Inc., Lincoln, MA; Promis Systems Corporation, Toronto, Ontario, CANADA; and NIIIP Project Office, Stamford, CT.

NIIIP's area of planned activity is development of open industry software protocols that will integrate computing environments across the U.S. manufacturing base.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–14976 Filed 6–12–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; X Consortium, Inc.

Notice is hereby given that, on May 29, 1996, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the X Consortium, Inc., has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Draper Laboratory, Arlington, VA; Smithsonian Astrophysical Observatory, Cambridge, MA; and TriTeal Corp., Carlsbad, CA have been added to the venture. AT&T Global Information Solutions, West Columbia, SC; Compagnie Europeene des Techniques de l'Ingeniere Assistee, Toulon, FRANCE; O'Reilly & Associates, Inc., Cambridge, MA; Tatung Science and Technology, Milpitas, CA; and Visual Information Technologies, Inc., Richardson, TX have withdrawn from the venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the X Consortium, Inc., intends to file additional written notifications disclosing all changes in membership.

On September 15, 1993, the X Consortium, Inc., filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on November 10, 1993 (58 FR 59737).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–14975 Filed 6–12–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 94–26]

Nestor A. Garcia, M.D.; Grant of Restricted Registration

On February 18, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Nestor A. Garcia, M.D., (Respondent) of North Miami, Florida, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged in substance that: (1) Between April and August of 1990, the Respondent entered three separate addiction programs for treatment of his abuse of Demerol, a Schedule II controlled substance. (2) On February 13, 1991, the Florida Department of Professional Regulation (DPR) issued an emergency order suspending his state medical license, but on July 27, 1992, ordered the reinstatement of his state license subject to certain limitations. However, there were three actions pending against his license. (3) On February 28, 1991, after the suspension, the Respondent submitted DEA Form 222 to a pharmacy to order meperidine, a Schedule II controlled substance. (4) On November 5, 1991, the Respondent surrendered his DEA Certificate of Registration, AG2355370.

On March 22, 1994, the Respondent, through counsel, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Miami, Florida, on March 29, 1995, before Administrative Law Judge Mary Ellen Bittner. At the hearing, both parties called witnesses to testify, and the Government introduced documentary evidence. After the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On December 5, 1995, Judge Bittner issued her Opinion and Recommended Ruling, recommending that the Respondent's application for registration be granted only as to controlled substances in Schedules IV and V, with specifically enumerated restrictions. Neither party filed exceptions to her decision, and on January 16, 1996, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Ruling of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

Specifically, the Deputy Administrator finds that the parties have stipulated that Demerol is a Schedule II controlled substance pursuant to 21 CFR 1308.12. the Deputy Administrator also finds that Valium is the brand name for diazepam, a Schedule IV controlled substance pursuant to 21 CFR 1308.14.

The Respondent is a physician who specializes in psychiatry. On January 26, 1993, he completed an Application for Registration under the Controlled Substances Act, requesting DEA register him as a practitioner and authorize him to handle Schedule II nonnarcotic substances, both narcotic and nonnarcotic Schedule III substances, Schedule IV substances, and Schedule V substances. The Respondent also disclosed on the form that his medical license had been suspended on or about February 25, 1990, but had been reinstated on December 8, 1992.

A detective from the Broward County, Florida, Sheriff's Department (Detective) testified at the hearing before Judge Bittner, stating that in late 1988, the Respondent was arrested and charged with sexual activity, while in custodial and familial authority, with a sixteen-year-old girl, LW. The Detective testified that LW told him that in November of 1988, while she was a patient at South Florida State Hospital, she had developed a relationship with the Respondent, her treating psychiatrist. She told the Detective that she had been transferred to the psychiatric unit of Hollywood Memorial Hospital, had escaped from that hospital, and had lived with the Respondent in a motel room across the street from the hospital where he worked. LW told the Detective that she had maintained a sexual relationship with the Respondent. The Detective testified that he was able to verify some of the information provided by LW, specifically that the Respondent had rented the motel room. However, the charges were eventually dropped.

