

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)
)
) Confetti String Administrative Compliance Order
Dollar General Corporation)
) Agreed Order Docket Number *CAA-HQ-2006-003*
)
) FINDINGS AND ORDER
Respondent.)

Pursuant to Section 113(a)(3) of the Clean Air Act (“CAA”), and based upon available information, EPA hereby makes and issues the following Order, with the expressed consent of Respondent:

Applicability

The term “Respondent” shall include Dollar General Corporation and its wholly-owned subsidiaries and affiliates. This Order shall apply to and be binding upon both EPA and the Respondent, including but not limited to its officers, directors, servants, employees, successors, and assigns. Respondent shall give notice of this Order to any successor ownership interest in any products subject to this Order.

Definitions

For purposes of this Order only, the following definitions shall apply:

“Ozone Depleting Substance” and “ODS” mean any substance that is either a “Class I substance” or “Class II substance” as defined in 40 C.F.R. § 82.104.

Class I substance means any substance designated as class I in 40 C.F.R. Part 82, Appendix A to Subpart A, including but not limited to chlorofluorocarbons.

Class II substance means any substance designated as class II in 40 C.F.R. Part 82, Appendix B to Subpart A, including but not limited to hydrochlorofluorocarbons.

Findings

1. EPA promulgated regulations for the control of Ozone Depleting Substances, appearing in 40 C.F.R. Part 82, Subpart C which prohibit the sale or distribution in interstate commerce of non-essential ODS-containing products. Among the non-essential products listed at 40 C.F.R. Sections 82.66 and 82.70 are string confetti and other aerosol products containing ODS.

2. Between December 2004 and October 2005, Respondent believes, based upon representations from its domestic vendor, Ja-Ru, Inc., that it purchased for re-sale approximately 609,264 cans of confetti string product known as Krazy String that originated in Taiwan (Confetti String Product). To the best of Respondent's knowledge and belief, Respondent ceased selling all Confetti String Product on or about February 24, 2006 and after learning that the cans that were manufactured in Taiwan may contain ODS as a propellant, and instructed store managers to remove all Confetti String Product from each store's sales floor. An inventory count showed that Respondent had approximately 175,000 cans (some of which were/may have been manufactured in Taiwan and some of which were manufactured elsewhere) on hand at the time it ceased selling the products.

3. Respondent, is a "person" as defined by 42 U.S.C. Section 7602(e).

4. Respondent, including its subsidiaries, is the owner/operator of approximately 8,000 stores located throughout the United States.

5. To the best of Respondent's knowledge and belief, Respondent represents that the Taiwanese cans of Confetti String Product, if any, remaining in Respondent's possession have been or are being removed from store shelves and are no longer offered for sale. To the best of Respondent's knowledge and belief, Respondent further represents that its domestic vendor entered or will enter into a contract with Von Roll America, Inc. (or another EPA approved incinerator if a change should be necessary or advisable and if the EPA agrees in writing to such change) pursuant to which Von Roll America, Inc. will incinerate all cans of Taiwanese Confetti Sting Product remaining in Respondent's possession which contain ODS. All remaining inventory of Confetti String Product cans have been or will be transported to Respondent's facilities in Alachua, FL; Ardmore, OK; Fulton, MO; Indianola, MS; Jonesville, SC; Scottsville, KY; South Boston, VA; and/or Zanesville, OH. Sorting of cans for incineration versus re-sale will take place at these or its vendor's facilities. Respondent further represents that, based upon its inventory system and its good faith efforts to locate all such cans, these approximately 175,000 cans constitute the entire remaining inventory of Confetti String Product, and that it has no other orders pending and/or has cancelled any additional orders for Confetti String Product that Respondent has reason to believe contains ODS.

ORDER

Based on the foregoing, and in accordance with federal laws and regulations, it is agreed that:

6. Respondent shall destroy or have destroyed the cans of Taiwanese Confetti String Product in its possession by a process of thermal incineration at the Von Roll America, Inc. incineration facilities in Liverpool, Ohio. Substantially all such cans will be transported to the Von Roll America, Inc. facilities. Incineration by Von Roll America, Inc. of all ODS-containing Confetti String Product shall take place promptly, but no later than April 1, 2007.

7. Respondent has implemented or shall implement procedures that are designed to ensure that it will not import any product containing ODS that is not legal for sale, distribution or use in the United States.

8. Respondent shall submit to EPA within 30 days following incineration of all cans of Confetti String Product a certification report ("Report") that shall include the following: (a) a signed statement from the company that all cans of Confetti String Product tendered to it for destruction have been incinerated under conditions sufficient to destroy any ODS within the Confetti String Product; and (b) a certification of complete compliance with the terms of this Order signed by a responsible corporate official, including that, based upon its inventory system and its good faith efforts to locate all such cans, Respondent has no knowledge of any other products in its possession or on order containing ODS that are not legal for use, sale or distribution in

the United States, that it has implemented procedures designed to prevent the future import, sale or distribution of ODS containing products in violation of 40 C.F.R. Part 82, Subpart C, and that all cans of ODS-containing Confetti String Product in the possession of Respondent have been destroyed in accordance with this Order. The certification submitted pursuant to this Paragraph shall contain the following certification:

“I certify under penalty of law that I have personally examined the information contained in this Report, including any and all documents accompanying this certification statement; that, based on my inquiry of those individuals responsible for obtaining the information, the information contained in this Report is to the best of my knowledge, true, accurate, and complete; that procedures designed to maintain compliance with 40 C.F.R. Part 82, Subpart C are in place and will be maintained even if processes or operating procedures change; and that I am fully authorized to make this attestation on behalf of Dollar General Corporation”

The certified Report shall be submitted to the address identified in Paragraph 10.

9. Pursuant to Section 113(a) of the CAA, for any failure to destroy all cans of Confetti String Product subject to this Order within the time limits of this Order, including paragraph 6, Respondent shall be liable for stipulated penalties of \$1,000 per day and may be subject to a civil or administrative action to obtain compliance. With respect to any Confetti String Product subject to this Order, EPA reserves the right to seek civil

penalties in an administrative or civil action for violations of the Clean Air Act or this Order, but will not seek both stipulated penalties and civil penalties for the same violations. To ensure that no ODS-containing Confetti String Product is on order or in the Respondent's inventory, Respondent has cancelled all pending purchase orders for ODS containing Krazy String product and shall conduct a thorough audit, through a combined review of its perpetual and/or physical inventory records, of all ordering records, stores and other facilities to ensure that no such product is in Respondent's possession or on order and continue to block sales of the current existing Uniform Product Code ("UPC") for ODS containing Krazy String at its point of sale registers through its point of sale software. A certification of the results of this audit shall be included in the Report specified in Paragraph 8. Additionally, Respondent shall notify all of Respondent's managers at its stores and other facilities of the requirements of this Order, including a statement that no ODS-containing Confetti String Product may be carried in inventory, sold or offered for sale. Notwithstanding the above, Respondent shall not be liable for penalties or otherwise if, despite review of its inventory system and its good faith efforts to locate all Confetti String Product, it subsequently discovers additional cans of ODS-containing Confetti String Product at any of its stores, provided that it promptly transports such cans to a licensed facility and causes them to be incinerated in the manner described above and promptly reports the same to US EPA. In addition, Respondent shall not be liable for penalties or otherwise if Von Roll

America, Inc. fails to incinerate the cans by April 1, 2007 for reasons beyond the reasonable control of Respondent.

10. EPA agrees to accept communications from Respondent by mail with respect to all matters relating to this Order at the address listed below. Electronically preferred: garlow.charlie@epa.gov or Title VI Coordinator, Attention: Charlie Garlow, US EPA Air Enforcement Division, 1200 Pennsylvania Ave NW., Mail Code 2242A, Washington, DC 20460, Tel: 202-564-1088.

11. This Order represents the final form of the agreement between EPA and Respondent. No oral modifications to the Order will be binding upon either party. The parties agree that the purpose of this Order is limited to describing the procedure for disposition and destruction of confetti string that potentially contains ODS. By its consent to entry of this Order, Respondent does not admit any liability under or violation of the Clean Air Act or its implementing regulations, including but not limited to 40 C.F.R. Part 82, Subpart C. Neither this Consent Order nor any part thereof, nor any entry into or performance under this Order, shall (i) constitute or be construed as an admission or acknowledgement of liability in this proceeding or in any subsequent judicial action, including any proceeding or judicial action brought by the EPA or any other government agency seeking monetary or other penalties, (ii) limit in any way Respondent's right to contest, or otherwise oppose, imposition of any monetary or other penalty, or (iii) be used against Respondent, except in a proceeding seeking enforcement of this Order.

12. EPA and Respondent represent that they have examined this Order and agree to the terms by signing and dating below. Each person signing this Agreement represents that he or she is authorized to legally bind the party on whose behalf he or she is signing.

13. Nothing in this Order shall relieve Respondent of the duty to comply with all applicable provisions of the Clean Air Act, nor shall this Order affect the right of EPA or the United States to seek appropriate injunctive relief, other equitable relief, or criminal sanctions for any violations of law.

14. Respondent explicitly waives its right to request a hearing and/or to contest this Order, and waives its right to appeal this Order.

15. Each party shall bear its own costs and attorney fees in connection with this Order.

Issued this ~~11th~~ 12th day of July, 2006



U.S. ENVIRONMENTAL PROTECTION AGENCY

Dollar General Corporation consents to the issuance of this Order, agrees to abide by this Order, and further agrees not to contest EPA's authority to issue this Order.

Signed this 7th day of July, 2006



For Dollar General Corporation