



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUIRED

January 9, 2024

Colonel Michael J. Power
Commander
377 ABW/CC
2000 Wyoming Blvd. SE
Kirtland AFB, NM 87117-5600

Israel Tavarez
Chief, Environmental Management
377 MSG/CEIE
2050 Wyoming Blvd. SE, Bldg. 20685
Kirtland AFB, NM 87117-5663

**RE: FY-23 INSPECTION
NOTICE OF VIOLATION WITH PROPOSED PENALTIES
KIRTLAND AIR FORCE BASE
EPA ID# NM9570024423**

Dear Col. Power and Mr. Tavarez:

Beginning on May 22, 2023, the New Mexico Environment Department ("NMED") conducted a hazardous waste Compliance Evaluation Inspection ("Inspection") at Kirtland Air Force Base ("KAFB") located at 2000 Wyoming Blvd. SE, KAFB, New Mexico ("Installation"). KAFB is a United States Air Force ("USAF") military installation tasked with the maintenance of USAF aircraft and other assets, research and development of USAF technologies, and training of USAF airmen. Major waste streams generated at this facility include flammable liquids and solids, contaminated wipes, used oil, and groundwater remediation wastes.

Based on observations and review of the information obtained, NMED has determined that your Facility is a Large Quantity Generator ("LQG") of hazardous waste as defined in 40 Code of Federal Regulations ("CFR") 262.13. Furthermore, NMED has determined that KAFB has violated the New Mexico Hazardous Waste Management Regulations ("HWMR") 20.4.1 New Mexico Administrative Code ("NMAC") as specified below.

NMED inspectors observed the following violations:

- 1. Failure to demonstrate the length of time a universal waste has accumulated. Specifically, NMED observed approximately 30 boxes of universal waste lamps awaiting disposal in the defense commissary (IAP1DECA) that were not labeled with an accumulation start date and no accumulation start dates could be provided. This is a**

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violation of 20.4.1.1000 NMAC, incorporating 40 CFR 273.15(c).

Civil Penalty

As a result of Violation 1, NMED has assessed a civil penalty of \$480.00

Corrective Action

The boxes containing Universal Waste Lamps were taken to the Central Accumulation Area and are being managed per regulations. Documentation was provided to NMED on September 6, 2023.

- 2. Failure to keep a container storing Universal Waste closed at all times except when adding or removing waste. Specifically, NMED encountered approximately 15 boxes storing Universal Waste Lamps that were not closed in the defense commissary of the installation (IAP1DECA). This is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR 273.13(d)(1).**

Civil Penalty

As a result of this violation, NMED has assessed a civil penalty of \$600.00

Corrective Action

The Boxes containing Universal Waste Lamps were taken to the Central Accumulation Area and are being managed per regulations. Documentation was provided to NMED on September 6, 2023.

- 3. Failure to label each lamp or container or packaging in which universal waste lamps are contained with the words "Universal Waste Lamps.", or other appropriate wording. Specifically, NMED encountered approximately 30 boxes of universal waste lamps that were not labeled in the defense commissary of the installation (IAP1DECA). This is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR 273.14(e) and 20.4.1.1001(B) NMAC.**

Civil Penalty

As a result of this violation, NMED has assessed a civil penalty of \$600.00.

Corrective Action

The boxes containing Universal Waste Lamps were taken to the Central Accumulation Area and are being managed per regulations. Documentation was provided to NMED on September 6, 2023.

- 4. Failure to label a container storing hazardous waste with the words "Hazardous Waste" in a Satellite Accumulation Area ("SAA"). Specifically, KAFB had two occurrences in which a container storing hazardous waste was not labeled with the words "Hazardous Waste" which were observed in the following locations:**

- a. In IAP 230A, building 291 (US Customs) NMED encountered a black 55-gallon container storing hazardous waste that was not labeled with the words "Hazardous Waste."
- b. In IAP 273Z, building 985, NMED inspectors observed three plastic bags containing hazardous waste debris that were not labeled with the words "Hazardous Waste."

These are violations of 20.4.1.300 NMAC, incorporating 40 CFR 262.15(a)(5)(i).

Civil Penalty

As a result of this violation, NMED has assessed a civil penalty of \$3,600.00

Corrective Action

KAFB must label the container noted in violation 4a with the words "Hazardous Waste" and provide documentation to NMED. Documentation showing violation 4b was corrected was provided to NMED on June 13, 2023.

5. Failure to label a container storing hazardous waste in an SAA with an indication of the hazards of the contents of the container. Specifically, KAFB had two occurrences in which a container storing hazardous waste was not labeled with an indication of the hazards of the container in the following locations:

- a. At IAP 230A, building 291 (US Customs), NMED encountered one 55-gallon black metal drum that was not labeled with an indication of the hazards of the contents of the container.
- b. At IAP 273Z, building 985 NMED observed three plastic bags containing hazardous waste debris that were not labeled with relevant hazard indicators.

This is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.15(a)(5)(ii).

Civil Penalty

As a result of this violation, NMED has assessed a civil penalty of \$3,600.00

Corrective Action

KAFB has not provided documentation to date showing violation 5a has been corrected. NMED was provided documentation showing violation 5b was corrected on June 13, 2023.

6. Failure to mark hazardous waste containers with the date upon which greater than 55-gallons of hazardous waste accumulated at an SAA. Specifically, at IAP 273Z, building

985, NMED observed three plastic bags and a full 55-gallon container storing hazardous waste debris. The 55-gallon container was not labeled with the date in which the container reached the 55-gallon accumulation limit in the satellite accumulation area. This is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.15(a)(6)(iii).

Civil Penalty

As a result of this violation, NMED has assessed a civil penalty of \$720.00

Corrective Action

NMED was provided documentation showing the violation was corrected on June 13, 2023.

- 7. Failure to store hazardous waste at or near the point of generation in an SAA. Specifically, NMED observed one 30-gallon black metal container that had accumulated waste in IAP 230A and was moved to IAP 230 to make room for a new container. This is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.15(a).**

Civil Penalty

As a result of this violation, NMED has assessed a civil penalty of \$2,400.00

Corrective Action

NMED received documentation showing the violation was corrected on August 7, 2023.

- 8. Failure to make a hazardous waste determination. Specifically, NMED documented 6 occurrences in which Kirtland did not conduct a proper waste determination in the following locations:**
- a. NMED requested waste profiles and disposal documentation for the two parts washers located in 377-FSS (Auto Hobby Shop). Kirtland was unable to provide these documents to date and could not verify whether the waste generated by the parts washers is hazardous or not.**
 - b. NMED observed excess chemical inventory and uncharacterized hazardous wastes. Several of the items are marked or should be marked “hazardous waste pending characterization” and have been stored for several months or greater than one year in the following IAP’s within 58 SOW: 75A, 65A, 58-7, 88 and 58-10. Of these, NMED also observed the same accumulation of uncharacterized hazardous waste with no demonstrated path for reuse in the FY22 inspection at IAP 75A. NMED also observed this same violation, regarding different accumulations and circumstances of generation at IAP 88 in the FY22 inspection.**

This is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.11.

Civil Penalty

As a result of this violation, NMED has assessed a civil penalty of \$7,800.00

Corrective Action

Conduct a proper waste determination and provide documentation to NMED.

9. Failure to dispose of waste stored on-site within 90 days of accumulation. Specifically, on 02/15/2023, KAFB self-reported that container numbers 2008381 and 202200761 exceeded the 90-day accumulation time limit for Large Quantity Generators of hazardous waste on January 15, 2023, and January 18, 2023, respectively. The containers were disposed of on January 26, 2023. This is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.17(a)

Civil Penalty

As a result of this violation, NMED has assessed a civil penalty of \$3,900.00

Corrective Action

NMED was provided documentation showing the violation was corrected on January 26, 2023.

Regarding the Corrective Actions described above, KAFB shall provide to NMED within thirty (30) days of receipt of this letter a written description of the actions taken by KAFB to address the violations described above or a schedule for implementation of corrective actions not yet completed.

In accordance with NMSA 1978, Section 74-4-10, NMED may: (1) issue a Compliance Order requiring compliance immediately or within a specified time period or assess a civil penalty for any past or current violations of up to \$10,000 per day of non-compliance for each violation, or both; or (2) commence a civil action in District Court for appropriate relief, including a temporary or permanent injunction. Any such order may include a suspension or revocation of any permit issued by NMED.

Pursuant to the New Mexico Hazardous Waste Act ("HWA"), NMSA 1978, §§ 74-4-1 to 14, NMED is assessing a total civil penalty of **\$23,700.00** to settle the violations of the HWA and the Hazardous Waste Management Regulations set forth in the **FY-23** Inspection Notice of Violation.

History of Violations

On March 18, 2013, NMED performed a routine hazardous waste inspection. During that inspection, NMED observed three (3) violations including failure to label containers of hazardous waste, failure to keep hazardous waste containers closed, and failure to demonstrate the length of time universal waste has accumulated. KAFB was subject to an informal enforcement action as a result of that inspection.

On January 27, 2014, NMED performed a routine hazardous waste inspection. During that inspection, NMED observed seven (7) violations including failure to label containers of hazardous waste, failure to perform a hazardous waste determination, failure to submit an exception report to NMED for hazardous waste manifests not received with a signature of the destination facility within 45 days, failure to properly station satellite storage of hazardous waste, failure to properly contain universal waste, and failure to demonstrate the length of time universal waste has accumulated. KAFB was subject to an informal enforcement action as a result of that inspection.

On February 23, 2015, NMED performed a routine hazardous waste inspection. During that inspection, NMED observed eight (8) violations including failure to perform a hazardous waste determination, inappropriate acceptance and disposal of hazardous waste into a construction and demolition landfill that was not a permitted RCRA disposal facility, failure to properly contain universal waste, failure to label universal waste containers, accumulation of universal waste for greater than 1 year, and failure to demonstrate the length of time universal waste has accumulated. KAFB was subject to an informal enforcement action as a result of that inspection.

On March 8, 2016, NMED performed a routine hazardous waste inspection. During that inspection, NMED observed seven (7) violations including failure to label containers of hazardous waste, failure to perform weekly inspections of a <90-day accumulation area, failure to amend the Facility Contingency Plan, failure to keep containers of universal waste closed, failure to perform testing of emergency response equipment, storage of universal waste for greater than one year, and failure to demonstrate the length of time universal waste has accumulated. KAFB was subject to an informal enforcement action as a result of that inspection.

On May 22, 2017, NMED performed a routine hazardous waste inspection. During that inspection, NMED observed eleven (11) violations including failure to properly label hazardous waste and universal waste containers, failure to maintain appropriate training documentation, failure to store hazardous waste in closed containers in good condition, failure to properly contain universal waste, failure to demonstrate the length of time universal waste has accumulated, and failure to properly perform hazardous waste determinations. KAFB paid a civil penalty of \$22,285.00 as a result of that inspection.

On February 26, 2018, NMED performed a routine hazardous waste inspection. During that inspection, NMED observed nine (9) violations including failure to properly station satellite storage of hazardous waste, failure to properly label hazardous waste and universal waste containers, failure to store hazardous waste and universal waste in closed containers, storage of universal waste for greater than one year, failure to demonstrate the length of time universal waste has accumulated, and failure to properly perform hazardous waste determinations. KAFB paid a civil penalty of \$17,420.00 as a result of that inspection.

On December 3, 2018, NMED performed a routine hazardous waste inspection. During that inspection, NMED observed six (6) violations including failure to properly label hazardous waste containers, storage of greater than 55 gallons hazardous waste at a satellite storage for greater than 3 days, failure to distribute copies of the Facility Contingency Plan to appropriate emergency response authorities, failure to demonstrate the length of time universal waste has accumulated, and failure to properly perform hazardous waste determinations. KAFB was subject to an informal enforcement action as a result of that inspection.

On October 21, 2019, NMED performed a routine hazardous waste inspection. During that inspection, NMED observed six (6) violations including failure to properly station satellite storage of hazardous waste, failure to store hazardous waste in containers in good condition, failure to properly label containers of hazardous waste, failure to demonstrate the length of time universal waste has accumulated, and failure to properly perform hazardous waste determinations. KAFB was subject to an informal enforcement action as a result of that inspection.

On September 21, 2020, NMED performed a routine hazardous waste inspection. During that inspection, NMED observed fourteen (14) violations including failure to properly perform hazardous waste determinations, failure to properly station satellite storage of hazardous waste, failure to station spill response equipment at hazardous waste storage areas, failure to properly label containers of hazardous waste and universal waste, failure to keep containers of hazardous waste closed, failure to store hazardous waste in a container that is in good condition, failure to properly contain universal waste, failure to demonstrate the length of time universal waste has accumulated, and storage of universal waste for greater than one year. KAFB paid a civil penalty of \$29,210.00 as a result of that inspection.

On June 13, 2022, NMED performed a routine hazardous waste inspection. During that inspection, NMED observed nine (9) violations including failure to properly perform hazardous waste determinations, failure to maintain and operate the facility to minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health and the environment, failure to test and maintain

emergency equipment, failure to properly label containers of hazardous waste and universal waste, failure to keep containers of hazardous waste closed, failure to demonstrate the length of time universal waste has accumulated, and failure to maintain documentation in the facility record of the type and amount of both introductory and continuing training that will be given to each person filling a position related to management of hazardous wastes at a Central Accumulation Area. KAFB has been assessed a civil penalty of \$15,885.00 as a result of these violation, in the Notice of Violation with Proposed Penalties that has been issued concurrently with this enforcement action.

Please note that your facility will appear on the Department's Enforcement Watch as a result of this NOV (see: <https://www.env.nm.gov/enforcement-watch/>). Further, the Department will issue a press release to local media highlighting your facility as appearing on this webpage. Your facility will remain on the Enforcement Watch website as an active matter until this matter is fully resolved, including the payment of the assessed civil penalty.

Pursuant to the NMED Delegation Order dated March 24, 2023, the Cabinet Secretary has delegated the authority to issue Notices of Violation with Proposed Penalties under the Hazardous Waste Act and HWMRs to the Chief of the Hazardous Waste Bureau. If you have any questions regarding this letter or would like to discuss the civil penalty, please contact Aaron Coffman of my staff at 505-690-5211 or by email at aaron.coffman@env.nm.gov within 30 days of receipt of this notice to schedule an informal conference concerning resolution of this matter. If no response is received from you within 30 days a Stipulated Final Order will be mailed for your signature.

Sincerely,

Ricardo Maestas

Digitally signed by Ricardo
Maestas
Date: 2024.01.09 09:50:20 -07'00'

Ricardo Maestas
Acting Chief
Hazardous Waste Bureau

RM: ac

cc: Aaron Coffman, NMED HWB
Levi Cole, NMED District I Manager
Christina Eads, NMED HWB
Andrew Knight, NMED OGC

file: Library # 2400



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUIRED

January 9, 2024

Jason Yates
Site Manager
ASRC Federal NetCentric
377 MSG/CEM
2050 Wyoming Blvd NE
Kirtland AFB, NM 87117

**RE: FY-23 INSPECTION
NOTICE OF VIOLATION WITH PROPOSED PENALTIES
KIRTLAND AIR FORCE BASE
EPA ID# NM9570024423**

Dear Jason Yates:

Beginning on May 22, 2023, the New Mexico Environment Department ("NMED") conducted a hazardous waste Compliance Evaluation Inspection ("Inspection") at Kirtland Air Force Base ("KAFB") located at 2000 Wyoming Blvd. SE, KAFB, New Mexico ("Installation"). KAFB is a United States Air Force ("USAF") military installation tasked with the maintenance of USAF aircraft and other assets, research and development of USAF technologies, and training of USAF airmen. ASRC Federal Netcentric ("ASRC") is the contractor managing operation of KAFB's hazardous materials re-use program. As provided in the HWMR and current guidance and policy, ASRC and KAFB are considered co-generators of hazardous waste with contractually delegated waste management responsibilities under the same EPA ID#.