The Respondent did not testify before Judge Bittner. However, Dr. Goetz, the director of the Physicians' Recovery Network (PRN) testified, stating that he had visited the Respondent on April 5, 1990, and on that same day the Respondent was admitted to the Chemical Dependency Unit of the Mt. Sinai Medical Center in Miami. There, a urine sample tested positive for

meperidine and benzodiazepine, and the Respondent was diagnosed as having advanced chemical dependency to intravenous and intramuscular Demerol. The Respondent admitted that he had self-prescribed and self-injected Demerol and Valium.

During the course of the Respondent's treatment, he was transferred to the Talbott Recovery Center in Atlanta, Georgia, then to the Parkside Recovery Center in Illinois, but he did not complete the treatment program at either location. After his discharge from Parkside, the Respondent returned to Talbott for reassessment, and on August 27, 1990, the medical directors of Talbott and Parkside recommended to the PRN that the Respondent refrain from practicing medicine for one year, allowing him time to focus on his recovery.

In October of 1990, Dr. Goetz wrote to the Florida Department of Professional Regulation (DPR), recommending that the Respondent's license be suspended because he had not progressed satisfactorily in his recovery program, and because he was still exhibiting drug-seeking behavior. On December 13, 1990, the DPR ordered the Respondent to submit to mental and physical examinations, and the physician who conducted the mental examination concluded that the Respondent's chemical dependency and sociopathic personality traits ''could impair his ability to practice medicine with reasonable skill and safety.''

As a result, on February 13, 1991, the DPR issued an emergency suspension order, suspending the Respondent's state medical license on the grounds that he had violated Florida Statute section 458.331(1)(s) by ''being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of materials or as a result of any mental or physical condition,'' and based upon a finding that the Respondent's continued practice of medicine ''constitutes an immediate and serious danger to the health, safety and welfare of the public.'' Yet on February 25, 1991, the Respondent used a DEA Form 222 to order meperidine.

After a formal hearing,on September 23, 1991, the DPR's Board of Medicine (Medical Board) issued a final order suspending the Respondent's medical license for one year, ''or until he appears before the Board and exhibits his ability to practice with skill and safety.'' The Medical Board found that the Respondent was impaired as a consequence of drug dependency, that the dependency rendered him unable to practice medicine with reasonable skill and safety to his patients, that his dependency was a chronic condition that tends to relapse, and that he had failed to establish that he had recovered from his impaired condition. On November 5, 1991, the Respondent voluntarily surrendered his DEA Certificate of Registration. Subsequently, on July 27, 1992, the Medical Board granted the Respondent's petition for reinstatement, ''contingent on his appearance before the Probation Committee with a current psychiatric evaluation by a psychiatrist approved by the Board and a very stringent proposed practice plan.''

Dr. Goetz further testified before Judge Bittner that, when he first met the Respondent in April of 1990, the Respondent was addicted to Demerol. He opined that addicts commonly engage in the type of behavior displayed by the Respondent, for drug addiction changes the addict's ''emotional responses,'' affects sexual behavior, and distorts the addict's perceptions of reality and his value system. However, he also testified that once an individual had been out of treatment, drug-free, and in recovery for a few years, he typically is able to return to work. Dr. Goetz stated that ''[a]ll of our records indicate that [the Respondent] is in compliance, that he's been able to function well since he's been relicensed by the Board of Medicine, and I think it's fair to say that he is in early recovery.''

Dr. Goetz also recalled that he had previously testified before the Medical Board, stating that the Respondent was in a state of recovery and no longer posed a threat to the public interest. He also opined before Judge Bittner that the Medical Board's decision to reinstate the Respondent's license represented a finding that the Respondent was fit to practice medicine. He concluded that the public interest would be served if the Respondent were to receive a DEA registration.

