

COMPLIANCE AGREEMENT
BETWEEN
THE UNITED STATES NAVY
AND
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
WASHINGTON, DC

TOXIC SUBSTANCES CONTROL ACT

IN RE:
TRANSFER OF THE USS SALEM FROM THE NAVY TO
THE UNITED STATES NAVAL SHIPBUILDING MUSEUM CORPORATION
IN QUINCY, MASSACHUSETTS

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 USS SALEM ("SALEM") to the DONEE designated below.

PURPOSE

3. This Agreement authorizes the transfer of the heavy cruiser USS SALEM from the Navy to the United States Naval Shipbuilding Museum Corporation, Quincy, Massachusetts (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 SALEM 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 SALEM was commissioned in 1949 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 or distributed in commerce 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. §7306, the Navy is authorized to donate vessels to State governments and non-profit organizations. Pursuant to this statutory authority, the Navy intends to donate the SALEM to the United States Naval Shipbuilding Museum Corporation, Quincy, Massachusetts for use as a non-profit public memorial/museum. The SALEM donation agreement requires the DONEE to maintain the SALEM in a condition satisfactory to the Navy and allows the Navy to retake possession of the SALEM should this condition not be met. In addition, the donation agreement requires the DONEE to advise the Navy before disposing of the SALEM.

REQUIREMENTS AND DELIVERABLES

10. Before leasing or transferring title of the SALEM, 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 donation agreement (or contract) for the SALEM with the U.S. Naval Shipbuilding Museum Corporation shall provide for the Navy to conduct annual inspections to ensure that the SALEM is appropriately maintained and being operated in compliance with the transfer agreement. The donation 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 SALEM as a museum or memorial. In such cases the Navy shall work with the DONEE to ensure that the SALEM is properly disposed of, including assuming responsibility for the SALEM's disposal, if the DONEE is financially unable to dispose of the SALEM in accordance with the environmental regulations. Nothing in this compliance agreement relieves the Navy of potential responsibility for the SALEM, in the event that the Navy arranges for its disposal.

ENFORCEABILITY

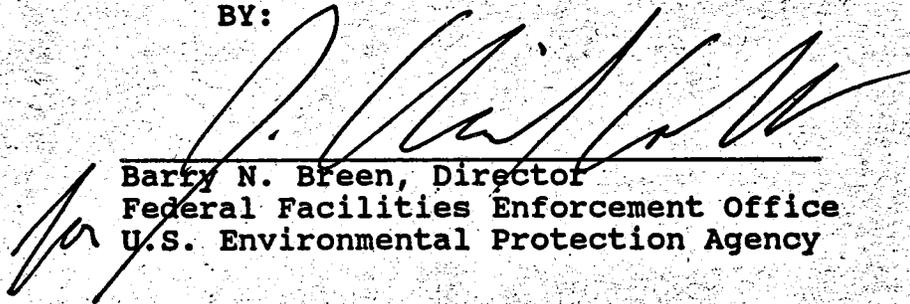
12. In the event of a material breach by the Navy of the terms and conditions of this Agreement, EPA Region I shall notify the Navy and afford an opportunity to correct the problem. If, within sixty (60) days after such notice, EPA Region I considers the material breach to remain, it may, at its sole discretion, terminate this Agreement by written notice to the Navy. EPA Region I 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 Region I 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.

ACCEPTANCE for the U.S. Environmental Protection Agency:

BY:



Barry N. Breen, Director
Federal Facilities Enforcement Office
U.S. Environmental Protection Agency

Date 10/6/94

ACCEPTANCE for the U.S. Navy:

BY:

Department of the Navy

Date

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