directed that the following factors be considered:

(1) maintenance by the [registrant] of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) compliance by the [registrant] with applicable Federal, State, and local law;

(3) any prior conviction record of the [registrant] under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) any past experience of the [registrant] in the manufacture and distribution of chemicals; and

(5) such other factors as are relevant to and consistent with the public health and safety.

Id.

"These factors are considered in the disjunctive." *Gregg & Son Distributors,* 74 FR at 17520; *see also Joy's Ideas,* 70 FR 33195, 33197 (2005). I may rely on any one or a combination of factors, and I may give each factor the weight I deem appropriate in determining whether to revoke an existing registration or to deny an application for renewal of a registration. *Gregg & Son,* 74 FR at 17520; *Jacqueline Lee Pierson Energy Outlet,* 64 FR 14269, 14271 (1999). Moreover, I am not required to make findings as to all of the factors. *Volkman* v. *DEA,* 567 F.3d 215, 222 (6th Cir. 2009); *Morall* v. *DEA,* 412 F.3d 165, 173–74 (D.C. Cir. 2005).

The Government bears the burden of proof. 21 CFR 1309.54. Having considered all of the factors, I conclude that while the Government has proved a single violation of Federal law, the evidence does not support the conclusion that Respondent's continued registration is inconsistent with the public interest.

During the hearing, the Government appeared to raise three principal allegations: (1) That Respondent was selling excessive quantities of listed chemical products to non-traditional retailers, (2) that Respondent sold an item which is used as drug paraphernalia, and (3) that Respondent distributed products directly from a storage facility which was located forty miles from its registered location without first returning them to its registered location. The first two allegations require no more than token discussion because they fail for lack of substantial evidence. While the third allegation was proved, Respondent quickly corrected the violation.

As for the first allegation, having previously found that the Government Expert's methodology is unreliable and it being apparent that the expert's affidavit relies on the same methodology, once again I conclude that his findings as to both the monthly expected sales range and the statistical improbability of certain sales levels of listed chemical products in legitimate commerce at convenience stores are not supported by substantial evidence. *See Novelty Distributors,* 73 FR at 52693–94; *see also CBS Wholesale Distributors,* 74 FR 36746, 36748 (2009); *Gregg & Son,* 74 FR at 17520. While this provides reason alone to find the allegation unproven, the deficiency in the Government's case is compounded by its failure to show what Respondent's average monthly sales were to its various customers. The allegation is therefore rejected.

The Government also failed to prove that Respondent violated Federal law by selling drug paraphernalia. *See* 21 U.S.C. 863. While I have now held in several cases that glass roses constitute drug paraphernalia, *see, e.g., Gregg & Son,* 74 FR at 17521, the Supreme Court has held that the statute imposes a scienter requirement. *See Posters 'N' Things, Ltd.* v. *United States,* 511 U.S. 513, 524 (1994). ("It is sufficient that the defendant be aware that customers in general are likely to use the merchandise with drugs. Therefore, the Government must establish that the defendant knew that the items at issue are likely to be used with illegal drugs.") (citing *United States* v. *United States Gypsum Co.,* 438 U.S. 422, 444 (1978) ("knowledge of 'probable consequences' sufficient for conviction")).

The Government produced absolutely no evidence that Mr. Naulty was aware that the glass roses' likely use is as drug paraphernalia. Nor did it even pose this obvious question to Mr. Naulty when it cross-examined him. The allegation therefore also fails for lack of substantial evidence.

The only allegation that was proved was that Respondent distributed list I chemical products directly from a storage facility which was not a registered location (and which was located approximately forty miles from its registered location). Under Federal law, "[a] separate registration is required for each principal place of business at one general physical location where List I chemicals are distributed * * * by a person." 21 CFR 1309.23(a). However, a registration is not required for "[a] warehouse where List I chemicals are stored by or on behalf of a registered person, unless such chemicals are distributed directly from such warehouse to locations other than the registered location from which the chemicals were originally delivered." *Id.* § 1309.23(b)(1).

Respondent did not dispute that it distributed list I chemicals from its McKinney storage unit without first returning them to its registered location. In doing so, Respondent violated Federal law. 21 U.S.C. 843(a)(9) ("It shall be unlawful for any person knowingly or intentionally * * * to distribute * * * a list I chemical without registration required by this subchapter[.]"). However, the Government did not establish the extent of the violations and Mr. Naulty immediately ceased doing so upon being told by the DIs that this was a violation. The Government's evidence therefore does not establish that Respondent's continued registration is inconsistent with the public interest. Respondent's violation does, however, warrant an admonition, which shall be made a part of Respondent's record.[9]

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(h) and 824(a), as well as 28 CFR 0.100(b) and 0.104, I hereby order that Mr. Checkout North Texas, be, and it hereby is, admonished. I further order that the application of Mr. Checkout North Texas for renewal of its DEA Certificate of Registration be, and it hereby is, granted. This order is effective immediately.

