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Margaret Hoffman, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 13, 2004

CERTIFIED MAIL # 7002 0860 0000 9040 7278
RETURN RECEIPT REQUESTED

Mr. Brian Hard, President
Penske Truck Leasing
P.O. Box 563
Route 10-Green Hills
Reading, PA 19603-0563

Re: Notice of Violation for the Spill Investigation at IH-35 South, near Exit 221, Buda, Hays County, Texas

Dear Mr. Hard:

On October 9, 1997, the Texas Commission on Environmental Quality (TCEQ) responded to a tractor-trailer accident at the above-referenced location. The TCEQ has continued the investigation of the incident to assure environmental compliance with applicable requirements of the Texas Water Code, the Texas Administrative Code and the Code of Federal Regulations. The information obtained in the investigation indicates that violations have occurred regarding the management of the waste material generated during the incident. Enclosed is a summary which lists the investigation findings. Please submit to this office by July 13, 2004, a written description of corrective actions taken and the required documentation demonstrating that the cathode ray tube contaminated solid waste at the Texas Disposal Systems Landfill has been removed and properly disposed of at an authorized facility.

In the enclosed listing we have cited applicable requirements, including TCEQ rules. If you would like to obtain a copy of the applicable TCEQ rules, you may contact any of the sources listed in the enclosed brochure entitled "Obtaining TCEQ Rules." Copies of applicable federal regulations may be obtained from either of the following offices:

U.S. Government Printing Office
Texas Crude Building
801 Travis Street
Houston, Texas 77002
713/228-1187 (phone)

U.S. Government Printing Office
Room 1C-50
Federal Building
1100 Commerce Street
Dallas, Texas 75242
214/767-0076 (phone)

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The TCEQ appreciates your assistance in this matter. We anticipate that you will resolve this matter as required in order to protect the State's environment.

If you or members of your staff have any questions, please feel free to contact me at (512) 239-3900.

Sincerely,



Glenn W. Shankle, Acting Executive Director
Texas Commission on Environmental Quality

GS/bem

cc: Mr. Michael A. Duff, Penske Truck Leasing, Reading, PA
Mr. Douglas Y. Christian, Reed Smith, 2500 One Liberty Place, 1650 Market Street,
Philadelphia, PA 19103-7301
TCEQ Austin Regional Office

Enclosure: Summary of Investigation Findings

SUMMARY OF INVESTIGATION FINDINGS
Penske Truck Leasing Co., L.P., Penske Logistics, Inc.
Spill Investigation Located at IH-35 South, Near Exit 221, Buda, Hays County, Texas
Incident Date: October 9, 1997

NOTICE OF VIOLATIONS

1. 30 Tex. Admin. Code §330.4(b) / 30 Tex. Admin. Code §335.2(a) / 30 Tex. Admin. Code §335.2(b) and Tex. Admin. Code §335.43(a)

30 Tex. Admin. Code §330.4(b)

In accordance with the requirements of subsection (a) of this section, no generator, transporter, owner or operator of a facility, or any other person may cause, suffer, allow, or permit wastes to be stored, processed, or disposed of at an unauthorized facility or in violation of a permit.

30 Tex. Admin. Code §335.2(a)

No person may cause, suffer, allow, or permit any activity of storage, processing, or disposal of any industrial solid waste or municipal hazardous waste unless such activity is authorized by a permit, amended permit, or other authorization...

30 Tex. Admin. Code §335.2(b)

In accordance with the requirements of subsection (a) of this section, no generator, transporter, owner or operator of a facility, or any other person may cause, suffer, allow, or permit its wastes to be stored, processed, or disposed of at an unauthorized facility or in violation of a permit.

30. Tex. Admin. Code §335.43(a)

No person shall store, process, or dispose of hazardous waste without first having obtained a permit from the Texas Commission on Environmental Quality.

Alleged Violation

Failure to prevent the disposal of any industrial solid waste or municipal hazardous waste unless such activity is authorized by a permit, amended permit, or other authorization.

Penske caused, suffered, allowed, or permitted waste to be disposed of at an unauthorized facility.

Recommended Corrective Action

To resolve this alleged violation, the approximately 1,600 tons (99 plastic-lined and covered rolloff transport containers) of commingled cathode ray tube contaminated solid waste that resulted from Penske's actions must be removed from the Texas Disposal Systems Landfill (TDS) and disposed of at an authorized facility. Penske has until July 13, 2004 to remove and properly dispose of this waste and provide a written description of corrective action taken and the required documentation demonstrating that compliance has been achieved for the outstanding alleged violation.

SUMMARY OF INVESTIGATION FINDINGS

Penske Truck Leasing Co., L.P.

Spill Investigation Located at IH-35 South, Near Exit 221, Buda, Hays County, Texas

Incident Date: October 9, 1997

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2. 30 Tex. Admin. Code §335.62

30 Tex. Admin. Code §335.62

Hazardous Waste Determination and Waste Classification. A person who generates a solid waste must determine if that waste is hazardous pursuant to §335.504 of this title (relating to Hazardous Waste Determination) and must classify any nonhazardous waste under the provisions of Subchapter R of this chapter (relating to Waste Classification). If the waste is determined to be hazardous, the generator must refer to this chapter and to 40 Code of Federal Regulations Parts 261, 264, 265, 266, 268, and 273 for any possible applicable exclusions or restrictions pertaining to management of the specific waste.

Alleged Violation

Failure to determine if a generated waste was a hazardous waste.

Recommendation Corrective Action

There is no corrective actions for this alleged violation.