

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**REGION 7  
901 NORTH FIFTH STREET  
KANSAS CITY, KANSAS 66101**SETTLEMENT  
AGREEMENT (ESA)**08 OCT 11 AM 8:48  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK**DOCKET NO: CAA-07-2006-0243****This ESA is issued to: Midland Resources, Inc.****At: 10 Bremen Avenue, St. Louis, Missouri 63147****for violating Section 112(r)(7) of the Clean Air Act.**

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The United States Environmental Protection Agency, Region 7 (EPA) and Midland Resources, Inc., 10 Bremen Avenue, St. Louis, Missouri 63147 (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 Midland Resources, Inc., 10 Bremen Avenue, St. Louis, 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 March 28, 2006, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 10 Bremen Avenue, St. Louis, 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.

Midland Resources, Inc.  
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## 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 **\$2910.00**.

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 **\$2910.00** 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-07-2006-0243, 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 5<sup>th</sup> 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 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

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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:

Robert M Shuler

Date: 9/28/06

Name (print): Robert Shuler

Title (print): VP Manufacturing  
Midland Resources, Inc.

FOR COMPLAINANT:

Carol Kather

Date: 10/6/06

*For*  
Carol Kather  
Acting Director  
Air, RCRA and Toxics Division  
EPA Region 7

Sarah Thibos

Date: 10/5/06

Sarah Thibos  
Assistant Regional Counsel  
EPA Region 7

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

Karina Borromeo

Date: 10/11/06

Karina Borromeo  
Regional Judicial Officer

**RMP INSPECTION FINDINGS**

**Midland Resources, Inc.  
10 Bremen Avenue  
St. Louis, MO 63147  
  
CAA 112(r) Violations**

VIOLATIONS

PENALTY AMOUNT

**Prevention Program- Process Hazard Analysis [68.67] \$750.00**

1. The owner or operator has failed to establish or complete the following items:
  - a) a system to promptly address the team's findings and recommendations; b) assure that the recommendations are resolved in a timely manner and c) document what actions are to be taken; d) complete actions as soon as possible; e) develop a written schedule of when these actions are to be completed; and f) communicate the actions to operating, maintenance, and other employees whose work assignments are in the process and who may be affected by the recommendations. [68.67(e)]

*How was this addressed:* Please see attached

**Prevention Program- Process Hazard Analysis [68.67] \$300.00**

2. The owner or operator failed to retain PHAs and updates or revalidations for each process covered, as well as the resolution of recommendations for the life of the process. [68.67(g)]

*How was this addressed:* Please see attached

**Prevention Program- Operating procedures [68.69] \$750.00**

3. The owner or operator has failed to develop or implement written operating procedures that provide instructions or steps for conducting activities associated with each covered process consistent with the safety information for the following areas. [68.69(a)]
  - a. Temporary operations. [68.69(a)(1)(iii)]

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P. 008/009

SEP-22-2006(FRI) 15:06 MIDLAND - KEMIRON

(FAX)3142419021

**Section F - Contractors [68.87]**

**No Fine Assessed**

- 7. The owner or operator failed to provide proof that their contractor had documented the identity of each employee(s), date of training, and means to verify that the training was understood as required. [68.87(c) (3)]

How was this addressed: Please see attached

**Risk Management Plan [68.160 - 68.195]**

**\$2000.00**

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

How was this addressed: Please see attached

**Calculation of Adjusted Penalty**

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for number of employees 21 - 50 and \* > 10 times the threshold quantity listed in CFR 68.130 for the particular chemical use in process gives a multiplier factor of 0.6. Therefore, the multiplier for Midland Resources Inc., = 0.6.

2nd Adjusted Penalty = \$4850.00 (Unadjusted Penalty) X 0.6 (Size-Threshold Multiplier) Adjusted Penalty = \$2910.00

3rd An Adjusted Penalty of \$2910.00 would be assessed to Midland Resources, Inc. for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

**TOTAL**

**\$2910.00**

The approximate cost to correct the above items: \$ 200.00

Compliance staff name: KURT BARBER

Signed: [Signature] Date: 9-29-06

- b. Emergency operations. [68.69(a)(1)(v)]
- c. Startup following a turnaround, or after emergency shutdown. [68.69(a)(1)(vii)]

How was this addressed: Please see attached

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**Prevention Program - Operating procedures [68.69] \$600.00**

- 4. The owner or operator has failed to certify annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary. [68.69(c)]

How was this addressed: Please see attached

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**Prevention Program - Compliance audits [68.79] \$300.00**

- 5. The owner or operator failed to certify that the stationary source has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed. [68.79(a)]

How was this addressed: Please see attached

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**Prevention Program - Compliance audits [68.79] \$150.00**

- 6. The owner or operator has failed to promptly determine or document an appropriate response to each of the findings of the audit and document that deficiencies have been corrected. [68.79(d)]

How was this addressed: Please see attached

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### Attachment to RMP INSPECTION FINDINGS

Below is the answer to the "How was this addressed?" for each violation. The number refers to the number on the RMP INSPECTION FINDINGS sheet.

1. A new Process Hazard Analysis was done and the actions taken were put on a list stating when it was to be done and by who. It also had a column to sign off when the action was completed. All of the recommendations have been done per the schedule.
2. The PHA's were actually kept. What was missing was the recommendations as in #1. This has now been addressed by #1.
3. The operating procedures were updated to include temporary operations, emergency operations, and startup following a turnaround or after an emergency shutdown.
4. A certification sheet was included with the operating procedures.
5. A new audit was done on Sept 1., 2006 and all deficiencies were assigned to someone with the date at which they are to be completed. A signoff was then included to show deficiency was corrected.
6. This is the same as in number 5.
7. All contractors are now required to provide the relevant training for each employec. This includes employec identification, date of training, and means used to verify that the training was understood.
8. The RMP update was submitted and accepted by EPA. It was done on March, 30, 2006.

IN THE MATTER OF Midland Resources, Inc., Respondent  
Docket No. CAA-07-2006-0243

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:

Sarah Thibos  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 7  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Robert Shuler  
Vice President, Manufacturing  
Midland Resources, Inc.  
10 Bremen Avenue  
St. Louis, Missouri 63147

10/11/06  
Dated

  
Kathy Robinson  
Hearing Clerk, Region 7