Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Mary Ruth Smith, et al.*, DOJ Ref. #90–11–3–549.

The United States filed a complaint in this matter in March 1990, pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9606 and 9607, to recover past and future response costs incurred and to be incurred by the United States with respect to the Site, and injunctive relief for the Site.

The proposed Consent Decrees may be examined at the office of the United States Attorney, Western District of Kentucky, 510 West Broadway, Louisville, KY 40202; the Office of the United States Environmental Protection Agency, Region 4, 61 Forysth Street, S.W., Atlanta, Georgia, 30303; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. Copies of the proposed Consent Decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy of the Consent Decree with Ford Motor Company, please refer to the referenced case and enclose a check in the amount of $190.50 (25 cents per page reproduction costs), payable to the Consent Decree Library for a copy of the Consent Decree with Ford Motor Company with its attachments or a check in the amount of $17.75, for a copy of that proposed Consent Decree without its attachments. In requesting a copy of the Consent Decree with the nine other parties (Akzo Nobel Coatings, Inc.; The B.F. Goodrich Company; General Electric Company; Hoechst Celanese Corporation; Jim Beam Brands Company; Navistar International Transportation Corporation; Rohm and Haas Kentucky Incorporated; Safety Kleen Envirosystems Company; and Waste Management of Kentucky, LLC.), please refer to the referenced case and enclose a check in the amount of $9.00 (25 cents per page reproduction costs), payable to the Consent Decree Library for a copy of the Consent Decree with attachments or a check in the amount of $8.25, for a copy of that proposed Consent Decree without its attachments.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–21473 Filed 8–15–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act; the Toxic Substances Control Act; and the Resource Conservation and Recovery Act

Notice is hereby given that on July 28, 1997 a proposed consent decree in *United States* v. *Southeastern Pennsylvania Transportation Authority, et al.*, Civ. A. No. 86–1094, was lodged with the United States District Court for the Eastern District of Pennsylvania. The complaint in this action seeks judgment under: Sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99–499, 42 U.S.C. 9606, 9607(a); Section 7 of the Toxic Substances Control Act (''TSCA''), 15 U.S.C. 2606; and Section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973. This action involves the Paoli Railroad Yard Superfund in the City of Paoli, Chester County, Pennsylvania.

The consent decree resolves the claims of the United States against three Defendants: Consolidated Rail Corporation (''Conrail''), National Railroad Passenger Corporation (''Amtrak''), and Southeastern Pennsylvania Transportation Authority (''SEPTA''). Under the terms of this decree Settling Defendants shall: (A) perform the RD/RA for all Site work on the actual rail yard portion of the Site, (B) pay $500,000 in past costs, and, (C) pay $850,000 for Natural Resource Damages.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States* v. *Southeastern Pennsylvania Transportation Authority, et al.*, DOJ Reference No. 90–11–2–152. In accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d), commenters may request a public meeting in the affected areas.

The proposed consent decree may be examined at the Office of the United States Attorney for the Eastern District of Pennsylvania, 615 Chestnut St., Room 1250, Philadelphia, PA 19106; the Region III office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA; and at the Consent Decree Library, 1120 ''G'' Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of each proposed decree may be obtained in person or by mail from the Consent Decree Library at the address listed above. In requesting a copy, please refer to the referenced case and number, and enclose a check in the amount of $61.00 (with exhibits) (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Div.

[FR Doc. 97–21743 Filed 8–15–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 96–9]

Oscar I. Ordonez, M.D.; Conditional Grant of Registration

On November 8, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Oscar I. Ordonez, M.D., (Respondent) of Winchester, Indiana, notifying him of an opportunity to show cause as to why DEA should not deny pending applications for registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that his registration would be inconsistent with the public interest. By letter dated November 28, 1995, Respondent, through counsel, timely filed a request for a hearing, and following prehearing procedures, a hearing was held in Indianapolis, Indiana on June 19, 1996, before Administrative Law Judge Mary Ellen Bittner. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, both parties submitted proposed findings of fact, conclusions of law and argument.

