



New Mexico Health and Environment Department

GARREY CARRUTHERS
Governor

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Secretary

MICHAEL J. BURKHART
Deputy Secretary

RICHARD MITZELFELT
Director

October 23, 1990

Mr. Deke Moore
Customer Service Center Manager
Rinchem Company, Inc.
6133 Edith Blvd. NE
Albuquerque, NM 87107

Dear Mr. Moore:

Thank you for drawing our attention to the language in the biennial report form instructions that can be read as exempting Rinchem from the reporting requirement.

A conflict arises between the report form instructions, which can indeed be read as you did, and the language in Rinchem's hazardous waste permit. The permit states in Module I, section A (page 7): "...Compliance with this permit constitutes compliance...with the the New Mexico Hazardous Waste Act...and the New Mexico Hazardous Waste Management Regulations...". It also states, in Module II, section K(2)(a) (page 15): "The permittee shall comply with the biennial report requirements of HWMR-4, Section 203.C.3.a". Section 203.C.3.a (page II-49 in the permit) requires that: (1) The owner or operator must submit a single copy of a biennial report to the Director by March 1 of each even numbered year. The biennial report must be on EPA Form 8700-13B or on forms supplied by the Division. The report must cover facility activities during the previous calendar year...".

The permit requirements apply specifically to Rinchem, while the report form requirements were written with a variety of facilities in mind, many of them not subject to permitting requirements. Because of this, and in accord with EPA policy, our interpretation is that the permit requirements take precedence over the instructions contained in the report form, and Rinchem is obligated to submit a biennial report. We recognize that it may seem almost pointless for Rinchem to be required to submit a biennial report if no waste was handled by the permitted storage facility, and we do apologize for the inconvenience. The situation arises because of Rinchem's unique position in having a hazardous waste storage permit that it does not actively use. If the permit is no longer desired, please contact this bureau regarding its possible termination.

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It is not necessary to submit information based on the quantities of waste handled only as a transporter. If Rinchem handled no waste as a permitted storage facility in 1989, the questions on the report form should be answered based on quantities of waste generated.

If you have any further questions about the biennial report, please contact Dr. Gordon at 827-2934 or at the address given on the previous page.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen M. Sisneros". The signature is written in black ink and is positioned above the typed name and title.

Kathleen M. Sisneros
Bureau Chief
Hazardous and Radioactive Waste Bureau