

42933). The supplemental letters dated August 27, 2009, and March 4, 2010, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 29, 2010.

*No significant hazards consideration comments received:* No.

Dated at Rockville, Maryland, this 1st day of July 2010.

For the Nuclear Regulatory Commission.

**Joseph G. Giitter,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## **NUCLEAR REGULATORY COMMISSION**

**[NRC-2010-0178; Docket No. 50-228; License No. R-98]**

### **In the Matter of Aerotest Operations, Inc. (Aerotest Radiography and Research Reactor); Order Approving Indirect Transfer of Facility Operating License and Conforming Amendment**

#### **I.**

Aerotest Operations, Inc., (Aerotest) is the holder of Facility Operating License No. R-98 which authorizes the possession, use and operation of the Aerotest Radiography and Research Reactor (ARRR) located in San Ramon, California, under the provisions of 10 CFR 50.21(c) for research and development purposes. Aerotest is a wholly owned subsidiary of OEA Aerospace, Inc., which is wholly owned by OEA, Inc. OEA, Inc., was purchased by Autoliv ASP, Inc., (Autoliv) on May 9, 2000. Autoliv is owned by Autoliv, Inc., a Delaware corporation with a Board of Directors and Executive Officers the majority of whom are non-U.S. citizens. Pursuant to the May 9, 2000, transfer, and without the consent of the U. S. Nuclear Regulatory Commission (NRC), Aerotest became a subsidiary of Autoliv and Autoliv, Inc.

#### **II.**

By application dated January 19, 2010, as supplemented by letters dated February 2, March 23, April 1, and April 19, 2010, (collectively, the application), Aerotest, X-Ray Industries, Inc., (X-Ray), and Autoliv requested that the NRC, pursuant to of Title 10 of the *Code of*

*Federal Regulations* (10 CFR) Section 50.80, consent to the proposed indirect transfer of control of Aerotest's license to possess, use, and operate the ARRR, from its current owner, Autoliv to X-Ray. Autoliv, the parent company of OEA, Inc., (which is the parent company of Aerotest) and X-Ray have entered into a Letter of Intent for X-Ray to acquire all of the stock of Aerotest. X-Ray has formed a subsidiary single member LLC, Aerotest Holdings LLC, to be the intermediate parent of Aerotest and a subsidiary of X-Ray. There will be no direct transfer of the license. No changes to ARRR's location, facilities, equipment, operating procedures, operating organization, or personnel will be made in connection with the indirect transfer of control of the license.

The application also requested approval of a conforming amendment to reflect the proposed transfer of ownership of Aerotest, from OEA, Inc., to X-Ray. After completion of the transfer, X-Ray would be the indirect owner of Aerotest, which operates the ARRR.

Notice of request for approval and an opportunity for hearing was published in the **Federal Register** on May 14, 2010; 75 FR 27368. No hearing requests or written comments were received.

Under 10 CFR 50.80, no license or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted in the application and other information before the Commission, the NRC staff has determined that the indirect license transfer of Facility Operating License R-98, as described above, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the NRC, pursuant thereto, subject to the conditions set forth below. The NRC staff further finds that the application for the proposed conforming license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will

not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied. The findings set forth above are supported by a safety evaluation dated July 7, 2010.

#### **III.**

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended (the Act), 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the proposed indirect license transfer described above related to the proposed transaction, is approved, subject to the following conditions:

A. By no later than the time the proposed transaction and indirect license transfer occur, \$2 million in decommissioning trust funds will be deposited in a Decommissioning Trust established and maintained by Aerotest Operations, Inc. The funds will be segregated from other assets of Aerotest Operations, Inc., and will be outside of the administrative control of Aerotest Operations, Inc.

B. No later than the date of the transaction, the licensee will provide to the Director of the Office of Nuclear Reactor Regulation, a copy of the letter of credit for \$300,000 in a form acceptable to the NRC.

C. X-Ray Industries, Inc., shall enter into an \$850,000 support agreement with Aerotest Operations, Inc., no later than the time the proposed transaction and indirect license transfer occur. Aerotest Operations, Inc., shall take no action to cause X-Ray Industries, Inc., or its successors and assigns, to void, cancel, or modify the support agreement or cause it to fail to perform, or impair its performance under the support agreement, without the prior written consent of the NRC. The support agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. An executed copy of the support agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transaction and the indirect license transfer. Aerotest Operations, Inc., shall inform the NRC in writing anytime it draws upon the support agreement.

*It is further ordered* that consistent with 10 CFR 2.1315(b), the conforming license amendment, reflecting only changes related to the subject indirect transfer, is approved. The amendment shall be issued and made effective at the time the proposed indirect transfer action is completed.

*It is further ordered* that after receipt of all required regulatory approvals of the proposed indirect transfer action, Aerotest shall inform the Director of the Division of Policy and Rulemaking in

writing of such receipt no later than 7 business days prior to the date of the closing of the indirect transfer. Should the proposed indirect transfer not be completed by September 13, 2010, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the application dated January 19, 2010, (Agencywide Documents Access and Management System (ADAMS) Accession No.

ML100490068), as supplemented by letters dated February 2, March 23, April 1, and April 19, 2010, (ADAMS Accession No. ML100880295, ML100880338, ML100980153, and ML101120070, respectively), and the safety evaluation dated July 7, 2010, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Dated at Rockville, Maryland this 6th day of July, 2010.

For The Nuclear Regulatory Commission.

**Timothy J. McGinty,**

*Director, Division of Policy and Rulemaking,  
Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 72-75; EA-10-092; NRC-2010-0247]

### In the Matter of Entergy Operations, Inc., Waterford Steam Electric Station, Independent Spent Fuel Installation, Order Modifying License (Effective Immediately)

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance of Order for Implementation of Additional Security Measures and Fingerprinting for Unescorted Access to Entergy Operations, Inc.

**FOR FURTHER INFORMATION CONTACT:** L. Raynard Wharton, Senior Project Manager, Licensing and Inspection Directorate, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards (NMSS), U.S. Nuclear Regulatory Commission (NRC), Rockville, MD 20852. *Telephone:* (301) 492-3316; *fax number:* (301) 492-3348; *e-mail:* [Raynard.Wharton@nrc.gov](mailto:Raynard.Wharton@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

Pursuant to 10 CFR 2.106, NRC (or the Commission) is providing notice, in the matter of Waterford Steam Electric Station Independent Spent Fuel Storage Installation (ISFSI) Order Modifying License (Effective Immediately).

##### II. Further Information

###### I

NRC has issued a general license to Entergy Operations, Inc. (Entergy), authorizing the operation of an ISFSI, in accordance with the Atomic Energy Act of 1954, as amended, and Title 10 of the *Code of Federal Regulations* (10 CFR) Part 72. This Order is being issued to Entergy because it has identified near-term plans to store spent fuel in an ISFSI under the general license provisions of 10 CFR Part 72. The Commission's regulations at 10 CFR 72.212(b)(5), 10 CFR 50.54(p)(1), and 10 CFR 73.55(c)(5) require licensees to maintain safeguards contingency plan procedures to respond to threats of radiological sabotage and to protect the spent fuel against the threat of radiological sabotage, in accordance with 10 CFR Part 73, Appendix C. Specific physical security requirements are contained in 10 CFR 73.51 or 73.55, as applicable.

Inasmuch as an insider has an opportunity equal to, or greater than, any other person, to commit radiological sabotage, the Commission has determined these measures to be prudent. Comparable Orders have been issued to all licensees that currently store spent fuel or have identified near-term plans to store spent fuel in an ISFSI.

###### II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, using large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees, to strengthen licensees' capabilities and readiness to respond to

a potential attack on a nuclear facility. On October 16, 2002, the Commission issued Orders to the licensees of operating ISFSIs, to place the actions taken in response to the Advisories into the established regulatory framework and to implement additional security enhancements that emerged from NRC's ongoing comprehensive review. The Commission has also communicated with other Federal, State, and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has conducted a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures (ASMs) are required to address the current threat environment, in a consistent manner throughout the nuclear ISFSI community. Therefore, the Commission is imposing requirements, as set forth in Attachments 1 and 2 of this Order, on all licensees of these facilities. These requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety, the environment, and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachments 1 and 2 to this Order, in response to previously issued Advisories, or on their own. It also recognizes that some measures may not be possible or necessary at some sites, or may need to be tailored to accommodate the specific circumstances existing at Entergy's facility, to achieve the intended objectives and avoid any unforeseen effect on the safe storage of spent fuel.

Although the ASMs implemented by licensees in response to the Safeguards and Threat Advisories have been sufficient to provide reasonable assurance of adequate protection of public health and safety, in light of the continuing threat environment, the Commission concludes that these actions must be embodied in an Order, consistent with the established regulatory framework.