Based on observations and review of the information obtained, NMED has determined that KAFB is a Large Quantity Generator ("LQG") of hazardous waste as defined in 40 Code of Federal Regulations ("CFR") 262.13. Furthermore, NMED has determined that KAFB and Navarro have violated the New Mexico Hazardous Waste Management Regulations ("HWMR") 20.4.1 New Mexico Administrative Code ("NMAC") as specified below. KAFB has been provided Notice of Violation with Proposed Penalties under separate letter that includes the violation cited below.

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Hazardous Waste Bureau - 2905 Rodeo Park Drive East , Building 1 Santa Fe, New Mexico 87505-6313
Telephone (505) 476-6000 - www.env.nm.gov

NMED inspectors observed the following violation:

- 1. Failure to make a hazardous waste determination. Specifically, NMED observed excess chemical inventory and uncharacterized hazardous wastes. Several of the items are marked or should be marked “hazardous waste pending characterization” and have been stored for several months or greater than one year in the following IAP’s within 58 SOW: 75A, 65A, 58-7, 88 and 58-10, with no demonstrated path for reuse. Of these, NMED also observed the same accumulation of uncharacterized hazardous waste with no demonstrated path for reuse in the FY22 inspection at IAP 75A. This is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.11.**

Civil Penalty

As a result of this violation, NMED has assessed a civil penalty of \$7,800.00

Corrective Action

Conduct a proper waste determination and provide documentation to NMED.

Regarding the Corrective Actions described above, KAFB and/or ASRC shall provide to NMED within thirty (30) days of receipt of this letter a written description of the actions taken by KAFB and/or ASRC to address the violations described above or a schedule for implementation of corrective actions not yet completed.

In accordance with NMSA 1978, Section 74-4-10, NMED may: (1) issue a Compliance Order requiring compliance immediately or within a specified time period or assess a civil penalty for any past or current violations of up to \$10,000 per day of non-compliance for each violation, or both; or (2) commence a civil action in District Court for appropriate relief, including a temporary or permanent injunction. Any such order may include a suspension or revocation of any permit issued by NMED.

Pursuant to the New Mexico Hazardous Waste Act (“HWA”), NMSA 1978, §§ 74-4-1 to 14, NMED is assessing a total civil penalty of **\$7,800.00** to settle the violations of the HWA and the Hazardous Waste Management Regulations set forth in this Notice of Violation with Proposed Penalties.

Please note that KAFB will appear on the Department’s Enforcement Watch as a result of this NOV (see: <https://www.env.nm.gov/enforcement-watch/>). Further, the Department will issue a press release to local media highlighting KAFB as appearing on this webpage. Your facility will remain on the Enforcement Watch website as an active matter until this matter is fully resolved, including the payment of the assessed civil penalty.

Pursuant to the NMED Delegation Order dated March 24, 2023, the Cabinet Secretary has delegated the authority to issue Notices of Violation with Proposed Penalties under the Hazardous Waste Act and HWMRs to the Chief of the Hazardous Waste Bureau. If you have any questions regarding this letter or would like to discuss the civil penalty, please contact Aaron Coffman of my staff at 505-690-5211 or by email at aaron.coffman@env.nm.gov within 30 days of receipt of this notice to schedule an informal conference concerning resolution of this matter.

ASRC and KAFB may enter settlement negotiations jointly with NMED, or KAFB and ASRC may jointly determine to delegate resolution of this matter to either KAFB or ASRC. If no response is received from you within 30 days a Stipulated Final Order will be mailed for your signature.

