

**COMPLIANCE AGREEMENT**  
**BETWEEN**  
**THE UNITED STATES NAVY**  
**AND**  
**THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**WASHINGTON, D.C.**

**TOXIC SUBSTANCES CONTROL ACT**

---

**IN RE:**  
**TRANSFER OF THE USS LEXINGTON FROM THE NAVY TO**  
**CORPUS CHRISTI AREA CONVENTION AND VISITORS BUREAU AND**  
**THE LADY LEX MUSEUM ON THE BAY ASSOCIATION**

### PARTIES

1. The United States Environmental Protection Agency ("EPA") and the United States Navy ("the Navy") are parties to this Compliance Agreement ("Compliance Agreement" or "Agreement").

### JURISDICTION

2. This Agreement is entered into under the authority of Executive Order No. 12088 ("E.O. 12088"), 43 Fed. Reg. 47707 (October 13, 1978) to address instances of noncompliance with the requirements of the Toxic Substances Control Act ("TSCA") 15 U.S.C. §2601 et seq., and the Polychlorinated Biphenyl ("PCB") Regulations at 40 C.F.R. Part 761 concerning the transfer of the aircraft carrier USS LEXINGTON (AVT-16) ("LEXINGTON") to the DONEE designated below.

### PURPOSE

3. This Agreement authorizes the transfer of the USS LEXINGTON from the Navy to the Corpus Christi Area Convention and Visitors Bureau, and the Lady Lex Museum on the Bay Association (hereinafter referred to as the DONEE) for use as a museum/memorial pursuant to EPA's Agreement with the DONEE concerning this proposed transfer.

### COVERED MATTERS

4. This Agreement addresses steps the Navy shall take respecting the transfer or lease of the LEXINGTON to the DONEE to ensure that any PCBs remaining on board at the time of transfer

shall be managed and disposed of in accordance with applicable law and regulations.

#### STATEMENT OF FACTS

5. According to the Navy, in 1989, the Navy discovered the presence of wool felt impregnated up to 30 percent by weight with PCBs on submarines and surface vessels in the fleet. The felt was used in a number of applications, including as acoustical damping material on submarines and as gasket material in the joints of ventilation ducts, as a faying or insulating material between dissimilar metals, and as machinery mount insulation. The felt contains more than 50 ppm PCBs.

6. Prior to the 1989 discovery of this felt on its vessels, the Navy affirms that it had no knowledge that it was using PCBs in the applications described above. The Navy states that it procured this felt from approximately 1948 until the late 1970s for use in a variety of applications, and, in some cases, the felt was installed in older vessels during overhauls or maintenance. The LEXINGTON is older than 1948 (1943) and definitely contains this material.

7. In 1990, the Navy contends that it discovered that, in many instances, the jackets insulating wire cables on Navy vessels contained PCBs in concentrations greater than 50 ppm.

8. These PCBs and PCB Items are regulated by EPA under 40 C.F.R. Part 761. PCBs or PCB Items, regardless of concentration,

may not be used within the United States unless authorized under  
40 C.F.R. §761.30 or excused from the requirement of getting an

exemption by 40 CFR §761.20(c) See TSCA §6(e) and 40 C.F.R. §761.20.

9. Under 10 U.S.C. §7308, the Navy is authorized to donate vessels to State governments and non-profit organizations for use as museums, memorials, artificial reefs, or continued service use. Pursuant to this statutory authority, the Navy intends to donate the LEXINGTON to The Corpus Christi Area Convention and Visitors Bureau and the Lady Lex Museum on the Bay Association for use as a non-profit public memorial/museum. The donation agreement, contract N00024-92-C-0201 requires the DONEE to maintain the LEXINGTON in a condition satisfactory to the Navy and allows the Navy to retake possession of the LEXINGTON should this condition not be met. In addition, the donation agreement requires the DONEE to advise the Navy before disposing of the LEXINGTON.

#### REQUIREMENTS AND DELIVERABLES

10. Before leasing or transferring title of the LEXINGTON, the Navy shall provide written notification to the DONEE of known PCB Items or potential PCB Items on board the vessel. The Navy shall also notify the DONEE that the PCB Items on board are regulated under TSCA and that their continued usage may not be authorized under TSCA. Nothing in this Agreement relieves the DONEE of liability under TSCA or any other law.

