

**Executive Summary – Enforcement Matter – Case No. 61029  
TEXMORE, INC.  
RN103783445  
Docket No. 2021-0910-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Cameron Auto Salvage, 20939 Highway 6, Manvel, Brazoria County

**Type of Operation:**

Metal recycling site

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** March 18, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$11,875

**Amount Deferred for Expedited Settlement:** \$2,375

**Total Paid to General Revenue:** \$4,750

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$4,750

Name of SEP: Texas City Independent School District (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** May 7, 2021

**Complaint Information:** Alleged the Respondent’s facility cuts steel and metal pipes causing smoke, metal dust, and flames during cutting. The resulting odor was affecting the use of their property.

**Executive Summary – Enforcement Matter – Case No. 61029**  
**TEXMORE, INC.**  
**RN103783445**  
**Docket No. 2021-0910-AIR-E**

**Date(s) of Investigation:** May 27, 2021 through July 2, 2021

**Date(s) of NOE(s):** July 7, 2021

***Violation Information***

Failed to prevent nuisance conditions. Specifically, TCEQ staff observed dust emissions from water truck activity at the Site impacting off-site residential property on February 7, 2020 and observed white smoke from the Site impacting off-site receptors on August 18, 2020, resulting in the confirmation of nuisance dust and smoke conditions [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By July 19, 2021, the Respondent installed an electric sheer and misting system in order to minimize dust and smoke emissions from the Site from causing nuisance conditions that impact off-site receptors.

**Technical Requirements:**

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Kate Dacy, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-4593; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**SEP Third-Party Administrator:** Texas City Independent School District SEP, 2901 Turtle Creek Drive, Suite 445, Port Arthur, Texas 77642

**Respondent:** Jason Black, President, TEXMORE, INC., 20939 Highway 6, Manvel, Texas 77578

**Respondent's Attorney:** N/A

## Texas Commission on Environmental Quality Investigation Report

The TCEQ is committed to accessibility. If you need assistance in accessing this document, please contact oce@tceq.texas.gov

**Customer: Texmore, Inc.**  
**Customer Number: CN602302077**

**Regulated Entity Name: CAMERON AUTO SALVAGE**

**Regulated Entity Number: RN103783445**

<b>Investigation #</b> 1737430	<b>Incident Numbers</b>
<b>Investigator:</b> RUSSELL HARE	<b>Site Classification</b>
<b>Conducted:</b> 05/27/2021 --07/02/2021	<b>SIC Code:</b> 5093
<b>Program(s):</b> AIR QUALITY NON PERMITTED	<b>NAIC Code:</b> 484220

**Investigation Type:** Compliance Investigation      **Location:**

**Additional ID(s):**

**Address:** 20939 HIGHWAY 6,  
MANVEL, TX , 77578

**Local Unit:** REGION 12 - HOUSTON  
**Activity Type(s):** AIRFIOS - AIR AIRFIOS - ONSITE  
FOLLOW UP INV

**Principal(s):**

Role	Name
RESPONDENT	TEXMORE INC

**Contact(s):**

Role	Title	Name	Phone
REGULATED ENTITY CONTACT	FACILITY OWNER	MR JASON BLACK	Work (281) 489-1881

**Other Staff Member(s):**

Role	Name
Supervisor	MARK KOLKMEIER
QA Reviewer	MARK KOLKMEIER

### Associated Check List

<u>Checklist Name</u>	<u>Unit Name</u>
AIR GENERIC INVESTIGATION (10 ITEMS)	Sitewide

**Investigation Comments:**

INTRODUCTION

The purpose of this investigation is to determine whether the compliance documentation submitted by Texmore Inc., d.b.a. Cameron Auto Salvage provided the corrective action required for one outstanding violation noted during the investigation conducted on February 7, 2020 through August 18, 2020 (Investigation No. 1624371, AIRCOMPL).

Daily Narrative

On May 27, 2021, Mr. Russell Hare conducted a follow-up investigation (Investigation Type Code AIRFIOS). This investigation is a follow-up to Investigation # 1624371 (Investigation Type Code AIRCOMPL) conducted from February 7, 2020 through August 18, 2020 to investigate complaint incident 355473.

Listed below is the violation and the response information:

Date of Notice of Violation (NOV) letter: December 18, 2020

NOV Response Due Date: February 16, 2021

Violation Tracking Number (VTN): 766199

Violations: 30 TAC 104.1 Failure to prevent a nuisance condition.