On June 17, 1997, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that the Deputy Administrator grant Respondent's application upon Respondent's filing of a certificate or other demonstration of completion of a course of at least sixteen hours of formal training in the regulation and proper handling of controlled substances. Neither party filed exceptions to the Administrative Law Judge's recommended decision, and on July 18,

1997, Judge Bittner transmitted the record of these proceedings to the Acting Deputy Administrator.

Subsequently, by letter dated July 22, 1997 to the Acting Deputy Administrator, Respondent requested that the decision in this matter be expedited, that the Acting Deputy Administrator approve a program which Respondent intends to attend in November 1997, and that the Acting Deputy Administrator grant Respondent a temporary DEA registration upon proof that Respondent has registered for the program and a permanent registration upon evidence of successful completion of the course. In his letter, Respondent indicated that Government counsel had no objections to this petition. By letter to the Acting Deputy Administrator dated July 25, 1997, Government counsel indicated that she had not reviewed the information about the program Respondent intends to attend not any petition for an expedited determination, and has not agreed or stipulated to such petition. The regulations do not provide for the submission of additional information after the record has been transmitted to the Deputy Administrator, but before the Deputy Administrator renders his decision, but under the circumstances of this case, the Deputy Acting Administrator has nonetheless considered these two letters in rendering his decision in this matter.

The Acting Deputy Administrator has considered the record in its entirety, 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 Acting 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, issued and conclusions herein, or of any failure to mention a matter of fact or law.

The Acting Deputy Administrator finds that Respondent graduated from medical school in 1983, and in July 1984, began a one year pediatric residency in New York. He then moved to Miami, Florida to accommodate his then-wife, where he worked as a physician's assistant because he was unable to find a residency program there. In July 1987, Respondent moved to Cincinnati, Ohio upon acceptance to a residency program in internal medicine, however, his wife remained in Miami.

While in Ohio, Respondent's marriage suffered as a result of financial concerns, other personal problems, and the fact that his wife still lived in Miami. In an effort to save his marriage and to alleviate some of his financial concerns, Respondent entered into an arrangement with his wife's brother, whereby the brother would mail Respondent packages of illicit cocaine, which Respondent repackaged and then mailed to their final destination. Respondent testified that he knew that what he was doing was wrong, and was in the process of deciding to divorce his wife and stop this arrangement, when in November 1988, he was arrested. On January 18, 1989, Respondent pled guilty in the Hamilton County, Ohio Court of Common Pleas, to one felony count of trafficking. He was fined $5,000 and served 12 months of an 18 month sentence. Respondent was released from prison on January 18, 1990.

Respondent and his first wife divorced, and after his release from prison, Respondent remarried and participated in a residency program in internal medicine in New York from July 1, 1990, until June 3, 1991. Respondent and his family then moved to Savannah, Georgia where Respondent completed another residency program in June 1993. Respondent next sought employment in Indiana to be closer to his and his wife's families.

Knowing that he wanted to practice medicine in Indiana, on December 3, 1992, Respondent applied for an Indiana medical license. On February 25, 1993, the Medical Licensing Board of Indiana (Board) denied Respondent's application since he had been convicted of a crime ''that has a direct bearing on [his] ability to practice competently.'' On March 16, 1993, Respondent petitioned the Board to review its decision, and following a hearing, the Board issued its Findings of Fact and Order on June 14, 1993, granting Respondent's application. Thereafter, by letter dated July 12, 1993, the Indiana Health Professions Bureau granted Respondent an Indiana controlled substances registration.

During his state application process, Respondent was recruited by Randolph County Hospital in Winchester, Indiana. The Chief Executive Officer of the hospital testified that Randolph County is a designated Health Professional Shortage Area and was in need of general internists and that Respondent's background and communication skills impressed him. Respondent was very candid during the interview process about his conviction. The hospital extended Respondent an offer, and he moved to Winchester in June 1993, and began working in the emergency room of the hospital. On August 1, 1993, Respondent began a private practice in Winchester in internal medicine.

