



# AEROTEST OPERATIONS, INC.

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October 4, 2010

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U.S. Nuclear Regulatory Commission  
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Tim McGinty, Director  
Division of Policy and Rulemaking  
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RE: NRC-2010-0178; Docket No. 50-228; License No. R-98

## **Report of Progress Made Toward Completion of the License Transfer**

By notice published in the Federal Register dated September 17, 2010, the U.S. Nuclear Regulatory Commission determined that good cause had been shown to extend the effectiveness of the Order of July 6, 2010 ( the "Order") and therefore ordered the extension of the Order until October 15, 2010, subject to certain conditions. One such condition requires weekly submission to the NRC Director, Division of Policy and Rulemaking, of a written report of the progress made toward the commercial transfer of the neutron radiography testing facility owned by Aerotest Operations, Inc. ("the Licensee") to X-Ray Industries, Inc. ("XRI"). The following is the report of the Licensee as of the date indicated above.

As of September 10, 2010, Licensee and the U.S. Department of Energy (the "DOE") executed an amendment to the Contract for the Aerotest facility. On September 13, 2010, Autoliv ASP, Inc., and XRI executed a stock purchase agreement that would transfer all outstanding shares of stock of Licensee to XRI at the closing of the transaction. The stock purchase agreement provides for the closing of the transaction to take place on October 15, 2010. Closing of the transaction is contingent on the U.S. Department of Defense (the "DOD") lawfully committing to the Licensee, in such form and with such substance as is reasonably acceptable to XRI in its sole discretion, to resolve one final outstanding issue.

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Since September 10, 2010, DOD has assured Aerotest that the final outstanding issue would be resolved within a matter of weeks. Aerotest provided documentation and information, including a confidential list of customer contacts, requested by DOD to help finalize an agreement. At DOD's request, Aerotest reached out to congressional stakeholders and customers and explained that a DOD agreement that would allow the Aerotest facility to continue operations would be forthcoming. However, on October 1, 2010, DOD informed Aerotest that DOD will not resolve the final outstanding issue preventing commercial transfer of the Aerotest facility.

Over the past several weeks, Aerotest received no warning that DOD would not provide the written commitment DOD had indicated it would provide. In fact, Aerotest had every reason to believe that a formal commitment would be finalized shortly. Per a phone call on September 10, 2010, DOD assured Aerotest that it would work to find a legal pathway forward to finalize an agreement. On September 17, 2010, DOD informed Aerotest that it had reviewed various legal options and had made a determination on the appropriate path to pursue moving forward. Aerotest fully expected that DOD would follow through on its verbal commitments.

The sudden change in position by DOD has effectively ended Aerotest's efforts to transfer its facility to XRI. DOD has indicated that it will not resolve the final outstanding issue preventing commercial transfer of the facility. Aerotest is therefore preparing to cease operations at its facility. Aerotest will be informing its customers that it will regrettably be forced to close its neutron radiography testing facility immediately.

I, Michael S. Anderson, hereby certify that the content of this letter contains information that is true and correct to the best of my knowledge.

If you have any questions regarding this submittal, please contact Michael S. Anderson, Secretary of Aerotest at (248) 475-0442 or [mike.anderson@autoliv.com](mailto:mike.anderson@autoliv.com).

Sincerely,



Michael S. Anderson  
Secretary  
Aerotest Operations, Inc.

cc: Via Federal Express  
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