Investigation Findings:

For VTN 766199, an enforcement action referral (EAR) will be initiated. The Notice of Violation (NOV) letter dated December 18, 2021 required a written description of the corrective action taken to resolve the outstanding violation (VTN 766199) to be provided by February 16, 2021. No response to that NOV was received by the TCEQ by the required response deadline. On June 24, 2021, Cameron Auto Salvage provided an email response to an Exit Interview Records Request describing the actions they have taken to correct the outstanding violation (Attachment 1). These actions allegedly included installing a windsock for determining wind conditions, make efforts to cut the cleanest of metals, and conduct daily observations. The corrective actions described in Cameron's response was determined to be insufficient to resolve the violation. The corrective actions were insufficient because the investigation conducted on site on May 27, 2021 found that smoke and odor continued to be emitted with high potential to cause a nuisance condition, and excess opacity was observed that demonstrated an interference with the normal use and enjoyment of nearby properties (See Attachment 2, Photographs). Also see investigation 1738451, AIRCOMPL, conducted onsite May 27, 2021. Since corrective action was not provided by the required time frame for VTN 766199, a Notice of Enforcement (NOE) letter will be issued to Cameron Auto Salvage.

Exit Interview

On June 23, 2021, the investigator conducted an exit interview with Mr. Jason Black, Owner, Cameron Auto Salvage. The purpose of the Exit Interview was to request records that demonstrated a suitable corrective action to resolve the alleged violation. An Exit Interview Form was completed by the investigator and acknowledged by Mr. Black. The Exit Interview Form is provided in Attachment 3. On June 25, 2021, via email, Mr. Black was notified that the violation will be referred to enforcement due to lack of sufficient corrective action. See Attachment 4.

GENERAL FACILITY AND PROCESS INFORMATION

Process Description

Cameron Auto Salvage is a metal recycling facility that received residential, industrial, and commercial scrap metal, and cuts ferrous and nonferrous metals into sizes mandated by the recycling mills' specifications (3'x4', etc.) and put into square bales. Oxyfuel (oxygen and propane) cutting torches are used by staff to cut upon thick metal pieces in open air. The metals are trucked to steel mills located in Beaumont, Seguin, Midlothian, and other areas. Approximately 6000 tons of ferrous metals are processed each month. The process description is included in the original investigation report. Additional information can be found in the TCEQ Central File Room.

BACKGROUND

Agreed Orders, Court Orders, and Other Compliance Agreements

Information regarding agreed orders, court orders, and other compliance agreements is included in the original investigation report.

Prior Enforcement Issues

Information regarding prior enforcement issues is included in the original investigation report.

Complaints

Information regarding complaints is included in the original investigation report.

ADDITIONAL INFORMATION

Conclusions, Recommendations, and Current Enforcement Actions

Based on the compliance documentation submitted by Cameron Auto Salvage, one violation has not been adequately resolved. For VTN 766199, a Notice of Enforcement (NOE) letter will be issued to Cameron Auto Salvage.

Additional Issues

No additional issues were noted during this investigation.

Attachments

1. Response email dated June 24, 2021 from Cameron Auto Salvage
2. Photographs
3. Exit Interview Form
4. Notice to Facility of Enforcement Referral
5. Investigation 1624371 NOV Letter and Summary of Investigation Findings

**NOE Date: 7/7/2021**

**OUTSTANDING ALLEGED VIOLATION(S)  
ASSOCIATED TO A NOTICE OF ENFORCEMENT**

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**Track Number:** 766199

**Compliance Due Date:** 02/16/2021

**Violation Start Date:** 2/7/2020

**30 TAC Chapter 101.4**

**5C THSC Chapter 382.085(b)**

**Alleged Violation:**

**Investigation: 1624371**

Comment Date: 12/15/2020

Failure to prevent a nuisance condition.

During the complaint investigations at Cameron Auto Salvage on February 7, 2020 and August 18, 2020, smoke was observed traveling over the property line and onto a nearby residential property as a result of the facility's operations. The smoke emissions observed demonstrated interference with the normal use and enjoyment of this residential property. In addition, the observation made during the investigation confirms the allegation made by the complainant relating to smoke emissions from the site. This constitutes a violation of 30 TAC 101.4, which states, "No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and such duration as are or may tend to be injurious to or adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property."

This further constitutes a violation of the Texas Health and Safety Code 382.085(b).

**Investigation: 1737430**

Comment Date: 07/01/2021

An on-site follow-up investigation was conducted by the TCEQ on May 27, 2021 to determine the compliance status of this alleged violation. Cameron Auto Salvage was required to submit written documentation of compliance with applicable air quality requirements by February 16, 2021 in accordance with the Notice of Violation (NOV) issued December 18, 2020. No written documentation of compliance or sufficient written

corrective action was provided to the TCEQ by the February 16, 2021 deadline. In addition, excessive emissions from Cameron Auto Salvage operations, which contributed to the nuisance conditions, were observed on site by the TCEQ on May 27, 2021. Therefore, Violation Tracking Number (VTN) 766199 was found not to be resolved.

