



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

March 18, 2024

EA-23-118

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

SUBJECT: AEROTEST OPERATIONS, INC. - NRC INSPECTION REPORT
050-00228/2023-001, RESPONSE TO DISPUTED MINOR VIOLATION

Dear David Slaughter:

On February 5, 2024, the U.S. Nuclear Regulatory Commission (NRC) responded to a letter from Aerotest Operations, Inc. (Aerotest) disputing a minor violation documented in Inspection Report 050-00228/2023-001, Agencywide Documents Access and Management System (ADAMS) Accession No. ML24025A167. The minor violation involved the failure of the Reactor Safeguards Committee (RSC) to meet at least annually as required by Technical Specification (TS) 12.1.3, Amendment 5. In our February 5, 2024, response, the NRC determined that the original minor violation remained valid with a revision to correct the reference to the technical specification requirement in place during the period of the noncompliance. On February 8, 2024, the NRC reissued Inspection Report 050-00228/2023-001 to document the revised minor violation (ML24039A038).

In a letter dated February 21, 2024 (ML24057A010), Aerotest provided a written response where you continue to dispute the minor violation documented in Inspection Report 050-00228/2023-001. In your February 21, 2024, letter, you state that you, "do not agree with the NRC decision that "Annually" means calendar year or within 365 days for [sic] the prior date of the meeting date."

The NRC reviewed your letter and determined that Aerotest provided no new information that would warrant further review of your dispute. The NRC determined that the minor violation of TS 12.1.3, Amendment 5 remains valid irrespective of whether a plain language application of the term "annually" or the definition of "annually" found in 10 CFR 36.2¹ is used since the Aerotest RSC failed to meet at least once per year for 2021.

While the NRC agrees that there is leeway in the timing for the RSC meeting like that described in 10 CFR 36.2 (e.g., plus or minus 1 month), this leeway does not supersede the requirement to meet at least **once per year** (emphasis added). The NRC noted that Aerotest's practice of using the month of December for the RSC meeting effectively limits Aerotest's ability to use

¹ 10 CFR 36 are the NRC's requirements for irradiators which are not applicable to Aerotest. The definition of annually found in 10 CFR 36.2 is only referenced as it forms the basis of Aerotest's dispute.

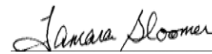
flexibility in the timing of its RSC meeting since any delay would effectively push the meeting to a different year.

The NRC considers this matter closed but reminds you that Aerotest may seek an amendment, in accordance with the process described in 10 CFR 50.90, "Application for amendment of license, construction permit, or early site permit," to modify TS 12.1.6, Amendment 6 if you desire additional flexibilities not currently afforded to you in Aerotest's licensing basis.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's ADAMS, accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>.

Should you have any questions concerning this letter, please contact Greg Warnick of my staff at 817-200-1249 or at Greg.Warnick@nrc.gov.

Sincerely,



Signed by Bloomer, Tamara
on 03/18/24

Tamara Bloomer, Director
Division of Radiological Safety and Security

Docket No. 050-00228
License No. R-98

AEROTEST OPERATIONS, INC. - NRC INSPECTION REPORT 050-00228/2023-001,
 RESPONSE TO DISPUTED MINOR VIOLATION – DATED MARCH 18, 2024

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ADAMS ACCESSION NUMBER: ML24073A218

SUNSI Review: ADAMS: Non-Publicly Available Non-Sensitive Keyword:
 By: JGK Yes No Publicly Available Sensitive NRC-002

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