

October 19, 2000

NOTE TO COMMISSIONER ASSISTANTS

OCM/RM

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 John Thoma
 Lorna Pini
 Tojuana Fortune

FROM: John W. Craig /RA/
Assistant for Operations, OEDO.

SUBJECT: TRANSFER OF OWNERSHIP AT RESEARCH REACTOR

The attached memorandum is provided for your information. It discusses ongoing activities related to the transfer of ownership of the Aerotest Radiography and Research Reactor, a 250 kilowatt TRIGA research reactor.

Attachment: As stated

cc: W. Travers, EDO (w/attachment)
C. Paperiello, DEDMRS (w/attachment)
F. Miraglia, DEDR (w/attachment)
P. Norry, DEDM (w/attachment)
J. Craig, AO (w/attachment)
M. Satorius, OEDO (w/attachment)
I. Schoenfeld, OEDO (w/attachment)
D. Matthews, NRR (w/attachment)
M. Mendonca, NRR (w/attachment)

SECY (w/attachment)
OGC (w/attachment)
OCA (w/o attachment)
OPA (w/o attachment)
EDO R/F (w/attachment)

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October 17, 2000

MEMORANDUM TO: John W. Craig, Assistant for Operations
Executive Director for Operations

FROM: David B. Matthews, Director */RA by Charles E. Ader Acting for/*
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

SUBJECT: TRANSFER OF OWNERSHIP AT RESEARCH REACTOR

This memorandum is to inform you of an issue that may be of possible interest to the Commission. Specifically, this memorandum concerns an apparent indirect transfer of ownership, and thus the indirect transfer of the license, for the Aerotest Radiography and Research Reactor (ARRR), a 250-kilowatt TRIGA research reactor. The apparent indirect transfer occurred without NRC approval. A project manager identified this issue during an independent review of a NRC Inspection Report No. 50-228/2000-201 (inspection conducted September 11-15, 2000). The issue was jointly followed up by Office of General Counsel (OGC) and Office of Nuclear Reactor Regulation (NRR) personnel.

Aerotest Operations, Inc. (the licensee), operates the ARRR. Aerotest Operations is a wholly owned subsidiary of OEA Aerospace, Inc. OEA Aerospace is a wholly owned subsidiary of OEA, Inc. Autoliv, Inc. acquired substantially all of OEA stock in the Spring of 2000. Autoliv is a publicly-traded Delaware corporation with headquarters in Stockholm, Sweden, and its stock is traded on the New York Stock Exchange.

On its Web page, Autoliv estimates that "one third of the shares in the Company are held in the U.S. and close to 50-percent in Sweden. Most of the remaining shares are held in the U.K. The number of shareholders is estimated to exceed 60,000."

In a letter dated April 14, 2000, Aerotest Operations said that it "would remain under the direct control of U.S. Citizens." The licensee also stated in the letter that it would keep NRC informed of changes in the situation. On May 5, 2000, Aerotest Operations informed NRC by facsimile that the total number of tendered shares gives Autoliv at least 90-percent interest in OEA. Aerotest Operations informed the NRC staff of Autoliv's acquisition of the stock in telephone conversations before and after the acquisition.

At the time of the April 14, 2000, letter, the NRR project staff considered this action acceptable because (1) similar commitments had been used in the past to address the statutory and regulatory prohibition against foreign ownership of Part 50 license holders and (2) the license was not changed. Before the licensee issued its letter of April 14, 2000, the NRC staff informed them of their responsibility to ensure compliance with applicable requirements including, but not limited to, requesting and obtaining prior NRC consent to a transfer, direct or indirect.

Contact: Marvin Mendonca, NRR
415-1128

J. W. Craig

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From the information in the licensee's April 14, 2000 letter and May 5, 2000 facsimile, the NRC has developed the attached action plan to address how the staff plans to resolve the issue. This action plan entails requesting additional information from Aerotest Operations on the Autoliv transactions. The information will be requested to establish if a license transfer occurred, whether the transactions impacted the licensee with regard to technical and financial qualifications and foreign ownership, and to establish the alternatives to address any potential noncompliance that may exist.

Finally OEA is selling OEA Aerospace and Aerotest Operations is not part of the sale. Four options are being considered for the ARRR. None of the options involves foreign ownership or significant operational or management changes.

Attachment: Action Plan

**ACTION PLAN
FOR
TRANSFER-OF-OWNERSHIP ISSUE
AEROTEST RADIOGRAPHY AND RESEARCH REACTOR**

1. The DRIP Director or staff will brief the ET on this action plan
2. Within 2 working days of briefing the ET —
 - A. The DRIP Director will send a memorandum to the EDO Assistant for Operations on the circumstances of the issue and on plans to resolve the issue (information possibly of interest to the Commission).
 - B. The REXB Chief will issue an inspection report with the unresolved item.
 - C. The Project Manager and/or an Inspector will inform the licensee of the unresolved inspection item.
3. Within 5 working days of the ET briefing, the REXB Chief will send a 30-day-response letter to the licensee requesting information on —
 - A. The spring 2000 change in indirect ownership.
 - B. The impending change in ownership.
4. Within 90 days of receiving the licensee's response, RGEB and REXG staff in consultation with OGC, will review the spring 2000 license transfer and determine whether it is unacceptable.
 - A. If the licensee has not made an unacceptable transfer, the NRC staff will document this finding in a letter to the licensee within approximately 1 week of completing the review.
 - B. If the NRC staff determines (1) that a license transfer was completed without prior NRC approval but (2) that the NRC would have approved the terms of the license transfer, the issue will be treated as a minor violation and the NRC staff will issue an order and safety evaluation documenting this evaluation within approximately 1 month of completing the review.
 - C. If the transfer was not acceptable but the licensee makes acceptable commitments in its response (and, if necessary, provide a negation action plan in accordance with applicable regulatory guidance), the NRC staff could likely accept these commitments on an interim basis. The NRC staff may decide to formalize these commitments through a confirmatory action letter or a

confirmatory order. The NRC staff will restore compliance with the issuance of an order within 1 month of completing the review. The enforcement policy could authorize discretion to mitigate the severity of any related enforcement action if the staff determines that a violation occurred. This enforcement discretion would be exercised in accordance with enforcement guidance after completion of the review.

D. If the transfer was not acceptable, and the licensee's response and negation action plan (if one is necessary) are not acceptable, NRC staff may consider regulatory action to ensure compliance on an expedited basis (e.g., demand for information, order, escalated enforcement), consistent with enforcement guidance.

5. RGEB and REXB staff in consultation with OGC will review the upcoming planned ARRR license transfer before it's completed.
6. The REXB Project Manager will give a presentation on license transfer at the 2000 meeting of the National Organization of Test Research and Training Reactors in Raleigh, North Carolina.