11. With respect to donations for museums and memorials, the Navy's transfer agreement for the LEXINGTON shall provide for the Navy to conduct annual inspections to ensure that the

LEXINGTON is appropriately maintained and being operated in compliance with the transfer agreement. The transfer agreement shall also provide for the Navy to terminate the agreement and reassume title to the vessel in any case in which the DONEE does not meet its obligations. Under these provisions, the DONEE is obligated to notify the Navy should they no longer be able or willing to maintain the LEXINGTON as a museum or memorial. In such cases the Navy shall work with the DONEE to ensure that the LEXINGTON is properly disposed of, including assuming responsibility for the LEXINGTON's disposal, if the DONEE is financially unable to dispose of the LEXINGTON in accordance with the environmental regulations. Nothing in this compliance agreement relieves the Navy of potential responsibility for the LEXINGTON, in the event that the Navy arranges for it's disposal.

#### ENFORCEABILITY

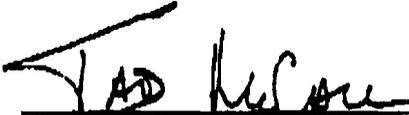
12. In the event of a material breach by the Navy of the terms and conditions of this Agreement, EPA shall notify the Navy and afford an opportunity to correct the problem. If, within sixty (60) days after such notice, EPA considers the material breach to remain, it may, at its sole discretion, terminate this Agreement by written notice to the Navy. EPA reserves the right to then pursue any remedies that it may have under TSCA or any other law for such a problem and for the violations of TSCA described in this Agreement. The Navy shall provide written notification to EPA's Office of Compliance Monitoring of any known or suspected breach of this Agreement within 5 days of the

breach or suspected breach. Failure to do so may constitute a material breach of this Agreement.

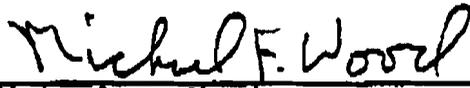
**EFFECTIVE DATE**

13. This Agreement shall become effective upon execution by authorized representatives of EPA and the Navy. In the event that authorized representatives of EPA and the Navy do not execute the Agreement on the same day, the Agreement shall become effective upon the date on which the last party affixed its signature to the Agreement.

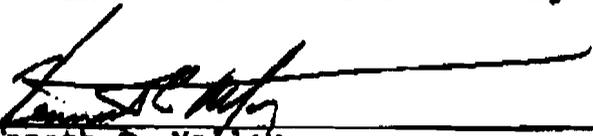
THE PARTIES SO AGREE:

  
 \_\_\_\_\_  
 Thomas L. McCall, Jr.  
 Acting Deputy Assistant Administrator  
 for Federal Facilities Enforcement  
 U.S. Environmental Protection Agency

6/10/92  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 Michael F. Wood  
 Director, Compliance Division  
 Office of Compliance Monitoring  
 Office of Prevention, Pesticides,  
 and Toxic Substances  
 U.S. Environmental Protection Agency

6/10/92  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 Kenneth C. Malley  
 Vice Admiral  
 Department of the Navy

6/9/92  
 \_\_\_\_\_  
 Date

IN RE:  
 TRANSFER OF THE USS LEXINGTON FROM THE NAVY TO  
 CORPUS CHRISTI AREA CONVENTION AND VISITORS BUREAU, AND  
 THE LADY LEX MUSEUM ON THE BAY ASSOCIATION

COMPLIANCE AGREEMENT  
BETWEEN  
CORPUS CHRISTI AREA CONVENTION AND  
VISITORS BUREAU,  
AND THE LADY LEX MUSEUM ON THE  
BAY ASSOCIATION  
AND  
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.

TOXIC SUBSTANCES CONTROL ACT

---

IN RE:  
POLYCHLORINATED BIPHENYLS ABOARD THE USS LEXINGTON

**PARTIES**

1. The United States Environmental Protection Agency ("EPA") and the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, and the Lady Lex Museum on the Bay Association, both being a non-profit corporation (hereinafter referred to as the "DONEE") are parties to this Compliance Agreement ("COMPLIANCE AGREEMENT" or "AGREEMENT") regarding the donation by the Navy of the aircraft carrier USS LEXINGTON (AVT-16) ("LEXINGTON") to the DONEE.

