

4. Pursuant to Section 113(d) of the CAA, before EPA initiates an administrative penalty action for CAA violations which occurred more than 12 months before the commencement of EPA's civil administrative penalty action, or in which the total penalty sought exceeds \$200,000, EPA and the U.S. Department of Justice (DOJ) must make a joint determination that the matter is appropriate for an administrative penalty action. The requisite determinations for this case were made by EPA and DOJ.

5. Respondent is Dollar General Corporation headquartered in Goodlettsville, Tennessee. Respondent is the owner/operator of over 8,000 stores located throughout the United States. The alleged violations occurred at multiple locations nationwide.

6. Respondent is a "person" as defined in CAA § 302(e), 42 U.S.C. § 7602(e).

7. "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.

8. 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.

9. 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.

10. EPA promulgated regulations for the control of ODS, 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. §§ 82.66 and 82.70 are string confetti and other aerosol products containing ODS.

11. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a penalty of not more than \$32,500 for each violation of title VI of the CAA, that occurred after March 15, 2004.

12. Dollar General entered into an Administrative Compliance Order (ACO) on July 12, 2006, with EPA wherein EPA made findings consistent with the factual allegations listed below in section II. See, Exhibit 1, ACO.

II. EPA's Factual and Legal Allegations

13. EPA alleges that between December 2004 and October 2005, Respondent purchased for re-sale approximately 609,264 cans of confetti string product known as Crazy String (Confetti String Product) that originated in Taiwan, and which may have contained a Class II substance.

14. EPA alleges that to the best of Respondent's knowledge and belief, Respondent

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ceased selling all Confetti String Product on or about February 24, 2006, after learning that the cans 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 Dollar General had approximately 175,000 cans on hand at the time it ceased selling the Confetti String Product.

15. EPA alleges that the purchase of 609,264 cans of Confetti String Product which may have contained an ozone depleting substance and the resale of 434,264 cans of Confetti String Product which may have contained an ozone depleting substance are violations of title VI of the CAA, and the regulations promulgated thereto found at 40 C.F.R. Part 82.

III. Consent Agreement

16. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out in Paragraphs 1 through 12 above, but Respondent neither admits nor denies the factual and legal allegations set out in paragraphs 13 through 15 above. Neither this CAFO nor any part thereof, nor any entry into or performance under this Order shall constitute or be construed as an admission or acknowledgment of liability in this proceeding or any subsequent legal action.

17. As provided in 40 C.F.R. § 22.18(b)(2), solely for the purposes of this CAFO, Respondent waives any right to contest the allegations listed above and its right to appeal the proposed Final Order accompanying this CAFO.

18. Nothing in this CAFO shall be construed to create any rights in, or grant any cause of action to, any person not a party to this CAFO. Except as otherwise provided herein, Complainant and Respondent each expressly reserves any and all rights, defenses, claims, demands, and causes of action which it may have with respect to any matter, transaction, or occurrence relating in any way to the facts alleged in the CAFO against any person not a party hereto.

19. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

20. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of the CAA.

21. Compliance with this CAFO shall fully resolve the alleged violations contained herein, and EPA hereby releases Respondent, its successors and assigns, from all liability for the violations alleged herein. This CAFO shall not otherwise affect any liability of Respondent, if any, to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement for allegations of violations not contained in this CAFO.

22. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CAA.

IV. Final Order

23. Respondent is assessed a civil penalty of **ONE HUNDRED FIFTY FIVE THOUSAND EIGHT HUNDRED AND TWENTY THREE DOLLARS (\$155,823)** which shall be paid within thirty (30) days after the date Respondent receives a copy of the fully executed CAFO.

24. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to: "Treasurer, United States of America," to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check shall reference on its face the name and the Docket Number of the CAFO.

25. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Ms. Laurie Savoy
Air, Pesticides and Toxics Management Division
Air and EPCRA Enforcement Branch
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Ms. Saundi Wilson (OEA)
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303

26. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for the civil penalty payment made pursuant to paragraph 23.

27. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge of up to six percent per year compounded annually may be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

28. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

29. This CAFO shall be binding upon the Respondent, its successors and assigns.

30. The following individual is authorized to receive service for EPA in this proceeding:

Ms. Laurie Savoy
Air, Pesticides and Toxics Management Division
Air and EPCRA Enforcement Branch
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562-9201

31. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

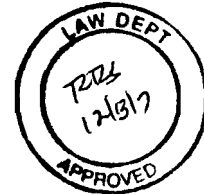
V. Effective Date

32. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Dollar General Corporation

By: Beryl J. Buley Date: 12/19/07
Mr. Beryl Buley, Division President for Merchandising and Supply Chain
Dollar General Corporation



U.S. Environmental Protection Agency

By: Kenneth Mitchell for Date: 1/11/08
Beverly H. Banister, Director
Air, Pesticides and Toxics Management Division,
Region 4

APPROVED AND SO ORDERED this 16th day of January, 2008.

Susan B. Schub
Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Dollar General Corporation, Docket No. CAA-04-2008-1507(b), on the parties listed below in the manner indicated:

Ms. Hollister A. Hill
Troutman Sanders LLP
Bank of America Plaza
600 Peachtree St. NE- Suite 5200
Atlanta, GA 30308-5200

(Via Federal Express)

Ms. Lucia Mendez
Associate Regional Counsel
U.S. EPA Region 4
61 Forsyth Street
Atlanta, GA 30303

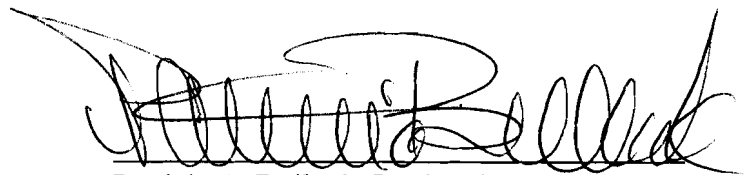
(Via EPA internal mail)

Ms. Laurie Savoy
Air, Pesticides and Toxics Management Division
Air and EPCRA Enforcement Branch
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

(Via EPA internal mail)

Date:

1-17-08



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection
Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404)562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi J Wilson on 10/16/07
(Name) (Date)

in the OEA at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Dollar General Corp.
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 155,823
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA-04-2008-1507(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|---|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD)
3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|--|---|
| 1. Originating Office
2. Regional Hearing Clerk | 3. Designated Program Office
4. Regional Counsel (EAD) |
|--|---|