

**ACTION:** Notice of availability.

**FOR FURTHER INFORMATION CONTACT:** Dr. Peter J. Lee, Decommissioning Branch, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region III, 2443 Warrenville Road, Lisle, Illinois 60532-4352. Telephone: 630-829-9870; fax number: 630-515-1259; e-mail: [pjl2@nrc.gov](mailto:pjl2@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

The U.S. Nuclear Regulatory Commission (NRC) is considering issuing a license termination of Material License No. 21-32115-01 issued to Esperion Therapeutics, Inc. (the licensee), to authorize release of its Ann Arbor facility for unrestricted use.

The NRC staff has prepared an Environmental Assessment (EA) in support of this amendment in accordance with the requirements of 10 CFR Part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

**II. EA Summary**

The purpose of the proposed action is to terminate Byproduct Material License No. 21-32115-01 issued to Esperion Therapeutics, Inc., and release its Ann Arbor, Michigan facility for unrestricted use. On September 24, 1998, the NRC authorized the licensee to use labeled compounds such as hydrogen-3, carbon-14, phosphorus-32, phosphorus-33, sulfur-35, etc. for research and development. On May 17, 2006, the licensee submitted a license termination request to release its Ann Arbor facility for unrestricted use. The licensee has conducted surveys of the facility and provided information to the NRC to demonstrate that the site meets the license termination criteria in 10 CFR 20.1402, "Radiological Criteria for Unrestricted Use."

The staff has examined the licensee's request and the information provided in support of its request, including the surveys performed to demonstrate compliance with the release criteria. The staff has found that the radiological environmental impacts from the proposed action are bounded by the impacts evaluated in the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Facilities" (NUREG-1496). Additionally, no non-radiological or cumulative impacts were identified. Based on its review, the staff has determined that there are no additional

remediation activities necessary to complete the proposed action and a Finding of No Significant Impact is appropriate.

**III. Finding of No Significant Impact**

On the basis of the EA, the NRC concluded that there are no significant environmental impacts from the proposed amendment and determined not to prepare an environmental impact statement.

**IV. Further Information**

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are: ML061390181 for the May 17, 2006, license termination request and ML062020314 for the EA summarized above. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Lisle, Illinois, this 24th day of July 2006.

For the Nuclear Regulatory Commission.

**Jamnes L. Cameron,**

*Chief, Decommissioning Branch, Division of Nuclear Materials Safety, Region III.*

[FR Doc. E6-12516 Filed 8-2-06; 8:45 am]

**BILLING CODE 7590-01-P**

**NUCLEAR REGULATORY COMMISSION**

[Docket No. 03001125]

**Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 45-10414-01, for Unrestricted Release of the James Madison University's Miller Hall Facility in Harrisonburg, VA**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

**FOR FURTHER INFORMATION CONTACT:**

Thomas K. Thompson, Sr. Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, King of Prussia, Pennsylvania; telephone (610) 337-5303; fax number (610) 337-5269; or by e-mail: [tkt@nrc.gov](mailto:tkt@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 45-10414-01. This license is held by James Madison University (the Licensee), located at Harrisonburg, Virginia. Issuance of the amendment would authorize release of Miller Hall, located on the James Madison University Campus, for unrestricted use. The Licensee requested this action in a letter dated November 28, 2005. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

**II. Environmental Assessment**

*Identification of Proposed Action*

The proposed action would approve the Licensee's November 28, 2005, license amendment request, resulting in release of Miller Hall for unrestricted use. License No. 45-10414-01 was issued in 1964, pursuant to 10 CFR Part 30, and has been amended periodically since that time. This license authorized the Licensee to use sealed and unsealed byproduct materials for purposes of conducting research and development activities on laboratory bench tops and in hoods, for teaching and training of students, and calibration of instruments.

Miller Hall is situated on the James Madison University Campus in Harrisonburg, Virginia. Miller Hall is a 77,977 square foot building containing teaching laboratories and classrooms, research laboratories, office/storage areas, a large lecture hall and a planetarium. Miller Hall (the Facility) is surrounded on three sides by other James Madison University Campus

academic buildings and on the fourth side by Rockingham Memorial Hospital and Cancer Center. Within the Facility, use of licensed materials was confined to Rooms G21, G22, G22A, and 110.

On May 10, 2005, the Licensee ceased licensed activities and initiated a survey and decontamination of the Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with its NRC-approved, operating radiation safety procedures, were required. Therefore, in accordance with 10 CFR 30.36(g), the Licensee was not required to submit a decommissioning plan to the NRC. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR Part 20 for unrestricted release.

#### *Need for the Proposed Action*

The Licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of Miller Hall.

#### *Environmental Impacts of the Proposed Action*

The historical review of licensed activities conducted at the Facility shows that such activities involved use of many radionuclides with half-lives greater than 120 days. Prior to performing the final status survey, the Licensee conducted a historical site assessment of byproduct materials activities in the areas of the Facility affected by these radionuclides and determined that residual contamination from operations was unlikely.