Dated: January 18, 2010.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 2010–1634 Filed 1–26–10; 8:45 am]

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[9] As found above, Respondent is currently using a rental storage unit to store list I products. In several cases, DEA has held that the use of such units does not provide adequate security. More specifically, I have noted a number of "security concerns which are raised by these facilities including the inadequacy of their construction, the lack of alarm systems, the lack of 24 hour on-site monitoring, the ability of unauthorized persons to gain access to the facility and the storage units, and the fact that the tenant does not control what other tenants the landlord rents to." *Novelty Distributors,* 73 FR at 52698; *see also Heldman,* 72 FR at 4034; *Sujak Distributors,* 71 FR at 50104.

While it seems unlikely that Respondent's storage unit provides adequate security, the Government did not raise this as an issue at any time in this proceeding. Consistent with the Due Process Clause and Administrative Procedure Act, because Respondent has had no opportunity to contest whether his storage unit provides adequate security, I do not consider the issue. *See CBS Wholesale,* 74 FR at 36749–50.

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Cooperative Research Group on Clean Diesel V

Notice is hereby given that, on December 10, 2009, pursuant to Section

6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute—Cooperative Research Group on Clean Diesel V ("Clean Diesel V") 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 following parties have withdrawn from this venture: BP America, Inc. Global Fuels Technology, Naperville, IL and Federal Mogul, Inc., Plymouth, MI.

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 Clean Diesel V intends to file additional written notifications disclosing all changes in membership.

On January 10, 2008, Clean Diesel V 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 25, 2008 (73 FR 10064).

The last notification was filed with the Department on November 9, 2009. A notice was published in the **Federal Register** on December 17, 2009 (74 FR 66995).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 2010–1240 Filed 1–26–10; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

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

Notice is hereby given that, on December 14, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Portland Cement Association ("PCA") 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, Continental Cement, Hannibal, MO has been added as a party to this venture. Also, the following parties have withdrawn from this venture: ABB, Incorporated, Wickliffe, OH; Air Products and Chemicals, Inc., Allentown, PA; LWB Refractories, York, PA; MikroPul, Charlotte, NC; Penta Engineering Corporation, St. Louis, MO; Gebr. Pfeiffer USA, Inc., Pembroke Pines, FL and River, Columbus, OH.

In addition, the following companies have changed their names: Hanson Permanente Cement, Pleasanton, CA to Lehigh Hanson; Rinker Materials Corporation, West Palm Beach, FL to CEMEX; St. Lawrence Cement Inc., Mount Royal, PQ, CANADA to Holcim Canada.

No other changes have been made in either the membership or planned activity of the group research project. Membership in each project remains open, and PCA intends to file additional written notification disclosing all changes in membership.

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 May 18, 2009. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 9, 2009 (74 FR 30327).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 2010–1243 Filed 1–26–10; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on High Efficiency Dilute Gasoline Engine II

Notice is hereby given that, on December 10, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute—Cooperative Research Group on High-Efficiency Dilute Gasoline Engine II, ("HEDGE II") 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, Alantum, Gyeonggi-Do, Republic of Korea has been added as a party to the venture. Also, Deutz, AG Cologne, Germany has withdrawn as a party to 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 HEDGE II intends to file additional written notifications disclosing all changes in membership.

On February 19, 2009, HEDGE II 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 April 2, 2009 (74 FR 15003).

The last notification was filed with the Department on November 9, 2009. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 17, 2009 (74 FR 66995).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 2010–1238 Filed 1–26–10; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 2010–2 CRB SD 2004—2007]

Distribution of the 2004 Through 2007 Satellite Royalty Funds

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notice soliciting comments on motion of Phase I claimants for partial distribution.

SUMMARY: The Copyright Royalty Judges are soliciting comments on a motion of Phase I claimants for partial distribution in connection with the 2004 through 2007 satellite royalty funds.

DATES: Comments are due on or before February 26, 2010.

ADDRESSES: Comments may be sent electronically to *crb@loc.gov*. In the alternative, send an original, five copies, and an electronic copy on a CD either by mail or hand delivery. Please do not use multiple means of transmission. Comments may not be delivered by an overnight delivery service other than the U.S. Postal Service Express Mail. If by mail (including overnight delivery), comments must be addressed to: