



UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**  
REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

September 16, 2008

Docket No. 03030433

License No. 31-23712-01E

Lawrence Keating  
President  
mb-microtec (USA)  
P.O. Box 1174  
North Tonawanda, NY 14120-9174

SUBJECT: INSPECTION 03030433/2008001, MB-MICROTEC (USA), TONAWANDA, NEW YORK SITE AND NOTICE OF VIOLATION

Dear Mr. Keating:

On August 4, 2008, Mark Roberts of this office conducted a safety inspection at 232 Niagara Shore Drive, Tonawanda, New York, of activities authorized by the above listed NRC license. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and a selected examination of representative records. In office review of distribution records occurred through September 5, 2008. The findings of the inspection were discussed with you on September 5, 2008, at the conclusion of the inspection.

Based on the results of this inspection, it appears that your activities were not conducted in full compliance with NRC requirements. A Notice of Violation is enclosed that categorizes the violation by severity level. You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. Please note that in addition to the reporting violation cited in the enclosed Notice, 10 CFR 32.16(c) describes similar requirements for reporting byproduct material transfers made under 10 CFR 32.14. While you made no transfers of byproduct material under your 10 CFR 32.14 authorization, 10 CFR 32.16(c) still requires that annual reports be filed with the Commission. This violation of 10 CFR 32.16(c) is of minor significance and, in accordance with NRC's Enforcement Policy, is not subject to formal enforcement. Please ensure that your corrective and preventive action address compliance with this requirement.

Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

Current NRC regulations are included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **Nuclear Materials; Medical, Academic, and Industrial Uses of Nuclear Material**; then **Regulations, Guidance, and Communications Page**. The current Enforcement Policy is included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **About NRC; How We Regulate; Enforcement**; then

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**Enforcement Policy.** You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 7:00 a.m. to 8:00 p.m. EST, Monday through Friday (except Federal holidays).

Please contact Mark Roberts at (610) 337-5094 if you have any questions regarding this matter.

Sincerely,

***Original signed by James P. Dwyer***

James P. Dwyer, Chief  
Commercial and R & D Branch  
Division of Nuclear Materials Safety

Enclosure:  
Notice of Violation

cc:  
State of New York



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NRC's website at [www.nrc.gov](http://www.nrc.gov); select **About NRC; How We Regulate; Enforcement; then Enforcement Policy**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 7:00 a.m. to 8:00 p.m. EST, Monday through Friday (except Federal holidays).

Please contact Mark Roberts at (610) 337-5094 if you have any questions regarding this matter.

Sincerely,

**Original signed by James P. Dwyer**

James P. Dwyer, Chief  
Commercial and R & D Branch  
Division of Nuclear Materials Safety

Enclosure:  
Notice of Violation

cc:  
State of New York

Distribution:  
D. J. Holody, RI

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**SUNSI Review Complete: MRoberts**

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OFFICE	DNMS/RI	N	DNMS/RI				
NAME	MRoberts/JPD F/		JDwyer/JPD				
DATE	9/5/2008		9/5/2008				

OFFICIAL RECORD COPY

## NOTICE OF VIOLATION

mb-microtec (USA)  
North Tonawanda, NY

Docket No. 03030433  
License No. 31-23712-01E

During an NRC inspection conducted on August 4, 2008, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 32.25(c), requires, in part, that each person licensed under 10 CFR 32.22 maintain records of all transfers and file a report with the Director of the Office of Federal and State Materials and Environmental Management Programs, covering the preceding calendar year, on or before January 31 of each year. In its first report after December 17, 2007, the licensee shall separately include data for transfers in prior years not previously reported to the Commission. If no transfers of byproduct material have been made under 10 CFR 32.22 during the reporting period, the report must so indicate.

Contrary to the above, as of August 4, 2008, each person licensed under 10 CFR 32.22 did not file a report of all transfers with the Director of the Office of Federal and State Materials and Environmental Management Programs, covering the preceding calendar year, on or before January 31 or each year. Specifically, the licensee filed their most recent report on July 21, 2003.

This is a Severity Level IV violation (Supplement VI).

Pursuant to the provisions of 10 CFR 2.201, mb-microtec (USA) is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if

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you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

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

Dated This 16th day of September 2008