



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

**EXPEDITED SETTLEMENT
AGREEMENT (ESA)**

06 DEC 18 PM 2:16
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

DOCKET NO: CAA-07-2006-0274

This ESA is issued to: The Lighthouse For the Blind dba LHB Industries

At: 8833 Fleischer Place, Berkeley, Missouri 63134-1000

for violating Section 112(r)(7) of the Clean Air Act.

The United States Environmental Protection Agency, Region 7 (EPA) and The Lighthouse For The Blind dba LHB Industries, 8833 Fleischer Place, Berkeley, Missouri 63134-1000 (Respondent), have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(B)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

The Complainant, by delegation of the Administrator of EPA, is the Director of the Air, RCRA and Toxics Division. The Respondent is The Lighthouse For The Blind dba LHB Industries, 8833 Fleischer Place, Berkeley, Missouri.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act. Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, where the total penalty exceeds \$270,000 or where the first alleged date of violation occurred more than 12 months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

ALLEGED VIOLATIONS

On May 2, 2006, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 8833 Fleischer Place, Berkeley, Missouri, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act. The EPA found that the Respondent had violated regulations implementing Section 112(r) of the Clean Air Act by failing to comply with the regulations as noted on the enclosed Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet (RMP Findings), which is hereby incorporated by reference.

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the entire record, the parties enter into the ESA in order to settle the violations, described in the enclosed RMP Findings, for the total penalty amount of **\$3540.00**.

This settlement is subject to the following terms and conditions:

The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained in herein and in the RMP Findings, and consents to the assessment of the penalty as stated above. Respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the Clean Air Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the violations listed in the enclosed RMP Findings and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$3540.00** in payment of the full penalty amount to the following address:

United States Environmental Protection Agency
P.O. Box 371099M
Pittsburgh, Pennsylvania 15251.

The Docket Number of this ESA is CAA-07-2006-0274, and must be included on the check.

This original ESA, a copy of the completed RMP Findings, and a copy of the check must be sent by certified mail to:

Deanna Smith
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
901 North 5th Street
Kansas City, Kansas 66101.

A copy of the check must also be sent to:

Kathy M. Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
901 North 5th Street
Kansas City, Kansas 66101.

Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Clean Air Act referenced in the RMP Findings. The EPA does not waive any other enforcement action for any other violations of the Clean Air Act or any other statute.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region 7 office at the above address in correct form by the Respondent within 45 days of the date of Respondent's receipt of it (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein and in the RMP Findings.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:




Date: 11/29/2006

Name (print): CLINT A. CRUSE

Title (print): PLANT MANAGER

The Lighthouse For The Blind dba LHB Industries

FOR COMPLAINANT:




Date: 12/14/06

Carol Kather

Acting Director

Air, RCRA and Toxics Division

EPA Region 7



Date: 12/11/06

Sarah Thibos LaBoda

Assistant Regional Counsel

EPA Region 7

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.



Date: 12/18/06

Karina Borromeo

Regional Judicial Officer

Prevention Program -Training [68.71]

\$750.00

The owner or operator has failed to provide or document refresher training at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process [68.71 (b)].

How was this addressed: _____

_____ We have added a training sign off page to pertinent procedures, developed quizzes to _____
_____ document training to those procedures and conducted and documented training to bring _____
_____ us current on requirements. See attached example. _____

Prevention Program - Management of Change [68.75]

\$750.00

The owner or operator has failed to establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures, and changes to stationary sources that affect a covered process [68.75 (a)].

How was this addressed: _____

_____ We do have written MOC procedures, but were not notating in kind changes correctly on _____
_____ an MOC form but rather in log form. The log information and any associated _____
_____ documentation, memos, etc. have been transferred onto MOC Forms. See attached _____
_____ example.

Prevention Program - Compliance Audits [68.79]

\$300.00

1. The owner or operator failed to conduct an audit every 3 years by at least one person knowledgeable in the process [68.79(b)]
2. The owner or operator failed to promptly determine and document an appropriate response to each of the findings of the audit and document that deficiencies had been corrected [68.79 (d)].

How was this addressed: _____

_____ An audit had been conducted but not at three years. As indicated previously, we have published a _____
_____ plant wide schedule for all required audits and reviews and will comply with this schedule going _____
_____ forward. See attached example.

_____ Corrections were completed, but not summarized in any one place. We have created a log _____
_____ summarizing all corrections and open items (if any), related to the audit and hazard _____
_____ review. See attached document.

Emergency Response [68.95]

\$750.00

1. The owner or operator failed to develop and implement an emergency response program that provides levels of training for all employees in relevant procedures [68.95(a)(3)].
2. The owner or operator failed to include procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source [68.95 (a)(4)].

How was this addressed:

____ We have a comprehensive ER program in place with extensive details of actions to be taken by
 ____ emergency responders. The program however did not explicitly indicate the type and level of training
 ____ required. This has been added to the ER program. See attachments.

We have added verbiage requiring periodic updating to document changes and inform employees. See attachment.

Risk Management Plan [68.160 - 68.195]

\$2000.00

The owner or operator has not updated the RMP and resubmitted it to EPA as a five-year update. [68.190(b)(1)]

How was this addressed:

____ The RMP was updated and update disk submitted to the EPA at the end of May 2006. ____

Calculation of Adjusted Penalty

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 21-50 employees and the row for > 10 times the Threshold Quantity amount gives a multiplier factor of 0.6. Therefore, the multiplier for Lighthouse for the Blind = 0.6.

2nd Adjusted Penalty = \$5900.00 (Unadjusted Penalty) X 0.6(Size-Threshold Multiplier) Adjusted Penalty = \$3540.00


3rd An Adjusted Penalty of \$3540.00 would be assessed to Lighthouse for the Blind, for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

TOTAL

\$3540.00

The approximate cost to correct the above items: \$ 2000.00 (Time only)

Compliance staff name: Clint Cruse

Signed:  Date: 11/29/06

IN THE MATTER OF The Lighthouse For the Blind dba LHB Industries, Respondent
Docket No. CAA-07-2006-0274

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement (ESA) was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Sarah LaBoda
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Clint A. Cruse
Lighthouse For The Blind dba LHB Industries
8833 Fleischer Place
Berkeley, Missouri 63134-1000

Dated: 12/20/06



Kathy Robinson
Hearing Clerk, Region 7