

Respondent disclosed that it had failed to comply with RCRA section 3002(a), 42 U.S.C. 6922(a) and the implementing regulations listed below at its Newnan, GA facility:

(1) 40 CFR 265.15, 40 CFR 265.174 and 40 CFR 265.195 when it failed to conduct weekly inspections of hazardous waste storage areas and containers; and

(2) 40 CFR 262.34(d) for failure to designate an emergency coordinator and failure to post information relating to the emergency coordinator by the phone; and

(3) 40 CFR 262.34(d) and 40 CFR 265.16, for failure to provide hazardous waste handling and management training to employees.

Respondent disclosed that it had failed to comply with RCRA section 3002(a), 42 U.S.C. 6922(a) and the implementing regulations listed below at its Ocala, FL facility:

(1) 40 CFR 265.15, 40 CFR 265.174 and 40 CFR 265.195, when it failed to conduct weekly inspections of hazardous waste storage areas and containers; and

(2) 40 CFR 262.34(d), for failure to designate an emergency coordinator and failure to post information relating to the emergency coordinator by the phone; and

(3) 40 CFR 262.34(d) and 40 CFR 265.16, for failure to provide hazardous waste handling and management training to employees.

Respondent disclosed that it had failed to comply with RCRA section 3014(a), 42 U.S.C. 6935(a) and the implementing regulations found at 40 CFR 279.22, when it failed to properly label oil storage drums at its Warren, OH facility.

Respondent disclosed that it had failed to comply with RCRA section 3014(a), 42 U.S.C. 6935(a) and the implementing regulations found at 40 CFR 279.22, when it failed to properly label used oil containers at its Sparks, NV facility.

EPA, as authorized by RCRA section 3008(g), 42 U.S.C. 6928(g), has assessed a civil penalty for these violations.

EPA determined that Respondent met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty for the EPCRA violations, and for certain CWA and RCRA violations. For those violations meeting the audit policy, EPA waived the gravity based penalty of \$1,608,382 and proposed a settlement penalty amount of \$21,967. This is the amount of the economic benefit gained by Respondent, attributable to its delayed compliance with the CWA, RCRA, and EPCRA regulations. Of this amount,

\$8,260 is attributable to the CWA-SPCC violations; \$7,117 is attributable to the CWA violations; \$6,400 is attributable to the RCRA violations; and \$190 is attributable to the EPCRA violations.

However, Respondent failed to satisfy some of the conditions set forth in the Audit Policy for certain CWA and RCRA violations and was assessed an appropriate and fair civil penalty of \$80,455 (\$78,625 in gravity-based penalties and \$1,830 in economic benefit) to settle those violations.

The total civil penalty assessed for settlement purposes is one hundred and two thousand four hundred and twenty-two dollars (\$102,422). Respondent has agreed to pay this amount. EPA and Respondent negotiated and reached an administrative consent agreement, following the Consolidated Rules of Practice, 40 CFR 22.13(b), on August 18, 2006 (*In Re: Kmart Holding Corp.* Docket Nos. CWA-HQ-2006-6001, RCRA-HQ-2006-6001, EPCRA-HQ-2006-6001). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6).

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321(b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311(b)(3), 33 U.S.C. 1321(b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311(j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to \$157,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR Part 22.

Under EPCRA section 325, the Administrator may issue an administrative order assessing a civil penalty against any person who has violated applicable emergency planning or right to know requirements, or any other requirement of EPCRA. Proceedings under EPCRA section 325 are conducted in accordance with 40 CFR part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a CWA II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is November 2, 2006. All comments will be transferred to the Environmental Appeals Board ("EAB") of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.4(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this

proceeding prior to the close of the public comment period.

Dated: September 19, 2006.

**Robert A. Kaplan,**

*Director, Special Litigation and Projects Division, Office of Enforcement and Compliance Assurance.*

[FR Doc. E6-16293 Filed 10-2-06; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

[FRL-8227-1]

### **Notice of Determination for Dale Hollow Lake To Qualify as a No Discharge Zone**

This notice of determination is for all navigable waters of Dale Hollow Lake, located on the border of Kentucky and Tennessee. On March 23, 2006, notice was published that the Army Corps of Engineers (ACOE), State of Kentucky, and State of Tennessee had petitioned the Regional Administrator, Environmental Protection Agency (EPA) to concur with their determinations that adequate and reasonably available pumpout facilities exist on Dale Hollow Lake. Zero comments were received regarding this proposed action.

Therefore, Dale Hollow is designated as No Discharge Zone in accordance with Section 312(f)(3) of Public Law 92-500 as amended by Public Law 95-217 and Public Law 100-4, that adequate facilities for the safe and sanitary removal of sewage from all vessels are reasonably available for the waters of Dale Hollow Lake to qualify as a No Discharge Zone. This action is taken under Section 312(f)(3) of the Clean Water Act which states: "After the effective date of the initial standards and regulations promulgated under this Section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such States require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such waters to which such prohibition would apply."

EPA's action allows prohibition regarding discharge from vessels to be applied by the States of Kentucky and Tennessee for Dale Hollow Lake. EPA found the following existing facilities available for pumping out vessel

holding tanks on Dale Hollow Lake. Their address, telephone number, hours of operation, and draft are as follows:

- (A) Cedar Hill Marina; 2371 Cedar Hill Road, Celina, TN 38551, 931-243-3201, 8 a.m.-4 p.m. 7 days/week, 8' draft
- (B) Dale Hollow Marina; 99 Arlon Webb Dr., Celina, TN 38551, 931-243-2211, 7 a.m.-5 p.m. 7 days/week, floating barge-mobile pumpout
- (C) Holly Creek Marina; 7855 Holly Creek Road, Celina, TN 38551, 931-243-2116, 7 a.m.-8 p.m. 7 days/week, floating barge-mobile pumpout
- (D) Sulpher Creek Marina; 3498 Sulpher Creek Road, Burkesville, KY 42717, 270-433-7272, 24 hours daily (self service), 10' draft
- (E) Hendricks Creek Marina; 945 Hendricks Creek Road, Burkesville, KY 42717, 270-433-7172, 8 a.m.-5 p.m. 7 days/week, 10' draft
- (F) Wisdom Marina; Rt. 2, Box 220, Albany, KY 42602, 606-387-5841, 8 a.m.-5 p.m. 7 days/week, floating barge-mobile pumpout
- (G) Wolf River Marina; Rt. 2, Box 751, Albany, KY 42602, 606-387-5841, 7 a.m.-7 p.m. weekdays, 7 a.m.-9 p.m. weekends, 25' draft
- (H) Eagle's Cove Marina; 5899 Eagle Cove Road, Byrdstown TN, 38549, 931-864-3456, 7 a.m.-8 p.m. 7 days/week, 15' draft
- (I) Star Point Marina; 4490 Star Point Road, Byrdstown TN 38549, 931-864-3115, 6 a.m.-6 p.m. 7 days/week, 15' draft
- (J) Sunset Marina; 2040 Sunset Dock Road, Hwy 111, Byrdstown, TN 38549, 931-864-3146, 6 a.m.-p.m. 7 days/week, 40' draft
- (K) East Port Marina; 5652 East Port Road, Alpine, TN 38543, 931-879-7511, 7 a.m.-8 p.m. 7 days/week, 11' draft
- (L) Willow Grove Marina; 9990 Willow Grove Hwy., Allons, TN 38541, 931-823-6616, 7 a.m.-8 p.m. 7 days/week, 15' draft and mobile barge
- (M) Livingston Marina; 1260 Livingston Boat Dock Road, Allons, TN 38541, 931-823-6666, 8 a.m.-5 p.m. 7 days/week, floating barge-mobile pumpout
- (N) Horse Creek Marina; 1150 Horse Creek Road, Celina, TN 38551, 931-243-2125, 24 hours daily, seven days weekly (self service), 10' draft
- (O) Dale Hollow Lake State Resort Park; 6371 State Park Road, Burkesville, KY 42717, 270-433-7431, 8 a.m.-6 p.m. weekdays, 8 a.m.-8 p.m. weekends, 24' draft

All vessel pumpout facilities that are described either discharge into State approved and regulated septic tanks or

State approved on-site waste treatment plants, or the waste is collected into a large holding tank for transport to a sewage treatment plant. Thus, all vessel sewage will be treated to meet existing standards for secondary treatment.

Estimates based on a survey conducted of Dale Hollow Lake marina managers and owners in regard to the number of boats equipped with U.S. Coast Guard-approved Marine Sanitation Devices (MSD) result in 68 boats. This would result in a ratio of 4.5 boats with MSDs per pumpout facility. Dale Hollow Lake's shoreline management plan does not permit private docks. Altogether, there are a total of 2,663 boat slips located at the 15 Dale Hollow Lake marinas. Of that overall total, 453 are houseboat slips, and 385 of these are houseboats which have holding tanks (subtracting the 68 boats mentioned above, which have MSDs). This results in a ratio of 26 boats with holding tanks per pumpout facility.

**J.I. Palmer, Jr.,**

*Regional Administrator, Region 4.*

[FR Doc. E6-16290 Filed 10-2-06; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL RESERVE SYSTEM

### Consumer Advisory Council

**AGENCY:** Board of Governors of the Federal Reserve System

**ACTION:** Notice of Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Thursday, October 26, 2006. The meeting, which will be open to public observation, will take place at the Federal Reserve Board's offices in Washington, D.C., in Dining Room E on the Terrace level of the Martin Building. Anyone planning to attend the meeting should, for security purposes, register no later than Tuesday, October 24, by completing the form found on-line at: <https://www.federalreserve.gov/secure/forms/cacregistration.cfm>

Additionally, attendees must present photo identification to enter the building.

The meeting will begin at 9:00 a.m. EDT and is expected to conclude at 12:30 p.m. The Martin Building is located on C Street, NW, between 20th and 21st Streets.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under various consumer financial services laws and on other matters. Time permitting, the Council will discuss the following topics:

- Fair and Accurate Credit Transactions Act (FACT Act)
- Nontraditional Mortgage Products
- Affordable Housing

Reports by committees and other matters initiated by Council members also may be discussed.

Persons wishing to submit views to the Council on any of the above topics may do so by sending written statements to Kyan Bishop, Secretary of the Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Information about this meeting may be obtained from Ms. Bishop, 202-452-6470.

Board of Governors of the Federal Reserve System, September 28, 2006.

**Jennifer J. Johnson**

*Secretary of the Board*

[FR Doc. E6-16266 Filed 10-2-06; 8:45 am]

**BILLING CODE 6210-01-S**

## GENERAL SERVICES ADMINISTRATION

### SES Performance Review Board

**AGENCY:** General Services Administration

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the appointment of members of the GSA Performance Review Board.

**FOR FURTHER INFORMATION CONTACT:**

Karla J. Hester, Director of Executive Resources, Office of the Chief Human Capital Officer, General Services Administration, 1800 F Street, N.W., Washington, DC 20405, (202) 501-1207.

**SUPPLEMENTARY INFORMATION:** Section 4313(c)(1) through (5) of title 5 U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review board(s). The board reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and considers recommendations to the appointing authority regarding the performance of the senior executive.

The following have been designated as members of the Performance Review Board of the General Services Administration:

John F. Phelps, Chief of Staff -- Chair  
David L. Bibb, Deputy Administrator  
James A. Williams, Federal Acquisition Service Commissioner  
Jon A. Jordan, Federal Acquisition Service Controller  
David L. Winstead, Public Buildings Service Commissioner