However, Judge Bittner noted in her opinion that Dr. Goetz did not testify as to any firsthand knowledge of the Respondent's condition or state of recovery, ''but rather about addiction in general and about what he had learned of Respondent's recovery from examining the PRN's records.'' Also, on cross-examination, Dr. Goetz agreed that an addict can have relapses even after years of sobriety, that a psychiatrist can practice without a Schedule II registration, and that physicians with self-abuse problems are particularly hard to treat because they can so easily obtain controlled substances. He also stated that, as of the date of the hearing before Judge Bittner, the Respondent was still on probation with the Medical Board. However, since September of 1991, the Respondent had complied with the PRN requirements, including submitting to random urine tests.

Dr. Jules Trop, a specialist in addictionology, also testified before Judge Bittner, stating that he had treated approximately 10,000 addicts and alcoholics in his practice, and that, since August of 1991, he had been the Respondent's ''monitoring physician'', the physician who maintains contact with the Respondent on behalf of the PRN and reports to the PRN about his progress. However, Dr. Trop testified that, beginning in approximately June of 1994, he had ceased directly observing the Respondent, who had been assigned to a small group for treatment. Yet Dr. Trop stated that he received reports from the Respondent's therapist, and that ''all reports are that [the Respondent's] attendance has been regular. His cooperation has continued. His recovery is ongoing. His urines have been negative. That's essentially it.''

Dr. Trop also testified that an addict typically loses his or her moral and ethical standards, and that recovery is dependent upon regaining those standards and behaviors. He observed that he had seen change in the Respondent and believed that he is now in ''progressive recovery.'' On cross-examination, Dr. Trop acknowledged that the term ''progressive recovery'' implies that recovery is never complete, and that it is always possible that an addict will relapse. Like Dr. Goetz, Dr. Trop also testified that physicians were particularly susceptible to addiction because their work was high-stress, and because physicians had money and access to controlled substances. However, Dr. Trop also opined that a physician who was being monitored by the PRN was less likely to relapse, with the monitoring serving as a deterrent. Dr. Trop also agreed with Dr. Goetz, stating that it would not be against the public interest to grant the Respondent's DEA application.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for registration as a practitioner, if he determines that granting the registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

Noting the absence of any conviction record, the Deputy Administrator finds factors one, two, four, and five relevant in determining whether the Respondent's registration would be inconsistent with the public interest. As to factor one, ''recommendation of the appropriate State licensing board,'' the Florida DPR suspended the Respondent's medical license in 1991, and reinstated the license in July of 1992, under probationary conditions that remain in effect through September of 1996. The Deputy Administrator concurs with Judge Bittner's analysis of the State licensing board's actions. By reinstating the Respondent's medical license, the DPR indicated that it viewed the Respondent's condition as less threatening to the public's interest than in 1991. However, by levying probationary conditions upon his practice of medicine, the DPR asserted that the Respondent's conduct continued to require scrutiny for the protection of the public.

Although the Government placed into the record two outstanding administrative complaints, pending before the DPR since 1992, the Deputy Administrator agrees with Judge Bittner's evaluation of these complaints. She wrote:

> I conclude that it would be inappropriate to rely on the unresolved administrative complaints in deciding the issues before me, for they are merely allegations, analogous to complaints in indictments, and do not prove the violations alleged therein by a preponderance of the evidence. Cf. Alra Lab., Inc., No. 92–42, 59 Fed. Reg. 50620, 50620 (DEA 1994) (allegations contained in an indictment should not be considered because there was nothing on the record tending to prove or disprove them).

As to factor two, the Respondent's ''experience in dispensing * * * controlled substances,'' and factor four, the Respondent's ''[c]ompliance with applicable State, Federal, or local laws relating to controlled substances,'' the Deputy Administrator finds significant the Respondent's history of self-prescribing and self-injecting of Demerol and Valium, leading to his self-professed addiction to Demerol. As Judge Bittner wrote, ''[the] Respondent's self-prescribing of Demerol to maintain his addiction was not for a legitimate medical purpose and was therefore not a lawful prescription within the meaning of 21 CFR 1306.04.''

