



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

July 16, 2018

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

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. Aerotest submitted a request for Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11 and 171.11 fee exemptions dated June 4, 2018 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML18163A111).

During the NRC staff's review of the portions of Aerotest's request related to 10 CFR 170 and 10 CFR 171 fees, questions have arisen for which the NRC staff needs supplemental information from Aerotest to resolve. The enclosed request for supplemental information identifies the additional information needed for the NRC staff to continue its review.

Aerotest requested that the NRC exempt it from paying licensing/inspection and annual fees. Aerotest stated that the NRC should grant its request based on portions of the Atomic Energy Act of 1954, as amended, which authorize the NRC to make arrangements for the conduct of research and development activities, because Aerotest specializes in education, research, and development in the field of nuclear forensics and in related nuclear technologies. In addition, Aerotest requested that the NRC permit it to pay significantly reduced fees because Aerotest is a small business. However, the NRC staff notes that the request does not appear to indicate how the requested fee exemptions would be in the public interest, as specified in 10 CFR 170.11(b) and 171.11(c), nor does the request appear to provide a basis for why Aerotest should be exempt from the requirements that it pay full cost licensing/inspection fees and/or full annual fees for a research reactor pursuant to 10 CFR 170.21 and 10 CFR 171.15(f), respectively, and instead pay reduced licensing/inspection and/or annual fees.

Therefore, the enclosure includes requests for Aerotest to provide supplemental information that clearly and specifically explains how the requested exemptions from paying fees would be in the public interest. In addition, the enclosure is requesting that Aerotest provide a complete description of the separate exemption(s) being requested to allow Aerotest to pay reduced fees, and provide supplemental information that clearly and specifically explains the basis for the requested exemption(s) to pay reduced fees. Following receipt of this information, the NRC staff will continue its evaluation of Aerotest's fee exemption requests.

D. M. Slaughter

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The NRC staff requests that Aerotest provide responses to the enclosed questions within 30 days from the date of this letter. The NRC staff notes that the timely receipt of the requested information will contribute to an efficient and effective review of the fee exemption requests.

If you have any questions, or need additional time to respond to this request, please contact Jo Jacobs of my staff at 301-415-8388, or by electronic mail at Jo.Jacobs@nrc.gov.

Sincerely,

/RA/

Maria Schofer, Acting Team Lead
License Fee Policy Team
Division of Planning and Budget
Office of the Chief Financial Officer

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

Enclosure:
As stated

SUBJECT: AEROTEST OPERATIONS, INC. - REQUEST FOR SUPPLEMENTAL INFORMATION REGARDING REQUEST FOR 10 CFR 170.11 AND 171.11 FEE EXEMPTIONS, DATED, July 16, 2018

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OFFICE OF THE CHIEF FINANCIAL OFFICER
REQUEST FOR SUPPLEMENTAL INFORMATION
REGARDING THE REQUEST FOR
10 CFR 170.11 AND 171.11 FEE EXEMPTIONS
LICENSE NO. R-98; DOCKET NO. 50-228

The U.S. Nuclear Regulatory Commission (NRC) staff is continuing its review of Aerotest's request for Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11 and 171.11 fee exemptions dated June 4, 2018 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML18163A111). In the course of reviewing the fee exemption requests, the NRC staff has determined that supplemental information or clarification is required to continue the review of Aerotest's request for 10 CFR 170.11 and 171.11 fee exemptions. The fee exemption requests are being evaluated against the applicable regulations in 10 CFR Parts 170 and 171.

Question 1 - Public Interest

The regulations at 10 CFR 170.11(b) and 171.11(c) state that the NRC may, upon application by an interested person, or on its own initiative, grant such exemptions from the licensing/inspection and annual fee requirements of 10 CFR Parts 170 and 171, respectively, as the NRC determines are authorized by law and are otherwise in the public interest.

By its letter dated June 4, 2018, Aerotest Operations, Inc. (Aerotest), requested that the NRC exempt it from paying licensing/inspection and annual fees. Aerotest stated that the NRC should grant its request based on portions of the Atomic Energy Act of 1954, as amended, which authorize the NRC to make arrangements for the conduct of research and development activities, because Aerotest specializes in education, research, and development in the field of nuclear forensics and in related nuclear technologies.

However, Aerotest's June 4, 2018, letter does not explain how granting the requested fee exemptions would be in the public interest, as specified in 10 CFR 170.11(b) and 171.11(c). Please provide supplemental information that clearly and specifically explains how the requested exemptions would be in the public interest. Alternatively, justify why no additional information is necessary to support the exemption request.

Question 2 - Small Entity

The regulations at 10 CFR 170.21 specify that full cost fees shall be paid for licensing/inspection activities for a research reactor licensed under 10 CFR Part 50.

The regulations at 10 CFR 171.15(f) specify the annual fee for a research reactor licensed under 10 CFR Part 50.

The regulations at 10 CFR 171.16(c) state that certain NRC licensees (not including licensees authorized to conduct activities under 10 CFR Part 50) may pay reduced annual fees if they qualify as small entities (the regulation at 10 CFR 2.810 provides the size standards to determine whether a licensee qualifies as a small entity in the NRC's regulatory programs).

By its letter dated June 4, 2018, Aerotest Operations, Inc. (Aerotest), which is licensed to conduct activities under 10 CFR Part 50, requested that the NRC permit it to pay significantly reduced fees because Aerotest qualifies as a small entity.

However, Aerotest's June 4, 2018, letter does not appear to provide a basis for why it should be exempt from the requirements that it pay full cost licensing/inspection fees and/or full annual fees for a research reactor pursuant to 10 CFR 170.21 and 10 CFR 171.15(f), respectively, and instead pay reduced licensing/inspection and/or annual fees. Additionally, it is not clear what reduced level of fees Aerotest believes it should pay. Please provide a complete description of the exemption(s), if any, being requested to allow Aerotest to pay reduced fees, and provide supplemental information that clearly and specifically explains the basis for the requested exemption(s). Alternatively, justify why no additional information is necessary to support the exemption request.