



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUN 30 2009

REPLY TO THE ATTENTION OF:

AE-17J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Garrett Tinsman  
Executive Vice President, Operations  
Sauder Woodworking Company  
502 Middle St.  
Archbold, Ohio 43502

Re: In the Matter of Sauder Woodworking Cogeneration Facility **CAA-05-2009-0025**

Dear Mr. Tinsman:

I have enclosed a complaint filed against Sauder Woodworking Cogeneration Facility (Sauder), under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d). The complaint alleges violations of the Ohio State Implementation Plan (SIP), the New Source Performance Standards (NSPS) for Small Industrial-Commercial-Institutional Steam Generating Units (40 C.F.R. Part 60, Subpart Dc), NSPS General Provisions (40 C.F.R. Part 60, Subpart A), Sauder's Permit to Install 03-05740 (PTI) and Sauder's Title V permit.

As provided in the complaint, if you would like to request a hearing, you must do so in your answer to the complaint. Please note that if you do not file an answer with the Regional Hearing Clerk within 30 days of your receipt of this complaint, a default order may be issued and the proposed civil penalty will become due 30 days later.

In addition, whether or not you request a hearing, you may request an informal settlement conference. If you wish to request a conference, or if you have any questions about this matter, please contact, Padmavati Bending, Associate Regional Counsel, 77 West Jackson Boulevard (C-14J), Chicago, Illinois 60604, at 312-353-8917.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Cheryl L. Newton".

Cheryl L. Newton  
Director

Air and Radiation Division

Enclosures

cc: Robert Hodanbosi, Ohio EPA, DAPC  
Donald Waltermeyer, Ohio EPA, NWDO

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

**Sauder Woodworking Cogeneration Facility  
Archbold, Ohio**

**Respondent.**

) **Docket No. CAA-05-2009-0025**  
)  
) **Proceeding to Assess a Civil Penalty**  
) **Under Section 113(d) of the**  
) **Clean Air Act, 42 U.S.C. § 7413(d)**

**RECEIVED**  
JUN 30 2009

**Complaint**

**REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY**

1. This is an administrative action to assess a civil penalty under Section 113(d) of the Clean Air Act (the Act or CAA), 42 U.S.C. § 7413(d).
2. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, Chicago, Illinois.
3. The Respondent is Sauder Woodworking Cogeneration Facility (Sauder or facility), a corporation doing business in Ohio.

**Statutory and Regulatory Background**

**Relevant Permits**

4. In August 1992, the Ohio Environmental Protection Agency (Ohio EPA) issued to Sauder (Facility ID: 03-26-00-0079) a Permit to Install 03-05740 (PTI).
5. On October 4, 2007, Ohio EPA modified Sauder's PTI.
6. On October 24, 2001, Ohio EPA issued to Sauder a Final Title V permit (3745-77).
7. On February 17, 2005, Ohio EPA issued to Sauder a Title V Minor Permit Modification.
8. On March 1, 2005, Ohio EPA issued to Sauder a Final Title V Administrative Permit Amendment.

**New Source Performance Standards**

9. Section 111 of the CAA requires U.S. EPA to implement the New Source Performance Standards (NSPS) program.
10. The NSPS are nationally uniform emission standards for new or modified stationary sources falling within industrial categories that significantly contribute to air pollution.

11. NSPS regulates new sources pursuant to Section 111(b) of the CAA and provides guidelines to states regarding regulating these same types of existing sources pursuant to Section 111(d) of the CAA.
12. NSPS is codified in 40 C.F.R. Part 60.
13. 40 C.F.R. Part 60, Subpart A, was first promulgated on December 28, 1971 at 36 Fed. Reg. 24877 and has been amended numerous times since then.
14. 40 C.F.R. Part 60, Subpart A, includes regulations for continuous emission monitoring systems and reporting requirements. Those particular regulations were promulgated on October 6, 1975 at 40 Fed. Reg. 46254. They became effective on their promulgation date.
15. 40 C.F.R. Part 60 includes a standard of performance for Small Industrial-Commercial-Institutional Steam Generating Units (40 C.F.R. Part 60, Subpart Dc).
16. 40 C.F.R. Part 60, Subpart Dc, was promulgated on September 12, 1990 at 55 Fed. Reg. 37683. These regulations became effective on their promulgation date.
17. 40 C.F.R. Part 60, Subpart Dc, includes standards for visible particulate emission limits.
18. Sauder's Title V Permit states that B008 and B009 are subject to 40 C.F.R. Part 60, Subpart A (General Provisions) and 40 C.F.R. Part 60, Subpart Dc (Small Industrial-Commercial-Institutional Steam Generating Units).
19. Sauder's Title V Permit incorporates the NSPS applicability requirement.

#### SIP – General

20. Section 110 of the Act, 42 U.S.C. § 7410, in order to protect public health and welfare, requires States to adopt, and submit to U.S. EPA for approval, State Implementation Plans (SIPs) providing for the implementation, maintenance and enforcement of the National Ambient Air Quality Standards (NAAQS) promulgated by U.S. EPA pursuant to Section 109 of the Act, 42 U.S.C. § 7409.
21. U.S. EPA has promulgated NAAQS for, among other pollutants, particulate matter and opacity.
22. To attain and maintain Primary and Secondary NAAQS, each implementation plan must include a permit program to regulate the modification and construction of any stationary source of air pollution as necessary to assure that NAAQS are achieved.

23. The State of Ohio has incorporated such a permitting program into its SIP. Under this program, owners or operators must obtain a Permit to Install from the director of the Ohio EPA before beginning installation of a new source of air pollutants or the modification of an existing air containment source.
24. Title I of the CAA and its implementing regulations require compliance with the terms and conditions of the Ohio SIP and Permits to Install.
25. Pursuant to 40 C.F.R. § 52.23, failure to comply with any approved regulatory provision of a SIP, or with any permit condition issued pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources, renders the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under Section 113 of the Act, 42 U.S.C. § 7413.
26. U.S. EPA approved Ohio Administrative Code (OAC) Rule 3745-17-07(A)(1)(a), governing opacity, as part of the federally enforceable Ohio SIP on May 27, 1994. The rule became effective on June 27, 1994. See 59 Fed. Reg. 27464 (40 C.F.R. § 52.1870(c)(97)).

#### SIP – Permit to Install

27. 40 C.F.R. § 52.21 prohibits the construction of a major stationary source or major modification unless the source receives a construction permit (i.e., Permit to Install) that includes specific requirements, including meeting each applicable limitation under the SIP and each applicable emission standard and standard of performance under 40 C.F.R. Parts 60 and 61. 40 C.F.R. § 52.21(i) and (j).
28. OAC Rule 3745-31-05(A)(3) states that the director shall issue a Permit to Install on the basis of the information appearing in the application, or information gathered by or furnished to the Ohio EPA, or both, if he determines that the installation or modification employs the best available technology (BAT).
29. U.S. EPA approved OAC Rule 3745-31-05 as part of the federally enforceable SIP for Ohio on January 22, 2003. The rule became effective on March 10, 2003. See 68 Fed. Reg. 2909 (40 C.F.R. § 52.1870(c)(127)).
30. Sauder's PTI includes limits for nitrogen oxide (NO<sub>x</sub>) and volatile organic compounds (VOCs) and the requirement that units B008 and B009 are subject to 40 C.F.R. Part 60, Subparts A and Dc.
31. Sauder's PTI, by establishing applicability to 40 C.F.R. Part 60, Subpart Dc, prohibits B008 and B009 from emitting visible emissions over 20% opacity, as a six-minute average.
32. Sauder's PTI states that NO<sub>x</sub> emissions at B008 and B009 at the facility shall not exceed 0.20 pound (lb)/mmBTU.

33. Sauder's PTI states that VOC emissions at B009 at the facility shall not exceed 0.15 lb/mmBTU.
34. Sauder's PTI states that the facility shall install, calibrate, maintain and operate two Continuous Emission Monitoring Systems (CEMS): one for measuring the opacity of the particulate emissions (a Continuous Opacity Monitoring System, or COMS); the other to measure the amount of NO<sub>x</sub> emissions discharged to the atmosphere by the two boilers. The CEMS shall be in operation at all times when the boilers are being fired by wood.
35. Sauder's PTI states that pursuant to 40 C.F.R. § 60.7, the facility shall submit reports on a quarterly basis to the Ohio EPA field office documenting all instances of opacity values in excess of the limitations specified in OAC Rule 3745-17-07 or any limitations specified in the terms and conditions of the permit.

#### Title V Permit

36. Title V of the Act, 42 U.S.C. §§ 7661a-7661f, establishes an operating permit program for certain sources, including "major sources." Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), on July 21, 1992, U.S. EPA promulgated regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. See 57 Fed. Reg. 32295. These regulations are codified at 40 C.F.R. Part 70.
37. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), states that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate the source except in compliance with its Title V permit.
38. 40 C.F.R. § 70.7(b) states that, no source subject to Title V may operate the source except in compliance with a Title V permit.
39. U.S. EPA fully approved the Ohio Title V program, effective October 1, 1995. See 60 Fed. Reg. 42045 (August 15, 1995) (40 C.F.R. Part 70, Appendix A). Ohio's Title V permit requirements are codified at OAC Rule 3745-77.
40. Sauder's Title V permit includes limits for visible emissions, NO<sub>x</sub> and VOCs and incorporates the requirement that Sauder is subject to 40 C.F.R. Part 60, Subparts A and Dc. For the time period cited in the NOV/FOV, Sauder operated under a Title V permit (Final issued: October 24, 2001), Title V Minor Permit Modification (Final issued: February 17, 2005) and Title V Administrative Permit Amendment (Final issued: March 1, 2005).
41. Part III.A.I.1. of Sauder's Title V Permit (Page 12 of 27) prohibits B008 from emitting visible emissions over 20% opacity, as a six-minute average.

42. Part III.A.I.1. of Sauder's Title V Permit (Page 20 of 27) prohibits B009 from emitting visible emissions over 20% opacity, as a six-minute average.
43. Part III.A.I.1. of Sauder's Title V Permit (Page 12 of 27) incorporates Sauder's PTI NO<sub>x</sub> limit, prohibiting B008 is from emitting greater than 0.20 lb NO<sub>x</sub>/mmBTU of actual heat input.
44. Part III.A.I.1. of Sauder's Title V Permit (Page 20 of 27) incorporates Sauder's PTI NO<sub>x</sub> limit, prohibiting B009 from emitting greater than 0.20 lb NO<sub>x</sub>/mmBTU of actual heat input.
45. Part III.A.I.1. of Sauder's Title V Permit (Page 20 of 27) incorporates Sauder's PTI VOC limit, prohibiting B009 from emitting greater than 0.15 lb VOC/mmBTU of actual heat input.
46. Sauder's Title V Permit states that B008 and B009 are subject to 40 C.F.R. Part 60, Subpart Dc, requirements. 40 C.F.R. § 60.13(e) contains the requirement that all continuous monitoring systems shall be in continuous operation.
47. Sauder's Title V Permit states that B008 and B009 are subject to 40 C.F.R. Part 60, Subpart Dc, requirements. 40 C.F.R. §60.7(c) contains the requirements for excess emissions and monitoring systems performance reports.

#### CAA Enforcement Provisions

48. The Administrator of U.S. EPA (the Administrator) may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for violations of the Act and/or violations of applicable implementation plans and permits that occurred from January 30, 1997 through March 15, 2004, \$32,500 per day of violation up to a total of \$270,000 for those violations that occurred after March 15, 2004 through January 12, 2009 and up to \$37,500 per day of violation up to a total of \$295,000, for violations that have occurred after January 12, 2009 pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.
49. Section 113(d)(1) of the Act limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.
50. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this Complaint.

### General Allegations

51. Sauder owns and operates two 57 mmBTU/hour wood/natural gas-fired boilers, Boiler #1 (B008) and Boiler #2 (B009), at 502 Middle Street in Archbold, Ohio. The boilers primarily burn wood waste. Natural gas serves as a backup and is also typically used for startup.
52. The boilers are equipped with a cyclone, selective catalytic reduction system (SCR) and electrostatic precipitator (ESP) that are used for pollution control.
53. B008 and B009 produce energy and steam to provide almost one third of the energy needs for the Sauder Woodworking Facility, which manufactures ready-to-assemble furniture and home furnishing. Some steam is sold externally to nearby companies.
54. At all times relevant to events alleged in this complaint, Sauder owned and operated an existing affected metal coating source.
55. The facility is subject to the Title V permit issued by the State of Ohio.
56. Respondent is a "person" as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).
57. Respondent is an "owner and/or operator" as defined at Section 111(a)(5) of the Act, 42 U.S.C. §7411(a)(5).
58. The facility is an emission source subject to the requirements of the Act, including the NSPS for Small Industrial-Commercial-Institutional Steam Generating Units (40 C.F.R. Part 60, Subpart Dc).
59. Sauder submitted quarterly excess emission reports (EERs) for 2003 to 2005 to the State of Ohio as required by 40 C.F.R. Part 60, Subparts A and Dc, and as required in Sauder's PTI and Title V permit.
60. On April 18, 2008, U.S. EPA issued a Notice of Violation (NOV) and Finding of Violation (FOV) to Sauder alleging violations of the Ohio SIP, NSPS General Provisions (40 C.F.R. Part 60, Subpart A), NSPS for Small Industrial-Commercial-Institutional Steam Generating Units (40 C.F.R. Part 60, Subpart Dc), Sauder's Title V permit and Sauder's PTI.
61. On May 15, 2008, representatives of U.S. EPA met with Respondent to discuss the NOV/FOV issued to the facility on April 18, 2008.
62. On February 26, 2009, U.S. EPA, Region 5, issued a FOV alleging violations of Sauder's Title V permit and Sauder's PTI.
63. On March 23, 2009, representatives of Sauder and U.S. EPA met to discuss the FOV issued to the facility on February 26, 2009.

### **Count I – Opacity Exceedances at B008 and B009**

64. Complainant incorporates paragraphs 1 through 63 of this Complaint, as if set forth in this paragraph.

#### **NSPS**

65. 40 C.F.R. § 60.43c(c) states that no owner or operator of an affected facility that combusts coal, wood or oil and has a heat input capacity of 30 mmBTU/hour or greater shall cause to be discharged into the atmosphere from that affected facility any gases that exhibit greater than 20% opacity (six-minute average), except for one six-minute period per hour of not more than 27% opacity.

#### **SIP**

66. OAC Rule 3745-17-07(A)(1)(a) states that visible particulate emission limitations for stack emissions shall not exceed 20% opacity, as a six-minute average.

#### **Permit to Install**

67. Sauder's PTI, by establishing applicability to 40 C.F.R. Part 60, Subpart Dc, prohibits B008 and B009 from emitting visible emissions over 20% opacity, as a six-minute average.

#### **Title V Permit**

68. Part III.A.I.1. of Sauder's Title V Permit (Page 12 of 27) prohibits B008 from emitting visible emissions over 20% opacity, as a six-minute average.
69. Part III.A.I.1. of Sauder's Title V Permit (Page 20 of 27) prohibits B009 from emitting visible emissions over 20% opacity, as a six-minute average.

#### **Violations**

70. Sauder's EERs disclose that Sauder did not comply with the 20% opacity limit for B008 and B009 during calendar years 2003 through 2005 for a total of 2,676 minutes.
71. Failure to continuously comply with the opacity limitations for B008 and B009 is a violation of 40 C.F.R. Part 60 (Subpart Dc), the Ohio SIP, Sauder's Title V permit and Sauder's PTI.

### **Count II - NO<sub>x</sub> Exceedances at B008 and B009**

72. Complainant incorporates paragraphs 1 through 63 of this Complaint, as if set forth in this paragraph.

#### **Permit to Install**

73. Sauder's PTI states that units B008 and B009 at the facility shall not exceed 0.20 lb NO<sub>x</sub>/mmBTU of actual heat input.

