



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

REGION I  
2100 RENAISSANCE BLVD., SUITE 100  
KING OF PRUSSIA, PA 19406-2713

December 23, 2014

EA-14-167

Sunny Kim, P.E.  
President/Radiation Safety Officer  
Kim Engineering, Inc.  
11127 New Hampshire Avenue  
Silver Spring, MD 20904

**SUBJECT: KIM ENGINEERING, INC., NOTICE OF VIOLATION - NRC INSPECTION  
REPORT NO. 15000019/2014001**

Dear Mr. Kim:

This letter provides you the U.S. Nuclear Regulatory Commission's (NRC) enforcement decision for the apparent violation identified during the onsite NRC safety inspection conducted on September 2 – 3, 2014, at the Kim Engineering, Inc. (KEI) facility in Silver Spring, Maryland, with continued in-office review through November 5, 2014. The inspection consisted of interviews with KEI personnel and the examination of selective records to evaluate KEI's licensed activities as they relate to radiation safety and to compliance with NRC regulations. Steven Courtemanche, of this office, discussed the apparent violation with you during a telephonic exit meeting on November 5, 2014. The apparent violation was also described in the NRC inspection report sent to you with a letter dated November 24, 2014 (ML14329B169<sup>1</sup>).

In the November 24, 2014, letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference (PEC), by providing a written response, or by accepting the violation as characterized in the letter. We also informed you that we had sufficient information regarding the apparent violation and KEI's corrective actions to make an enforcement decision without the need for a PEC. In a telephone call on November 26, 2014, with Mr. Blake Welling, Chief, NRC Region I Commercial, Industrial, R&D, and Academic Branch, you indicated that KEI did not require a PEC nor intended to send a written response.

Based on the information developed during the inspection, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it were described in detail in the November 24, 2014, letter and in the subject inspection report. The violation involved the failure to file for reciprocity prior to conducting work in NRC jurisdiction, as required by 10 CFR 150.20. Specifically, between November 9, 2010, and July 7, 2014, KEI used portable devices containing byproduct material within NRC jurisdiction in Washington D.C., and in areas of exclusive Federal jurisdiction in Maryland and Virginia on approximately 45 occasions without

---

<sup>1</sup> Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Unless otherwise noted, documents referenced in this letter are publicly-available using the accession number in ADAMS

submitting NRC Form 241, "Report of Proposed Activities in Non-Agreement States," a copy of its Agreement State specific license, and the appropriate fee for calendar years 2010, 2011, 2012, 2013, and 2014, with the Regional Administrator of the appropriate NRC regional office.

The violation has been categorized at Severity Level (SL) III in accordance with the NRC Enforcement Policy because the NRC was not informed of the activities occurring in Washington, DC and in areas of exclusive Federal jurisdiction in Maryland and Virginia and therefore, was not provided an opportunity to conduct inspections of licensed activities. In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,500 is considered for a SL III violation. Because KEI has not been the subject of escalated enforcement action within the last two years or two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy. The NRC has concluded that credit is warranted for KEI's corrective actions taken to address the violation. Specifically, KEI: (1) immediately ceased licensed activities in Washington, DC, Maryland, and Virginia; (2) submitted NRC Form 241 and the appropriate fee for the remainder of 2014; and (3) conducted training for management and staff on the reciprocity process and the requirements.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, after consultation with the Director, Office of Enforcement, I have been authorized not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reasons for the violation; (2) the actions planned or already taken to correct the violation and prevent recurrence; and, (3) the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 1500019/2014001 and in this letter. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response, if you choose to provide one, should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld, and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

S. Kim, P.E.

3

The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

***/RA David C. Lew for:/***

Daniel H. Dorman  
Regional Administrator

Docket No. 15000019

Enclosure: Notice of Violation

cc w/enclosure:  
State of Maryland

S. Kim, P.E.

3

The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

*/RA David C. Lew for:/*

Daniel H. Dorman  
Regional Administrator

Docket No. 15000019

Enclosure: Notice of Violation

cc w/enclosure:  
State of Maryland

**Distribution: see next page ML14357A264**

DOCUMENT NAME: S:\Enf-allg\Enforcement\Proposed-Actions\Region1\Kim Engineering NOV-III EA-14-167.docx

<input checked="" type="checkbox"/> SUNSI Review/CJC*		<input checked="" type="checkbox"/> Non-Sensitive <input type="checkbox"/> Sensitive		<input checked="" type="checkbox"/> Publicly Available <input type="checkbox"/> Non-Publicly Available	
OFFICE	RI/ORR	RI/DNMS	RI/ORR	RI/ORR	OE**
NAME	C Crisden/CJC*	B Welling/BDW*	B Klukan/BMK*	B Bickett/BAB*	L Sreenivas via email*
DATE	12/5/14	12/9/14	12/11/14	12/11/14	12/16/14
OFFICE	RI/DNMS	RA			
NAME	D Collins/JPD for*	D Dorman/ DCL for*			
DATE	12/19/14	12/21/14			

\* See previous concurrence page \*\* OE to perform a quick review

OFFICIAL RECORD COPY

DISTRIBUTION w/encl:

ADAMS (PARS)

SECY

M Satorius, EDO

R Zimmerman, DEDMRT

Y Chen, OEDO

J Foster, OEDO

P Holahan, OE

N Hilton, OE

S Ghasemian, OE

L Sreenivas, OE

N Hasan, OE

K Beckford, OE

C Haney, NMSS

S Moore, NMSS

L Dudes, NMSS

P Henderson, NMSS

M Burgess, NMSS

R Sun, NMSS

Enforcement Coordinators

RII, RIII, RIV (D Gamberoni; E Dunkan; V Campbell)

C Scott, OGC

H Harrington, OPA

H Bell, OIG

C McCrary, OI

M Williams, OCFO

L Bates, OCFO

D Dorman, RA, RI

D Lew, DRA, RI

D Collins, DNMS, RI

J Dwyer, DNMS, RI

B Welling, DNMS, RI

S Courtemanche, DNMS, RI

D Screnci, PAO-RI / N Sheehan, PAO-RI

D Janda, SAO-RI / M Ford, SAO-RI

B Bickett, ORA, RI

M McLaughlin, ORA, RI

C Crisden, ORA, RI

B Klukan, Esq, ORA, RI

D Bearde, ORA, RI

S Villar, RI

Region I OE Files (with concurrences)

## NOTICE OF VIOLATION

Kim Engineering, Inc.  
Silver Spring, Maryland

Docket No. 15000019  
EA-14-167

During an NRC inspection conducted on September 2 and 3, 2014, with continued in-office review through November 5, 2014, for which an exit meeting was conducted on November 5, 2014, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.3 requires, in part, that except for persons exempt as provided in this part and part 150 of this chapter, no person shall own, possess, or use byproduct material except as authorized in a specific or general license issued pursuant to the regulations in 10 CFR Part 30.

10 CFR 150.20(a) states, in part, that any person who holds a specific license from an Agreement State is granted an NRC general license to conduct the same activity in Non-Agreement States and areas of exclusive Federal jurisdiction within Agreement States, subject to the provisions of 10 CFR 150.20(b).

10 CFR 150.20(b)(1) requires, in part, that any person engaging in activities in Non-Agreement States shall, at least 3 days before engaging in each such activity, file a submittal containing an NRC Form 241, "Report of Proposed Activities in Non-Agreement States," a copy of its Agreement State specific license, and the appropriate fee, with the Regional Administrator of the appropriate NRC regional office.

Contrary to the above, between November 9, 2010, and July 7, 2014, Kim Engineering, Inc., a licensee of the State of Maryland, engaged in activities in an area of exclusive Federal jurisdiction, without filing a submittal containing an NRC Form 241, at least 3 days before engaging in such activity. Specifically, Kim Engineering, Inc., used portable devices containing byproduct material within NRC jurisdiction in Washington D.C., and in areas of exclusive Federal jurisdiction in Maryland and Virginia on approximately 45 occasions without filing NRC Form 241, "Report of Proposed Activities in Non-Agreement States," a copy of its Agreement State specific license, and the appropriate fee for calendar years 2010, 2011, 2012, 2013, and 2014, with the Regional Administrator of the appropriate NRC regional office.

This is a Severity Level III violation (Enforcement Policy Example Section 6.9).

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the actions planned or already taken to correct the violation and prevent recurrence; and (3) the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 15000019/2014001 and in the letter transmitting this Notice. Therefore, you are not required to respond to this Notice. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation EA-14-167," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region I, 2100 Renaissance

Boulevard, Suite 100, King of Prussia, PA 19406, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 23<sup>rd</sup> day of December, 2014