



AEROTEST OPERATIONS, INC.

3455 FOSTORIA WAY • SAN RAMON, CA 94583 • (925) 866-1212 • FAX (925) 866-1716

December 21, 2021

AEROTEST RADIOGRAPHY AND RESEARCH REACTOR
DOCKET NO. 50-228/LICENSE NO. R-98.

ATTENTION: Document Control Desk
U.S. Nuclear Regulatory Commission
White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Subject: Response to December 6, 2021, NRC POL Issuance; The licensee and its Reactor Safeguard Committee request a reasonable opportunity to review and address shortcomings of the draft Licensee and Technical Specifications along with the Draft Safety Evaluation before issuance of the POL license.

Ladies and Gentlemen:

The licensee and its Reactor Safeguard Committee request a reasonable opportunity to review and address shortcomings of the draft Licensee and Technical Specifications along with the Draft Safety Evaluation before issuance of the POL license. The LAR process resulting in the December 6, 2021, issuance of LAR Amendment No. 6 (ML21242A463) reinforces my belief that the NRC staff and its process requirements and practices are flawed resulting in an incompetent performance.

A final review by Aerotest administrative staff and by my Reactor Safeguards Committee was not given. In part, a reason provided was having to meet the December 8, 2021, deadline. I have been and continue to be critical of the NRC Staff performance on this LAR (and other regulatory activities).

This POL document is a cumulation of effort that spanned from March 23, 2019, to December 6, 2021. Over 30 months (2.5 years) to complete a license amendment for a facility with an operating TRIGA reactor to one that simply stores TRIGA fuel. The cost to the Licensee for NRC staff time will approach \$200,000 for this task alone; the last quarter billing for 2021 will not be available until January 2022. See attached entitled Part 50 Possession Only LAR NRC Cost summary. The licensee was concerned with the lack of progress by the NRC staff as expressed in two recent letters dated July 20, 2021 (ML21209A519) and October 28, 2021 (addressed to the NRC CFO which is not on ADAMS). The October 28, 2021, communication is attached for completeness.

The final communications leading to the December 6, 2021, issuance of LAR Amendment No. 6 (ML21242A463) reinforces my belief that the NRC staff are struggling to accomplish their task and provide effective regulatory oversight. It is not clear if it is a lack of workforce, ill served systemic administrative processes, lack of technical competency or a combination of these factors are to be blamed. The recent emails communications demonstrate my concern:

AD2D
NRK

11/23/21 Email from Geoffrey Wertz (NRC) to Dr. Slaughter. The licensee received an email with an attached document labeled DRAFT of ARRR POL LC and TS change Pages. In the email, it stated that NRC staff amended LCs and TSs and they are issuing a partial approval and partial denial. The email included a summary list of NRC staff changes. It continues by stating the reasons for the changes will be detailed in the safety evaluation that will be issued with the POL. While the staff did encourage licensee to discuss the partial denial and NRC changes per a telephone conference. The attachment contained only the Draft LAR 15 pages, without a draft safety evaluation (ML21328A192)

11/23/21 Response to Geoffrey Wertz (ML21328A195) The Licensee did respond having received the Draft LC and TS and indicated that the Licensee would reach out after thanksgiving holiday to a schedule meeting.

[Unfortunately, when the reply to the email was sent, a number automatic out of office messages from the email addresses indicating various dates of availability. This was not a surprise given that the licensee reply was sent the same day NRC email was received, two days before the Thanksgiving holiday.]

12/1/21 email to Geoffrey Wertz (NRC) (ML21337A330) not sure of who would be involved in the meeting and their availability given the number NRC staff addressees. To expedite the discussion, the Licensee suggested changes that were needed to clarify TS 11.1 as it is confusing; the use of plural word "pits" when the technical specification was for a single pit. Also, the draft TS amendment numbers were confusing. The Licensee also mentioned that the draft document would be submitted for review to the Reactor Safety Committee (RSC).

[Interesting, reviewing the list of actions made by the NRC staff in the email dated 11/23/2021 included punctuations, clerical, and *clarification* changes.]