**JURISDICTION**

2. This Agreement is entered into to address instances of noncompliance with the requirements of the Toxic Substances Control Act ("TSCA") 15 U.S.C. §2601 et seq.

**PURPOSE**

3. This Agreement specifies the manner in which the DONEE will carry out their responsibility under TSCA and the PCB Regulations at 40 C.F.R. Part 761 to address the matters covered herein. All terms and conditions set forth in this Agreement constitute enforceable requirements of this Agreement to the extent provided by law.

**COVERED MATTERS**

4. This Agreement establishes a plan for responding to the use of PCBs in a manner not authorized under TSCA and the PCB Regulations aboard the LEXINGTON as well as authorized PCB uses.

5. This Agreement applies to the use and disposal of PCBs in uses not authorized in 40 C.F.R. 761.30, specifically

(1) shipboard PCB-impregnated felt material, applications of which include, but are not limited to, gaskets in the joints of ventilation ducts, faying or insulating material between dissimilar metals, and machinery mount insulation; (2) shipboard PCB-impregnated wire cable systems; and (3) other incidental PCB Items as may be discovered by the Navy or the DONEE during the term of this Agreement, such as paints, adhesives, rubber mounts, and the like. This Agreement mandates training, maintenance, and cleanup procedures for residual PCBs from these unauthorized uses on the LEXINGTON. If, during the term of this Agreement, the DONEE discovers additional significant unauthorized uses of PCBs, it shall inform EPA Region VI, Air, Pesticides & Toxics Division (Toxics Section) 6T-PT, 1445 Ross Avenue, Dallas, TX, 75202-2733 and EPA's Office of Compliance Monitoring, Office of Prevention, Pesticides, and Toxic Substances, 401 M Street, S.W., Washington, D.C. 20460 (mail code EN-342) who will determine, in consultation with the DONEE, the extent, if any, to which the terms of the Agreement cover the newly discovered use. A significant use for purposes of this paragraph shall be one involving more than 1.4 kilograms of PCBs. This Agreement addresses requirements of TSCA and the PCB Regulations at 40 C.F.R. Part 761.

6. The Agreement also addresses steps the DONEE will take respecting the transfer of the LEXINGTON from the Navy to ensure that any authorized uses of PCBs remaining on board at the time of transfer will be managed and disposed of in accordance with applicable law and regulations.

7. This Agreement is not and shall not be construed to be a vehicle to relieve the DONEE of any legal or regulatory obligations, including obligations under TSCA or any other environmental statutes, except as expressly provided for herein.

#### DEFINITIONS

8. Except as noted herein, the terms in this Agreement shall have their ordinary meaning unless otherwise defined in the PCB Regulations, 40 C.F.R. Part 761. The following definitions apply to this Agreement:

a. "felt" means wool felt material impregnated with PCBs;

b. "spill" generally refers to the definition at 40 CFR 761.123 and with regard to this Agreement, specifically means residual PCBs left on surfaces of ships from PCB Items, or following the removal of PCB containing materials;

c. "survey", as applied to the Lexington, means to take a representative sample from the types of equipment and locations the Navy and EPA have ascertained as potential locations of PCBs on Navy vessels;

d. "wire cables" refers to the entire wire cable assembly, including the metal jacket surrounding the rubber or plastic insulation, the insulation material, and the metallic wire itself as well as any connectors or circuit breakers.

#### STATEMENT OF FACTS

9. According to the Navy, in 1989, the Navy discovered the presence of wool felt impregnated up to 30 percent by weight with PCBs on surface vessels in the fleet. The felt was used in a

number of applications, including gasket material in the joints of ventilation ducts, as a faying or insulating material between dissimilar metals, and as machinery mount insulation. The felt contains more than 50 ppm PCBs.

10. Prior to the 1989 discovery of this felt on its vessels, the Navy affirms that it had no knowledge that it was using PCBs in the applications described above. The Navy states that it procured this felt from approximately 1948 until the late 1970s for use in a variety of applications, and, in some cases, the felt was installed in older vessels during overhauls or maintenance. The USS LEXINGTON is older than 1948 (1943) and definitely contains this material.