**Recommended Corrective Action:** Submit a written description of corrective action taken and the required documentation demonstrating that compliance has been achieved for this outstanding violation.

Signed Russell Hare Date 7/7/2021  
\_\_\_\_\_  
Environmental Investigator

Signed M. K. Kaltmeier Date 7/7/2021  
\_\_\_\_\_  
Supervisor

**Attachments: (in order of final report submittal)**

- \_\_\_ Enforcement Action Request (EAR)
- Letter to Facility (specify type) : NOE
- Investigation Report
- \_\_\_ Sample Analysis Results
- \_\_\_ Manifests
- \_\_\_ Notice of Registration

- \_\_\_ Maps, Plans, Sketches
- Photographs
- Correspondence from the facility
- Other (specify) :
- Exit Interview
- \_\_\_\_\_  
Investigation 1624371 NOV



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	12-Jul-2021	<b>Screening</b>	12-Jul-2021	<b>EPA Due</b>	
	<b>PCW</b>	20-Jan-2022				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	TEXMORE, INC.
<b>Reg. Ent. Ref. No.</b>	RN103783445
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61029	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-0910-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Kate Dacy
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$12,500
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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>	5.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$625
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Notes: Enhancement for one NOV with the same or similar violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$1,250
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$1,447  
 Estimated Cost of Compliance: \$20,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$11,875
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$11,875
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$11,875
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$2,375
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$9,500
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**Screening Date** 12-Jul-2021  
**Respondent** TEXMORE, INC.  
**Case ID No.** 61029  
**Reg. Ent. Reference No.** RN103783445  
**Media** Air  
**Enf. Coordinator** Kate Dacy

**Docket No.** 2021-0910-AIR-E

**PCW**

Policy Revision 5 (January 28, 2021)  
 PCW Revision February 11, 2021

### Compliance History Worksheet

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

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	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 judgments 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%
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)** 5%

#### >> Repeat Violator (Subtotal 3)

No

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

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

Satisfactory Performer

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

#### >> Compliance History Summary

**Compliance History Notes**

Enhancement for one NOV with the same or similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 5%



**Screening Date** 12-Jul-2021  
**Respondent** TEXMORE, INC.  
**Case ID No.** 61029  
**Reg. Ent. Reference No.** RN103783445  
**Media** Air  
**Enf. Coordinator** Kate Dacy

**Docket No.** 2021-0910-AIR-E

**PCW**

*Policy Revision 5 (January 28, 2021)*

*PCW Revision February 11, 2021*

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)

**Violation Description** Failed to prevent nuisance conditions. Specifically, TCEQ staff observed dust emissions from water truck activity at the Site impacting off-site residential property on February 7, 2020 and observed white smoke from the Site impacting off-site receptors on August 18, 2020, resulting in the confirmation of nuisance dust and smoke conditions.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		25.0%
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

**Matrix Notes** Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as the result of the violation.

**Adjustment** \$18,750

\$6,250

**Violation Events**

Number of Violation Events 2 Number of violation days 2

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$12,500

Two single events are recommended for the days that nuisance dust and smoke conditions were confirmed.

**Good Faith Efforts to Comply**

10.0%

Reduction \$1,250

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		

**Notes** The Respondent completed the corrective actions by July 19, 2021, after the Notice of Enforcement dated July 7, 2021.

**Violation Subtotal** \$11,250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1,447

**Violation Final Penalty Total** \$11,875

**This violation Final Assessed Penalty (adjusted for limits)** \$11,875

## Economic Benefit Worksheet

**Respondent** TEXMORE, INC.  
**Case ID No.** 61029  
**Reg. Ent. Reference No.** RN103783445  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### 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				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$20,000	7-Feb-2020	19-Jul-2021	1.45	\$1,447	n/a	\$1,447

**Notes for DELAYED costs**

Estimated cost to install an electric sheer and misting system in order to minimize dust and smoke emissions from the Site from causing nuisance conditions that impact off-site receptors. The Date Required is the initial date nuisance conditions were documented and the Final Date is the date of compliance.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$20,000

**TOTAL**

\$1,447

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# Compliance History Report

Compliance History Report for CN602302077, RN103783445, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN602302077, TEXMORE, INC. **Classification:** SATISFACTORY **Rating:** 0.50

**Regulated Entity:** RN103783445, CAMERON AUTO SALVAGE **Classification:** SATISFACTORY **Rating:** 0.50

**Complexity Points:** 8 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 20939 HIGHWAY 6 IN BRAZORIA COUNTY, MANVEL, TEXAS

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**  
**STORMWATER PERMIT TXR05L089** **TIRES REGISTRATION 9536**  
**TIRES REGISTRATION 13043** **INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 96890**

**Compliance History Period:** September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

**Date Compliance History Report Prepared:** September 15, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** September 15, 2016 to September 15, 2021

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Kate Dacy **Phone:** (512) 239-4593

## Site and Owner/Operator History:

- 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/operator of the site during the compliance period? NO

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 12/18/2020 (1624371)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.4  
5C THSC Chapter 382 382.085(b)  
Description: Failure to prevent a nuisance condition (Category B17).

