



NEW MEXICO *ACT*  
ENVIRONMENT DEPARTMENT



*Hazardous Waste Bureau*

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Resource Protection Division

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

April 17, 2013

Lise V. Gorgone  
Vice President  
Director of Operations  
Rinchem Company, Inc.  
6137 Edith Boulevard NE  
Albuquerque, NM 87107

**SUBJECT: LETTER OF AUGUST 27, 2012, RETENTION OF OPERATING RECORDS AT RINCHEM/ACT CONTAINER STORAGE FACILITY, ALBUQUERQUE, NEW MEXICO  
EPA ID# NMD002208627  
NMED-HWB-MISC**

Dear Ms. Gorgone:

The New Mexico Environment Department (NMED) has received Rinchem Company, Inc.'s (Rinchem's) letter of August 27, 2012, which requested NMED to clarify the New Mexico Hazardous Waste Management Regulations under 20.4.1.500 NMAC incorporating 40 CFR § 264.73. More specifically, the request concerns the Operating Record for the Container Storage Facility (CSF) located in Albuquerque, New Mexico. Rinchem is the owner and former operator of the CSF. Advanced Chemical Transport (ACT) is the current operator of the CSF. Collectively, Rinchem and ACT are the Permittees for the CSF.

Rinchem requests that NMED clarify whether all Operating Records for the CSF should be considered part of the ACT records for the Facility given that ACT is now the operator. If NMED understands your letter correctly, Rinchem is of the opinion that ACT would maintain records since they became operator of the CSF, and that Rinchem was responsible for maintaining records generated while Rinchem was operator.

Ms. Gorgone  
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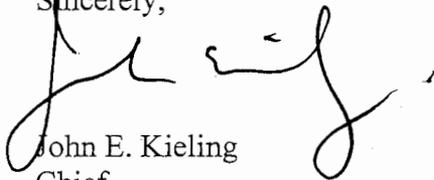
The requirement at 20.4.1.500 NMAC incorporating 40 CFR § 264.73 must also be considered in context with the Hazardous Waste Operating Permit (Permit) for the CSF. Permit Section II.L.1 states "The Permittees shall maintain a written Operating Record for each hazardous waste at the CSF for at least three (3) years from the date of report, sampling, measurement, or certification, as required by 20.4.1.500 NMAC, incorporating 40 CFR §264.73(a), and §270.30(j)(2). The Permittees shall maintain the Operating Record until closure of the CSF."

All records concerning date of report, sampling, measurement, or certification of each hazardous waste must be maintained at the CSF for at least three years as required by the Permit. No distinction is made between the owner, or past or present operator with regard to maintaining such records. Both Rinchem and ACT are equally bound to this requirement as Permittees.

In the case of Rinchem, 1) all records that are more than three years old, 2) that were generated by Rinchem when Rinchem was operator of the CSF, and 3) that are not required to be maintained for longer than three years or until closure of the CSF, are no longer subject to Permit Section II.L.1; Rinchem may maintain these records at a site not located at the CSF. The records must be made available to NMED upon request.

If you have any questions regarding this matter, please contact Mr. Cornelius Amindyas of my staff at (505) 222-9543.

Sincerely,



John E. Kieling  
Chief  
Hazardous Waste Bureau

cc: D. Cobrain, HWB, NMED  
W. Moats, HWB, NMED  
C. Amindyas, HWB, NMED  
L. King, Chief, EPA Region VI  
K. Wood, ACT, Inc.

File: ACT 2013 and Reading