78 and 79 of the Administrative Complaint.

31. In response to the allegations set forth in paragraph 80 of the Administrative Complaint, Respondent incorporates its responses set forth in paragraphs 1 through 30 of this Answer.

32. The allegations set forth in paragraph 81 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. To the extent any response is required of Respondent, it denies the same.

33. The allegations set forth in paragraphs 82 through 86 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. Respondent asserts that the permits referred to in paragraphs 82 through 86 speak for themselves. To the extent any response is required of Respondent, it denies the same.

34. In response to the allegations set forth in paragraph 87 of the Administrative Complaint, Respondent admits that it continuously monitors and records opacity at emissions units B008 and B009 through the use of a continuous opacity monitor system ("COMS").

35. In response to the allegations set forth in paragraphs 88 and 89 of the Administrative Complaint, Respondent admits that it continuously monitors and records NO_x emissions at emissions units B008 and B009 through the use of continuous emission monitor system ("CEMS").

36. In response to the allegations set forth in paragraph 90 of the Administrative Complaint, Respondent denies that the EERs disclose COMS downtimes of 6,602 minutes for emissions units B008 and B009 during calendar years 2003 through 2005.

40 C.F.R. §60.13(e) provides that "[e]xcept for system breakdowns, repairs, calibration checks, and zero and span adjustments required under [40 C.F.R. §60.13(d)], all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements" specified in the regulation. Respondent re-evaluated the downtime of the COMS and determined all alleged COMS downtime was due to either calibration checks or system breakdowns. In addition, downtime associated with daily calibration checks of the COMS was removed, based on guidance from Ohio EPA.

37. In response to the allegations set forth in paragraph 91 of the Administrative Complaint, Respondent denies that the EERs disclose CEMS downtimes of 7,470 minutes for the NO_x monitor for emissions unit B008 during calendar years 2003 through 2005.

40 C.F.R. §60.13(e) provides that "[e]xcept for system breakdowns, repairs, calibration checks, and zero and span adjustments required under [40 C.F.R. §60.13(d)], all continuous monitoring systems shall be in continuous operation and shall meet minimum

frequency of operation requirements" specified in the regulation. Respondent re-evaluated the downtime of the CEMS and determined that all alleged CEMS downtime was due to either calibration checks or system breakdowns. In addition, downtime associated with daily calibration checks of the CEMS was removed, based on guidance from Ohio EPA.

38. In response to the allegations set forth in paragraph 92 of the Administrative Complaint, Respondent denies that the EERs disclose CEMS downtimes of 6,875 minutes for the NO_x monitor for emissions unit B009 during calendar years 2003 through 2005.

40 C.F.R. §60.13(e) provides that "[e]xcept for system breakdowns, repairs, calibration checks, and zero and span adjustments required under [40 C.F.R. §60.13(d)], all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements" specified in the regulation. Respondent re-evaluated the downtime of the CEMS and determined that all CEMS downtime was related to either calibration activities or system malfunctions. In addition, downtime associated with daily calibration of the CEMS was removed, based on guidance from Ohio EPA.

39. In response to the allegations set forth in paragraph 93 of the Administrative Complaint, Respondent denies that it failed to continuously monitor opacity and emissions. The COMS and CEMS were in continuous operation during calendar years 2003 through 2005, except as authorized by regulation.

40. In response to the allegations set forth in paragraph 94 of the Administrative Complaint, Respondent incorporates its responses set forth in paragraphs 1 through 39 of this Answer.

41. The allegations set forth in paragraph 95 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. To the extent any response is required of Respondent, it denies the same.

40 C.F.R. §60.7(c) provides that "[e]ach owner or operator required to install a continuous monitoring device shall submit excess emissions and monitoring systems performance report ... and-or summary report form .... To the Administrator semi-annually, except when: ... the Administrator, on a case-by-case basis, determines that more frequent reporting is necessary to accurately assess the compliance status of the source ...."

42. The allegations set forth in paragraphs 96 through 100 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. Respondent asserts that the permits referred to in paragraphs 96 through 100 speak for themselves. To the extent any response is required of Respondent, it denies the same.

Respondent's Title V Permit requires Respondent to submit a quarterly summary of the excess emission report pursuant to 40 C.F.R. Part 60.7, in a manner prescribed by the Director of Ohio EPA. See, Parts III.A.IV.1.d (Page 15 of 27), III.A.IV.2.d (Page 16 of 27), III.A.IV.1.d (Page 23 of 27) and III.A.IV.2.d (Page 24 of 27) of Respondent's Title V Permit.

43. In response to the allegations set forth in paragraph 101 of the Administrative Complaint, Respondent denies that the EERs disclose that Respondent did not include all dates, times, cause, corrective actions and/or magnitudes of excess opacity and NO_x emissions for calendar years 2003 through 2005.

40 C.F.R. §60.7(d) provides that where "the total duration of excess emissions for the reporting period is less than 1 percent of the total operating time for the reporting period and CMS downtime for the reporting period is less than 5 percent of the total operating time for the

reporting period, only the summary report form shall be submitted and the excess emission report ... need not be submitted unless requested by the Administrator." Ohio EPA requested Respondent to submit all EERs.

40 C.F.R. §60.43c(c) provides that facilities that combust wood are prohibited from emitting visible emissions over 20 percent opacity, as a six-minute average, "except for one 6-minute period per hour of not more than 27 percent opacity." Further, 40 C.F.R. §60.43c(d) provides that the 20 percent opacity limitation does not apply during periods of startup, shutdown or malfunction.