### **F. Environmental audits:**

N/A

**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  
TEXMORE, INC.  
RN103783445**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2021-0910-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding TEXMORE, INC. (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 together stipulate that:

1. The Respondent owns and operates a metal recycling site located at 20939 Highway 6 in Manvel, Brazoria County, Texas (the "Site"). The Site consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$11,875 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$4,750 of the penalty and \$2,375 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$4,750 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the

conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.
6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. 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.
9. The Executive Director recognizes that by July 19, 2021, the Respondent installed an electric sheer and misting system in order to minimize dust and smoke emissions from the Site from causing nuisance conditions that impact off-site receptors.

## **II. ALLEGATIONS**

During an investigation conducted from May 27, 2021 through July 2, 2021, an investigator documented that the Respondent failed to prevent nuisance conditions, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b). Specifically, TCEQ staff observed dust emissions from water truck activity at the Site impacting off-site residential property on February 7, 2020 and observed white smoke from the Site impacting off-site receptors on August 18, 2020, resulting in the confirmation of nuisance dust and smoke conditions.

## **III. DENIALS**

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

## **IV. ORDERING PROVISIONS**

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: TEXMORE, INC., Docket No. 2021-0910-AIR-E" to:

Financial Administration Division, Revenue Operations 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 an SEP as set forth in Section I, Paragraph No. 4. The amount of \$4,750 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this 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 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 Order or in any plan, report, or other document submitted pursuant to this 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 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 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 Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall

constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.



### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date



\_\_\_\_\_  
7/5/2022

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

\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jason Black

\_\_\_\_\_  
2/10/22  
President

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
TEXMORE, INC.

\_\_\_\_\_  
Title

*If mailing address has changed, please check this box and provide the new address below:*

**Attachment A**  
**Docket Number: 2021-0910-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>TEXMORE, INC.</b>
<b>Payable Penalty Amount:</b>	<b>\$9,500</b>
<b>SEP Offset Amount:</b>	<b>\$4,750</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas City Independent School District</b>
<b>Project Name:</b>	<b><i>TCISD Alternative Fuel School Bus Program</i></b>
<b>Location of SEP:</b>	<b>Texas Air Quality Control Region 216: Houston-Galveston</b>

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 Offset 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 the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas City Independent School District** for the *TCISD Alternative Fuel School Bus Program* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to purchase lower-emission propane fueled school buses that are model year 2010 or newer (“Replacement Bus(es)”) to replace buses currently in the fleet that are model year 2006 or older (“Older Bus(es)”). The Older Buses will then be decommissioned, thus permanently removing them from the roads. The SEP Offset Amount shall only be used for the purchase of a base model propane fueled Replacement Bus. The Third-Party Administrator shall own and operate each Replacement Bus for at least five years following the date of purchase.

The Third-Party Administrator shall give preference to replacing the oldest, most polluting buses within its fleet. Only Older Buses that are currently in regular use, driven on a regular route on a weekly basis for at least the past two years are eligible for replacement.

TEXMORE, INC.  
Docket No. 2021-0910-AIR-E  
Agreed Order - Attachment A

The Third-Party Administrator shall ensure that each Replacement Bus purchased has an engine that meets the Environmental Protection Agency's 2010 emissions standards. Additionally, all Older Buses that are replaced shall be fully decommissioned as required in the SEP Vehicle Disposition Form. All funds received for the scrap value of the Older Bus shall be deposited into the SEP Account and become part of the SEP. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely to settle this enforcement action. The Respondent shall not profit from this SEP.

b. Environmental Benefit

The Project will directly benefit air quality in Third-Party Administrator's region by reducing harmful exhaust emissions from older school buses by replacing them with lower-emission propane buses. Older school bus engines emit greater amounts of harmful pollutants such as nitrous oxides, particulate matter, volatile organic compounds, and carbon monoxide than newer, lower-emission buses. These pollutants contribute to the formation of ground level ozone which damages vegetation and ecosystems and may cause or exacerbate a number of respiratory diseases, including asthma, especially in children.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator 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 Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas City Independent School District SEP** and shall mail the contribution with a copy of the Agreed Order to:

TEXMORE, INC.  
Docket No. 2021-0910-AIR-E  
Agreed Order - Attachment A

Texas City Independent School District SEP  
Attention: John Johnson, Consultant  
2901 Turtle Creek Drive, Suite 445  
Port Arthur, Texas 77642

### **3. Records and Reporting**

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

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

### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP and/or project, 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. Recognition**

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 Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.