

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF: )  
) Confetti String Administrative Compliance Order  
)  
Dollar Tree Stores, Inc. ) Agreed Order Docket Number *CAA-HQ-2006-005*  
)  
) 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. Between approximately September, 2004 and June, 2005, Respondent represents that it purchased for re-sale cans of confetti string product known as Krazy String and Zany String (Confetti String Product). Respondent removed these products from its shelves and ceased selling them upon learning that the cans may contain ODS as a propellant. An inventory count showed that it had 1,675,330 cans 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 is the owner/operator of approximately 2910 stores located throughout the United States.

5. Respondent represents that the 1,675,330 cans of Confetti String Product remaining in Respondent's possession have been removed from store shelves and are no longer offered for sale. Respondent further represents that it entered into a contract with Clean Harbors Environmental Services, Inc. ("Clean Harbors") dated November 11, 2005 by which Clean Harbors will incinerate all cans of Confetti Sting Product remaining in Respondent's possession which contain ODS. All cans located were

transported to Clean Harbors' facility in LaPorte, Texas in December, 2005. While the cans were in transit, Respondent had representative cans tested to determine which cans do and do not contain ODS. Only the cans of Zany String, all of which were manufactured in Taiwan, were found to contain ODS. Although Respondent planned to sort cans for incineration versus re-sale based on these results once the cans arrived at Clean Harbors' facility, it was decided after the cans arrived to incinerate all of them. Clean Harbors has advised Respondent that incineration of all cans shipped in December, 2005 has been completed. Respondent further represents (i) that despite its good faith efforts to locate all cans of ODS-containing Confetti String Product when it made its initial shipment of cans to Clean Harbors' facility in December, 2005, it has subsequently determined that a small number of cans were not discovered then, (ii) that it is now in the process of making arrangements to have these remaining cans shipped to Clean Harbors' facility and will ship them promptly once arrangements are complete, and (iii) that it has no other orders pending and/or has cancelled any additional orders for Confetti String Product containing ODS.

**ORDER**

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

6. As to the cans of ODS-containing Confetti String Product shipped to the Clean Harbors incineration facility in LaPorte Texas in December, 2005, Respondent shall cause any such cans not already destroyed to be destroyed by a process of

thermal incineration which shall thoroughly destroy the ODS within these cans. As to any cans of ODS-containing Confetti String Product subsequently found in any of Respondent's stores, it will cause them to be shipped promptly after discovery to the Clean Harbors incineration facility in LaPorte Texas, or a similar incineration facility, for destruction by incineration.

7. Respondent shall implement reasonable procedures that seek to prevent the importation or sale by Respondent of 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 Clean Harbors 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 reasonable procedures that seek 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 which have been located to date 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 reasonable procedures are in place that seek to maintain compliance with 40 C.F.R. Part 82, Subpart C and that these procedures will be maintained even if processes or operating procedures change; and that I am fully authorized to make this attestation on behalf of Dollar Tree Stores, Inc.”

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 ODS-containing 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 product subject to this Order, EPA reserves the right to seek civil penalties in an administrative or civil action for violations of this Order, but will not seek both stipulated penalties and civil penalties for the same violations. Notwithstanding the above, Respondent shall not be liable for penalties if, despite review of its inventory system and its good faith efforts to locate all such cans, it subsequently discovers additional cans of ODS-containing Confetti String Product at

any of its stores, provided that it promptly transports such cans to Clean Harbors, or a similar incineration facility, and causes them to be incinerated in the manner described above.

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](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.

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. 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.

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.

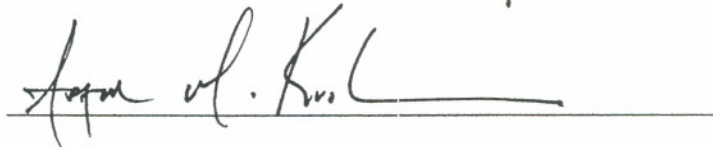
13. Nothing in this Order shall relieve Respondent of the duty to comply with all applicable provisions of the Clean Air Act, nor shall this Order affect the right of EPA or the United States to seek appropriate injunctive relief, other equitable relief, or criminal sanctions for any violations of law.

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 6<sup>th</sup> day of July, 2006



U.S. ENVIRONMENTAL PROTECTION AGENCY

Dollar Tree Stores, Inc. 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 16<sup>th</sup> day of JUNE, 2006



General Counsel and Corporate Secretary  
For Dollar Tree Stores, Inc.