

NUCLEAR REGULATORY COMMISSION

[NRC-2010-0178]

In the Matter of)	
)	
AEROTEST OPERATIONS, INC.)	Docket No. 50-228
)	License No. R-98
(Aerotest Radiography)	
and Research Reactor))	

ORDER APPROVING INDIRECT TRANSFER OF
FACILITY OPERATING LICENSE AND CONFORMING AMENDMENT

I.

Aerotest Operations, Inc., (Aerotest) is the holder of Facility Operating License No. R-98 which authorizes the possession, use and operation of the Aerotest Radiography and Research Reactor (ARRR) located in San Ramon, California, under the provisions of 10 CFR 50.21(c) for research and development purposes. Aerotest is a wholly owned subsidiary of OEA Aerospace, Inc., which is wholly owned by OEA, Inc. OEA, Inc., was purchased by Autoliv ASP, Inc., (Autoliv) on May 9, 2000. Autoliv is owned by Autoliv, Inc., a Delaware corporation with a Board of Directors and Executive Officers the majority of whom are non-U.S. citizens. Pursuant to the May 9, 2000, transfer, and without the consent of the U. S. Nuclear Regulatory Commission (NRC), Aerotest became a subsidiary of Autoliv and Autoliv, Inc.

II.

By application dated January 19, 2010, as supplemented by letters dated February 2, March 23, April 1, and April 19, 2010, (collectively, the application), Aerotest, X-Ray Industries, Inc., (X-Ray), and Autoliv requested that the NRC, pursuant to of Title 10 of the *Code*

of *Federal Regulations* (10 CFR) Section 50.80, consent to the proposed indirect transfer of control of Aerotest's license to possess, use, and operate the ARRR, from its current owner, Autoliv to X-Ray. Autoliv, the parent company of OEA, Inc., (which is the parent company of Aerotest) and X-Ray have entered into a Letter of Intent for X-Ray to acquire all of the stock of Aerotest. X-Ray has formed a subsidiary single member LLC, Aerotest Holdings LLC, to be the intermediate parent of Aerotest and a subsidiary of X-Ray. There will be no direct transfer of the license. No changes to ARRR's location, facilities, equipment, operating procedures, operating organization, or personnel will be made in connection with the indirect transfer of control of the license.

The application also requested approval of a conforming amendment to reflect the proposed transfer of ownership of Aerotest, from OEA, Inc., to X-Ray. After completion of the transfer, X-Ray would be the indirect owner of Aerotest, which operates the ARRR.

Notice of request for approval and an opportunity for hearing was published in the *Federal Register* on May 14, 2010; 75 FR 27368. No hearing requests or written comments were received.

Under 10 CFR 50.80, no license or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted in the application and other information before the Commission, the NRC staff has determined that the indirect license transfer of Facility Operating License R-98, as described above, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the NRC, pursuant thereto, subject to the conditions set forth below. The NRC staff further finds that the application for the proposed conforming license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth

in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied. The findings set forth above are supported by a safety evaluation dated July 7, 2010.

III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended (the Act), 42 U.S.C.2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the application regarding the proposed indirect license transfer described above related to the proposed transaction, is approved, subject to the following conditions:

- A. By no later than the time the proposed transaction and indirect license transfer occur, \$2 million in decommissioning trust funds will be deposited in a Decommissioning Trust established and maintained by Aerotest Operations, Inc., The funds will be segregated from other assets of Aerotest Operations, Inc., and will be outside of the administrative control of Aerotest Operations, Inc.
- B. No later than the date of the transaction, the licensee will provide to the Director of the Office of Nuclear Reactor Regulation, a copy of the letter of credit for \$300,000 in a form acceptable to the NRC.
- C. X-Ray Industries, Inc., shall enter into an \$850,000 support agreement with Aerotest Operations, Inc., no later than the time the proposed transaction and indirect license transfer occur. Aerotest Operations, Inc., shall take no action to cause X-Ray Industries, Inc., or its successors

and assigns, to void, cancel, or modify the support agreement or cause it to fail to perform, or impair its performance under the support agreement, without the prior written consent of the NRC. The support agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. An executed copy of the support agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transaction and the indirect license transfer. Aerotest Operations, Inc., shall inform the NRC in writing anytime it draws upon the support agreement.

IT IS FURTHER ORDERED that consistent with 10 CFR 2.1315(b), the conforming license amendment, reflecting only changes related to the subject indirect transfer, is approved. The amendment shall be issued and made effective at the time the proposed indirect transfer action is completed.

IT IS FURTHER ORDERED that after receipt of all required regulatory approvals of the proposed indirect transfer action, Aerotest shall inform the Director of the Division of Policy and Rulemaking in writing of such receipt no later than 7 business days prior to the date of the closing of the indirect transfer. Should the proposed indirect transfer not be completed by September 13, 2010, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the application dated January 19, 2010, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML100490068), as supplemented by letters dated February 2, March 23, April 1, and April 19, 2010, (ADAMS Accession No. ML100880295, ML100880338, ML100980153, and ML101120070, respectively), and the safety evaluation dated July 7, 2010, which are available for public inspection at the Commission's Public Document Room

(PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>.

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

Dated at Rockville, Maryland this 6th day of July, 2010.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Timothy J. McGinty, Director
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation