

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2009-0123-AIR-E **TCEQ ID:** RN100219955 **CASE NO.:** 37077  
**RESPONDENT NAME:** DCP Midstream, LP

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Sherhan Gas Plant, 15150 County Road 9, Gruver, Hansford County</p> <p><b>TYPE OF OPERATION:</b> Natural gas plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 13, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Garrett Scribner, Environmental Specialist, DCP Midstream, LP, 9101 Highway 136, Borger, Texas 79007  Mr. Jerry Barnhill, EHS Vice President, DCP Midstream, LP, 9101 Highway 136, Borger, Texas 79007  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> January 7, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> January 14, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failed to limit the formaldehyde concentration to 350 parts per billion ("ppb") or less at 15% oxygen or to reduce formaldehyde emissions by 76% or more for a reciprocating internal combustion engine ("RICE"). Specifically, a test conducted on October 7, 2008 on RICE Emission Point No. ("EPN") ENG 1 showed 1212.07 ppb at 15% oxygen and formaldehyde reduction efficiency at 74.31% [30 TEX. ADMIN. CODE § 113.1090, TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and 40 CODE OF FEDERAL REGULATIONS § 63.6600(a)].</p>	<p><b>Total Assessed:</b> \$7,600</p> <p><b>Total Deferred:</b> \$1,520  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$3,040</p> <p><b>Total Paid to General Revenue:</b> \$3,040</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 180 days after the effective date of this Agreed Order, submit written certification that a reference method stack test, as required by 40 CODE OF FEDERAL REGULATIONS § 63.6600(a), has been conducted on RICE EPN ENG 1, that demonstrates compliance with formaldehyde concentration emission limits in order to address the October 7, 2008 non-compliant stack test; and</p> <p>b. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.</p>

Additional ID No(s): HD0014P

Attachment A  
Docket Number: 2009-0123-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** DCP Midstream, LP  
**Payable Penalty Amount:** Six Thousand Eighty Dollars (\$6,080)  
**SEP Amount:** Three Thousand Forty Dollars (\$3,040)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up  
**Location of SEP:** Hansford County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.



C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.



**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	20-Jan-2009			
	PCW	22-Jan-2009	Screening	22-Jan-2009	EPA Due 11-Oct-2009

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	DCP Midstream, LP		
Reg. Ent. Ref. No.	RN100219955		
Facility/Site Region	1-Amarillo	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37077	No. of Violations	1
Docket No.	2009-0123-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Bryan Elliott
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	Subtotal 1	\$5,000
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**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	52.0% Enhancement	Subtotals 2, 3, & 7	\$2,600
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Notes: The penalty was enhanced due to three NOV's for similar violations and two 1660 style orders. The penalty was reduced due to 3 NOAs.

<b>Culpability</b>	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	Subtotal 5	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$155	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,000	

<b>SUM OF SUBTOTALS 1-7</b>	Final Subtotal	\$7,600
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	\$7,600
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<b>STATUTORY LIMIT ADJUSTMENT</b>	Final Assessed Penalty	\$7,600
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<b>DEFERRAL</b>	20.0% Reduction	Adjustment	-\$1,520
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$6,080
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<b>Screening Date</b> 22-Jan-2009	<b>Docket No.</b> 2009-0123-AIR-E	<b>PCW</b>
<b>Respondent</b> DCP Midstream, LP		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 37077		<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b> RN100219955		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Bryan Elliott		

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	3	-3%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

*Please Enter Yes or No*

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 52%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

The penalty was enhanced due to three NOVs for similar violations and two 1660 style orders. The penalty was reduced due to 3 NOAs.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 52%

**Screening Date** 22-Jan-2009 **Docket No.** 2009-0123-AIR-E **PCW**  
**Respondent** DCP Midstream, LP *Policy Revision 2 (September 2002)*  
**Case ID No.** 37077 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN100219955  
**Media [Statute]** Air  
**Enf. Coordinator** Bryan Elliott

**Violation Number**   
**Rule Cite(s)** 30 Tex. Admin. Code § 113.1090, Tex. Health & Safety Code § 382.085(b), and 40 Code of Federal Regulations § 63.6600(a)

**Violation Description**  
 Failed to limit the formaldehyde concentration to 350 parts per billion ("ppb") or less at 15% oxygen or to reduce formaldehyde emissions by 76% or more for a reciprocating internal combustion engine ("RICE"), as documented during an investigation conducted on January 7, 2009. Specifically, a test conducted on October 7, 2008 on RICE Emission Point No. ENG 1 showed 1212.07 ppb at 15% oxygen and formaldehyde reduction efficiency at 74.31%.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual		X	
Potential					

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					<input type="text" value="0%"/>

**Matrix Notes** Human health or the environment was exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors as a result of the violation.

**Adjustment**

**Violation Events**

**Number of Violation Events**  **Number of violation days**

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty**

Two quarterly events are recommended from the date of the failed test (October 7, 2008) to the date of screening (January 22, 2009).