Title V Permit

74. Part III.A.I.1. of Sauder's Title V Permit (Page 12 of 27) incorporates Sauder's PTI NO<sub>x</sub> limit, prohibiting B008 is from emitting greater than 0.20 lb NO<sub>x</sub>/mmBTU of actual heat input.
75. Part III.A.I.1. of Sauder's Title V Permit (Page 20 of 27) incorporates Sauder's PTI NO<sub>x</sub> limit, prohibiting B009 from emitting greater than 0.20 lb NO<sub>x</sub>/mmBTU of actual heat input.

Violations

76. Sauder's EERs disclose that Sauder had a total of 14,580 minutes of emissions of NO<sub>x</sub> in excess of the 0.20 lb NO<sub>x</sub>/mmBTU limit for B008 during calendar years 2003 through 2005.
77. Sauder's EERs disclose that Sauder had a total of 11,160 minutes of emissions of NO<sub>x</sub> in excess of the 0.20 lb NO<sub>x</sub>/mmBTU limit for B009 during calendar years 2003 through 2005.
78. Failure to continuously comply with the 0.20 lb NO<sub>x</sub>/mmBTU limit for B008 is a violation Sauder's Title V permit and Sauder's PTI.
79. Failure to continuously comply with the 0.20 lb NO<sub>x</sub>/mmBTU limit for B009 is a violation Sauder's Title V permit and Sauder's PTI.

**Count III – Continuous Emission Monitoring System Downtime at B008 and B009**

80. Complainant incorporates paragraphs 1 through 63 of this Complaint, as if set forth in this paragraph.

NSPS

81. 40 C.F.R. § 60.13(e) states that except for system breakdowns, repairs, calibration checks, and zero and span adjustments required under paragraph (d) of this section, all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements.

Permit to Install

82. Sauder's PTI, by establishing applicability to 40 C.F.R. Part 60, Subpart Dc, requires that all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements.

Title V Permit

83. Part III.A.III.1.a of Sauder's Title V Permit (Page 13 of 27) requires that at B008 Sauder shall operate and maintain existing equipment to continuously monitor and record the opacity of the particulate emissions from this emissions unit.

84. Part III.A.III.2.a of Sauder's Title V Permit (Page 14 of 27) requires that at B008 Sauder shall operate and maintain equipment to continuously monitor and record the NO<sub>x</sub> emissions from this emissions unit.
85. Part III.A.III.1.a of Sauder's Title V Permit (Page 21 of 27) requires that at B009 Sauder shall operate and maintain existing equipment to continuously monitor and record the opacity of the particulate emissions from this emissions unit.
86. Part III.A.III.2.a of Sauder's Title V Permit (Page 22 of 27) requires that at B009 Sauder shall operate and maintain equipment to continuously monitor and record the NO<sub>x</sub> emissions from this emissions unit.

#### Violations

87. Sauder continuously monitors and records opacity at B008 and B009 through a COMS unit.
88. Sauder continuously monitors and records NO<sub>x</sub> emissions at B008 through a CEMS unit.
89. Sauder continuously monitors and records NO<sub>x</sub> emissions at B009 through a CEMS unit.
90. Sauder's EERs disclose COMS downtimes of 6,602 minutes for B008 and B009 during calendar years 2003 to 2005.
91. Sauder's EERs disclose CEMS downtimes of 7,470 minutes for the B008 NO<sub>x</sub> monitor during calendar years 2003 to 2005.
92. Sauder's EERs disclose CEMS downtimes of 6,875 minutes for the B009 NO<sub>x</sub> monitor during calendar years 2003 to 2005.
93. Failing to continuously monitor opacity and emissions monitoring equipment is a violation of 40 C.F.R. Part 60 (Subpart A), Sauder's PTI and Title V permit.

