



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

SENT BY ELECTRONIC MAIL AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

May 16, 2024

Jorge Uribe
US Army
100 Headquarters Avenue
(AMIM-WSP-E-EC Bldg 163)
Whites Sands Missile Range, NM 88002
Sent by electronic mail to: Jorge.a.uribe2.civ@army.mil

Notice of Violation for US Army, AQB Case No. USA-0141-2302 and USA-0141-2303

Dear Jorge Uribe,

The New Mexico Environment Department ("NMED") has identified the US Army as having violated state and federal regulations for air quality. This Notice of Violation (NOV) is regarding the White Sands Missile Range ("Facility").

This NOV is sent pursuant to NMSA 1978, Section 74-2-5.1(A), which states that NMED's "investigations shall be reduced to writing if any enforcement action is contemplated, and a copy shall be furnished to the owner or occupants of the premises before the action is filed." In accordance with Section 74-2-5.1(C), the purpose of this NOV is to "encourage and make every reasonable effort to obtain voluntary cooperation by the owner or occupants to preserve, restore or improve air quality."

Alleged Violations

From September 26 to 28, 2023, the Air Quality Bureau (AQB) completed the required, annual partial compliance evaluation (PCE) of the Facility.

On February 16, 2023 and on August 14, 2023, the AQB received from the US Army two Title V (TV) semiannual monitoring reports for the Facility covering operations from July 1, 2022 to December 31, 2022 and from January 1, 2023 to June 30, 2023.

Based on records and deviations reported in the TV semiannual monitoring reports, the Department has evidence that the US Army continues to violate its TV permit.

The investigation found evidence of the following violations of the Facility's TV permit.

1. Failure to limit the annual operating hours of engine category PH-C pursuant to Title V Permit P085-R3-M3, Specific Condition A1305.A *Hours of Operation*, which states, "...Units shall be limited to the hours of operations as shown in Table 1301.A...". Table 1301.A *Regulated Equipment*, limits

US Army

ABQ Case No. USA-0141-2302 and USA-0141-2303

Page 2 of 4

operations of engine category PH-C to 3000 hours per year. The US Army exceeded the limit for twelve (12) consecutive months, from July 2022 to June 2023.

2. Failure to conduct mandatory maintenance on six (6) generator engines pursuant to Title V Permit P085-R3-M3, Specific Condition A1306.A which requires maintenance and repair of the engines according to the manufacturer or to the permittee's recommended maintenance schedule. The US Army Maintenance Plan stipulates that engines, for which the US Army defines as emergency or standby, must receive an oil and filter change annually, not to exceed 500 operating hours.
3. Failure to assign placeholder unit numbers to and maintain records for two generator engines subject to engine placeholder requirements pursuant to Title V Permit P085-R3-M3, Specific Condition A1305.A(2) which requires that the US Army assign each generator engine a PH-A, PH-B, PH-C, and/or PH-D unit number and keep records of the make, model, serial number, capacity, fuel type, and hours of operation.

Please note that the facility will appear on NMED's Enforcement Watch as a result of this NOV (see: <https://www.env.nm.gov/enforcement-watch/>). Further, NMED may 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.

You may obtain a copy of the AQB's Civil Penalty Policy located on the Compliance and Enforcement website at: <https://www.env.nm.gov/air-quality/compliance-and-enforcement/>.

Requested Information

In the response to this NOV please provide this information for each violation:

1. A description of the causes of these violations;
2. Documentation of the steps taken to correct the violation to date; and
3. Documentation of steps taken or to be taken to prevent the recurrence of the violation.

With the documentation, please include specific, measurable, and time-bound changes made or to be made addressing any problems causing the violations.

Attachment 1 is included at the end of the NOV and can be used as a checklist for organizing the response.

Use these instructions to submit the response:

1. All correspondence pertaining to this NOV must be submitted under cover of a properly completed Reporting Submittal Form, emailed to the Enforcement Specialist (contact information below). A copy of the form can be found online at: <https://www.env.nm.gov/air-quality/compliance-and-enforcement/> .
2. Submit requested information no later than thirty (30) days after the date of this NOV.
3. Any documents claimed as Confidential Business Information (CBI) pursuant to 20.2.1.115 NMAC must be submitted in separate electronic files from non-CBI documents and identified as CBI.

US Army

ABQ Case No. USA-0141-2302 and USA-0141-2303

Page 3 of 4

4. If files cannot be submitted by electronic mail, contact the Enforcement Specialist to request a link to a file transfer platform, or submit records on a thumb drive mailed to the Air Quality Bureau, 525 Camino de los Marquez, Suite 1, Santa Fe, NM 87505 to the attention of Cember Hardison.
5. Please include any facts, information, or documentation to refute the alleged violations, with the requested information.

After receiving the response to this NOV, NMED will send a settlement offer or compliance order outlining the penalties and corrective actions associated with each of the violations. As NMED's review of the alleged violations is ongoing, NMED reserves the right to assert additional violations at the Facility if new information becomes available.

If you have questions or believe any statement in this notice is erroneous, please contact Cember Hardison, Enforcement Specialist, at (505) 629-6688 or cember.hardison@env.nm.gov or Teresa McDill, Enforcement Manager, at (505) 629-8732 or teresa.mcdill@env.nm.gov. If you are represented by counsel, please contact Chris Vigil, Assistant General Counsel, at (505) 469-4696 or ChristopherJ.Vigil@env.nm.gov.

Thank you for your prompt attention to this matter.

Sincerely,

DocuSigned by:
Dana Bahar
B85073815EB342B...

Dana Bahar
Acting Bureau Chief
Air Quality Bureau

cc: Chris Vigil, Office of General Counsel, NMED
Cindy Hollenberg, C&E Section Chief, AQB
Teresa McDill, Enforcement Manager, AQB
Cember Hardison, Enforcement specialist, AQB

Attachment

US Army
ABQ Case No. USA-0141-2302 and USA-0141-2303
Page 4 of 4

Attachment 1

This form must be completed and signed by the facility's Responsible Official and returned no later than thirty (30) days after the date of this Notice of Violation. Documentation for additional information (in addition to this form) must be submitted electronically to Enforcement Specialist Cember Hardison at cember.hardison@env.nm.gov or Enforcement Manager Teresa McDill at teresa.mcdill@env.nm.gov.

All submittals must be submitted using the Reporting Submittal Form. The Reporting Submittal Form and instructions can be located at: <https://www.env.nm.gov/air-quality/compliance-and-enforcement/#>.

I hereby verify that the US Army has initiated the required additional information response outlined in this Notice of Violation. The following information has been submitted or will be submitted by the dates indicated below for each violation. All required documentation will be submitted electronically no later than thirty (30) days after the date of this Notice of Violation.

Date NOV received: _____

Alleged Violation 1

_____ *A description of the cause of the violation*

_____ *Documentation of the steps taken to correct the violation to date*

_____ *Documentation of steps taken (or to be taken) to prevent recurrence of the violation (include date if not yet completed)*

Alleged Violation 2

_____ *A description of the cause of the violation*

_____ *Documentation of the steps taken to correct the violation to date*

_____ *Documentation of steps taken (or to be taken) to prevent recurrence of the violation (include date if not yet completed)*

Alleged Violation 3

_____ *A description of the cause of the violation*

_____ *Documentation of the steps taken to correct the violation to date*

_____ *Documentation of steps taken (or to be taken) to prevent recurrence of the violation (include date if not yet completed)*

Signature

Date

Printed Name:

Title: