

March 8, 2018

Dr. David M. Slaughter, President  
and Reactor Administrator  
Aerotest Operations Inc.  
3455 Fostoria Way  
San Ramon, CA 94583

SUBJECT: AEROTEST OPERATIONS, INC. — IRREVOCABLE STANDBY LETTER OF  
CREDIT FOR THE AEROTEST RADIOGRAPHY AND RESEARCH REACTOR  
(CAC/DOCKET/EPID NO. 000954/05000228/L-2017-PMP-0014)

Dear Dr. Slaughter:

Aerotest Operations, Inc. (Aerotest) holds U.S. Nuclear Regulatory Commission (NRC) Facility Operating License No. R-98 for the operation of the Aerotest Radiography and Research Reactor (ARRR). On February 28, 2017, the NRC staff issued an order and safety evaluation consenting to the indirect transfer of the ARRR license to Nuclear Labyrinth, LLC (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML16333A446, ML16333A448, and ML16333A449). The NRC staff's order approving the transfer (ADAMS Accession No. ML16333A448) stated that the approval of the transfer was subject to certain conditions, including a requirement that "[a] cash secured irrevocable standby letter of credit from a federally insured bank in the amount of \$300,000 that conforms to the guidance provided in NRC Regulatory Guide 1.159 must be executed at the time of, or before, the transfer." NRC Regulatory Guide 1.159, "Assuring the Availability of Funds for Decommissioning Nuclear Reactors," Revision 2, dated October 2011 (RG 1.159), may be found at ADAMS Accession No. ML112160012.

On July 14, 2017, an irrevocable standby letter of credit from Bank of the West, in the amount of \$300,000 (ADAMS Accession No. ML18030A742), was executed for the account of Aerotest, and the originally-signed letter of credit was sent to the NRC. The license transfer was subsequently consummated on July 17, 2017 (ADAMS Accession No. ML17138A310).

The NRC staff has reviewed the letter of credit against the guidance in RG 1.159. RG 1.159 provides guidance to applicants and licensees of nuclear power, research, and test reactors concerning methods acceptable to the NRC staff for complying with requirements in the rules regarding the amount of funds for decommissioning, and also provides guidance on the content and form of the financial assurance mechanisms. RG 1.159, Appendix A-5, provides example wording for an irrevocable standby letter of credit for a nuclear reactor licensee. Although not applicable to nuclear reactor licensees, NUREG-1757, "Consolidated Decommissioning Guidance," Volume 3, "Financial Assurance, Recordkeeping, and Timeliness," Revision 1, dated February 2012 (ADAMS Accession No. ML12048A683), was also consulted by the NRC staff to help inform its review, because NUREG-1757 provides additional guidance regarding decommissioning letters of credit, including letters of credit which deviate from standard wording. NUREG-1757, Section A.6.4, provides example wording for an irrevocable standby letter of credit for NRC licensees other than nuclear reactor licensees that is similar to the example wording in RG 1.159, and NUREG-1757, Appendix A, Checklist 6-B, provides a list of

terms and conditions needed in decommissioning letters of credit that deviate from the example wording provided in NUREG-1757, Section A.6.4.

During its review, the NRC staff noted that Aerotest's letter of credit, dated July 14, 2017, does not appear to adequately conform to certain guidance provided in RG 1.159. Specifically:

- The example wording in RG 1.159, Appendix A-5, specifies that, if the letter of credit will not be automatically extended, then at least 90 days before the current expiration date, the bank will notify both the NRC and the licensee. Aerotest's letter of credit appears to require such notification to the NRC, but not to the licensee.
- The example wording in RG 1.159, Appendix A-5, specifies that the bank shall give immediate notice to the licensee and the NRC of any notice received or action filed alleging (1) the insolvency or bankruptcy of the financial institution or (2) any violations of regulatory requirements that could result in suspension or revocation of the bank's charter or license to do business, and that the bank shall also give immediate notice if it, for any reason, becomes unable to fulfill its obligation under the letter of credit. Aerotest's letter of credit does not appear to require such notification.

In light of these apparent substantive differences between Aerotest's letter of credit, dated July 14, 2017, and RG 1.159, the NRC staff requests that Aerotest respond within 30 days of the receipt of this letter to explain how it complies, or plans on complying, with the license transfer condition that the irrevocable standby letter of credit "conforms to the guidance provided in NRC Regulatory Guide 1.159."

If you have any questions, or need additional time to respond to this request, please contact me at 301-415-4067, or by electronic mail at [Edward.Helvenston@nrc.gov](mailto:Edward.Helvenston@nrc.gov).

Sincerely,

*/RA/*

Edward Helvenston, Project Manager  
Research and Test Reactors Licensing Branch  
Division of Licensing Projects  
Office of Nuclear Reactor Regulation

Docket No. 50-228  
License No. R-98

cc: See next page

Aerotest Operations, Inc.

Docket No. 50-228

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 DATE: MARCH 8, 2018

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**ADAMS Accession No. ML18054A077**

**\*concurred via email**

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