**Good Faith Efforts to Comply**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

**Notes** The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal**

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent:** DCP Midstream, LP  
**Case ID No.:** 37077  
**Reg. Ent. Reference No.:** RN100219955  
**Media:** Air  
**Violation No.:** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$2,000	7-Oct-2008	20-Oct-2009	1.04	\$104	n/a	\$104
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	7-Oct-2008	20-Oct-2009	1.04	\$52	n/a	\$52

**Notes for DELAYED costs:** Estimated cost to retest the engine and estimated cost for additional oversight and management practices designed to ensure compliant future tests. Date Required is the date of the stack test and Final Date is the date of prospective compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs:**

<b>Approx. Cost of Compliance</b>	\$3,000	<b>TOTAL</b>	\$155
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# Compliance History Report

Customer/Respondent/Owner-Operator: CN601229917 DCP Midstream, LP Classification: AVERAGE Rating: 2.70  
 Regulated Entity: RN100219955 SHERHAN GAS PLANT Classification: AVERAGE Site Rating: 12.72

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HD0014P
	AIR OPERATING PERMITS	PERMIT	2569
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	17126
	AIR NEW SOURCE PERMITS	PERMIT	16136
	AIR NEW SOURCE PERMITS	PERMIT	16230
	AIR NEW SOURCE PERMITS	PERMIT	34243
	AIR NEW SOURCE PERMITS	PERMIT	44935
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HD0014P
	AIR NEW SOURCE PERMITS	AFS NUM	4819500006
	AIR NEW SOURCE PERMITS	PERMIT	73394
	AIR NEW SOURCE PERMITS	REGISTRATION	43823
	AIR NEW SOURCE PERMITS	REGISTRATION	81696
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0980008
	WATER LICENSING	LICENSE	0980008

Location: 15150 COUNTY ROAD 9, GRUVER, TX, 79040

TCEQ Region: REGION 01 - AMARILLO

Date Compliance History Prepared: January 22, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 22, 2004 to January 22, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Bryan Elliott Phone: 239 - 6162

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 10/04/2007 ADMINORDER 2007-0124-AIR-E  
 Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter A 101.10  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Description: Failure to include flash emissions from EPNs: TNKSLP12, TNKSLP13 and TNKSLP16 in the emissions inventory questionnaire report dated January 23, 2006.  
 Classification: Moderate  
 Citation: 2A TWC Chapter 5, SubChapter A 5.702  
 30 TAC Chapter 101, SubChapter A 101.27  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Description: Failure to pay emission fees for flash emissions for EPNs: TNKSLP12, TNKSLP13 and TNKSLP16.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 106, SubChapter A 106.4(c)  
 30 TAC Chapter 106, SubChapter W 106.512(2)(B)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Description: Failure to properly operate and maintain the air/fuel ratio controller in good condition for ENG-2.  
 Classification: Major  
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)  
 5C THC Chapter 382, SubChapter A 382.0518(a)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Description: Failure to apply for renewal of permit number 19317, but continued operation of ENG-39, ENG-40 and INC-SA after the permit expired on August 11, 2004.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(e)

5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to operate the flare with a flame present at all times as required in 40 CFR §60.18(c)(2) and when emissions may be vented to them as required in 40 CFR §60.18(e).

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to include noncompliance issues discovered during this investigation in the deviation report submitted on July 27, 2006.

Effective Date: 10/06/2008

ADMINORDER 2008-0695-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.1090  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6600(a)

5C THSC Chapter 382 382.085(b)

Description: Failure to reduce Formaldehyde emissions by 76% or more or limit the concentration of Formaldehyde to 350 ppb or less at 15% Oxygen.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	07/31/2004	(283630)
2	07/26/2005	(400956)
3	09/16/2005	(431107)
4	02/16/2006	(453227)
5	02/22/2006	(452350)
6	07/07/2006	(480735)
7	11/10/2006	(518518)
8	12/20/2006	(531742)
9	03/13/2007	(543925)
10	10/11/2007	(595176)
11	10/16/2007	(598044)
12	11/19/2007	(600856)
13	03/31/2008	(640365)
14	03/31/2008	(640440)
15	04/24/2008	(653935)
16	04/24/2008	(653985)
17	05/15/2008	(671089)
18	05/15/2008	(671151)
19	06/24/2008	(684073)
20	06/24/2008	(684075)
21	07/23/2008	(685753)
22	07/23/2008	(685760)
23	07/23/2008	(685980)
24	07/23/2008	(686043)
25	09/08/2008	(687579)
26	09/09/2008	(687556)
27	09/09/2008	(687558)
28	11/14/2008	(702231)

29 01/14/2009 (723119)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/16/2006 (453227) CN601229917

Self NO Classification Moderate

Citation: 19317, special condition No. 7 PA  
30 TAC Chapter 116, SubChapter B 116.115(c)

Description: The facility failed to comply with the special condition No. 7 of the permit No. 19317 by failure to maintain the inlet oxygen concentration in the range of 1,000 to 5,000 ppmv during the second quarter engine testing on engine 40, which was conducted on April 5, 2005.

Self NO Classification Moderate

Citation: 19317 PA  
30 TAC Chapter 116, SubChapter B 116.115(c)

Description: The facility failed to comply with the special condition No. 18 of the permit No. 19317

by failure to conduct an engine test on engine 40 after it was documented that the inlet oxygen concentration exceeded the allowable range, during a quarterly test on April 5, 2005. The test was not conducted until August 10, 2005.