The Licensee conducted a final status survey on October 18, 2005. This survey covered Rooms G21, G22, G22A, 110, and the adjacent corridor. The final status survey report was submitted with the Licensee's amendment request dated November 28, 2005. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG-1757, "Consolidated NMSS Decommissioning Guidance," Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in subpart E of 10 CFR part 20 for unrestricted release. NRC considers these DCGLs to represent levels that are

As Low As Reasonably Achievable (ALARA), and in compliance with the ALARA requirement of 10 CFR 20.1402. The Licensee's final status survey results for randomized samples were below these DCGLs, and are thus acceptable here for use as release criteria.

Based on its review, the NRC staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities" (NUREG-1496) Volumes 1-3 (ML042310492, ML042320379, and ML042330385). Further, no incidents were recorded involving spills or releases of radioactive material at the Facility.

Accordingly, there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has found no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Miller Hall facility described above for unrestricted use is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

#### *Environmental Impacts of the Alternatives to the Proposed Action*

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d) requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would

result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

#### *Conclusion*

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

#### *Agencies and Persons Consulted*

NRC provided a draft of this Environmental Assessment to the Virginia Department of Health for review on March 23, 2006. On March 23, 2006, the Virginia Department of Health responded by email. The State agreed with the conclusions of the EA, and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

#### **III. Finding of No Significant Impact**

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

#### **IV. Further Information**

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

(1) Amendment request dated November 28, 2005 (ML053430158);  
 (2) Additional information provided by the Licensee on January 13, 2006 (ML060190077);

(3) Additional information provided by the Licensee on May 8, 2006 (ML061290167);

(4) **Federal Register** Notice, Volume 65, No. 114, page 37186, dated Tuesday, June 13, 2000, "Use of Screening Values to Demonstrate Compliance With The Federal Rule on Radiological Criteria for License Termination;"

(5) Title 10 Code of Federal Regulations, Part 20, Subpart E, "Radiological Criteria for License Termination;"

(6) Title 10, Code of Federal Regulations, Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;"

(7) NUREG-1496, "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities".

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov). These documents may also be viewed electronically on the public computers located at the NRC's PDR, O1F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at 475 Allendale Road, King of Prussia, PA this 20th day of July 2006.

For the Nuclear Regulatory Commission.

**James P. Dwyer,**

*Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I.*

[FR Doc. E6-12513 Filed 8-2-06; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 070-03071]

### Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Special Nuclear Materials License No. SNM-1990, for Unrestricted Release of the West Virginia University Institute of Technology's Engineering Classroom Building in Montgomery, WV

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance of Environmental Assessment and Finding of No

Significant Impact for License Amendment.

**FOR FURTHER INFORMATION CONTACT:** Betsy Ullrich, Senior Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania; telephone (610) 337-5040; fax number (610) 337-5269; or by e-mail: [exu@nrc.gov](mailto:exu@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Special Nuclear Materials License No. SNM-1990. This license is held by the West Virginia University Institute of Technology (the Licensee) for its Department of Physics, located at 405 Fayette Place in Montgomery, West Virginia. Issuance of the amendment would authorize Room 105 of the Department of Physics' Engineering Classroom Building (the Facility) to be released for unrestricted use. The Licensee requested this action in a letter dated August 9, 2005. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

##### II. Environmental Assessment

###### Identification of Proposed Action

The proposed action would approve the Licensee's August 9, 2005, license amendment request, resulting in Room 105 (where licensed materials were used or stored) being released for unrestricted use. License No. SNM-1990 was issued on April 30, 1991, pursuant to 10 CFR parts 40 and 70, and has been amended periodically since that time. This license authorized the Licensee to use plutonium-239 and uranium for purposes of storage only until transferred to an authorized recipient. This license superceded License No. SNM-608 (issued June 14, 1965 to authorize the use of plutonium-239 sealed neutron sources for educational and research activities) and License No. SUD-869 (issued April 22, 1966 for use of natural uranium in sub-critical assemblies for educational and research purposes).

The Facility is situated on the Licensee's 110-acre campus, which is located in a rural area. Within the Facility, use of licensed materials was confined to Room 105, which has approximately 47 square meters of floor area.

On June 7, 2005, the Licensee ceased licensed activities and initiated a survey and decontamination of Room 105. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with its NRC-approved, operating radiation safety procedures, were required. Therefore, the Licensee was not required to submit a decommissioning plan to the NRC. The Licensee conducted surveys of Room 105 and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR part 20 for unrestricted release.

###### Need for the Proposed Action

The Licensee has ceased conducting licensed activities in Room 105, and seeks its unrestricted use.

###### Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted in Room 105 shows that such activities involved use of the following radionuclide with half-life greater than 120 days: Natural uranium. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the Room 105 areas affected by the use of natural uranium.

The Licensee conducted surveys in Room 105 on June 7, 2005, and January 12, 2006, as reflected in the Licensee's amendment request dated August 9, 2005, and subsequent submittals. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG-1757, "Consolidated NMSS Decommissioning Guidance," Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in Subpart E of 10 CFR part 20 for unrestricted release. The NRC considers these DCGLs to be in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The