11. In 1990, the Navy contends that it discovered that, in many instances, the jackets insulating wire cables on Navy vessels contained PCBs in concentrations greater than 50 ppm.

12. These PCBs and PCB Items are regulated by EPA under 40 C.F.R. Part 761. PCBs or PCB Items, regardless of concentration, may not be used within the United States unless authorized under 40 C.F.R. §761.30 or excused from the requirement of getting an exemption by 40 CFR §761.20(c). See TSCA §6(e) and 40 C.F.R. §761.20.

13. The uses of PCBs described in Paragraphs 9 - 11 above are not authorized under 40 C.F.R. 761.30 or excused from the requirement of getting an exemption by 40 C.F.R. 761.20(c).

14. The Navy reported this use of felt to EPA upon its discovery in 1989.

15. When felt is removed from ventilation duct work or other sites, the adjacent area formerly in contact with the felt contains residual PCBs from the felt which itself contains PCBs at a concentration greater than 50 ppm. Because this contamination has probably existed since the felt was installed, the release or spill is deemed to have occurred prior to May 4, 1987, and therefore the PCB Spill Cleanup Policy, 40 C.F.R. Part 761, Subpart G, does not apply.

16. Pursuant to 40 C.F.R. Part 761, Subpart G, EPA may prescribe the cleanup standards for spills which occurred prior to May 4, 1987 on a case specific basis.

17. PCBs in the jackets of wire cables are inextricably bound in the material of the jacket. The material is a corrosion resistant plastic or rubber designed for use in a salt air/salt water environment. The Navy contends that the use of these wire cables does not pose a significant exposure risk.

18. According to the Navy, use of the existing felt in shipboard applications on naval vessels is not known to pose significant exposure risks to personnel on board the vessels. Navy air sampling from ventilation systems known to use PCB felt has shown that PCBs are not emitted from the ventilation systems, nor have activated charcoal filters in use for many months accumulated detectable PCB residues; thus, there is no detectable airborne PCB contamination from the use of PCB felt. The Navy asserts that likelihood of other than incidental dermal contact with PCBs is considered minimal due to the location and

configuration of items using the felt. Tourists on restricted tour routes should have very little, if any, contact with the felt. Felt used as gaskets has extremely limited exposed surfaces. Moreover, the Navy asserts that both Navy and contractor personnel are trained to recognize the potential PCB felt and to take appropriate precautions if they must handle it. Similarly, museum employees (tour leaders and maintenance workers) shall also be trained to recognize the felt (See Requirements and Deliverables Section)

19. Under 10 U.S.C. §7308, the Navy is authorized to donate vessels to State governments and non-profit organizations for use as museums, memorials, artificial reefs, or continued service use. Pursuant to this statutory authority, the Navy intends to donate the USS LEXINGTON to The Corpus Christi Area Convention and Visitors Bureau for use as a non-profit public memorial/museum. The donation agreement, contract N00024-92-C-0201 requires the DONEE to maintain the LEXINGTON in a condition satisfactory to the Navy and allows the Navy to retake possession of the LEXINGTON should this condition not be met. In addition the donation agreement requires the DONEE to advise the Navy before disposing of the LEXINGTON.

#### MAINTENANCE

20. If vessel repairs, damage, alteration, maintenance, conversion or the like result in the opening or disturbing of PCB contaminated materials on the LEXINGTON, or if there is any evidence of PCB contamination that has spread from such

applications, the source of the contamination shall be corrected according to one or more of the following methods, provided that the method selected remains fully effective in preventing human and environmental exposures from PCB releases during the vessel's lifetime.

a. Encapsulation - Two coats of an effective coating will be applied to cover exposed surfaces that have been in contact with PCB-containing material as well as an area extending six inches on all sides surrounding those surface. The first coat and second coat shall be of different colors to ensure proper encapsulation and clearly evidence wear. Locations of encapsulated areas shall be documented and included in maintenance inspections. If levels exceed  $100 \mu\text{g}/100 \text{ cm}^2$ , then cleaning shall be performed prior to encapsulation or sealing.