12/2/21 email from Edward Helvenston (NRC) (ML21337A330) summarized that no changes to the document will be allowed including to TS 11.1. He goes on to say that The Licensee can submit a separate amendment request following the POL amendment. Mr. Helvenston indicated that if a call is requested, it needed to be conducted in the next couple of days to meet the December 8, 2021, completion date.

12/2/21 email to Edward Helvenston (NRC) (ML21337A330) The licensee responded if no changes can be made, Geoffrey must have erroneously sent the document with a draft label. Based on the document being finalized on 11/23/2021, a follow up phone meeting before the December 8th, 2021, would not been beneficial and/or cost effective.

[The licensee and its RSC were not given the opportunity to make changes in the final review of the draft document or review the draft safety evaluation report to understand NRC staff decisions. Based on the Table of communications associated with the LAR attached, the NRC staff approximately 150 days from our last RAI response 6/22/2021 to produce a final document delivered on 11/23/2021 (Without providing the licensee with a draft/final safety evaluation, the NRC staff's offer for teleconference would not be productive. Why was the licensee not given a draft safety evaluation on 11/23/2021?)

12/6/21 Letter (Email) to Dr. Slaughter issuing POL (ML21242A463) was received with associated attachments

We need the NRC to response to: The licensee and its Reactor Safeguard Committee request a reasonable opportunity to review and address short comings of the draft Licensee and Technical Specifications along with the Draft Safety Evaluation before issuance of the POL license.

Should you have any questions or require additional information regarding this submission, please contact AO President David M. Slaughter, Ph.D. at (801) 631 5919 or dmsraven@gmail.com.

I declare under penalty of perjury that the statements above are correct and truthful.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'D. M. Slaughter', with a stylized flourish at the end.

David M. Slaughter, Ph.D.
President, Reactor Administrator, Manager
Aerotest Operations, Inc.

Enclosures: October 28, 2021 Letter to Cherish J Johnson (NRC) CFO
 Proof of Delivery for October 28, 2021 Letter to Cherish J Johnson (NRC) CFO
 Table 1 ARRR Part 50 License Review (LAR) – Time Line
 Table 2 Aerotest Certified Fuel Handler – Time Line

Cc US NRC OIG, Denise Hannigan (Emailed)
 US NRC, Edward Helvenston (Emailed)



AEROTEST OPERATIONS, INC.

3455 FOSTORIA WAY • SAN RAMON, CA 94583 • (925) 866-1212 • FAX (925) 866-1716

October 28, 2021

Cherish J. Johnson
U.S. Nuclear Regulatory Commission
Office of the Chief Financial Officer
Division of the Comptroller
Labor Administration and Fee Billing
Branch Mail Stop T9 850
Washington, DC 20555-0001

Dear Cherish J. Johnson,

I am confused what specific activities remain to achieve the license amendment from operational to only storage of fuel. NRC bill lacks transparency in describing the performance and the costs that was promised in NEIMA 2019. The lack of detail of activities not provided in the NRC bill hinders the effective evaluation of charges as well to assess progress. Tracking the charges as per pay period, the NRC staff contributions were substantial completed on or before August 14th pay period with little effort reported in the pay periods that followed. When I notice staff is charging a few hours (e.g., 1, or 2 hours) per pay period (spanning 2 weeks) I cannot imagine that is productive in completing the license amendment other than putting their time in without valuable effort. It is not clear if this is a report of single entry of time or a summation of short, reported times during that pay period. Either way the ability of the Staffer to be productive is questionable. This quarterly NRC billing represents 45 percent of my total burdened personnel costs over the same period of time. I have no measure of accomplishment toward the completion of the license amendment.

In addition, I have charges of Jack Parrott under the "Aerotest Possession-only LAR...." with no clear understanding why. I see on my previous NRC bills under this activity Mr. Jack Parrott was not included. Why the inclusion now and the hours per pay period is very low suggesting no significant technical impact. Could you provide me a description of his effort under the charges reported under the "Aerotest Possession-only LAR...." section? (I understand Mr. Parrott's inclusion on charges associated with "Aerotest Decommissioning Plan Review.")

