

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



JUL 16 1997

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Mr. John L. Chow
Intertraex Incorporated
434 Broadway
New York, N.Y. 10013

Dear Mr. Chow:

I am writing in response to your June 6, 1997 letter requesting written permission to export used ballasts with PCB capacitors for resale and reuse purposes. You indicated in your letter that some ballasts may contain PCB capacitors while others may not. You also stated that after talking to a TSCA Hotline specialist, you both felt that your company should be able to ship these used ballasts abroad as long as the ballasts would be reused. Additionally, you provided a letter from your customer in China, Thunda Industry and Trade LTD., indicating their desire to purchase used ballasts for reuse.

This issue is somewhat complex. Used light ballasts containing PCB capacitors may be exported for use provided the TSCA §6(e) conditions regarding authorization for use and distribution in commerce are met as well as the TSCA §12(b) export notification requirements for PCBs. EPA only allows the distribution in commerce, which includes export, of PCB-containing materials that are authorized for use under Title 40 of the Code of Federal Regulations (40 CFR), section 761.30. Older light ballasts manufactured before 1978 contain PCB capacitors as well as potting material that contains PCBs at concentrations of ≥ 50 ppm. The potting material is used as insulating material to fill the space between the functioning parts of the ballast and its outer metal shell. EPA has data that indicates that approximately 70% of the light ballasts manufactured before 1978 contain PCBs at concentrations of ≥ 50 ppm in the potting material.

Because the use of potting material containing PCBs at concentrations of ≥ 50 ppm in ballasts is not authorized under the PCB regulations, these ballasts may not be distributed in commerce domestically or for export. Thus, you need to determine whether the ballasts intended for export contain PCBs in the potting material. Ballasts manufactured after July 1, 1979 are required to be marked with the statement "No PCBs" designated somewhere on the

ballasts or their labeling. PCBs at regulated concentrations could be found in the potting material of such fluorescent light ballasts. If you choose to pursue exporting fluorescent light ballasts with the "No PCBs" statement, EPA recommends that you use a random sampling plan to test the ballasts. If a statistically significant number of ballasts contain PCBs at concentrations of ≥ 50 ppm in their potting material, then you should assume that all of the ballasts contain PCBs, and their export would be illegal. If you do not find PCBs (or find < 50 ppm), then the ballasts may be eligible for export provided the PCB regulations regarding distribution in commerce and export are satisfied.

The PCB provisions for distribution in commerce domestically or for export are found in §761.20(c). If the ballasts contain PCBs at concentrations < 50 ppm, the ballasts may be distributed in commerce domestically or for export as "excluded PCB products" (as defined in §761.3) per §761.20(c). If the ballasts contain PCBs at ≥ 50 ppm due to the presence of PCB Capacitors, one must meet the conditions at §761.20(c)(1) which allows PCBs or PCB Items at concentrations of 50 ppm or greater, sold before July 1, 1979 for purposes other than resale, to be distributed in commerce only in a totally enclosed manner. At §761.20, EPA has identified a number of activities which the Agency considers to be "totally enclosed," including the distribution in commerce of intact, non-leaking electrical equipment such as capacitors and PCB Equipment containing an intact, non-leaking PCB Capacitor. Thus, the PCB Capacitors in the ballasts must be intact and non-leaking and must have been sold prior to July 1, 1979 for purposes other than resale. If either condition is not satisfied, then a petition would need to be submitted to EPA in accordance with Part 750, Subpart C requesting an exemption to export or distribute in commerce the ballasts containing PCB Capacitors for use. EPA would need to review the petition and determine that this activity posed no unreasonable risk to health or the environment before granting an exemption to export for use in accordance with the provisions of 40 CFR 761.80. The exemption process takes approximately 18 months because it involves proposed and final rulemakings, and the exemption to export would only be granted for a one year period which may be renewed.

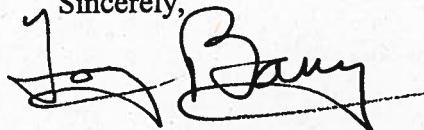
Exports of PCBs and PCB Articles for use are subject to the TSCA §12(b) export notice requirements in Subpart D of Part 707 per §707.60(c). However, EPA has exempted the exports of PCB Equipment, as defined in §761.3, from these export notification provisions. Because "PCB Equipment" includes fluorescent light ballasts and fixtures, exports of this equipment for use would not be subject to the TSCA §12(b) export notification requirements. However, the export of ballasts to China for use would still be subject to any import restrictions or notification requirements that may be imposed by the government of China. Also, if the ballasts are exported for the scrapping of parts in addition to reuse of components (e.g., capacitors), this scrapping activity is considered disposal rather than use under TSCA. The export of PCBs ≥ 50 ppm for disposal purposes is currently banned.

Please note that EPA is planning to issue final PCB regulations later this year. These regulations will change some of the requirements discussed above regarding the authorized use of PCB containing materials, distribution in commerce, and export for disposal. EPA proposed

in 1994 to authorize the use of non-liquid PCB containing materials ≥ 50 ppm, such as the potting material in ballasts (see page 62857 of the December 6, 1994 Federal Register), and proposed conditions for allowing export of PCB materials (≥ 50 ppm PCBs) for disposal purposes.

If you have any further questions about the export of fluorescent light ballasts, please contact David Hannemann at (202) 260-3961.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Baney". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Tony Baney, Chief
Fibers and Organics Branch