



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 November 2003 and July 2004, Respondent represents that it issued purchase orders for approximately 59,520 cans of confetti string product known as Party Streamers or generically referred to as Silly String (Confetti String Product). Respondent received approximately 58,344 cans into inventory at its warehouse in Kalamazoo, Michigan. Thereafter, Respondent estimates that approximately 25,944 cans were shipped from its warehouse to various retail locations. Respondent subsequently removed approximately 573 cans from retail shelves and ceased distributing the Confetti String Product from its

warehouse upon learning that the cans may contain ODS as a propellant. An inventory count showed that it had approximately 32,400 cans on hand in its warehouse at the time it ceased distributing the products from its warehouse.

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

4. Respondent is a manufacturer and distributor of social expression products and sells to numerous retailers located throughout the United States.

5. Respondent represents that the 32,400 cans of Confetti String Product remaining in Respondent's possession in its warehouse and the 573 cans of Confetti String Product located by Respondent at retail locations throughout the U.S. have been removed from store shelves and are no longer offered for sale. Respondent further represents that it contracted with Rineco/Von Roll (WTI) (the "Contractor") on or around September 2005 for the Contractor's incineration all cans of Confetti Sting Product remaining in Respondent's possession which contain ODS. Contractor has provided a "Certificate of Treatment and Destruction" to Respondent that certifies that all 32,973 cans (reported as 13,297 pounds) have been destroyed at Contractor's facility in East Liverpool, Ohio. Respondent further represents that, based upon its inventory system and its good faith efforts to locate all such cans, there are no more cans of Confetti String Product in inventory at its warehouse, and 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. Respondent has (through the use of Contractor) destroyed all the cans of ODS-containing Confetti String Product in its possession by a process of thermal incineration which to the best of its knowledge thoroughly destroyed the ODS within these cans at the Contractor's incineration facility in East Liverpool, Ohio.

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

8. Respondent shall submit to EPA (within 90 days following the date Respondent signs this order below) a certification report ("Report") that shall include the following: (a) a signed statement from an officer of Respondent that, to the best of his or her knowledge, all cans of Confetti String Product tendered to Contractor 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 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 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 American Greetings”

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 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 shall conduct a thorough audit of all ordering records, Respondent-owned or -operated retail stores and its warehouse to ensure that no such product is in Respondent's possession or on order. 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 sourcing and procurement managers of the requirements of this Order, including a statement that no ODS-containing Confetti String Product may be purchased for inventory or offered for sale or distribution.

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 in inventory or at any retail stores, provided that it promptly transports (or has transported) such cans to its warehouse (or to such other EPA approved location) 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 the Contractor fails to promptly incinerate the later-discovered cans 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](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 or wrongdoing under or in 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 19<sup>th</sup> day of April, 2006

Anna L. Kuhl

U.S. ENVIRONMENTAL PROTECTION AGENCY

American Greetings 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 1<sup>st</sup> day of May, 2006

R. Plunkett

On behalf of American Greetings Corporation