Further, in February of 1991, after his medical license had been suspended, the Respondent used a DEA Form 222 to order meperidine, when he no longer was authorized to so act. The Deputy Administrator agrees with Judge Bittner's finding that such unauthorized ordering of Demerol violated applicable state and federal law.

As to factor five, ''[s]uch other conduct which may threaten the public health or safety,'' the Respondent's actions documented in the record pertaining to LW in 1988 cause the Deputy Administrator concern. Specifically, the Detective's testimony concerning the Respondent's actions with a sixteen-year-old patient who had escaped from a custodial psychiatric treatment setting remains unrebutted in the record. The Respondent's defense, that such actions were a result of his drug addiction, does little to alleviate the concern raised by his unprofessional conduct, especially given the Respondent's failure in the drug rehabilitation treatment programs at Talbott and Parkside. The Deputy Administrator also finds it significant that both Dr. Goetz and Dr. Trop agreed that physicians were particularly susceptible to addiction because of their access to controlled substances.

However, as to the Government's offer of proof concerning more recent acts involving the Respondent and LW, the Deputy Administrator concurs with Judge Bittner's ruling concerning the offered evidence. The Deputy Administrator finds that, under the circumstances, due process requires that he not consider the offered evidence in reaching a determination in this matter, and, accordingly, he has not considered the Detective's testimony concerning the Respondent's conduct with LW in 1990.

The Deputy Administrator also finds that the Respondent provided mitigating evidence through the testimony of Dr. Goetz and Dr. Trop. Specifically, both doctors noted that the Respondent remained in compliance with the conditions of his probation. Further, the Medical Board has found the Respondent fit to practice medicine, although also finding it necessary to reinstate his license on probationary terms. The Respondent has continued to successfully participate in a drug rehabilitation program of counselling and urinalysis testing as monitored by the PRN. Although both Dr. Goetz and Dr. Trop testified that the Respondent was in ''early recovery,'' or that his recovery was ''ongoing,'' the Deputy Administrator concurs with Judge Bittner's conclusion that ''the evidence that [the] Respondent remained drug-free for three-and-one-half-years prior to the hearing weighs in favor of granting his application.''

Therefore, after reviewing the record, the Deputy Administrator agrees with Judge Bittner's recommendation and finds that the public interest is best served by granting the Respondent a restricted registration. Specifically, that portion of the Respondent's application to handle controlled substances in Schedule II, nonnarcotic, and Schedule III, is denied. However, the portion of his application to handle controlled substances in Schedules IV and V is granted, with the following restrictions and conditions: (1) The Respondent's controlled substances-handling authority is limited to the writing of prescriptions only. He shall not be authorized to dispense, possess, or store any controlled substances, except that he may administer controlled substances in a hospoital setting, and he may possess controlled substances that are medically necessary for his own use and have been obtained pursuant to a valid prescription issued by another practitioner. (2) The Respondent is not authorized to prescribe any controlled substances for his own use. (3) For two years from the effective date of this order, the Respondent shall, every calendar quarter, submit a log to the Special Agent in charge of the nearest DEA office or his designee. The log shall contain a list of all prescriptions for controlled substances the Respondent has written during the previous quarter, to include the date of each prescription, the patient's name, the name and amount of the controlled substance(s) prescribed, and the pathology for which the prescription was written.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823, and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application of Nestor A. Garcia, M.D., for a DEA Certificate of Registration for a practitioner be, and it hereby is, denied in part and granted in part, subject to the limitations enumerated above. This order is effective July 15, 1996.

Dated: June 7, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–14953 Filed 6–12–96; 8:45 am]

BILLING CODE 4410–09–M

National Institute of Corrections

Advisory Board Meeting

Time and Date: 12:30 p.m., Monday, June 24, 1996.

Place: Ramada Inn, 1117 Williston Road, Burlington, Vermont.

Status: Open.

Matters To Be Considered: Update on the reimbursement plan for NIC services, Office of Justice Programs' update on the Violent Offender and Truth In Sentencing Grant Program, update on the District of Columbia Department of Corrections Study, progress report from the task force on prison construction standardization and techniques, update on the NIC Executive Excellence Program, status of the final report on the mental health in jails survey, status report on the positional asphyxia video proposal, and the FY 1997 program plan recommendations.