b. Cleaning - Surfaces formerly in contact with PCBs as well as an area extending six inches on all sides surrounding those surfaces, shall be cleaned achieving levels of no greater than  $100 \mu\text{g}/100 \text{ cm}^2$ . This level, which is to be established and verified according to EPA Guidelines, is the level permissible for restrictive access. It is the appropriate level for gaskets in areas which are not expected to have dermal contact. In areas in which dermal contact can be expected, cleaning shall achieve a level of less than  $10 \mu\text{g}/100 \text{ cm}^2$ , or else the  $10 \mu\text{g}/100 \text{ cm}^2$  or greater level must be encapsulated. If levels exceed  $100 \mu\text{g}/100 \text{ cm}^2$ , then cleaning shall be performed prior to encapsulation or sealing.

c. Sealing - Sealing shall be used in cases where PCBs have migrated into an area of potentially frequent dermal contact from an application which will remain in place. (The migrated material shall be cleaned up according to provision (b) above.) The source shall be sealed with an effective sealant to prevent recurrence and shall be marked for future reference to be included in maintenance inspections. If levels exceed 100  $\mu\text{g}/100\text{ cm}^2$ , then cleaning shall be performed prior to encapsulation or sealing.

d. Removal or Disposal - Readily accessible items such as felt gaskets at ventilation duct junctions which are disassembled during the course of work shall be disposed of in accordance with 40 C.F.R. §761.60. In specific cases where encapsulation, sealing, or cleaning as described above cannot be employed or are not fully effective, PCB items shall be removed and disposed of in accordance with 40 C.F.R. §761.60.

21. If a site has been cleaned, encapsulated or sealed in accordance with the above provisions, it shall be considered stabilized and will not be further decontaminated unless there is evidence of method failure or the site is disturbed.

22. Maintenance and removal of ventilation ducts containing felt flange gaskets:

a. shall be accomplished by personnel wearing appropriate protective clothing and equipment who are trained in maintenance procedures applicable to these materials. (Maintenance and removal of wire cables shall also be

accomplished by trained individuals in appropriate protective clothing.) Maintenance procedures shall include recognition of potentially contaminated felt flanges, cleaning methods, and disposal requirements;

b. when accomplished by cleaning ducts with brushes or portable ventilation duct cleaning machines, shall require disposal of resultant dirt or debris in accordance with PCB disposal requirements at 40 C.F.R. §761.60, unless tested and found not to contain PCBs in concentrations greater than 50 ppm. Brushes and vent duct cleaning equipment contaminated at greater than 50 ppm PCB may be disposed of in accordance to 40 C.F.R. §761.60 or decontaminated consistent with 40 CFR 761.79; and

c. shall require removal and disposal of felt gaskets from opened flanges, and cleaning and/or encapsulation or sealing of the resulting contamination in accordance with the procedure outlined in Paragraph 20 above.

#### QUALITY ASSURANCE

23. For quality assurance purposes, sampling and/or testing of known or suspected PCB spills on surfaces shall be done in conformance with existing EPA guidance documents. The DONEE shall conduct all sample preservation, chain-of-custody record-keeping, and quality assurance/quality control ("QA/QC") procedures utilized for remediation of PCB spills and clean-ups and for air monitoring in accordance with EPA guidance documents and shall follow the disposal procedures outlined in 40 C.F.R.

§761.60 and the storage procedures outlined in 40 C.F.R. §761.65 for PCB items designated as waste.

**ULTIMATE DISPOSAL OF THE LEXINGTON**

24. When the useful life of the LEXINGTON as a museum has terminated, the DONEE shall contact the Navy and advise them in writing that disposal of the vessel is contemplated. Nothing in this agreement relieves the DONEE of liability under TSCA or any other environmental statute or regulation concerning the disposal of the vessel in accordance with environmental laws and regulations. Unless the LEXINGTON is returned to the Navy, DONEE shall dispose of any PCBs remaining on the vessel at the time of the vessel's scrapping in accordance with the storage and disposal requirements of 40 C.F.R. Part 761. In particular, felt shall either be removed or the gaskets may be removed from the flanges or the flanges may be cut out prior to or in conjunction with the scrapping of a vessel for metals and parts and disposed of in accordance with the disposal procedures outlined in 40 C.F.R. Section 761.60. If felt is stored prior to disposal, it shall be stored in accordance with storage procedures outlined in 40 C.F.R. Section 761.65. The remainder of the vessel's PCB contaminated metal surfaces shall be disposed of in accordance with the requirements of the PCB regulations, 40 C.F.R. Part 761; or as otherwise approved by EPA Region VI Toxics Section. With regard to work performed under contracts for scrap or stripping, DONEE shall identify known PCB items and potential PCB items to

bidders and require the contractor to comply with 40 C.F.R. Part 761.