40 C.F.R. §60.13(e) provides that "[e]xcept for system breakdowns, repairs, calibration checks, and zero and span adjustments required under [40 C.F.R. §60.13(d)], all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements" specified in the regulation.

Respondent submitted summary reports and EERs to Ohio EPA, as required by 40 C.F.R. §60.7 and its Title V permit. These reports were developed in consultation with Ohio EPA and then accepted by Ohio EPA without question. At no time during calendar years 2003 through 2005 did Ohio EPA notify Respondent of any deficiencies in its reports.

44. Respondent denies the allegations set forth in paragraph 102 of the Administrative Complaint.

45. In response to the allegations set forth in paragraph 103 of the Administrative Complaint, Respondent incorporates its responses set forth in paragraphs 1 through 44 of this Answer.

46. The allegations set forth in paragraphs 104 through 105 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of

Respondent. Respondent asserts that the permits referred to in paragraphs 104 through 105 speak for themselves. To the extent any response is required of Respondent, it denies the same.

47. In response to the allegations set forth in paragraph 106 of the Administrative Complaint, Respondent admits that a stack test was conducted at the Cogeneration Facility on June 17, 2008 to test volatile organic compound ("VOC") emissions.

48. In response to the allegations set forth in paragraph 107 of the Administrative Complaint, Respondent admits that it submitted the results of the June 17, 2008 stack test to Ohio EPA and U.S. EPA.

49. In response to the allegations set forth in paragraph 108 of the Administrative Complaint, Respondent admits that the results of the June 17, 2008 stack test showed a three-run average rate for VOCs of 0.21 lb/mmBTU for emissions unit B009.

50. In response to the allegations set forth in paragraph 109 of the Administrative Complaint, Respondent admits that the results of the stack test show were above the 0.15 lb/mmBTU VOC emission limit.

However, Respondent further states that this was the first time in 15 years of stack testing where a VOC emission was observed above 0.15 lb/mmBTU. Prior to any formal notification of violation by either Ohio EPA or U.S. EPA, Respondent proactively investigated the situation and determined that the root cause was a malfunction in the actuator and actuator shaft that controlled a critical set of dampers in one of the boilers. The malfunction was fully corrected by August 23, 2008. 40 C.F.R. §60.8(d) and Parts III.A.V.2 (page 16 of 27) and III.A.V.2 (page 24 of 27) require Respondent to submit an "Intent to Test" notification at least 30 days prior to conducting a stack test. Respondent complied with this requirement, gave the notice, and thereafter conducted, a verification stack test on October 9, 2008. This stack test

confirmed that the malfunction had been repaired and demonstrated compliance with the VOC emission limit.

51. In response to the allegations set forth in paragraphs 110 through 112 of the Administrative Complaint, Respondent denies that it ows any civil penalty. Respondent admits that the Administrator must consider the factors specified in Section 113(e) of the Clean Air Act when assessing an administrative penalty under Section 113(d), 42 U.S.C. §7413(e), but denies that the Administrator considered these factors. Specifically, the Respondent does not have information that would indicate the Administrator took into consideration Respondent's full compliance history and good faith efforts to comply, the economic benefit of any non-compliance with administrative, rather than emission non-compliance, and the severity of the violation.

52. The allegations set forth in paragraphs 113 through 125 of the Administrative Complaint set forth statements of fact and conclusions of law which do not require a response of Respondent. To the extent any response is required of Respondent, it denies the same. With respect to paragraph 123 of the Administrative Complaint, in a letter dated July 16, 2009, Respondent requested an informal settlement conference to discuss this matter.

53. Respondent denies each and every allegation set forth in the Administrative Complaint not herein specifically admitted to be true.

AFFIRMATIVE DEFENSES

54. The Administrative Complaint of U.S. EPA fails to state a claim upon which relief can be granted.

55. The Administrative Complaint of U.S. EPA is barred by the actions or conduct of U.S. EPA, or the actions of third parties, including Ohio EPA, U.S. EPA's delegated agent for

purposes of administering the New Source Review PTI program and the Title V Operating Permit program, over whom Respondent has no control.

56. The Administrative Complaint is barred by the doctrines of waiver, estoppel and/or laches.

57. The penalties sought by U.S. EPA in the Administrative Complaint are barred by the applicable statute of limitations.

58. Respondent states that its actions and conduct, and the actions and conduct of its agents, were at all times reasonable and in good faith, and undertaken with the full knowledge and consent of Ohio EPA, U.S. EPA's delegated and approved agent for administering the air programs in Ohio.

FURTHER DEFENSES

59. Respondent reserves the right to amend or further plead any other affirmative defenses after a reasonable opportunity for discovery.

REQUEST FOR HEARING

60. Pursuant to Section 113(d)(2), 42 U.S.C. §7413(d)(2) and 40 C.F.R. Part 22, Respondent is requesting a hearing on all material facts alleged in the complaint and on the appropriateness of the proposed penalty.

Respectfully submitted,

William D. Hayes
Summer J. Koladin Plantz
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wdhayes@vorys.com
skplantz@vorys.com

Counsel for Respondent
Sauder Woodworking Co.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing has been served on Padmavati Bending, (C-14J), Associate Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency Region 5, 77 West Jackson Boulevard, Chicago, IL 60604 by U.S. Mail, first-class postage prepaid, on this the 24th day of July, 2009.

Summer J. Koladin Plantz
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