

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

SEP 24 1992

DHANNEMANN: un/CFR 1... /STEELBRO.EXP/ File: EED: CRB; CHRON-READING: AUTHOR: SUBJECT/ LTR. D. CROCKETT, STEELBRO RE: EXPORT OF POWER TRANSFORMERS FOR REUSE

Mr. David Crockett  
Steelbro International Co., Inc.  
270 Park Avenue  
Willinston Park, NY 11596

Dear Mr. Crockett:

This responds to your letter dated September 15, 1992 regarding the purchase of power transformers from utility companies and exporting them, principally to India or Pakistan.

EPA, under § 6(e) of the Toxic Substances Control Act (TSCA), established a comprehensive regulatory scheme at 40 CFR 761 covering the manufacturing, processing, use, distribution in commerce, and disposal of polychlorinated biphenyls (PCBs) at concentrations of 50 ppm or greater. These regulations allow power transformers containing PCBs at concentrations of 50 ppm or greater to be exported for reuse under 40 CFR 761.20(c). Specifically, EPA stated that "No persons may process or distribute in commerce any PCB, or any PCB Item... for export from the United States without an exemption." EPA promulgated several exceptions to this rule, most notably; "PCBs at concentrations of 50 ppm or greater, of PCB Items with PCB concentrations of 50 ppm or greater, sold before July 1, 1979 for purposes other than resale may be distributed in commerce only in a totally enclosed manner after that date (40 CFR 761.20(c)(1))."

Under 40 CFR 761.20(c)(1) PCB Items (e.g., power transformers containing PCBs at concentrations of 50 ppm or greater) meeting the specific conditions of this provision may be distributed in commerce for export for the purpose of reuse. However, the export of PCBs and PCB Items (with PCB concentrations 50 ppm or greater) for disposal (scrapping) is banned pursuant to the enclosed Closed Border Policy published in the Federal Register of May 1, 1980 (45 FR 29115) and 40 CFR 761.20(c)(3). Export for disposal constitutes illegal disposal under the PCB rules.

The regulations also prohibit any servicing (removal of the core, e.g., rebuilding) of PCB transformers (containing PCB concentrations of 500 ppm or greater) under 40 CFR 761.30(a)(2). Only PCB-contaminated transformers can be serviced (e.g., rebuilt by removing and repairing the core) as prescribed in 40 CFR 761.60(a)(2).

		CONCURRENCES			
SYMBOL	TS 798	TS 798			
SURNAME	<i>[Signature]</i>	<i>[Signature]</i>			
DATE	24 Sept 1992	9/24/92			

Under the TSCA § 12(b) Export Notification Rule (40 CFR 707.60(c)), export notification is required for PCBs and PCB Items (as defined at 40 CFR 761.3) which includes power transformers containing PCBs at concentrations of 50 ppm or greater.

If you have any further questions regarding this issue, please contact David Hannemann of my staff at (202) 269-3961.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Baney", with a long horizontal flourish extending to the right.

Tony Baney, Chief  
Chemical Regulation Branch

Enclosure

# federal register

Thursday, May 1, 1980

29115

## ENVIRONMENTAL PROTECTION AGENCY

(FRL 1482-5; OPTS 62008 (PCB/PEI ))

**Polychlorinated Biphenyls (PCB's);  
Expiration of the Open Border Policy  
for PCB Disposal**

**AGENCY:** Environmental Protection  
Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Open Border Policy for  
PCB disposal will expire on May 1, 1980.  
Exporting and importing of PCBs for  
disposal after May 1, 1980, will be  
prohibited.

**FOR FURTHER INFORMATION CONTACT:**  
Pamela A. Moore, Chemical Regulations  
Branch, Control Action Division (TS-  
794), Office of Pesticides and Toxic  
Substances, U.S. Environmental  
Protection Agency, 401 M Street, S.W.,  
Washington, D.C. 20460. Telephone:  
(202) 735-1188; or John B. Ritch, Jr.,  
Director, Office of Industry Assistance  
(TS-789), U.S. Environmental Protection  
Agency, 401 M Street, S.W.,  
Washington, D.C. 20460. Telephone toll  
free (800) 424-8063, (in Washington, D.C.  
Call 534-1404).

**SUPPLEMENTARY INFORMATION:** The  
Final PCB Processing, Distribution in  
Commerce, and Use Prohibition Rule  
(PCB Prohibition Rule) (40 CFR Part  
761.30(b)) promulgated May 31, 1979  
established an Open Border Policy  
permitting the export and import of  
PCBs for disposal until May 1, 1980. EPA  
has reviewed the results of this Policy  
and has decided not to extend the Open  
Border Policy. EPA is concerned that the  
improper disposal of PCBs will pose a  
threat to health or the environment. As  
the Agency pointed out in the Preamble  
to the Final PCB Prohibition Rule, the  
success of an Open Border Policy is

dependent upon the availability of  
acceptable disposal facilities in other  
nations. The experience of the last year  
has demonstrated that an extension of  
the Open Border Policy would be  
inappropriate because most other  
nations do not have proper disposal  
facilities.

Although EPA has decided not to  
extend the Open Border Policy beyond  
May 1, 1980, within a month EPA will  
publish a Proposed Rule governing the  
export and import of PCBs for disposal  
and for use. At this time it is expected  
the proposed rule will include a  
mechanism by which other nations may  
enter a bilateral agreement or  
memorandum of understanding with the  
U.S., setting forth mutually agreed upon  
criteria for the transportation, storage,  
and disposal of PCBs. By means of  
entering into such agreements or  
memoranda of understanding with other  
nations, the Agency can be assured that  
disposal will be accomplished properly  
in those nations.

With respect to disposal activities,  
after May 1, 1980, no PCBs may be  
exported or imported for disposal until  
new rules are in effect. With respect to  
export for use there has been no change  
in the requirements that must be met  
prior to export. Persons wishing to  
export for use must continue to file a  
TSCA Section 12 export notice and file  
an exemption petition, in accordance  
with the requirements of § 761.30(c), for  
processing and distribution in  
commerce. No PCBs may be exported  
until and unless EPA grants an  
exemption to export. EPA may grant an  
exemption to export if the Agency finds  
pursuant to Section 6(e)(3) of TSCA (1)  
an unreasonable risk of injury to health  
or environment would not result, and (2)  
good faith efforts have been made to  
develop a chemical substance which  
does not present an unreasonable risk of  
injury to health or the environment and  
which may be substituted for such  
polychlorinated biphenyl.

EPA will not grant an exemption  
unless the nation to which export is  
destined has proper disposal facilities  
ultimate disposal. EPA also will not  
grant an exemption for export for a use  
not authorized in the United States. In  
the context of exports, good faith efforts  
to find a substitute means the burden  
on the petitioner to show that there are  
no substitutes for the PCBs, produced  
either the petitioner or a competitor, and  
that the petitioner proves that it has  
expended substantial amounts of time  
and money searching for a substitute.

Dated: April 29, 1980.  
Steven D. Jellinek,  
Assistant Administrator for Pesticides and  
Toxic Substances.

(FR Doc. 80-13437 Filed 4-30-80; 8:45 am)  
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