#### **ENFORCEABILITY**

25. In the event of a material breach by the DONEE of the terms and conditions of this Agreement, EPA shall notify the DONEE and afford them an opportunity to correct the problem. If, the DONEE has failed to correct the problem within a reasonable amount of time after such notice, EPA may, at its sole discretion, terminate this Agreement by written notice to the DONEE. EPA reserves the right to then pursue any remedies that it may have under TSCA or any other law for such a problem and for the violations of TSCA described in this Agreement. DONEE shall provide written notification to be received within 48 hours by EPA Region VI Toxics Section of any known or suspected breach of this Agreement. Failure to do so may constitute a material breach of this Agreement. EPA reserves the right to immediately suspend tours upon discovery of conditions that may pose a threat to human health and/or the environment.

#### **FINANCIAL ASSURANCE**

26. It is the expectation of the Parties that all obligations established pursuant to this Agreement shall be fully funded. The DONEE shall take all necessary steps and use its best efforts to obtain timely funding to meet its obligations under this Agreement. The DONEE shall obtain adequate financial assurance to cover the following items: (a) maintenance of equipment in authorized (transformers, capacitors, hydraulic

equipment, heat transfer equipment, electromagnets, switches, voltage regulators, circuit breakers, reclosers and liquid filled cable) and unauthorized uses (wire insulation, gaskets in air circulation system ductwork, etc.); (b) disposal of PCBs released and cleaned up by routine janitorial activities or a comprehensive spill cleanup; (c) disposal of equipment in authorized uses at the onset of this agreement, but at some later time designated for disposal; and (d) personal liability to cover injury and/or the replacement of personal property in the event of a PCB-related accident, such as a fire or spill. The DONEE shall provide EPA Region VI Toxics Section with documentation that \$3 million in bond revenues and \$1.7 million in community pledges are available to develop the LEXINGTON into a naval aviation museum and to perform the maintenance and operating procedures required under this Agreement. Of this total amount, the DONEE has budgeted the sum of \$350,000 to perform the sampling, studies, surveys, assessments and remediation as necessary to enter into this Agreement, comply with the terms hereof and the requirements of TSCA and other environmental statutes. This financial assurance shall be provided to EPA Region VI Toxics Section at least 30 days prior to the museum's opening date. Throughout the term of this Agreement, DONEE further agrees to maintain a reserve fund in the amount of one hundred fifty percent (150%) of the average annual operating and capital costs incurred by DONEE in the performance of its maintenance and operating procedures required under this

Agreement during the immediately preceding three years. For the first year, such reserve fund shall be set at \$90,000 based upon presently estimated expenses of \$60,000. The second and third year reserve fund amounts shall be based upon the average of the actual expenditures incurred and utilizing the first year estimate of \$60,000 for any year in which actual data is unavailable. Said reserve fund shall be fully funded on the commencement of each fiscal year, and use of the fund shall be restricted for the purposes set forth in this Agreement. The DONEE may provide a letter of credit issued by a federally-insured financial institution in the amount of such reserve fund requirement to be drawn upon in accordance with the terms of this Agreement.

#### REQUIREMENTS AND DELIVERABLES

27. In addition to requirements previously listed in this agreement, the following requirements and deliverables shall be submitted to EPA Region VI Toxics Section within the timeframes prescribed. Region VI Toxics Section shall determine the adequacy and completeness of all submissions required under this Agreement. Where an action or series of actions is required, the DONEE shall provide Region VI Toxics Section with written confirmation that the requirement has been met.

a. The DONEE has inspected the LEXINGTON, and has disposed of regulated PCB Items (equipment) which were found and which are not in use, in accordance with PCB Disposal regulations prior to the museum opening. If additional PCB Items are found, DONEE

will also dispose of them in accordance with the PCB Disposal regulations.

b. The DONEE shall comply with all PCB regulations in accordance with 40 C.F.R. Part 761, except as otherwise provided for in this Agreement.