#### **Count IV – Notification and Record Keeping at B008 and B009**

94. Complainant incorporates paragraphs 1 through 63 of this Complaint, as if set forth in this paragraph.

#### NSPS

95. 40 C.F.R. § 60.7(c) states, in part, that "Each owner or operator required to install a continuous monitoring device shall submit excess emissions and monitoring systems performance report ... and/or summary report form ... Written reports of excess emissions shall include the following information:

- (1) The magnitude of excess emissions computed in accordance with §60.13(h), any conversion factor(s) used and the date and time of commencement and completion of each time period of excess emissions. The process operating time during the reporting period.
- (2) Specific identification of each period of excess emissions that occurs during startups, shutdowns and malfunctions of the affected facility. The nature and cause of any malfunction (if known), the corrective action taken or preventative measures adopted.
- (3) The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments.”

#### Permit to Install

96. Sauder's PTI, by establishing applicability to 40 C.F.R. Part 60, requires that Sauder meet the reporting requirements found in 40 C.F.R. § 60.7.

#### Title V Permit

97. Part III.A.IV.1.d of Sauder's Title V Permit (Page 15 of 27) requires that for opacity at B008 Sauder shall submit a summary of the excess emission report pursuant to 40 C.F.R. § 60.7.
98. Part III.A.III.2.a of Sauder's Title V Permit (Page 16 of 27) requires that for NO<sub>x</sub> at B008 Sauder shall submit a summary of the excess emission report pursuant to 40 C.F.R. § 60.7.
99. Part III.A.IV.1.d of Sauder's Title V Permit (Page 23 of 27) requires that for opacity at B009 Sauder shall submit a summary of the excess emission report pursuant to 40 C.F.R. § 60.7.
100. Part III.A.III.2.a of Sauder's Title V Permit (Page 24 of 27) requires that for NO<sub>x</sub> at B009 Sauder shall submit a summary of the excess emission report pursuant to 40 C.F.R. § 60.7.

#### Violations

101. Sauder's EERs disclose that Sauder did not include all dates, times, causes, corrective actions and/or magnitudes of excess opacity and NO<sub>x</sub> emissions for calendar years 2003 to 2005.
102. Failing to fulfill all reporting requirements as required by 40 C.F.R. Part 60, Subpart A is a violation of 40 C.F.R. Part 60 (Subpart A), Sauder's PTI and Title V permit.

### **Count V - VOC Exceedance at B009**

103. Complainant incorporates paragraphs 1 through 63 of this Complaint, as if set forth in this paragraph.

#### **Permit to Install**

104. Sauder's PTI states that VOC emissions at B009 at the facility shall not exceed 0.15 lb/mmBTU.

#### **Title V Permit**

105. Part III.A.I.1. of Sauder's Title V Permit (Page 20 of 27) incorporates Sauder's PTI VOC limit, prohibiting B009 from emitting greater than 0.15 lb VOC/mmBTU of actual heat input.

#### **Violations**

106. On June 17, 2008, Sauder conducted a stack test of the facility's VOC emissions.
107. Sauder submitted the results of the June 17, 2008 stack test to Ohio EPA and U.S. EPA.
108. The stack tests results for June 17, 2008 showed a three-run average rate result at B009 for VOCs of 0.21 lb/mmBTU.
109. Failing to continuously comply with the 0.15 lb VOC/mmBTU limit for B009 is a violation Sauder's Title V permit and Sauder's PTI.

### **Proposed Civil Penalty**

110. Complainant proposes that the Administrator assess a civil penalty against Respondent for the violations alleged in this Complaint of \$328,334, which takes into account a downward adjustment for degree of cooperation
111. Complainant determined the proposed civil penalty according to the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e). Complainant evaluated the facts and circumstances of this case with specific reference to U.S. EPA's *Clean Air Act Stationary Source Civil Penalty Policy*, dated October 25, 1991 (Penalty Policy). Enclosed with this Complaint is a copy of the Penalty Policy.
112. Complainant developed the proposed penalty based on the best information available to Complainant at this time. Complainant may adjust the proposed penalty if Respondent establishes *bona fide* issues of ability to pay or other defenses relevant to the penalty's appropriateness.

