

request to discuss any matters disclosed in the Form 10-K." The NRC staff is denying FMRI's license amendment request because the proposed change does not provide assurance that the NRC will obtain sufficient information about FMRI's future financial ability to meet its decommissioning obligations under the approved DP, as more fully set forth in the staff's letter to FMRI dated July 27, 2006 (ML061710551).

## II. Opportunity To Request a Hearing

The NRC hereby provides notice that this is a proceeding on an application for a license amendment to modify financial reporting requirements for FMRI. In accordance with the general requirements in Subpart C of 10 CFR Part 2, as amended on January 14, 2004, (69 FR 2182), any person whose interest may be affected by this proceeding and who desires to participate as a party must file a written request for a hearing.

In accordance with 10 CFR 2.302(a), a request for a hearing must be filed with the Commission either by:

1. First class mail addressed to: Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications;

2. Courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Attention: Rulemakings and Adjudications Staff, between 7:45 a.m. and 4:15 p.m., Federal workdays;

3. E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov); or
4. By facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff, at (301) 415-1101; verification number is (301) 415-1966.

In accordance with 10 CFR 2.302(b), all documents offered for filing must be accompanied by proof of service on all parties to the proceeding or their attorneys of record as required by law or by rule or order of the Commission, including:

1. The applicant, FMRI, Inc., 10 Tantalum Place, Muskogee, Oklahoma 74403; and

2. The NRC staff, by delivery to the Office of the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Hearing requests should also be transmitted to the Office of the General

Counsel, either by means of facsimile transmission to (301) 415-3725, or by e-mail to [ogcmailcenter@nrc.gov](mailto:ogcmailcenter@nrc.gov).

The formal requirements for documents contained in 10 CFR 2.304(b), (c), (d), and (e), must be met. In accordance with 10 CFR 2.304 (f), a document filed by electronic mail or facsimile transmission need not comply with the formal requirements of 10 CFR 2.304(b), (c), and (d), as long as an original and two (2) copies otherwise complying with all of the requirements of 10 CFR 2.304(b), (c), and (d) are mailed within two (2) days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.103(b)(2), a request for a hearing must be filed by August 23, 2006.

In addition to meeting other applicable requirements a person other than FMRI requesting a hearing on this matter must state:

1. The name, address, and telephone number of the requester;

2. The nature of the requester's right under the Act to be made a party to the proceeding;

3. The nature and extent of the requester's property, financial or other interest in the proceeding;

4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and

5. The circumstances establishing that the request for a hearing is timely.

In accordance with 10 CFR 2.309(f)(1), a person other than FMRI requesting a hearing on this matter must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;

2. Provide a brief explanation of the basis for the contention;

3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;

4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;

5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and

6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include

references to specific portions of the license amendment request that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the request fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

Contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer. Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so in writing within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

In accordance with 10 CFR 2.309(g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR 2.310.

## III. Further Information

The license amendment request and any information referenced therein may be made available pursuant to a protective order and subject to applicable security requirements upon a showing that the petitioner has an interest that may be affected by the proceeding.

Dated at Rockville, Maryland, this 27th day of July 2006.

For the Nuclear Regulatory Commission.

**Keith I. McConnell,**

*Deputy Director, Decommissioning Directorate, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. E6-12518 Filed 8-2-06; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket Number 030-34810]

**Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Termination for Esperion Therapeutics, Inc., Ann Arbor, MI**

**AGENCY:** Nuclear Regulatory Commission.

**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