c. At least 30 days prior to commencement of tours, (or within a timeframe mutually agreed to by EPA Region VI Toxics Section and DONEE) the DONEE shall submit to EPA Region VI Toxics Section for their approval, a document describing type of PCB Items and locations of PCB Items and PCB materials on the LEXINGTON, both along the tour route and outside of the tour route. This document shall list any PCB Items and PCB materials for which DONEE is currently aware, and be updated upon discovery of any additional items not included in the initial listing.

d. The DONEE shall remove all PCB ballasts from fluorescent lights in visited/tour areas before tours are conducted or meetings held in these areas.

e. Once tours begin, as part of the maintenance requirements, the DONEE's maintenance staff shall conduct regular monthly inspections to see whether the paint covering the gaskets and wires has worn through from contact by tourists or others. The written results of these inspections shall be collected and sent to EPA Region VI Toxics Section quarterly for the first year of tours. Decisions on future reporting will be discussed following one year of inspections and this agreement amended as necessary at that time. In the event that the paint wears

through, the DONEE shall call and then notify in writing Region 6 Toxics Section who will decide on remedial action. Depending on the amount of time for wear through the paint, remedial action could be the requirement of the application of additional coats of paint, usage of a more effective paint covering or the construction of a more durable protective cover over the wear area.

f. At least 30 days prior to commencement of tours, (or within a timeframe mutually agreed to by EPA Region VI Toxics Section and DONEE), the DONEE shall develop (and EPA Region VI Toxics Section shall approve) a sampling scheme and complete sampling and analysis for air monitoring and surface sampling in areas where tourists are expected in order to establish a baseline/background and/or to verify that safe levels are there before tourists enter the area.

g. If the air handling systems containing PCB gaskets are not used to supply air in tourist areas, there are no air monitoring requirements for the tourist areas.

If air handling systems containing PCB gaskets are used to supply air in tourist areas, air shall be monitored by DONEE for PCBs annually.

i. If there are repairs to the air handling systems in which PCB gaskets or the encapsulating materials over the gasket material is disturbed (including removal of either the gasket material or the encapsulating material) the monitoring frequency shall increase to quarterly.

ii. Monitoring shall indicate less than one microgram per cubic meter ( $1 \mu\text{g}/\text{m}^3$ ) for a ten hour day and forty hour work week.

iii. If the daily or weekly monitoring results indicate a PCB concentration exceeding  $1 \mu\text{g}/\text{m}^3$ , then release controls shall be modified and the monitoring repeated until (a) the PCB concentration is  $1 \mu\text{g}/\text{m}^3$  or less; or (b) the gasket material is immediately removed.

iv. Monitoring results exceeding the daily or weekly levels of  $1 \mu\text{g}/\text{m}^3$  shall be reported in writing to the EPA Region VI Toxics Section within 48 hours of receiving the results.

EPA may prohibit or re-route tours based upon the monitoring results.

h. The DONEE shall provide training of maintenance workers and tour guides on PCBs relevant to on-site PCB uses. This training shall be provided through a training session completed prior to the employee beginning work on the ship and annually thereafter. A manual for this training shall be submitted to and approved by EPA Region VI Toxics Section 30 days prior to the commencement of training (or within a timeframe mutually agreed to by EPA Region VI Toxics Section and DONEE)

i. DONEE shall provide a thirty day written advance notice to EPA Region VI prior to performing maintenance on or removal of PCB items and PCB materials (unless the maintenance or removal is necessitated by emergency, then notice may be issued concurrently with the emergency maintenance or removal.)

j. The DONEE shall act in accordance with the PCB disposal regulations in the disposal of any gasket material or wire insulation removed for safety, maintenance reasons or any other purpose and any cleanup materials generated following PCB cleanup.

k. At least 30 days prior to commencement of tours, (or within a timeframe mutually agreed to by EPA Region VI Toxics Section and DONEE), the DONEE shall submit to EPA Region VI Toxics Section for approval, a regular/routine maintenance schedule and maintenance procedures for tour areas. The approved maintenance schedule shall become a part of the agreement by reference and/or attachment.

l. The technical discussions for this agreement listed here only apply to federally regulated PCBs and not to any other regulated materials.

