

July 16, 2013
EN 13-024

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: Aerotest Operations, Inc.
Aerotest Radiography and Research Reactor
Docket No. 05000228

EA-13-097

Subject: ISSUANCE OF ENFORCEMENT ORDER

This is to inform the Commission that the staff is issuing a letter on or about July 23, 2013, to Aerotest Operations, Inc. (Aerotest, Licensee), denying an application for license renewal of the Aerotest Radiography and Research Reactor license because Aerotest is owned by a foreign corporation. The staff is also denying an application for transfer of the license. As a result, an Order will be issued concurrently to prohibit Aerotest from operating the reactor and placing the facility and its licensed material in a possession-only condition. The order also requires submission of an updated decommissioning plan and updated decommission funding.

Autoliv, Inc. (Autoliv), is headquartered in Sweden. The majority of its directors and officers are non-U.S. citizens and the majority of its outstanding stock is held by non-U.S. citizens. Nonetheless, Autoliv purchased Aerotest's parent company in 2000, obtaining control over the Aerotest reactor located in San Ramon, California. Neither Aerotest nor Autoliv submitted a license transfer request, and so the NRC did not review or approve the transfer. Autoliv's ownership and control has caused Aerotest to be in violation of section 104d. of the Atomic Energy Act (AEA), "Medical Therapy and Research and Development," and Title 10 of the *Code of Federal Regulations* 50.38, "Ineligibility of Certain Applicants," which prohibit issuing a license for a production or utilization facility useful in the conduct of research and development to any corporation or entity if the Commission knows that it is owned, controlled, or dominated by a foreign corporation. Aerotest has twice attempted to divest itself of its foreign ownership, control, and domination in order to meet the statutory and regulatory requirement, but has not been successful.

Aerotest submitted a license renewal application in 2005, and the reactor has since operated under the timely renewal provisions of 10 CFR 2.109. The reactor was voluntarily shut down on October 15, 2010 and except for surveillances, has not operated since. Aerotest is still in violation of the AEA and NRC regulations preventing foreign ownership, control, or domination. The staff is denying a pending license transfer application as well as the license renewal application. At the same time, the staff is issuing an order prohibiting operation of the reactor and requiring Aerotest to submit an updated decommissioning plan. NRR has verified that the

CONTACTS: Robert G. Carpenter,
OE, (301) 415-1330

Nick Hilton, OE,
(301) 415-2741

Department of Defense and the National Aeronautical and Space Administration are using another provider of neutron radiography and are no longer relying on Aerotest for these services.

It should be noted that the licensee has not been specifically informed of the enforcement action. The schedule of issuance and notification is:

Mailing of Notice	July 23, 2013
Telephone Notification of Licensee	July 23, 2013

The State of California will be notified.

DISTRIBUTION: EN-13-024, July 16, 2013

OWFN

Chairman Macfarlane
Comm. Svinicki
Comm. Apostolakis
Comm. Magwood
Comm. Ostendorff
SECY
OCA
OPA
OIP

OWFN

EDO
DEDR
DEDMRS
OE
OGC
NRR
OI
OIG

TWFN

OCFO
OP CENTER
OIS
RES
ACRS
FSME
NSIR
NRO

Regional Offices

RI RII
RIII RIV

MAIL

ADAMS
OE staff

3WFN

NMSS
NSIR

DISTRIBUTION:

Non-Public
RZimmerman, OE
NHilton, OE
RCarpenter, OE
MHalter, NRR
SCoker, NSIR
MMarsh, OGC
OE r/f
EN Binder

ADAMS Accession Number: ML13197A183

OFFICE	OE:ES	OE:BC
NAME	RCarpenter:nxh2	NHilton
DATE	7/16/13	7/16/13

OFFICIAL RECORD COPY