

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2004-0386-AIR-E TCEQ ID: RN103058566 CASE NO.: 14112**  
**RESPONDENT NAME: ROBERTO NEGRETE DBA FINA MART NO. 18**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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> 7710 South Loop 12, Dallas, Dallas County</p> <p><b>TYPE OF OPERATION:</b> Vehicle inspection station in the business of conducting automobile emissions test</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input 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 April 7, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Anna Cox, Litigation Division, MC 175, (512) 239-0974  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  <b>TCEQ Enforcement Coordinator:</b> Ms. Stacey Young, Air Enforcement Section, MC 149, (512) 239-1899  <b>TCEQ Regional Contact:</b> Ms. Alyssa Taylor, DFW Regional Office, MC R-4, (817) 588-5828  <b>Respondent:</b> Mr. Roberto Negrete, Owner, Fina Mart No. 18, 3914 Alsbury Street, Dallas, Texas 75216  <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></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b>                      N/A</p> <p><b>Date of Investigation Relating to this Case:</b>                      September 11, 2003</p> <p><b>Date of NOE Relating to this Case:</b>                      October 29, 2003</p> <p><b>Background Facts:</b></p> <p>The Litigation Division made several unsuccessful attempts to locate the Respondent. The Respondent was eventually located and the EDPRP was filed and mailed on January 3, 2008. The Respondent received notice of the EDPRP on January 9, 2008, however, he failed to file an Answer, request a hearing or request a settlement conference.</p> <p><b>AIR:</b></p> <p>Failed to comply with emissions certificate regulations by issuing a Safety/Emissions certificate without performing the emissions test [30 TEX. ADMIN. CODE § 114.50(d)(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$1,250</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>Total Due to General Revenue:</b> \$1,250</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent no longer owns or operates the business. The Executive Director does not recommend any corrective measures at this time.</p>



## Penalty Calculation Worksheet (PCW)

Policy Revision 2 (09/02)

PCW Revision 2/10/2004

**DATES**

PCW  Screening  Priority Due  EPA Due

**RESPONDENT INFORMATION**

Respondent   
 Respondent/Site ID No(s)   
 Facility/Site Region  Major/Minor Source

**CASE INFORMATION**

Enf./Case ID No(s)   
 Docket No.  No. Violations   
 Case Priority  Order Type   
 Enf. Coordinator  EC's Team   
 Media Program(s)   
 Admin. Penalty \$ Limit Minimum  Maximum

### Penalty Calculation Section

**TOTAL BASE PENALTY** (Sum of violation base penalties) Subtotal 1

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History**  Enhancement Subtotals 2, 3 & 7

Notes  +

**Culpability**  Enhancement Subtotal 4

Notes  +

**Good Faith Effort to Comply**  Reduction Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
None of the above	<input checked="" type="text" value="X"/>	<i>(mark with small x)</i>	+

Notes  +

**Economic Benefit**  Enhancement\* Subtotal 6

	\$79	Total EB Amounts	* <td></td>	
	\$75	Approx. Cost of Compliance		=

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Enhancement Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. *(enter number only; e.g. -30 for -30%)*

Notes  =

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Deferral  Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. *(enter number only; e.g. 20 for 20% reduction)*

Notes  =

**PAYABLE PENALTY**

**Screening Date** 30-Mar-2004  
**Respondent** Roberto Negrete dba Fina Mart No. 18  
**Case ID No.** 14112

**Docket Number** 2004-0386-AIR-E **PCW**  
**Policy Revision 2 (09/02)**  
**PCW Revision 2/10/2004**

**Respondent/Site ID No.** Regulated Entity ID No. RN103058566  
**Media [Statute]** Air Quality  
**Enf. Coordinator** Miriam Hall  
**Site Address** 7710 South Loop 12, Dallas, Dallas County

**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>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	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>	0	0%
	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%
<i>Please enter Yes or No</i>			
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)** 0%

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

No  Select Yes/No

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

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

Average Performer  Select High, Average or Poor

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

**Compliance History Summary**

**Compliance History Notes** The Respondent has no prior Notices of Violation or final enforcement orders within the past five years at this facility

**Total Adjustment Percentage (Subtotals 2, 3 & 7)** 0%

**Screening Date** 30-Mar-04      **Docket Number** 2004-0386-AIR-E      **PCW**  
**Respondent** Roberto Negrete dba Fina Mart No. 18      **Policy Revision 2 (09/02)**  
**Case ID No.** 14112      **PCW Revision 2/10/2004**

**Respondent/Site ID No.** Regulated Entity ID No. RN103058566

**Media [Statute]** Air Quality

**Enf. Coordinator** Miriam Hall

**Violation Number**

**Primary Rule Cite**

**Secondary Cite(s)**

**Violation Description**  
 As documented by the Department of Public Safety's ("DPS") VI-64 investigative report dated February 6, 2003, the Respondent failed to comply with emission certificate regulations by issuing a Safety/Emissions certificate without performing the emissions test.

**Base Penalty**

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

		Harm			Percent
		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

» **Programmatic Matrix**

		Major	Moderate	Minor	Percent
OR	Falsification	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

**Matrix Notes**

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

*mark only one; use small x*

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

**Violation Base Penalty**

**Events Notes**

**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** Roberto Negrete dba Fina Mart No. 18  
**ID Number(s)** 14112  
**Media [Statute]** Air Quality  
**Violation Number** 1

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

<b>Item Description</b>	<b>Item Cost</b> <small>No commas or \$</small>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs							

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$75	6-Feb-2003	17-Jun-2003	1.0	\$4	\$75	\$79
Notes for AVOIDED costs	The economic benefit received is based on the amount of money charged to obtain the inspection sticker. Date required is the date of the investigation. Final date is the date the DPS suspended Mr. Negrete's vehicle safety/emission certification.						

Approx Cost of Compliance

**TOTAL**



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ROBERTO NEGRETE DBA FINA  
MART NO. 18;  
RN103058566**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER  
DOCKET NO. 2004-0386-AIR-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Roberto Negrete dba Fina Mart No. 18 ("Mr. Negrete").

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Mr. Negrete owned and operated an official vehicle inspection station in the business of conducting automobile emissions tests located at 7710 South Loop 12, Dallas, Dallas County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During a record review conducted on September 11, 2003, in response to a Department of Public Safety (DPS) investigation report VI-64, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Mr. Negrete failed to comply with emissions certificate regulations by issuing a Safety/Emissions certificate without performing the emissions test.
4. Mr. Negrete received notice of the violation on or about June 17, 2003.
5. The Executive Director recognizes that Mr. Negrete does not own the Station as of January 2005.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement

Order Assessing an Administrative Penalty Against Roberto Negrete dba Fina Mart No. 18” (the “EDPRP”) in the TCEQ Chief Clerk’s office on January 3, 2008.

7. By letter dated January 3, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Negrete with notice of the EDPRP. According to the return receipt “green card,” Mr. Negrete received notice of the EDPRP on January 9, 2008, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Mr. Negrete received notice of the EDPRP, provided by the Executive Director. Mr. Negrete failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Negrete is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Negrete failed to comply with emissions certificate regulations by issuing a Safety/Emissions certificate without performing the emissions test, in violation of 30 TEX. ADMIN. CODE § 114.50(d)(2) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Mr. Negrete with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 8, Mr. Negrete failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Negrete and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Negrete for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission’s jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of one thousand two hundred fifty dollars (\$1,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Negrete is assessed an administrative penalty in the amount of one thousand two hundred fifty dollars (\$1,250.00) for violations of the TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ. The payment of this administrative penalty and Mr. Negrete's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Roberto Negrete dba Fina Mart No. 18; Docket No. 2004-0386-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. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Mr. Negrete.
4. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Negrete if the Executive Director determines that Mr. Negrete has not complied with one or more of the terms or conditions in this Order.
5. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
6. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Roberto Negrete dba Fina Mart No. 18  
Docket No. 2004-0386-AIR-E  
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## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF ANNA M. COX**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Anna M. Cox. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Roberto Negrete dba Fina Mart No. 18” (the “EDPRP”) was filed with the Office of the Chief Clerk on January 3, 2008.

The EDPRP was mailed to Mr. Negrete at his last known address on January 3, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Negrete received notice of the EDPRP on January 9, 2008, as evidenced by the signature on the card.

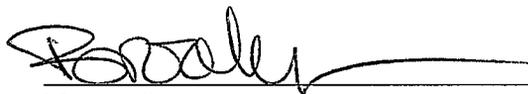
More than 20 days have elapsed since Mr. Negrete received notice of the EDPRP. Mr. Negrete failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



\_\_\_\_\_  
Anna M. Cox, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Anna M. Cox, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 15<sup>th</sup> day of February, A.D., 2008.

  
\_\_\_\_\_  
Notary Signature