July 24, 2013

Mr. Michael Anderson, President
Aerotest Operations, Inc.
Autoliv ASP, Inc.
1320 Pacific Drive
Auburn Hills, MI 48326

SUBJECT: AEROTEST OPERATIONS, INC. - DENIAL OF LICENSE RENEWAL, DENIAL OF LICENSE TRANSFER, AND ISSUANCE OF ORDER TO MODIFY LICENSE NO. R-98 TO PROHIBIT OPERATION OF THE AEROTEST RADIOGRAPHY AND RESEARCH REACTOR, FACILITY OPERATING LICENSE NO. R-98 (TAC NOS. ME8811 AND MC9596)

Dear Mr. Anderson:

The U.S. Nuclear Regulatory Commission (NRC or Commission) staff has reviewed Aerotest Operations, Inc.'s (Aerotest or the licensee) application for license renewal and request for consent to transfer the license to Nuclear Labyrinth, LLC, and hereby denies the license renewal application for Facility Operating License No. R-98 and hereby denies the application to transfer the license to Nuclear Labyrinth, LLC. The NRC is issuing the enclosed Order, "Order Prohibiting Operation of Aerotest Radiography and Research Reactor, Facility Operating License No. R-98" to Aerotest, to prohibit operation of the Aerotest Radiography and Research Reactor (ARRR).

By application dated February 28, 2005, supplemented by letters dated May 5, 2008; March 9, July 21, and September 4, 2009; and January 7, 2010, available in the Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML13120A434, ML103370137, ML120900629, ML092080163, ML092600267, ML100140375, respectively, Aerotest applied for renewal of Facility Operating License No. R-98. The NRC is denying license renewal because the NRC staff determined that Aerotest failed to satisfy the requirements of Atomic Energy Act (AEA) Section 104d., "Medical Therapy and Research and Development," and the regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.38, "Ineligibility of Certain Applicants." These requirements prohibit the issuance of any license for a utilization or production facility "if the Commission knows or has reason to believe [it] is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government."

The NRC staff has determined that Aerotest was acquired through intermediate corporate acquisitions by Autoliv, Inc. (Autoliv) which is Aerotest's ultimate corporate parent. Autoliv, although incorporated in Delaware, is headquartered in Stockholm, Sweden, and the majority of its board of directors and executive officers are non-U.S. citizens. In addition, the majority of its outstanding stock is held by non-U.S. citizens. Thus, Autoliv is a foreign corporation and its ownership of Aerotest is prohibited by the AEA, Section 104d. and 10 CFR 50.38.

NOTE: ENCLOSURE 1 TRANSMITTED HEREWITH CONTAINS PROPRIETARY INFORMATION. WHEN SEPARATED FROM ENCLOSURE 1 THIS DOCUMENT IS DECONTROLLED.

Consequently, the reactor owned by Aerotest is under foreign ownership, control, or domination by Autoliv, which is prohibited by Section 104d. Therefore, the application for renewal of Facility Operating License No. R-98 is denied.

To comply with the requirements of the above statute and regulation, Aerotest attempted to divest itself of its foreign ownership, control, or domination. On May 30, 2012, Aerotest and Nuclear Labyrinth, LLC (the applicants) submitted an application for an indirect license transfer (ADAMS Accession Nos. ML12152A233 and ML12180A384). The NRC staff requested supplemental information on July 5, 2012 (ADAMS Accession Nos. ML121740317 and ML121740343), and received responses on July 19, 2012 (ADAMS Accession No. ML122021201). The NRC staff accepted the application for review on August 14, 2012 (ADAMS Accession No. ML12213A486). On September 14, 2012, the NRC staff issued a request for additional information (RAI) regarding financial qualifications (ADAMS Accession Nos. ML12242A460 and ML12242A479). The applicants responded on October 15, 2012 (ADAMS Accession No. ML12291A508), but did not adequately demonstrate financial assurance. On December 10, 2012, the NRC staff issued another RAI (ADAMS Accession Nos. ML12339A181 and ML12339A189), which was discussed in a public meeting on December 19, 2012 (ADAMS Accession No. ML13018A003). The purpose of the public meeting was to ensure that the applicants understood the financial assurance requirements for license transfer approval. The applicants responded to the RAI on January 10, 2013 (ADAMS Accession No. ML13015A395).

Enclosure 1 is the NRC staff's non-public safety evaluation of the indirect license transfer request (enclosure 2 is the public version located under ADAMS Accession No. ML13129A001). The NRC staff has concluded that the NRC does not have reasonable assurance, as required by 10 CFR 50.33, that Nuclear Labyrinth, LLC, would have sufficient funding to conduct the activities authorized by the ARRR license if the license were transferred. Therefore, the request for transfer of Facility Operating License No. R-98 to Nuclear Labyrinth, LLC, is denied.

Aerotest remains under foreign ownership, control, or domination and therefore is in violation of Section 104d. of the AEA and 10 CFR 50.38.

Because the NRC staff is denying the license transfer and license renewal, the NRC is issuing the enclosed Order modifying the facility operating license (enclosure 3). The Order prohibits Aerotest from operating the ARRR and requires the ARRR be maintained in a shutdown condition. The Order requires Aerotest to submit, within 30 days, an updated decommissioning plan that contains a decommissioning funding plan, and a fuel management plan that describes the means for funding the management of the fuel until permanent disposal.

In accordance with 10 CFR 2.103(b), you have the right to demand a hearing on the license transfer denial and license renewal denial within 20 days of the date of this letter.

If you request an adjudicatory hearing pursuant to 10 CFR 2.103(b)(2) based on the denial contained in this letter, submit your request electronically through the NRC's E-Filing system in accordance with the requirements of 10 CFR 2.302(a) through (g).