Sincerely,

Ricardo Maestas Digitally signed by Ricardo
Maestas
Date: 2024.01.09 10:37:40 -07'00'

Ricardo Maestas
Acting Chief
Hazardous Waste Bureau

RM: ac

cc: Aaron Coffman, NMED HWB
Levi Cole, NMED District I Manager
Christina Eads, NMED HWB
Andrew Knight, NMED OGC
Israel Tavarez, KAFB Environmental Management Chief

file: Library # 2400



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUIRED

January 9, 2024

Dr. Susana Navarro
President/CEO
Navarro Research and Engineering, Inc.
1020 Commerce Park Drive
Oak Ridge, TN 37830

Mike West
Vice President, Waste Services
Navarro Research and Engineering, Inc.
1020 Commerce Park Drive
Oak Ridge, TN 37830

**RE: FY-23 INSPECTION
NOTICE OF VIOLATION WITH PROPOSED PENALTIES
KIRTLAND AIR FORCE BASE
EPA ID# NM9570024423**

Dear Dr. Navarro and Mr. West:

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Based on observations and review of the information obtained, NMED has determined that KAFB is a Large Quantity Generator ("LQG") of hazardous waste as defined in 40 Code of Federal Regulations ("CFR") 262.13. Furthermore, NMED has determined that KAFB and Navarro have violated the New Mexico Hazardous Waste Management Regulations ("HWMR") 20.4.1 New Mexico Administrative Code ("NMAC") as specified below. KAFB has been provided Notice of Violation with Proposed Penalties under separate letter that includes the violation cited below.

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Telephone (505) 476-6000 - www.env.nm.gov

NMED inspectors observed the following violation:

- 1. Failure to dispose of waste stored on-site within 90 days of accumulation. Specifically, on 02/15/2023, KAFB self-reported that container numbers 2008381 and 202200761 exceeded the 90-day accumulation time limit for Large Quantity Generators of hazardous waste on January 15, 2023, and January 18, 2023, respectively. The containers were disposed of on January 26, 2023. This is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.17(a)**

Civil Penalty

As a result of this violation, NMED has assessed a civil penalty of \$3,900.00

Corrective Action

NMED was provided documentation showing the violation was corrected on January 26, 2023.

In accordance with NMSA 1978, Section 74-4-10, NMED may: (1) issue a Compliance Order requiring compliance immediately or within a specified time period or assess a civil penalty for any past or current violations of up to \$10,000 per day of non-compliance for each violation, or both; or (2) commence a civil action in District Court for appropriate relief, including a temporary or permanent injunction. Any such order may include a suspension or revocation of any permit issued by NMED.

Pursuant to the New Mexico Hazardous Waste Act ("HWA"), NMSA 1978, §§ 74-4-1 to 14, NMED is assessing a total civil penalty of **\$3,900.00** to settle the violations of the HWA and the Hazardous Waste Management Regulations set forth in this Notice of Violation with Proposed Penalties.

Please note that KAFB will appear on the Department's Enforcement Watch as a result of this NOV (see: <https://www.env.nm.gov/enforcement-watch/>). Further, the Department will issue a press release to local media highlighting KAFB as appearing on this webpage. Your facility will remain on the Enforcement Watch website as an active matter until this matter is fully resolved, including the payment of the assessed civil penalty.

Dr. Navarro and Mr. West

January 9, 2024

Page 3 of 3

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Navarro and KAFB may enter settlement negotiations jointly with NMED, or KAFB and Navarro may jointly determine to delegate resolution of this matter to either KAFB or Navarro. If no response is received from you within 30 days a Stipulated Final Order will be mailed for your signature.

Sincerely,

Ricardo Maestas  Digitally signed by Ricardo Maestas
Date: 2024.01.09 10:40:40 -07'00'

Ricardo Maestas
Acting Chief
Hazardous Waste Bureau

RM: ac

cc: Aaron Coffman, NMED HWB
Levi Cole, NMED District I Manager
Christina Eads, NMED HWB
Andrew Knight, NMED OGC
Israel Tavarez, KAFB Environmental Management Chief

file: Library # 2400