### **Rules Governing This Proceeding**

113. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits* (the Consolidated

Rules), at 40 C.F.R. Part 22, govern this proceeding to assess a civil penalty. Enclosed with the Complaint served on Respondent is a copy of the Consolidated Rules.

### **Filing and Service of Documents**

114. Respondent must file with the U.S. EPA Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

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

115. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Padmavati Bending to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Ms. Bending at 312-353-8917; her address is:

Padmavati Bending (C-14J)  
Associate Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

### **Penalty Payment**

116. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America," and by delivering the check to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

117. Respondent must include the case name, docket number and billing document number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to the Regional Hearing Clerk and Padmavati Bending at the addresses given above, and to:

Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

**Answer and Opportunity to Request a Hearing**

118. If Respondent contests any material fact upon which the Complaint is based or the appropriateness of any penalty amount, or contends that it is entitled to judgment as a matter of law, Respondent may request a hearing before an Administrative Law Judge. To request a hearing, Respondent must file a written Answer within 30 days of receiving this Complaint and must include in that written Answer a request for a hearing. Any hearing will be conducted in accordance with the Consolidated Rules.
119. In counting the 30-day period, the date of receipt is not counted, but Saturdays, Sundays and federal legal holidays are counted. If the 30-day period expires on a Saturday, Sunday or federal legal holiday, the time period extends to the next business day.
120. To file an Answer, Respondent must file the original written Answer and one copy with the Regional Hearing Clerk at the address given above.
121. Respondent's written Answer must clearly and directly admit, deny or explain each of the factual allegations in the Complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny, or explain any material factual allegation in the Complaint constitutes an admission of the allegation.
  - Respondent's Answer must also state:
    - a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
    - b. the facts that Respondent disputes;
    - c. the basis for opposing the proposed penalty; and
    - d. whether Respondent requests a hearing.
122. If Respondent does not file a written Answer within 30 calendar days after receiving this Complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the Complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order, without further proceedings, 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

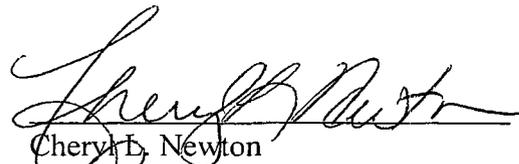
**Settlement Conference**

123. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts alleged in the Complaint and to discuss a settlement. To request an informal settlement conference, Respondent may contact Padmavati Bending at 312-353-8917.
124. Respondent's request for an informal settlement conference does not extend the 30-day period for filing a written Answer to this Complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. Complainant encourages all parties facing civil penalties to pursue settlement through an informal conference. Complainant, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

**Continuing Obligation to Comply**

125. Neither the assessment nor payment of a civil penalty will affect Respondent's continuing obligation to comply with the Act and any other applicable federal, state, or local law.

6/30/09  
Date

  
Cheryl L. Newton  
Director  
Air and Radiation Division

**RECEIVED**  
JUN 30 2009  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

In the Matter of:  
Sauder Woodworking Cogeneration Facility  
Archbold, Ohio  
Docket No. **CAA-05-2009-0025**

**CERTIFICATE OF SERVICE**

I, Betty Williams, certify that I hand delivered the original and one copy of the Complaint, docket number **CAA-05-2009-0025** to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies of the Administrative Complaint, copies of the penalty policy described in the Complaint and copies of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* at 40 C.F.R. Part 22 by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent by placing them in the custody of the United States Postal Service addressed as follows:

Garrett Tinsman  
Executive Vice President, Operations  
Sauder Woodworking Company  
502 Middle St.  
Archbold, Ohio 43502

I also certify that I sent a copy of the Administrative Complaint by First Class Mail to:

Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216

Donald Waltermeyer, Air Pollution Control Supervisor  
Ohio Environmental Protection Agency  
Northwest District Office  
347 North Dunbridge Road  
Bowling Green, Ohio 43402

RECEIVED

JUN 30 2009

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

on the 30<sup>th</sup> day of June 2009.

Betty Williams  
Betty Williams, Administrative Program Assistant  
AECAS(IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001032000601860675