In June 1993, Respondent applied for a DEA Certificate of Registration. He indicated on the application that he had been convicted of a crime relating to controlled substances, and as a result, DEA initiated an investigation to determine whether to grant Respondent's application or to issue an Order to Show Cause proposing to deny it. In December 1993, DEA received information that a pharmacy had received a prescription signed by Respondent for Xanax, a Schedule IV controlled substance, with no DEA number on the prescription. As a result, in January 1994, DEA investigators visited several pharmacies in the vicinity where Respondent had applied with DEA to be registered, and retrieved 21 prescriptions for Ritalin and four prescriptions for MS Contin, both Schedule II controlled substances, written by Respondent between August 31 and November 29, 1993. The investigators noted that two of the prescriptions for Ritalin authorized refills, which are not permitted for Schedule II substances.

Respondent testified at the hearing that he believed that since he had unrestricted Indiana licenses, obtaining a DEA registration was ''just a formality.'' He further testified that he mistakenly believed that he could use the hospital's DEA number to issue controlled substance prescriptions, and that the director of the emergency room at the hospital told Respondent that he could use the hospital's number. However, a DEA investigator testified at the hearing in this matter that DEA regulations permit a physician to use a hospital's DEA number to administer or dispense, but not prescribe controlled substances. The investigator further testified that 21 CFR 1301.76 provides that a registrant shall not employ an individual with access to controlled substances if that individual has been convicted of a felony offense related to controlled substances. Consequently, not only was Respondent not authorized to prescribe controlled substances using the hospital's DEA registration, he could not be employed at the hospital with access to controlled substances without the hospital first obtaining a waiver of 21 CFR 1301.76.

When Respondent was advised by the hospital's attorney that he could not write controlled substance prescriptions without his own DEA registration, and that he could not use the hospital's DEA registration, he ceased issuing prescriptions. On March 21, 1994, Respondent and the hospital entered into a Physician Employment Agreement providing that Respondent would be an employee of the hospital,

contingent upon DEA's granting of a waiver of the regulation precluding his employment in light of his felony conviction. On June 20, 1994, the hospital filed a request with DEA for a waiver of 21 CFR 1301.76(a), in order to employ Respondent with access to controlled substances, and later submitted to DEA requested information regarding how the hospital monitors and restricts access to controlled substances. As of the date of the hearing, no action had been taken on this waiver request.

During the course of investigating Respondent's application for registration, DEA investigators met with the pharmacy technician of the hospital on July 31, 1995, and obtained records, known as proof of use sheets, which seemingly indicated that on a number of occasions, Respondent ordered controlled substances for hospitalized patients. The pharmacy technician told the investigators that a nurse usually fills out the sheets, and that the doctor listed on the form is the one who authorized the administration of the controlled substance. However, the Director of Pharmacy for the hospital testified at the hearing before Judge Bittner that there was no consistent method for filling out the sheets, and therefore it was not possible to determine by looking at these sheets whether the doctor listed was the admitting or attending physician, or the physician who ordered the controlled substance. The Director of Pharmacy testified that he checked each entry on the controlled substance proof of use sheets which listed Respondent as the physician against the actual medical orders, and in each instance the physician ordering the administration of the controlled substance was someone other than Respondent.

Respondent testified at the hearing that he did not order controlled substances for hospitalized patients, but that his name appeared on the proof of use sheets because he was the attending physician. Respondent further testified that as the attending physician, if he determined that a patient required a controlled substance, he would consult with another physician and have that physician order the medication for the patient.

As of the date of the hearing, Respondent was the Chief of Staff at the hospital, having been elected to that position by his peers. Also, since January 1, 1996, Respondent has been a member of the hospital's Board of Trustees.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny any pending applications for a DEA Certificate of Registration, if he determines that 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 be denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

Regarding factor one, it is undisputed that on June 14, 1993, the Board granted Respondent an unrestricted license to practice medicine in the State of Indiana, and thereafter, he was issued an Indiana controlled substances registration. While this certainly weighs in favor of Respondent being issued a DEA registration, it is not dispositive of the issue.

