the remaining provisions of the Final Judgment.

The Court, on January 17, 1996, terminated certain sections of the Final Judgment in their entirety: (a) Sections V (b) and (c), which required IBM to offer to sell at no more than specified prices and to hold for a specified period used IBM machines that acquired pursuant to trade-ins or as a credit against sums then or thereafter payable to IBM; and (b) Section VIII, which specified conditions under which IBM could engage in ''service bureau business,'' as defined by Section II(k) of the Final Judgment. The Court also terminated all other provisions of the Final Judgment as they applied to all IBM computer products and services, except as they applied to as the AS/400 and System/360 * * * 390 families of products and services.

On July 2, 1996, the United States and IBM entered into a stipulation whereby the parties agreed to establish sunset periods for all remaining substantive provisions of the Final Judgment—Sections IV, V, VI, VII, IX, and XV—as they apply to the AS/400 and System/360 * * * 390 families of products and services. Section IV fulfills the purpose of the Final Judgment in assuring to current and prospective IBM customers an opportunity to purchase machines on terms and conditions that are not substantially more advantageous to IBM than the terms and conditions for leases of the same machines and requires IBM to sell its machines at prices that have a commercially reasonably relationship to the lease charges for the same machines. Section V restricts IBM's ability to re-acquire previously sold IBM machines. Section VI requires IBM to offer to machine owners at reasonable and nondiscriminatory prices repair and maintenance service for as long as IBM provides such service, provided that the machine has not been altered or connected to another machine in such a manner that its maintenance and repair is impractical for IBM and requires IBM to offer to machine owners and to persons engaged in the business of providing repair and maintenance services, at reasonable and nondiscriminatory prices, repair and replacement parts for as long as IBM has such parts available for use in its leased machines. Section VII restrains IBM from requiring that lessees or purchasers of IBM machines disclose to IBM the uses of such machines, from requiring that purchasers of IBM machines have those machines maintained by IBM and generally from prohibiting experimentation with, alterations in or attachment to IBM machines. Section IX requires IBM to furnish to owners of IBM machines manuals, books of instructions and other documents relating to IBM machines that IBM furnishes to its own repair and maintenance employees and requires IBM to furnish to purchasers and lessees of IBM machines manuals, books of instruction and other documents that pertain to the operation and application of such machines. Finally, Section XV enjoins IBM from entering into certain agreements to allocate markets or restrain imports into the United States or exports out of the United States and from conditioning the sale or leases of certain machines upon the purchase or lease of any other machine.

The United States and IBM have agreed to modify the Final Judgment to establish specific sunset periods for all provisions currently in effect. The parties agreed to terminate Section IV (b)(3) and (c)(7) and Section VII(d)(1) immediately upon entry of an Order by the Court. With respect to the AS/400 family of products and services, the parties have agreed to terminate: (a) Section V(a) immediately upon entry of an Order by the Court; (b) Section IV (except Section IV(c)(3) as it may apply to the provision of operating systems, an interpretation that the United States holds and with which IBM does not agree) and Section VI(a) 6 months after entry of an Order by the Court; (b) Section IV (except Section IV(c)(3) as it may apply to the provision of operating systems, an interpretation that the United States holds and with which IBM does not agree) and Section VI(a) 6 months after entry of an Order by the Court and © all other provisions of the Final Judgment as they apply to the AS/400, including Section IV(c)(3) as it may apply to operating systems, on July 2, 2000. With respect to the System 360 * * * 390 and the remainder of the Final Judgment, the parties have agreed to terminate all remaining provisions on July 2, 2001. Thus, under the agreement between the United States and IBM, as of July 2, 2001, the Final Judgment will be terminated in its entirety.

The United States has filed with the Court a memorandum setting forth its position with respect to modifying the Final Judgment as it applies to the AS/400 and System/360 * * * 390. Copies of the Complaint, the Final Judgment, the Stipulation containing the parties' tentative consent, the memoranda and all other papers filed in connection with this motion are available for inspect at the Office of the Clerk of the United States District Court, Southern District of New York, United States Courthouse, 500 Pearl Street, New York, New York 10007 and at Suite 215, Antitrust Division, Department of Justice , 325 7th Street, NW., Washington, DC 20530 (Telephone 202–514–2481). Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by the Department of Justice.

Interested persons may submit comments regarding this matter within the sixty (60) day period established by Court order. Such comments must be filed with the Office of the Clerk of the United States District Court, Southern District of New York 500 Pearl Street, New York, New York 10007 with copies mailed at the time of filing to: (a) counsel for IBM, Peter T. Barbur, Esq., Cravath, Swaine & Moore, Worldwide Plaza, 825 Eighth Avenue, New York, N.Y. 10019 (Telephone 212–474–1058); and (b) counsel for the United States, N. Scott Sacks, Assistant Chief, Computers & Finance Section, Antitrust Division, United States Department of Justice, Suite 9500, 600 E. Street, NW., Washington, DC 20530 (Telephone 202–307–6132).

Constance K. Robinson,

Director of Operations.

[FR Doc. 96–19282 Filed 7–29–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Portland Cement Association

Notice is hereby given that, on May 31, 1996 and July 3, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the Portland Cement Association (''PCA'') 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, FLS Automation, Hunt Valley, MD and ABB Industrial Systems Inc., Norwalk, CT have become Associate Members of PCA.

