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CERTIFIED MAIL – RETURN RECEIPT REQUESTED

July 15, 2014

Shawn Moudy, General Manager
Advance Chemical Treatment, Inc.
6133 Edith Boulevard NE
Albuquerque, NM 87107

Bill Moore
RCI Properties
6133 Edith Boulevard NE
Albuquerque, NM 87107

**RE: DISAPPROVAL
PERMIT RENEWAL APPLICATION, CONTAINER STORAGE FACILITY
RCI PROPERTIES/ADVANCED CHEMICAL TREATMENT, INC.
EPA ID#NMD002208627
RNCH-11-001**

Dear Messrs. Moudy and Moore:

The New Mexico Environment Department (NMED) has completed a technical review of the permit renewal application (**Application**) for the Part B Hazardous Waste Facility Permit (**Permit**) submitted by Rinchem Company (**Rinchem**) on August 12, 2011.

NMED notes that Advanced Chemical Treatment, Inc. (**ACT**) became the operator of the facility on October 17, 2011. In a letter dated January 20, 2012, NMED approved the transfer of financial responsibility from Rinchem to ACT. The owner of the facility is identified in the Part A Application Form as RCI Properties; as such, in accordance with 40 CFR § 260.10, which defines owner as “the person who owns a facility or part of a facility,” RCI Properties is a co-applicant and will be identified in the Permit as the owner of the facility and as a co-permittee.

Comments are provided that RCI Properties and ACT (collectively, the *Applicants*) must address before NMED can proceed with its review of the Application. The Applicants must resubmit a complete Application that addresses all the applicable requirements in 40 CFR Subpart B (§§270.10 through 270.29) no later than **October 31, 2014**.

The New Mexico Environment Department (**NMED**) provides the following comments regarding the *Permit Renewal Application for the Container Storage Facility*. The Applicants seek to renew the Hazardous Waste Facility Permit (**Permit**) for the container storage facility located at 6133 Edith Blvd. NE, Albuquerque, New Mexico, 87107.

Comments

1. 40 CFR § 260.10 defines owner as “the person who owns a facility or part of a facility.” Box 9.A of the Part A Application Form identifies RCI Properties-Bill Moore as the Site’s Legal Owner. 40 CFR § 270.10(b) states: “When a facility or activity is owned by one person but is operated by another person, it is the operator’s duty to obtain a permit, except that the owner must also sign the permit application.”

The current owner of the facility must sign the Part A Application and will be identified in the Permit as a “Permittee.”

2. The application identifies the operator as both Advanced Chemical Treatment, Inc., and Advanced Chemical Transport, Inc. The operator name must be clarified and be consistent throughout the application.
3. Box 10.A of the Part A Application Form indicates that the facility is a Large Quantity Generator (LQG). Include a discussion in the Part B Application (e.g., in the facility description section) that describes the wastes generated at the facility, including the processes that generate the wastes. Also include the methods used to characterize the waste generated at the facility in the Waste Analysis Plan (WAP).
4. Box 10.A of the Part A Application Form indicates that the facility is a United States Importer of Hazardous Waste. Section II.B.I of the current hazardous waste facility permit (permit), however, states: “The Permittee shall not accept waste from a foreign source without prior authorization from the U.S. Environmental Protection Agency (EPA). The Permittee shall include the authorization in the CSF operating record, and send a copy of the authorization document to the New Mexico Environment Department.”

If the Applicants have received authorization from US EPA to accept waste from a foreign source, provide the authorization as an attachment to the Part B Application. Otherwise, indicate on the Part A Application Form that the Applicants are not an importer of hazardous waste.

5. Box 10.B of the Part A Application Form indicates that the facility is a Destination Facility for Universal Waste. 40 CFR § 273.9 defines a destination facility as “a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in §273.13(a) and (c) and §273.33(a) and (c). A facility at which a particular category of universal waste is only accumulated, is not a destination

facility for purposes of managing that category of universal waste.” The application must describe the universal waste treatment, disposal, or recycling activities at the facility.

6. The application must include a WAP with detailed procedures for pre-acceptance, acceptance, and characterization. The WAP must include the waste analysis parameters, sampling and analysis procedures and methods, rationale for the methods selected, and waste acceptance criteria. The WAP must describe detailed methods for both the generators’ requirements for characterization and the Applicants’ requirements for pre-acceptance and fingerprint sampling and analysis upon receipt of waste. These waste analysis methods must be based on the physical form (e.g., liquid, solid, debris, etc.), and the chemical properties of the waste. Provide updated ACT standard operating procedures (SOPs) for all waste analysis activities.