As to Respondent's experience in dispensing controlled substances and his compliance with applicable laws relating to controlled substances, it is undisputed that Respondent engaged in the unlawful trafficking of cocaine in violation of Ohio state law. It is also undisputed that during a three-month period in 1993, Respondent issued a number of Schedule II prescriptions while not registered with DEA to do so, in violation of 21 U.S.C. 822. It is equally clear, that Respondent was not permitted to use the hospital's DEA registration number to issue such prescriptions. In light of 21 CFR 1301.76(a), the hospital could not employ Respondent with access to controlled substances since he had been convicted of a controlled substance related felony offense. Even if the hospital had obtained a waiver of this regulation, Respondent could still not use the hospital's DEA registration to prescribe controlled substances. The regulation in effect at the time of the events at issue in this proceeding would have only allowed Respondent to administer or dispense controlled substances, but not prescribe, using the hospital's DEA number. *See* 21 CFR 1301.24 (1993).

Accordingly, the Acting Deputy Administrator concludes that Respondent unlawfully issued prescriptions for Schedule II controlled substances. The Acting Deputy Administrator concurs with Judge Bittner's finding that ''Respondent did not intentionally violate [21 U.S.C. 822]; however, this finding does not resolve the issue because an applicant for a DEA registration is properly expected to have some familiarity with, and understanding of, the Controlled Substances Act and its implementing regulations and the obligations they impose upon registrants.'' Yet, the Acting Deputy Administrator is cognizant of the fact that Respondent issued these prescriptions over a three-month period in 1993, and he stopped writing such prescriptions upon being told that he was not authorized to do so.

In addition, Respondent violated 21 U.S.C. 829 and 21 CFR 1306.12, by authorizing the refilling of two Schedule II prescriptions. Like Judge Bittner, the Acting Deputy Administrator finds that ''[a]lthough it does not appear that Respondent intended to violate the [Controlled Substances Act], his ignorance of its requirements is troubling.''

Further, the Acting Deputy Administrator finds that the evidence does not support a finding that Respondent improperly ordered controlled substances for hospitalized patients. While Respondent's name appeared on the proof of use sheets, the testimony of Respondent and the Director of Pharmacy of the hospital, as well as documentary evidence, indicate that Respondent was not in fact the physician who ordered the administration of the controlled substances.

While there has been no evidence of Respondent's improper handling of controlled substances since 1993, the Acting Deputy Administrator is concerned about Respondent's apparent lack of knowledge of the provisions of the Controlled Substances Act and its implementing regulations. It is the responsibility of a registrant to be familiar with the requirements for the proper handling of controlled substances. Respondent's past experience in dispensing controlled substances is troubling and Respondent admitted at the hearing that he had not read the DEA regulations.

Finally, as to factor three, it is undisputed that Respondent was convicted of one felony count of trafficking cocaine, and as a result

served 12 months in an Ohio prison. The Acting Deputy Administrator is extremely dismayed by Respondent's conduct which led to his conviction. As Judge Bittner noted, ''[m]aintaining the boundary between the licit and illicit drug markets is one of the greatest responsibilities placed upon a DEA registrant.'' However, this conduct occurred in 1988, and there is no evidence that Respondent has engaged in such behavior since that time. Further, Respondent has expressed remorse for his past actions.

The Administrative Law Judge concluded that Respondent practices medicine in an underserved area, that the conduct which led to his conviction occurred eight years before the hearing in this matter, and that Respondent's subsequent misprescribing of controlled substances ''was due to ignorance rather than an intent to circumvent the Controlled Substances Act and its implementing regulations.'' Therefore, Judge Bittner concluded ''that the public interest is best served by granting Respondent's application, contingent upon his demonstrating knowledge, understanding, and acceptance of the obligations concomitant to a DEA registration.'' Judge Bittner recommended that Respondent's application for registration be granted upon demonstration of completion of a course of at least 16 hours in the regulation and proper handling of controlled substances.