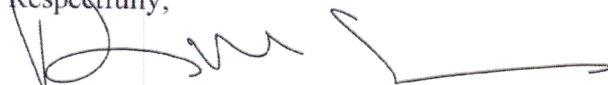
My last communication (AO Letter dated 7/20/2021, ML21209A519) questioned NRC staff explanation and need for additional 6-month extension (NRC Letter dated 7/12/2021, ML21188A391). This extension pushed back the scheduled completion of the LAR to December 8, 2021. This activity should have taken much less than the required two years and now to include an additional 6 months is unreasonable. After 98 days, I have not received a response to that communication or status of the license amendment. I did receive an email dated the same date of this letter, 10/28/2021 from Ed Helvenston (NRC staff) stating that "NRR is continuing to work on the POL LAR and should have a separate update on that soon." Given the reduced

hourly effort by NRC staff reflected in the latter portion of the NRC bill, one might prematurely conclude the staff is near done. However, if additional RAIs are requested, most likely will force a later completion date beyond December 8, 2021. Is it possible to hold the NRC staff accountable for poor performance of duty? When I experience sub-performance from my staff, I evaluate if it is a systemic problem related to the company's approach or a personnel issue that needs to be remediated

The research reactor, licensed for 250 KW has an operational license for over 55 years. The NRC involvement is well documented from the reactor initial conception to the present. The LAR for changing the status from operation to storage should be straight forward. This raises a broader concern that the current NRC approach to oversight will allow the repeat of catastrophic failures of safety such as that occurred at Aerotest Operations. NRC failed their obligations along with the licensee that resulted in twenty-two fuel elements with cracked cladding. The TRIGA fuel design is inherently safe which prevented a radiation release. Under the current circumstances of a NRC staff struggling to perform rudimentary regulatory oversight, the potential of nuclear accidents with advanced reactors for power and non-power applications (with less forgiving operational circumstances) will be more frequent and resulting damage more severe. It is my belief that technology rarely fails if operated within its design parameters and is properly maintained. Most failures are a result of licensee's (and/or regulator's) negligent decisions and actions.

I declare under penalty of perjury that the statements made in the enclosures are correct and truthful to the best of my knowledge. Should you have any questions or require additional information regarding this submission, please contact AO President David M. Slaughter, Ph.D. at (801) 631 5919 or dmsraven@gmail.com

Respectfully,



David M Slaughter, PhD

President, Reactor Administrator, General Manager and Manager

Enclosures: July-Sept NRC quarterly bill

cc **NRC IG Office (E-mail)**

Senator Cynthia Lummis (Follow up to letter dated August 18, 2021)

Senator Alex Padilla (Follow up to letter dated August 18, 2021)

Senator John Barrasso (Follow up)

Representative Eric Swalwell (Follow up to letter dated August 19, 2021)

Ed Helvenston (E-mail)

Billing Details:

Docket #: 05000228
Docket Name: AEROTEST

License #: R-98

EPID #: L-2019-LLA-0065

EPID Name: Aerotest Possession-only LAR and associated ORP revision

CAC #: 000955		CAC Name: FB-OR-Non-Power Prod-Utilization Review		
NRC Staff Name	Pay Period End Date	Hourly Rate	Hours	Hourly Cost
Helvenston,Edward M	Jul 3, 2021	\$279.00	9.25	\$2,580.75
Torres,Paulette A	Jul 3, 2021	\$279.00	1.00	\$279.00
Wertz,Geoffrey A	Jul 3, 2021	\$279.00	9.00	\$2,511.00
Helvenston,Edward M	Jul 17, 2021	\$279.00	4.50	\$1,255.50
Wertz,Geoffrey A	Jul 17, 2021	\$279.00	16.00	\$4,464.00
Helvenston,Edward M	Jul 31, 2021	\$279.00	7.75	\$2,162.25
Wertz,Geoffrey A	Jul 31, 2021	\$279.00	24.00	\$6,696.00
Helvenston,Edward M	Aug 14, 2021	\$279.00	14.75	\$4,115.25
Wertz,Geoffrey A	Aug 14, 2021	\$279.00	14.00	\$3,906.00
Helvenston,Edward M	Aug 28, 2021	\$288.00	4.75	\$1,368.00
Parrott,Jack D	Aug 28, 2021	\$288.00	2.00	\$576.00
Reed,Sara E.	Aug 28, 2021	\$288.00	1.00	\$288.00
Wertz,Geoffrey A	Aug 28, 2021	\$288.00	5.00	\$1,440.00
Helvenston,Edward M	Sep 11, 2021	\$288.00	5.00	\$1,440.00
Parrott,Jack D	Sep 11, 2021	\$288.00	2.00	\$576.00
Wertz,Geoffrey A	Sep 11, 2021	\$288.00	2.00	\$576.00
Parrott,Jack D	Sep 25, 2021	\$288.00	1.50	\$432.00
Wertz,Geoffrey A	Sep 25, 2021	\$288.00	3.00	\$864.00

CAC Total: 126.50 \$35,529.75

EPID Total: \$35,529.75

ED 46.00
Paulette 1.00
Geoffrey 73.00 = 126.50
Jack 5.50
Sara 1.00

Billing Details:

Docket #: 05000228
Docket Name: AEROTEST

License #: R-98

EPID #: L-2021-LLN-0004

EPID Name: Aerotest Decommissioning Plan Review

CAC #: 000955

CAC Name: FB-OR-Non-Power Prod-Utilization Review

NRC Staff Name	Pay Period End Date	Hourly Rate	Hours	Hourly Cost
Helvenston,Edward M	Aug 28, 2021	\$288.00	1.75	\$504.00
Parrott,Jack D	Aug 28, 2021	\$288.00	3.00	\$864.00
Helvenston,Edward M	Sep 11, 2021	\$288.00	0.75	\$216.00
Parrott,Jack D	Sep 11, 2021	\$288.00	4.50	\$1,296.00
Parrott,Jack D	Sep 25, 2021	\$288.00	4.00	\$1,152.00
CAC Total:			14.00	\$4,032.00

EPID Total:	\$4,032.00
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Docket Total: 05000228

\$39,561.75

ED 2.50
Jack 11.50 = 14.00

ORIGIN ID: LVKA (925) 866-1212
TONI RICHIE
AEROTEST OPERATIONS, INC.
3455 FOSTORIA WAY

SHIP DATE: 29OCT21
ACTWGT:
CAD: 816633/NET4400

SAN RAMON, CA 94583
UNITED STATES US

BILL SENDER

TO

CHERISH K. JOHNSON CFO,

U.S. NUCLEAR REGULATORY COMMISSION

MAIL STOP T9 B50

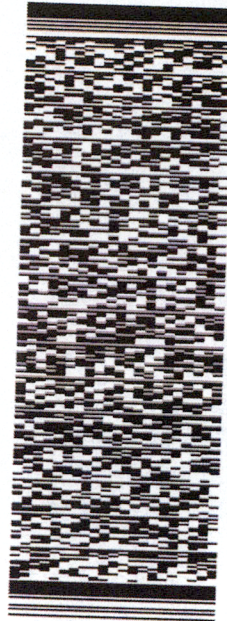
WASHINGTON DC 20555

(301) 415-7000

REF

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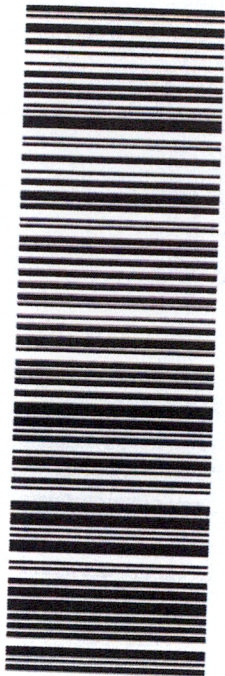
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Cherish Johnson

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Sent 10-29-2021

→ CFO

Delivered 11-1-2021

Signed for by R. Pot...

Document Title	Accession Number	Date Added	Document Date	Who Sent	What	Days between
Aerotest Operations, Inc. - License and TS Amendments.	ML19084A051	04/02/2019 08:31 AM EDT	3/21/2019	Aerotest	Possision Only LAR License and TS submitted	n/a
Aerotest Operations, Inc. - Supplemental Information Needed for Acceptance of Requested Licensing Application Re: License Amendment Request to Prepare for Fuel Storage and Decommissioning Activities for the Aerotest Radiography and Research Reactor.	ML19108A478	06/06/2019 09:25 AM EDT	5/29/2019	NRC	Request for Supplemental Info	69.00
Aerotest Operations, Inc. - License and TS Amendments	ML19184A112	07/12/2019 09:23 AM EDT	6/28/2019	Aerotest	Possision Only LAR License and TS submitted	30.00
Aerotest Operations, Inc. - Acceptance Review and Milestone Date for Completion of the Review of License Amendment Request Related to Permanent Cessation of Operation of the Aerotest Radiography and Research Reactor, Facility Operating License No. R-98	ML19193A077	08/07/2019 08:32 AM EDT	7/30/2019	NRC	Acceptance of Possision only LAR	32.00
Aerotest Operations, Inc. - Supplemental to License and TS Amendments.	ML19231A127	08/27/2019 08:35 AM EDT	8/14/2019	Aerotest	License and TS Amendment	15.00
Aerotest Operations, Inc. - Regulatory Audit Re: License Amendment Request for Possession Only Status of the Aerotest Radiography and Research Reactor(EPID L-2019-LLA-0065)	ML19255F932	11/04/2019 01:12 PM EST	10/31/2019	NRC	Audit Request	
Aerotest Operations, Inc. - Report On The Regulatory Audit Conducted December 11, 2019 Re: License Amendment Request For Possession Only Status Of The Aerotest Radiography And Research Reactor (EPID No. L-2019-LLA-0065)	ML20017A278	02/05/2020 08:35 AM EST	2/3/2020	NRC	Audit Report	95.00
Aerotest Operations, Inc., ML20017A278; Audit Report December 11, 2019 Regarding the License Amendment for a Possession-Only Facility License	ML20049A040	02/26/2020 08:30 AM EST	2/12/2020	Aerotest	Audit Reponse	9.00

Document Title	Accession Number	Date Added	Document Date	Who Sent	What	Days between
Aerotest Operations, Inc. - Request For Additional Information Re: Amendment Request For Possession Only License For The Aerotest Radiography And Research Reactor Operating License No. R-98 (EPID NO. L-2019-LLA-0065)	ML20034G445	02/18/2020 08:39 AM EST	2/13/2020	NRC	RAI	183.00
Aerotest Operations, Inc. Aerotest Radiography and Research Reactor, Response to NRC staff Request for Additional Information (redacted version) March 26, 2020	ML20098D415	04/17/2020 08:32 AM EDT	3/26/2020	Aerotest	RAI Response	42.00
Aerotest Operations, Inc. - Request for Clarification Re: Amend	ML20112F489	05/11/2020 08:5	4/30/2020	NRC	RAI	35.00
Aerotest Operations, Inc. - Response to NRC Request for Clarification RE: Amendment Request for Possession Only License for the Aerotest Radiography and Research Reactor Facility Operating License No. R-98 (EPID No. L-2019-LLA-0065)	ML20175A676	07/06/2020 08:52 AM EDT	6/8/2020	Aerotest	RAI Response	39.00
Aerotest Operations, Inc. - Request for Additional Information Re: Possession-Only License Amendment Request for the Aerotest Radiography and Research Reactor Facility Operating License No. R-98 (EPID No. L-2019-LLA-0065)	ML21047A468	03/30/2021 03:13 PM EDT	3/30/2021	NRC	RAI	295.00
Aerotest Operations, Inc. License and TS Amendments	ML21126A150	05/14/2021 09:1	4/28/2021	Aerotest	RAI Response	29.00
Aerotest Operations, Inc., Response to RAI 28 and 29	ML21147A060	06/04/2021 08:31 AM EDT	5/19/2021	Aerotest	RAI Response	21.00
Email from Geoffy A Wertz *	None		6/3/2021	NRC	RAI	15.00
Draft RAI Questions *	ML21201A364	7/22/2021	6/3/2021	NRC	RAI	0.00
Aerotest Operations, Inc. - License and TS Amendments **	ML21181A123	07/09/2021 08:22 AM EDT	6/22/2021		RAI Response	19.00
Aerotest Operations, INC. - Revised Completion Date RE: Possession-Only License Amendment Request for the Aerotest Radiography and Research Reactor Facility Operating License	ML21188A391	07/20/2021 08:35 AM EDT	7/12/2021	NRC	More Time	
Response to more time need by NRC	ML21209A519	8/5/21 8.27 AM EDT	7/20/2021	Aerotest	Response	8.00