The WAP must also include a general description of the different types of waste (e.g., liquids, lab packs, debris, etc.) accepted at the facility for storage, the waste analysis methods for each type, and examples of waste profiles for each type. If Acceptable Knowledge (AK) is used by generators to characterize waste, include at least one example of the AK used for each type of waste stream.

7. The application must include a description of each permitted storage unit, including current drawings and photographs, as applicable. Also include a clarification and description of areas used for staging containers for shipping and/or receiving, and whether those areas are subject to container storage requirements (e.g., inspections, secondary containment, etc.). The 10-day transfer yard should be described, but should not be permitted for hazardous waste storage.
8. The application must describe in detail the consolidation processes, including:
 - a. The types of wastes that are consolidated (e.g., liquids, lab packs, debris, etc.);
 - b. The criteria that waste must meet to be consolidated (e.g., compatibility, BTU-values, water content, etc.), including the procedures used to make a decision about which waste is consolidated;
 - c. A rationale/justification for why the consolidation of liquid wastes for off-site fuel blending does not meet the definition of treatment under 40 CFR § 260.10; and
 - d. The locations where different types of wastes are consolidated.
9. The application must include updated ACT SOPs for inspections and inspection forms. The SOPs and inspection forms must include inspection of the following items:
 - a. Secondary containment systems in both the loading/unloading areas and container storage areas (e.g., cracks/gaps in floors, degradation of floor coating, etc.);
 - b. The 500 and 3,790 gallon cement tanks behind the storage building/under the dock;
 - c. Container stacking and aisle spacing requirements;

- d. Condition of containers;
 - e. Compliance with the 50 foot buffer zone for ignitable and reactive wastes;
 - f. Segregation of incompatible wastes; and
 - g. Methods used to inspect containers that are hidden from view, e.g., containers that are stored several layers deep on racks in the permitted units.
10. The application must include a schedule of remedial actions to be taken in the event an inspection identifies deterioration or malfunction of equipment or other conditions that may lead to an environmental or human health hazard (see 40 CFR § 264.15(c)).
11. Include a discussion of how the Applicants will ensure incompatible wastes are segregated (e.g., acids and bases are stored in separate rooms divided by walls, with separate secondary containment systems, etc.). Include figures as appropriate indicating where incompatible wastes are stored.
12. When the Part B renewal application was submitted, the facility did not include the 10-day storage yard or the increased storage capacity. The revised application must include the following:
- h. a discussion of how the 10-day transfer yard impacts traffic patterns, volumes, and controls; and
 - i. a discussion of the traffic impact due to the increased storage capacity from 55,000 gallons to 261,780 gallons.
13. The application must include a description of the vented bungs the Applicants use on containers, including a discussion of how the use of the vented bungs complies with the requirements of 40 CFR 264 Subpart CC. Also include any air permits the Applicants have applied for and/or received for the facility.
14. Pages 80-81 of the Part B Application discuss a pre-application meeting between NMED, Rinchem Company, and ACT, as required by 40 CFR § 270.14(b)(22). The requirements for the pre-application meeting are at 40 CFR § 124.31, which applies to "RCRA part B applications seeking renewal of permits for [hazardous waste management] units, where the renewal application is proposing a significant change in facility operations. For the purposes of this section, a 'significant change' is any change that would qualify as a class 3 permit modification under 40 CFR 270.42."

In a letter dated December 10, 2012, the Applicants proposed to increase the storage capacity of the facility from 55,000 gallons to 261,780 gallons in the renewal application, which is an increase of approximately 475%. Under 40 CFR § 270.42, Appendix I, Item F.1.a, an increase in storage capacity of greater than 25% is a Class 3 permit modification, and therefore represents a significant change in facility operations as defined by 40 CFR § 124.31.

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124.31(b) states: "Prior to the submission of a part B RCRA permit application for a facility, or to the submission of a written Notice of Intent to be covered by a RCRA standardized permit (see 40 CFR part 270, subpart J), the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses."

The Applicants must conduct a public meeting, in accordance with the requirements of 40 CFR § 124.31, prior to submitting a revised permit renewal application, and provide proof of the public notice, the meeting, and any comments received to NMED with the application.

If you have any questions regarding this letter, please contact Timothy Hall at (505) 222-9555.

Sincerely,



John E. Kieling

Chief

Hazardous Waste Bureau

cc: D. Cobrain, NMED HWB
T. Hall, NMED HWB
K. Wood Harsono, ACT

File: RNCH-11-001