



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

January 25, 2019

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

SUBJECT: AEROTEST OPERATIONS, INC. — REQUESTS FOR RENEWAL OF FACILITY OPERATING LICENSE NO. R-98, REVIEW OF THE RESTART PLAN, AND AMENDMENT TO TECHNICAL SPECIFICATION 6.6 FOR THE AEROTEST RADIOGRAPHY AND RESEARCH REACTOR (EPID NOS. L-2017-RNW-0027, L-2018-LLL-0012, and L-2018-LLA-0096)

Dear Dr. Slaughter:

Aerotest Operations, Inc. (Aerotest) holds U.S. Nuclear Regulatory Commission (NRC) Facility Operating License No. R-98 for the Aerotest Radiography and Research Reactor (ARRR). By application dated February 28, 2005 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13120A434), as supplemented by letters dated May 5, 2008 (ADAMS Accession No. ML103370137), March 9, 2009 (ADAMS Accession No. ML120900629), December 20, 2017 (ADAMS Accession Nos. ML17363A303 and ML18045A571), January 2, 2018 (ADAMS Accession No. ML18009A439), February 14, 2018 (ADAMS Accession No. ML18053A139), February 22, 2018 (ADAMS Accession No. ML18057A019), February 28, 2018 (ADAMS Accession No. ML18066A075), March 27, 2018 (ADAMS Accession No. ML18092A093), and October 24, 2018 (ADAMS Accession No. ML18303A291), Aerotest requested the renewal of the ARRR operating license.

By letter dated April 3, 2018 (ADAMS Accession No. ML18096A689), Aerotest submitted an ARRR Restart Plan and requested that the NRC staff review the plan “for the general approach, identified outcome, and schedule.”

By application dated March 29, 2018 (ADAMS Accession No. ML18093A385), as supplemented by letter dated April 30, 2018 (ADAMS Accession No. ML18127A075), Aerotest submitted a license amendment request (LAR) for the ARRR. The proposed license amendment would delete ARRR technical specification 6.6.

By letter dated December 6, 2018 (ADAMS Accession No. ML18344A049), Aerotest stated that it plans to amend the ARRR license to possession-only as a preliminary step toward decommissioning the ARRR. Therefore, Aerotest stated that it requests the “withdrawal of the relicensing application and termination of requests associated with relicensing, reactor restart activities, and ARRR license and technical specifications, operator requalification program and other Aerotest submissions currently undergoing review.”

The NRC staff notes that the license renewal application (LRA), restart plan review request, and LAR discussed above comprise Aerotest’s three outstanding requests for NRC licensing actions

and/or reviews. The NRC staff considers Aerotest's operator requalification program submitted by Aerotest's letter dated January 2, 2018, and other submissions reviewed in conjunction with license renewal (i.e., the physical security plan submitted by Aerotest's letter dated February 22, 2018, and the emergency plan submitted by Aerotest's letter dated February 14, 2018) to be part of the LRA, as supplemented.

Based on the information in Aerotest's letter dated December 6, 2018, the NRC staff has terminated its reviews of Aerotest's restart plan, dated April 3, 2018, and its LAR, dated March 29, 2018, as supplemented. The NRC staff considers Aerotest's request for review of its restart plan, and its LAR, to be withdrawn from consideration. EPID Nos. L-2018-LLL-0012 and L-2018-LLA-0096 have been closed. However, information provided to the NRC in support of the restart plan review request and the LAR will remain in ADAMS.

Because Aerotest's LRA was originally filed at least 30 days before the expiration of the existing ARRR license, under Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.109, "Effect of timely renewal application," the NRC will not deem the existing license to have expired until the LRA has been finally determined. Additionally, pursuant to 10 CFR 50.51(b), "[e]ach license for a facility that has permanently ceased operations, continues in effect beyond the expiration date to authorize ownership and possession of the production or utilization facility, until the Commission notifies the licensee in writing that the license is terminated."

Although Aerotest's December 6, 2018, letter stated that Aerotest plans to take steps toward decommissioning the ARRR, it did not clearly state that Aerotest has permanently ceased operations of the ARRR. Aerotest's December 6, 2018, letter requested the withdrawal of the ARRR LRA, but the NRC staff notes that because the timely LRA is currently causing the ARRR license to remain in effect pursuant to 10 CFR 2.109, the LRA cannot be withdrawn until Aerotest certifies that it has permanently ceased operations of the ARRR, such that the license shall remain in effect pursuant to 10 CFR 50.51(b).

Based on the information in Aerotest's December 6, 2018, letter, the NRC staff has suspended its review of Aerotest's LRA, as supplemented. However, the NRC staff will not consider Aerotest's LRA to be withdrawn until Aerotest provides the NRC with written certification of the permanent cessation of ARRR operations.

The NRC staff notes that, notwithstanding any suspension of the review of, or any withdrawal of, Aerotest's LRA, Aerotest shall continue to be subject to all applicable Commission regulations; all applicable orders, including the February 28, 2017, order imposing conditions for the indirect transfer of the ARRR license to Nuclear Labyrinth, LLC (ADAMS Accession No. ML16333A448); and the terms of the ARRR license and technical specifications.

The NRC staff further notes that, once Aerotest certifies that it has permanently ceased operations of the ARRR, pursuant to 10 CFR 50.82(b), it is required, within two years, to make application for license termination and that the application for license termination must be accompanied or preceded by a proposed decommissioning plan, with contents as specified in 10 CFR 50.82(b)(4).

If you have any questions, please contact Edward Helvenston at 301-415-4067, or by electronic mail at [Edward.Helvenston@nrc.gov](mailto:Edward.Helvenston@nrc.gov).

Sincerely,

*/RA/*

William Kennedy, Acting Chief  
Research and Test Reactors Licensing Branch  
Division of Licensing Projects  
Office of Nuclear Reactor Regulation

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

cc:

California Energy Commission  
1516 Ninth Street, MS-34  
Sacramento, CA 95814

Radiologic Health Branch  
P.O. Box 997414, MS 7610  
Sacramento, CA 95899-7414

Test, Research and Training  
Reactor Newsletter  
P.O. Box 118300  
University of Florida  
Gainesville, FL 32611

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**ADAMS Accession No. ML19015A332**

**\*concurrent via email**

**NRR-058**

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NAME	EHelvenston	NParker	JWachutka	WKennedy
DATE	1/16/2019	1/16/2019	1/25/2019	1/25/2019

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