Contact Person for More Information: Larry Solomon, Deputy Director, (202) 307–3106, ext. 155.

Morris L. Thigpen,

Deputy Director.

[FR Doc. 96–15009 Filed 6–12–96; 8:45 am]

BILLING CODE 4410–36–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemistry; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemistry (#1191).

Date and Time: July 1–2, 1996, 8:00 am to 5:00 pm.

Place: University of Texas, Austin, TX.

Type of Meeting: Closed.

Contact Person: Karolyn K. Eisenstein, Program Director, Office of Special Projects, Chemistry Division, Room 1055, National Science Foundation, 4201 Wilson Blvd. Arlington, VA 22230, Telephone: (703) 306–1850.

Purpose of Meeting: To review the renewal proposal, evaluate the Science and Technology Center, and make a recommendation concerning future funding of the Science and Technology Center.

Agenda: To evaluate: (a) the research program; (b) educational and outreach activities; and (3) the knowledge transfer activities and the management of the STC. To make a recommendation on the future funding of the STC.

Reason for Closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Dated: June 10, 1996.

[FR Doc. 96–15012 Filed 6–12–96; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in Maryland: Railroad Accident

In connection with its investigation of the collision and derailment of a MARC commuter passenger train with AMTRAK Train 29, The Capitol Limited, near Silver Spring, Maryland, on February 16, 1996, the National Transportation Safety Board will convene a public hearing at 9:00 a.m. (local time), on June 26, 1996, at the DoubleTree Hotel, 1750 Rockville Pike (Route 355), Rockville, Maryland 20852. For more information, contact Pat Cariseo, Office of Public Affairs, Washington, D.C. 20594, telephone (202) 382–0660.

Dated: June 7, 1996.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 96–14997 Filed 6–12–96; 8:45 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Carolina Power & Light Company, H.B. Robinson Steam Electric Plant, Unit No. 2; Exemption

I

Carolina Power and Light Company (CP&L or the licensee) is the holder of Facility Operating License No. DPR–23, which authorizes operation of the H.B. Robinson Steam Electric Plant, Unit No. 2 (HBR), at steady-state reactor power level not in excess of 2300 megawatts thermal. The facility consists of one pressurized water reactor located at the licensee's site in Darlington County, South Carolina. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II

Section III.J of Appendix R to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50) requires that emergency lighting units with at least an 8-hour battery power supply be provided in all areas needed for operation of post-fire safe shutdown equipment and in access and egress routes thereto. The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a), are (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) present special circumstances. Special circumstances exist whenever, according to 10 CFR 50.12(a)(2)(ii), ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *.''

III

By letters dated February 2, 1995, May 15, 1995, and September 29, 1995, Carolina Power & Light Company (the licensee), requested an exemption from certain technical requirements of Section III.J of Appendix R to 10 CFR Part 50 for HBR. Section III.J of Appendix R requires that emergency lighting units with at least an 8-hour battery power supply be provided in all areas needed for operation of post-fire safe shutdown equipment and in access and egress routes thereto. The licensee plans to implement procedure enhancements to its post-accident safe shutdown procedure that would require manual operation of certain valves. The licensee proposed to use the diesel-backed security lighting system for access and egress to, and operation of, auxiliary feedwater (AFW) valves AFW–1 and AFW–104 and instrument air (IA) valve IA–297, stating that the use of the diesel-backed security lighting system will provide an equivalent level of fire safety to that achieved by compliance with Section III.J of Appendix R to 10 CFR Part 50 for access and egress to, and operation of, valves AFW–1 and AFW–104, located in fire zone 33, and valve IA–297, located in fire zone 25.

IV

Valves AFW–1, AFW–104, and IA–297 are located in outdoor areas within the protected area. These areas and the access and egress paths do not have 8-hour fixed battery-operated emergency