

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF: )  
 ) Confetti String Administrative Compliance Order  
 )  
Target Corporation ) Agreed Order Docket Number CAA-HQ-2006-001  
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 )  
 ) 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**

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. Respondent represents that it purchased for re-sale 887,730 cans of confetti string product known as Horrible Spooky String.. Respondent implemented a “hard lock” on its cash registers at point of sale thereby preventing sale of these items and removed these products from its shelves upon learning that the cans may contain ODS as a propellant. Respondent’s records show that it sold 102,214 cans and had 785,516 cans on hand or unaccounted for 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 is the owner/operator of approximately 1,400 stores located throughout the United States.

5. Respondent represents that based upon reasonable search and inquiry, all cans of Confetti String Product remaining in Respondent’s possession have been removed from store shelves and are no longer offered for sale.

## ORDER

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

6. Respondent shall destroy all cans of Horrible Spooky String in its possession by a process of thermal incineration which shall thoroughly destroy the ODS within these

cans at the Clean Harbors Environmental Services incineration facilities in LaPorte, TX and Deer Park, TX. All such cans have been transported to the Clean Harbors facility. Incineration by Clean Harbors of all Horrible Spooky String will be completed by August 15, 2006.

7. Respondent shall implement protocols and procedures designed to prevent the import or offer for sale of any confetti string product containing ODS that are not legal for sale, distribution or use in the United States.

8. Respondent shall submit to EPA within three hundred (300) days following incineration of all cans of Horrible Spooky String a certification report ("Report") that shall include the following: (a) a signed statement from Clean Harbors that all cans of Horrible Spooky String tendered to it for destruction have been incinerated under conditions sufficient to destroy any ODS within the Horrible Spooky String; and (b) a certification of complete compliance with the terms of this Order signed by a responsible corporate official, stating that, (1) based upon its review of product lists showing purchases from known confetti string vendors and consultation with personnel with responsibility for purchasing categories likely to include confetti string products and its good faith efforts to locate all such cans of ODS-containing confetti string products, Respondent has no knowledge of any other cans of confetti string products in its possession or on order containing ODS that are not legal for use, sale or distribution in the United States; (2) that it has implemented procedures and protocols designed to prevent the future import or offer for sale of ODS containing confetti string products in violation of 40 C.F.R. Part 82, Subpart C; and (3) that all known cans of Horrible Spooky String in the possession of Respondent have been destroyed in accordance with this



Order. The Report 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 with respect to the import and offer for sale of confetti string products 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 Target Corporation”

The certified Report shall be submitted to the address identified in Paragraph 11.

9. To demonstrate that Respondent has used its best efforts to locate all cans of Horrible Spooky String either on order or in Respondent’s possession, Respondent will check all outstanding orders of confetti string products to confirm that no cans of Horrible Spooky String are on order and will request personnel in each store, distribution center and return center to inspect visually for the presence of cans of Horrible Spooky String and report the presence of any cans of Horrible Spooky String to the appropriate personnel at Respondent. Respondent will include any responses received in the Report specified in Paragraph 8. Additionally, Respondent shall notify all of Respondent’s buyers in the categories likely to purchase confetti string product 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.

10. Pursuant to Section 113(a) of the CAA, for any failure to destroy all cans of Horrible Spooky String 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. Notwithstanding the above, Respondent shall not be liable for penalties if, despite review of the above-described records and its good faith efforts to locate all remaining cans of Horrible Spooky String, it subsequently discovers additional cans of Horrible Spooky String at any of its stores or other facilities, provided that it promptly transports such cans to Clean Harbors 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 if Clean Harbors fails to incinerate the cans by July 30, 2006 for reasons beyond the reasonable control of Respondent.

With respect to confetti string products 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. 11. 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](mailto: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.

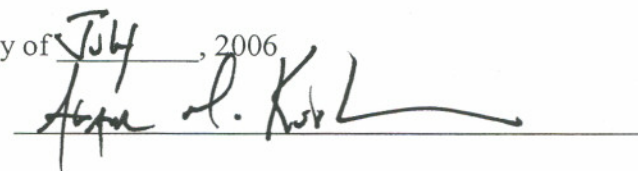
12. This Order represents the final form of the agreement between EPA and Respondent. No oral modifications to the Order will be binding upon either party. By its consent to entry of this Order, Respondent does not admit any liability under or violation of the Clean Air Act or its implementing regulations, including but not limited to 40 C.F.R. Part 82, Subpart C.

13. 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.

14. 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.

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

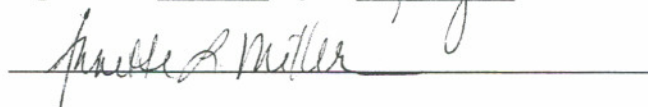
16. Each party shall bear its own costs and attorney fees in connection with this Order. Issued this 21<sup>st</sup> day of July, 2006

  
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U.S. ENVIRONMENTAL PROTECTION AGENCY

Target 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 12 day of July, 2006

  
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For Target Corporation