



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

October 20, 2006

HiEnergy Technologies, Inc.
ATTN: Dr. Alexander Vaucher
Radiation Safety Officer
1601 B. Alton Parkway
Irvine, CA 92606

SUBJECT: LICENSE AMENDMENT

Please find enclosed Amendment No. 01 to NRC License No. 04-29234-01, **approving your *Radiation Safety Manual, Revision 1, dated July 31, 2006, in License Condition 17.C.*** Please note that when you receive the sealed source device registry (SSDR) for your currently authorized device, you will need to request an amendment to your license to specifically list the device and the authorized use of the device in lieu of *research and development*. If you will be distributing this device commercially to entities within NRC jurisdiction, such as the Southeastern Pennsylvania Transit Authority (SEPTA), then the respective entity will need an NRC license to accept the device.

An environmental assessment for this action is not required, since this action is categorically excluded under 10 CFR 51.22(c)(14)(v). You should review this license carefully and be sure that you understand all conditions. If you have any questions, you may contact me at 817-276-6552.

NRC expects licensees to conduct their programs with meticulous attention to detail and a high standard of compliance. Because of the serious consequences to employees and the public that can result from failure to comply with NRC requirements, you must conduct your radiation safety program according to the conditions of your NRC license, representations made in your license application, and NRC regulations. In particular, note that you must:

1. Operate by NRC regulations 10 CFR Part 19, "Notices, Instructions and Reports to Workers: Inspection and Investigations," 10 CFR Part 20, "Standards for Protection Against Radiation," and other applicable regulations.
2. Notify NRC in writing of any change in mailing address.
3. Request and obtain a license amendment before you:
 - a. Change Radiation Safety Officers;
 - b. Order byproduct material in excess of the amount, radionuclide or form authorized on the license;
 - c. Add or change the areas or address(es) of use identified in the license application or on the license; or
 - d. Change the name or ownership of your organization.

In addition, please note that NRC Form 313 requires the applicant, by signature, to verify that the applicant understands that all statements contained in the application are true and correct to the best of the applicant's knowledge. The signatory for the application should be the licensee or certifying official rather than a consultant. Since the NRC also accepts a letter requesting amendment of an NRC license, the signatory for such a request should also be the licensee or certifying official rather than a consultant.

NRC will periodically inspect your radiation safety program. Failure to conduct your program according to NRC regulations, license conditions, and representations made in your license application and supplemental correspondence with NRC may result in enforcement action against you. This could include issuance of a notice of violation; imposition of a civil penalty; or an order suspending, modifying, or revoking your license as specified in the NRC Enforcement Policy. The NRC Enforcement Policy is available on the following internet address:
<http://www.nrc.gov/what-we-do/regulatory/enforcement/enforc-pol.pdf>.

The NRC no longer publishes the NRC Rules and Regulations loose leaf supplements due to budget constraints. However, an electronic version of the NRC's regulations is available on the NRC Web site at www.nrc.gov. To view these regulations, highlight "Electronic Reading Room" and choose "Regulations" on the drop down menu. An electronic version of the NUREG-1556 Series publications is also available on the NRC Web site. To view these guidance documents, highlight "Electronic Reading Room," choose "All Document Types" on the drop down menu. Scroll down to "NUREG-Series Publications" and select "Publications Prepared by the NRC Staff." Then, choose "NUREG-1556" from the table and select the appropriate volume(s) for your license type.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Thank you for your cooperation.

Sincerely,

/RA/

Rachel S. Browder, Health Physicist
Nuclear Materials Licensing Branch

Docket: 030-37298
License: 04-29234-01
Control: 471052

Enclosure: As stated

MATERIALS LICENSE

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974 (Public Law 93-438), and Title 10, Code of Federal Regulations, Chapter I, Parts 30, 31, 32, 33, 34, 35, 36, 39, 40, and 70, and in reliance on statements and representations heretofore made by the licensee, a license is hereby issued authorizing the licensee to receive, acquire, possess, and transfer byproduct, source, and special nuclear material designated below; to use such material for the purpose(s) and at the place(s) designated below; to deliver or transfer such material to persons authorized to receive it in accordance with the regulations of the applicable Part(s). This license shall be deemed to contain the conditions specified in Section 183 of the Atomic Energy Act of 1954, as amended, and is subject to all applicable rules, regulations, and orders of the Nuclear Regulatory Commission now or hereafter in effect and to any conditions specified below.

<p style="text-align: center;">Licensee</p> <p>1. HiEnergy Technologies, Inc.</p> <p>2. 1601 B Alton Parkway Irvine, California 92606</p>	<p>In accordance with electronic mail dated July 31, 2006</p> <p>3. License number 04-29234-01 is amended in its entirety to read as follows:</p> <p>4. Expiration date June 30, 2016</p> <p>5. Docket No. 030-37298 Reference No.</p>
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|---|----------------------------------|--|
| 6. Byproduct, source, and/or special nuclear material | 7. Chemical and/or physical form | 8. Maximum amount that licensee may possess at any one time under this license |
| A. Hydrogen-3 | A. Plated Foil | A. 6 Curies total. |

9. Authorized use:
- A. Research and development only.

CONDITIONS

10. Licensed material may be used or stored at the licensee's facilities located at temporary job sites anywhere in the United States where the U.S. Nuclear Regulatory Commission maintains jurisdiction for regulating licensed material, including areas of exclusive Federal jurisdiction within Agreement States.
- If the jurisdiction status of a Federal facility within an Agreement State is unknown, the licensee should contact the federal agency controlling the job site in question to determine whether the proposed job site is an area of exclusive Federal jurisdiction. Authorization for use of radioactive materials at job sites in Agreement States not under exclusive Federal jurisdiction shall be obtained from the appropriate state regulatory agency.
11. The Radiation Safety Officer for this license is Dr. Alexander Vaucher.
12. Licensed material shall only be used by, or under the supervision and in the physical presence of, individuals who have received the training described in application dated June 27, 2006.
13. In addition to the possession limits in Item 8, the licensee shall further restrict the possession of licensed material to quantities below the minimum limit specified in 10 CFR 30.35(d) for establishing decommissioning financial assurance.

**MATERIALS LICENSE
SUPPLEMENTARY SHEET**License Number
04-29234-01Docket or Reference Number
030-37298

Amendment No. 01

14. The licensee shall conduct a physical inventory every 6 months, or at other intervals approved by the U.S. Nuclear Regulatory Commission, to account for all sources and/or devices received and possessed under the license. Records of inventories shall be maintained for 5 years from the date of each inventory, and shall include the radionuclides, quantities, manufacturer's name and model numbers, and the date of the inventory.
15. Plated foils containing licensed material shall not be opened or sources removed from the source holder by the licensee.
16. The licensee is authorized to transport licensed material in accordance with the provisions of 10 CFR Part 71, "Packaging and Transportation of Radioactive Material."
17. Except as specifically provided otherwise in the license, the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures, listed below. The U.S. Nuclear Regulatory Commission's regulations shall govern unless the statements, representation, and procedures in the licensee's application and correspondence are more restrictive than the regulations.
- A. Application dated June 27, 2006
 - B. Electronic mail dated June 29, 2006
 - C. Electronic mail dated July 31, 2006

FOR THE U.S. NUCLEAR REGULATORY COMMISSION

/RA/

Date: October 20, 2006

By

Rachel S. Browder, Health Physicist
Nuclear Materials Licensing Branch
Region IV
Arlington, Texas 76011