Document Title	Accession Number	Date Added	Document Date	Who Sent	What	Days between
Draft LAR/Phone Meeting	ML21328A192	12/21/21 8:30 AM EDT	11/23/2021	NRC	Draft	154.00
Email to Set meeting on Draft LAR after Thanksgiving	ML21328A195	12/2/2021 8:32 AM EDT	11/23/2021	Aerotest	Response	0.00
Possission only LAR Emails	ML21337A330	12/6/2021 9:58 AM EDT	12/2/2021	NRC	Draft not a draft	9.00
LAR License Amentment 6 issued	ML21242A463	12/14/2021 9:58 AM EDT	12/6/2021	NRC	Final License Amendment	
			Aerotest Average Response Days			22.10
			NRC Average Response Days			98.56

* Never received the NRC official RAI Request.

*** AO Response to NRC Draft Request as Official request never received

Table 2 Aerotest Certified Fuel Handler

Document Title	Accession Number	Date Added	Document Date	Who Sent	What	Days between
Aerotest Operations, Inc. - License and TS Amendments.	ML19084A051	04/02/2019 08:31 AM EDT	3/21/2019	Aerotest	Plan	
Aerotest Operations, Inc. - Request for Additional Information Re: Possession-Only License Amendment Request to Use Certified Fuel handlers for the Aerotest Radiography and Research Reactor Facility Operating License No. R-98 (EPID No. L-2019-LLA-0065)	ML20177A203	08/06/2020 08:34 AM EDT	7/27/2020	NRC	RAI	494.00
Aerotest Operations, Inc - List of Explanations, Changes, and Justifications for RAI CFH Training and Requalification Program	ML20248H460	09/15/2020 08:24 AM EDT	8/28/2020	Aerotest	RAI Response	32.00
Aerotest Operations, Inc. - Request For Additional Information Re: Possession-Only License Amendment Request For The Aerotest Radiography And Research Reactor Facility Operating License No. R-098 (EPID NO. L-2019-LLA-0065)	ML21034A626	03/25/2021 04:15 PM EDT	3/12/2021	NRC	RAI	196.00
Aerotest Operations, Inc. - Request for Additional Information Re: Possession-Only License Amendment Request for the Aerotest Radiography and Research Reactor Facility Operating License No. R-98 (EPID No. L-2019-LLA-0065)	ML21047A468	03/30/2021 03:13 PM EDT	3/30/2021	NRC	RAI	Same as 3/12
Aerotest Operations, Inc., Response to RAI CFH Training and Requalification Program- 3/30/21	ML21098A157	04/09/2021 10:31 AM EDT	3/31/2021	Aerotest	RAI Response	19.00
Draft LAR	ML21328A192	12/3/2021	11/23/2021	NRC	Heard it was Approved	237.00
			Aerotest Average Response Days			25.50
			NRC Average Response Days			309.00