Self NO Classification Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
Description: The facility failed to include the engine 40 non-compliance issue (failure to conduct a follow-up test) in the deviation report, submitted on July 25, 2005.  
Date: 10/11/2007 (595176) CN601229917

Self NO Classification Moderate  
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT KKK 60.632(a)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(h)(2)  
Description: Failed to maintain less than 3% of the total number of valves within the V-Line process unit as difficult-to-monitor as required by the NSPS Subpart KKK monitoring program.  
Date: 11/14/2008 (702231) CN601229917

Self NO Classification Moderate  
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT KKK 60.632(a)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(d)(1)  
Description: Failed to repair/replace a valve that was detected as leaking on March 20, 2007, within the required 15 calendar days after the leak was detected.  
Date: 11/14/2008 (702231) CN601229917

Self NO Classification Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(e)  
Special condition 1 OP  
Description: Failed to operate the flare at all times when emissions were vented resulting in a release of hydrogen sulfide on 2 occasions.

Self NO Classification Minor  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 113, SubChapter C 113.100  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT JJJ 60.632(a)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(2)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT HH 63.760(g)(1)  
Description: Failed to seal open-ended lines at all times in violation of the provisions of 40 CFR §60.482-6(a)(2), 40 CFR §63.760(g)(1), 40 CFR §60.632(a), 30 TAC §101.20(2) and 30 TAC §101.20(1).

Self NO Classification Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
General Conditions OP  
Description: Failed to include all instances of deviation in the deviation report for the reporting period January 1 through June 30, 2008, in violation of the deviation reporting requirements of 30 TAC §122.145(2)(A).

Self NO Classification Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.146(5)  
General conditions OP  
Description: Failed to submit a complete and accurate annual compliance certification for the reporting period from January 1 through June 30, 2008, as required by the provisions of 30 TAC §122.146(5).

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.132(e)(2)  
Description: Failed to correctly identify the permit authorizations in the initial GOP application for Engines 1, 2, 31 and 34 in violation of the provisions of 30 TAC §122.132(e)(2).

Self Report? NO Classification Minor  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT JJJ 60.632(a)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(2)  
Description: Failed to seal open-ended lines at all times.

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
Special condition 3(A) PERMIT  
Description: Failed to conduct an emission test on ENG-27 during the second quarter of 2008.

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 113, SubChapter C 113.100  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.486(e)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT HH 63.774(b)(9)  
Description: Failed to identify and monitor all equipment in VOC service.

F. Environmental audits.

Notice of Intent Date: 02/16/2004 (265296)

No DOV Associated

Notice of Intent Date: 03/04/2004 (268138)

No DOV Associated

Notice of Intent Date: 10/27/2008 (722203)

No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DCP MIDSTREAM, LP  
RN100219955

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0123-AIR-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding DCP Midstream, LP ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a natural gas plant at 15150 County Road 9 in Gruver, Hansford County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 19, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Six Hundred Dollars (\$7,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Forty Dollars (\$3,040) of the administrative penalty

and One Thousand Five Hundred Twenty Dollars (\$1,520) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Three Thousand Forty Dollars (\$3,040) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to limit the formaldehyde concentration to 350 parts per billion ("ppb") or less at 15% oxygen or to reduce formaldehyde emissions by 76% or more for a reciprocating internal combustion engine ("RICE"), in violation of 30 TEX. ADMIN. CODE § 113.1090, TEX. HEALTH & SAFETY CODE § 382.085(b), and 40 CODE OF FEDERAL REGULATIONS § 63.6600(a), as documented during an investigation conducted on January 7, 2009. Specifically, a test conducted on October 7, 2008 on RICE Emission Point No. ("EPN") ENG 1 showed 1212.07 ppb at 15% oxygen and formaldehyde reduction efficiency at 74.31%.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: DCP Midstream, LP, Docket No. 2009-0123-AIR-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Three Thousand Forty Dollars (\$3,040) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 180 days after the effective date of this Agreed Order, submit written certification that a reference method stack test as required by 40 CODE OF FEDERAL REGULATIONS § 63.6600(a) has been conducted on RICE EPN ENG 1, that demonstrates compliance with formaldehyde concentration emission limits in order to address the October 7, 2008 non-compliant stack test; and
  - b. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

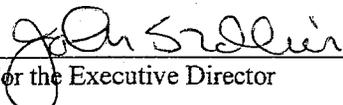
Air Section, Manager  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3918 Canyon Drive  
Amarillo, Texas 79109-4933

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

6/15/2009  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

May 5, 2009  
Date

Jerry Barnhill  
Name (Printed or typed)  
Authorized Representative of  
DCP Midstream, LP

EHS Vice President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.



Attachment A  
Docket Number: 2009-0123-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** DCP Midstream, LP

**Payable Penalty Amount:** Six Thousand Eighty Dollars (\$6,080)

**SEP Amount:** Three Thousand Forty Dollars (\$3,040)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up

**Location of SEP:** Hansford County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