10 CFR 2.302(a) states:

> (a) Documents filed in Commission adjudicatory proceedings subject to this part shall be electronically transmitted through the E-Filing system, unless the Commission or presiding officer grants an exemption permitting an alternative filing method or unless the filing falls within the scope of paragraph (g)(1) of this section [i.e., information that may not be transmitted electronically for security or other reasons].

In addition, 10 days before the date your request for hearing is due, you must request a digital ID certificate from the NRC in order to access the Electronic Information Exchange (EIE) system. The instructions for obtaining a digital certificate are found in 10 CFR 2.302(f) and on the NRC Web site at: http://www.nrc.gov/site-help/e-submittals.html.

Refer to the Order for instructions on requesting a hearing within 20 days from the date of the Order pursuant to 10 CFR 2.202, "Orders." In accordance with 10 CFR 2.390 and the NRC's "Rules of Practice," a copy of this letter and its public enclosure(s) will be made available electronically for public inspection in the NRC Public Document Room or in ADAMS, accessible through the NRC Web site at http://www.nrc.gov/reading-rm/adams.html. The NRC also makes significant enforcement actions available on its Web site at http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/.

Enclosed is a copy of the Order which is being sent to the *Federal Register* for publication.

Please contact Spyros Traiforos by phone at 301-415-3965 or by e-mail at Spyros.Traiforos@nrc.gov should you have any questions.

Sincerely,

/RA/

Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

Docket No. 50-228

Enclosures:
1. Non-Public Safety Evaluation
2. Public Safety Evaluation
3. Order

cc w/encl 2 & 3: See next page

Aerotest Operations, Inc.

Sandy Warren, General Manager
Aerotest Operations, Inc.
3455 Fostoria Way
San Ramon, CA 94583

California Energy Commission
1516 Ninth Street, MS-34
Sacramento, CA 95814

Radiologic Health Branch
P.O. Box 997414, MS 7610
Sacramento, CA 95899-7414

Test, Research, and Training
Research Newsletter
University of Florida
202 Nuclear Sciences Center
Gainesville, FL 32611

Pillsbury Winthrop Shaw Pittman LLP
ATTN: Jay Silberg
2300 N Street, NW
Washington, DC 20037-1122

Pillsbury Winthrop Shaw Pittman LLP
ATTN: Kimberly Harshaw
2300 N Street, NW
Washington, DC 20037-1122

10 CFR 2.302(a) states:

> (a) Documents filed in Commission adjudicatory proceedings subject to this part shall be electronically transmitted through the E-Filing system, unless the Commission or presiding officer grants an exemption permitting an alternative filing method or unless the filing falls within the scope of paragraph (g)(1) of this section [i.e., information that may not be transmitted electronically for security or other reasons].

In addition, 10 days before the date your request for hearing is due, you must request a digital ID certificate from the NRC in order to access the Electronic Information Exchange (EIE) system. The instructions for obtaining a digital certificate are found in 10 CFR 2.302(f) and on the NRC Web site at: http://www.nrc.gov/site-help/e-submittals.html.

Refer to the Order for instructions on requesting a hearing within 20 days from the date of the Order pursuant to 10 CFR 2.202, "Orders." In accordance with 10 CFR 2.390 and the NRC's "Rules of Practice," a copy of this letter and its public enclosure(s) will be made available electronically for public inspection in the NRC Public Document Room or in ADAMS, accessible through the NRC Web site at http://www.nrc.gov/reading-rm/adams.html. The NRC also makes significant enforcement actions available on its Web site at http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/.

Enclosed is a copy of the Order which is being sent to the *Federal Register* for publication.

Please contact Spyros Traiforos by phone at 301-415-3965 or by e-mail at Spyros.Traiforos@nrc.gov should you have any questions.

Sincerely,
/RA/
Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

Docket No. 50-228

Enclosures:
1. Non-Public Safety Evaluation
2. Public Safety Evaluation
3. Order

cc w/encl 2 & 3: See next page

DISTRIBUTION:

PUBLIC	PRTA R/F	RidsNrrAdro Resource	RidsNrrDpr Resource
RidsNrrOd Resource	RidsNrrMailCenter	RidsNrrDprPrta Resource	RidsNrrDprPrtb Resource
RidsOpaMailCenter	RidsOgcMailCenter	RidsOeMailCenter	RidsOcaMail Center
AAdams, NRR	GLappert, NRR	GHill, OIS	STraiforos, NRR
ASimmons, NRR	SBurnell, OPA	JHickman, FSME	JWeil, OCA
MHalter, NRR	WMaier, R IV		

ADAMS Accession No.: PKG: ML13120A593, LTR: ML13120A598, Non Public Safety Evaluation: ML13128A403, Public Safety Evaluation: ML13129A001, FRN: ML13120A607 ADM MEMO: ML13128A167, ORDER: ML 13158A164 NRR-106

OFFICE	NRR/DPRPRLB/PM	Tech Editor	NRR/DPR/PRLB/LA	NRR/DPR/PRLB/BC	OE
NAME	STraiforos	JDougherty	GLappert	AAdams	RCarpenter
DATE	4/19/2013	4/24/2013	5/23/13	5/23/13	6/14/2013
OFFICE	NRR/DPR/D	OGC	NRR/D	OE	NRR/D
NAME	LKokajko	SUttal, NLO	ELeeds	RZimmerman	ELeeds (JUhle for)
DATE	6/26/2013	7/2/2013	7/15/2013	7/24/2013	7/24/2013

OFFICIAL RECORD COPY