m. With respect to regulated PCB materials, tours and public access are restricted to areas sampled by EPA and verified to be less than 10  $\mu\text{g}/100 \text{ cm}^2$  on surfaces (or no greater than 100  $\mu\text{g}/100 \text{ cm}^2$  encapsulated) and less than 1 microgram per cubic meter in air. Maps of the approved tour areas are attached. In the event that the DONEE desires to add new tour areas which have not previously been sampled by EPA, DONEE shall notify EPA Region VI Toxics Section and await approval to access these areas to the public. The sampling scheme developed under (f) shall be utilized to complete sampling and analysis for air monitoring and surface sampling in the areas that DONEE wishes to make publicly

accessible. The DONEE shall provide the sampling results to the Region VI Toxics Section for approval.

n. All areas not designated as accessible to the public on the attached map may require DONEE to institute any number of provisions including but not limited to the following: the area shall be secured against access by the public by locking hatch doors and barring entranceways. At least 30 days prior to commencement of tours, (or within a timeframe mutually agreed to by EPA Region VI Toxics Section and DONEE), DONEE shall provide a security plan for EPA Region VI Toxics Section approval.

o. Thirty days prior to commencement of tours, (or within a timeframe mutually agreed to by EPA Region VI Toxics Section and DONEE) DONEE shall provide EPA Region VI Toxics Section with written notice of the date that tours are scheduled to begin.

#### GENERAL PROVISIONS

28. The DONEE shall provide a copy of this Agreement to all contractors, subcontractors, laboratories, and consultants retained after the effective date of this Agreement to conduct or monitor any portion of the work to be performed pursuant to this Agreement before such work is commenced. As to existing contracts, the DONEE shall provide a copy of this Agreement to existing contractors within thirty (30) days of the effective date of this Agreement.

29. Modifications to this Agreement may be requested by EPA or the DONEE. Except as otherwise provided herein all such modifications shall be by mutual agreement of the signatories to this Agreement. All modifications requiring mutual agreement of

EPA and the DONEE shall be ineffective unless in writing and shall be effective as of the date the last party affixes its signature.

#### EXPIRATION

30. This Agreement will expire when its objectives have been achieved. If the law or regulations relating to the matters covered in this Agreement changes, both parties reserve the right to request modification to this Agreement to reflect such changes. Failure to agree upon such changes may result in termination of this Agreement by EPA.

#### PARTIES BOUND AND NOTICE OF TRANSFER

31. The provisions of this Agreement shall apply to and be binding upon the parties to this Agreement and their current and future officers, directors, agents, servants, employees, successors, and assigns in their respective capacity. The undersigned representative of each party to this Agreement certifies that he or she is fully authorized by the party whom he or she represents to enter into the terms and conditions of this Agreement, to execute it on behalf of that party, and to legally bind the party on whose behalf he or she executes this Agreement. No change in ownership, corporate, or partnership status relating to the LEXINGTON will in any way alter the responsibilities of the DONEES under this Agreement.

#### EFFECTIVE DATE

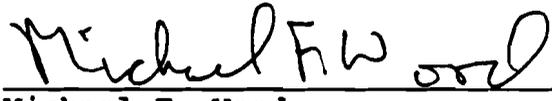
32. This Agreement shall become effective upon execution by authorized representatives of EPA and the DONEE. In the event that authorized representatives of EPA and the DONEE do not execute the

Agreement on the same day, the Agreement shall become effective upon the date on which the last party affixed its signature to the Agreement.

THE PARTIES SO AGREE:

  
\_\_\_\_\_  
Michael J. Walker  
Associate Enforcement Counsel  
for Pesticides and Toxic Substances  
U.S. Environmental Protection Agency

6/9/92  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Michael F. Wood  
Director, Compliance Division  
Office of Compliance Monitoring  
Office of Prevention, Pesticides,  
and Toxic Substances  
U.S. Environmental Protection Agency

6/10/92  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Robert Earley  
Chief Operating Officer  
Corpus Christi Area Convention  
and Visitors Bureau

8 JUN 92  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Joseph Jessel  
President  
Lady Lex Museum on the Bay  
Association

8 JUN 92  
\_\_\_\_\_  
Date

Compliance Agreement Between the DONEE and the United States  
Environmental Protection Agency, Washington, D.C.  
In re: PCBs Aboard the Lexington