No other changes have been made in either the membership or planned activities of the PCA.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on February 5, 1985 (50 FR 5015). The last notification was filed with the Department on April 9, 1996. A notice

was published in the Federal Register on May 14, 1996 (61 FR 24332).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–19283 Filed 7–29–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 96–16]

Dewey O. Mays, Jr., M.D.; Denial of Application

On November 24, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Dewey O. Mays, Jr., M.D., (Respondent) of Dayton, Ohio, notifying him of an opportunity to show cause as to why DEA should not deny his application of January 3, 1994, for registration as a practitioner under 21 U.S.C. 823(f) as being inconsistent with the public interest.

On January 2, 1996, the Respondent filed a timely request for a hearing, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. However, on January 23, 1996, the Government filed a Motion to Amend Order to Show Cause and for Summary Disposition, noting that the Respondent's license to practice medicine had been indefinitely suspended by the State Medical Board of Ohio by final order dated June 15, 1995, a copy of which was attached to the motion. The Respondent was afforded an opportunity to respond to the Government's motion on or before February 8, 1996, but no response was filed. On February 14, 1996, Judge Bittner issued her Opinion and Recommended Decision, (1) finding that the Respondent lacked authorization to practice medicine in Ohio, and, accordingly, lacked authorization to handle controlled substances in Ohio, (2) finding that the Respondent was thus not entitled to a DEA registration, (3) granting the Government's motion for summary disposition, and (4) recommending that the Respondent's application for a DEA Certificate of Registration be denied. Neither party filed exceptions to her decision, and on March 15, 1996, Judge Bittner transmitted the record of these proceedings and her opinion to the Deputy Administrator.

The 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 Deputy Administrator adopts, in full, the decision of the Administrative Law Judge. The Drug Enforcement Administration cannot register or maintain the registration of a practitioner who is not duly authorized to handle controlled substances in the state in which he conducts his business. See 21 U.S.C. 283(f) (authorizing the Attorney General to register a practitioner to dispense controlled substances only if the applicant is authorized to dispense controlled substance under the laws of the state in which he or she practices); 802(21) (defining ''practitioner'' as one authorized by the United States or the state in which he or she practices to handle controlled substances in the course of professional practice or research). This prerequisite has been consistently upheld. See Dominick A. Ricci, M.D., 58 FR 51,104 (1993); James H. Nickens, M.D., 57 FR 59,847 (1992); Roy E. Hardman, M.D., 57 FR 49,195 (1992); Myong S. Yi, M.D., 54 FR 30,618 (1989); Bobby Watts, M.D., 53 FR 11,919 (1988).

Here, it is clear that the Respondent is not currently authorized to practice medicine in Ohio. The Deputy Administrator agrees with Judge Bittner's finding that ''[i]t is therefore reasonable to infer, and Respondent does not deny, that because he is not authorized to practice, he is also not authorized to handle controlled substances in Ohio.'' Likewise, since the Respondent lacks state authority to handle controlled substances, DEA lacks authority to grant the Respondent's registration application.

Judge Bittner also properly granted the Government's motion for summary disposition. The parties did not dispute that the Respondent was unauthorized to handle controlled substances in Ohio, the state in which he proposed to conduct his practice. Therefore, it is well-settled that when no question of fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. Dominick A. Ricci, M.D., 58 FR at 51,104; see also Phillip E. Kirk, M.D., 48 FR 32,887 (1983), aff'd sub nom Kirk v. Mullen, 749 F.2d 297 (6th Cir. 1984); Alfred Tennyson Smurthwaite, M.D., 43 FR 11,873 (1978); NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO, 549 F.2d 634 (9th Cir. 1977).

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 Respondent's application for a DEA Certificate of Registration be, and it hereby is, denied. This order is effective August 29, 1996.

Dated: July 24, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–19256 Filed 7–29–96; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 96–7]

David R. Nahin, M.D.; Revocation of Registration

On November 9, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to David R. Nahin, M.D., (Respondent) of Waukesha, Wisconsin, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AN7645229, under 21 U.S.C. 824(a), and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f), for the reason that his continued registration would be inconsistent with the public interest.

On November 27, 1995, the Respondent, through counsel, filed a timely request for a hearing, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. However, on January 19, 1996, the Government filed a Motion for Summary Disposition and to Stay Proceedings with copies of supporting documents. Specifically, the Respondent voluntarily had surrendered his medical license pursuant to a copy of the State of Wisconsin, Medical Examining Board's (Medical Board) Final Decision and Order dated April 28, 1993. Further, pursuant to an order of the Medical Board's dated August 9, 1994, the Respondent was granted a limited medical license which precluded him from having physician-patient contact. Also, a letter dated September 27, 1994, from the State of Wisconsin, Department of Regulation and Licensing, informed DEA that, ''while Dr. Nahin is not prohibited from holding a DEA registration, use of the registration in prescribing medications would constitute a violation of his limited license.''

The Respondent was afforded an opportunity to respond to the Government's motion on or before February 5, 1996, but no response was filed.

On February 15, 1996, Judge Bittner issued her Opinion and Recommended Decision, (1) finding that the Respondent, practicing medicine under