The Acting Deputy Administrator finds that the Government has established a *prima facie* case for the denial of Respondent's application for registration in light of Respondent's conviction, his improper prescribing of controlled substances, and his apparent lack of knowledge regarding the proper handling of controlled substances. However, the Acting Deputy Administrator also finds that the conduct which led to Respondent's conviction occurred in 1988, and there is no evidence of any similar conduct since that time. His improper prescribing of controlled substances occurred in 1993, and likewise, there is no evidence of any similar conduct since that time.

Therefore, the Acting Deputy Administrator finds that it would not be in the public interest at this time to deny Respondent's application for registration. Nevertheless, in light of Respondent's apparent lack of knowledge regarding the proper handling of controlled substances, the Acting Deputy Administrator agrees with Judge Bittner that Respondent should undergo at least 16 hours of formal training in the regulation and proper handling of controlled substances before being issued a DEA registration.

The Acting Deputy Administrator has considered Respondent's July 22, 1997 letter requesting that the Deputy Administrator approve a program that Respondent intends to attend in November 1997, as acceptable to meet the Administrative Law Judge's recommended condition of registration, and that the Deputy Administrator issue Respondent a temporary DEA registration upon proof that Respondent has registered for the program. The Acting Deputy Administrator concludes that the course Respondent intends to attend, or a similar course, would be acceptable to fulfill the training condition of registration. However, in light of Respondent's apparent lack of knowledge regarding the proper handling of controlled substances, the Acting Deputy Administrator declines to grant Respondent a temporary registration pending the completion of the course. The purpose of requiring Respondent to undergo this training is for Respondent to have an understanding and appreciation of the laws and regulations relating to controlled substances, before he is issued his own DEA registration to handle such substances.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by U.S.C. 823 and 824 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration submitted by Oscar I. Ordonez, M.D., be, and it hereby is granted upon receipt by the DEA Indianapolis office of evidence of successful completion of at least 16 hours of formal training in the regulation and proper handling of controlled substances. This order is effective August 18, 1997.

Dated: August 11, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–21834 Filed 8–15–97; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–114]

Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Utilex, Inc. of P.O. Box 991, Greenville, NC 27834, has applied for a partially exclusive license to practice the inventions described and claimed in U.S. Patent Nos. 5,166,679; 5,214,388; 5,363,051; 5,442,347; 5,373,245; 5,515,001; 5,521,515; 5,539,292 entitled respectively, ''Driven Shield Capacitive Proximity Sensor,'' ''Phase Discrimination Capacitative Array Sensor System,'' ''Steering Capaciflector Sensor,'' ''Double Driven Shield Capacitive Type Proximity Sensor,'' ''Capaciflector Camera,'' ''Current Measuring OP–AMP Devices,'' ''Frequency Scanning Capaciflector,''and ''Capaciflector-Guided Mechanisms'' and the following NASA invention disclosed in NASA Case No. GSC 13,710–1, ''3–D Capaciflector.'' All of the aforementioned inventions are assigned to the United States of America as represented by the National Aeronautics and Space Administration. The field of use will be limited to utility meter reading applications. Written objections to the prospective grant of a license to Utilex, Inc. should be sent to Ms. Eileen Lehmann.

DATES: Responses to this notice must be received by October 17, 1997.

FOR FURTHER INFORMATION CONTACT:

Ms. Eileen Lehmann, Patent Attorney, NASA Goddard Space Flight Center, Mail Code 204, Greenbelt, MD 20771; telephone (301) 286–7351.

Dated: August 7, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–21825 Filed 8–15–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office; National Industrial Security Program Policy Advisory Committee: Notice of Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.2) and implementing regulation 41 CFR 101.6, announcement is made for the following committee meeting:

Name of Committee: National Industrial Security Program Policy Advisory Committee (NISPPAC).

Date of Meeting: September 11, 1997.

Time of Meeting: 2:30 p.m. to 4:30 p.m.

Place of Meeting: National Imagery and Mapping Agency, 3200 South Second Street, St. Louis, Missouri 63118–3399.

Purpose: To discuss National Industrial Security Program policy matters.