ATTACHMENT I

The Society of the
Plastics Industry, Inc.

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JUL 27 1979

Neil Gallagher
FY Info

TO: THE TOXICOLOGY STEERING COMMITTEE

FROM: H. P. TONER, ASSISTANT TECHNICAL DIRECTOR

DATED: JULY 12, 1979

For your information enclosed is a copy of the SPI Petition for Exemption for SPI members for one year's continued use of phthalocyanine and diarylide pigments containing greater than 50ppm PCB's. In its May 31, 1979 FR notice (44 FR 31558) EPA authorized these class exemptions provided they were requested by July 2, 1979.

HPT:ale
Enc.

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July 2, 1979

Document Control Officer (TS-793)
Office of Toxic Substances
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Attention: Document No. OTS/066002 (PCB/PDE)

Re: Consolidated Petition In Support of the Petition of the Dry Color Manufacturers' Association and For an Exemption for Members of The Society of the Plastics Industry, Inc.

Dear Sir:

Introduction and Summary of Petitions

The Society of the Plastics Industry, Inc. (SPI) is a Corporation organized under the Not-for-Profit Corporation Law of the State of New York. Its 1485 member companies and individuals and more than 60 operating units include those who supply raw materials; process or manufacture plastics or plastics products; engineer or construct molds or similar accessory equipment for the plastics industry; and engage in the manufacture of machinery to make plastics products

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or materials of all types. SPI is the major national trade association of the plastics industry. The majority of its members are the processors and converters of the plastics resins into end products which represent 75% of the dollar volume of sales of plastics in this country. SPI's membership also represents 95% of all plastics materials and machinery manufactured in the USA.

The entire list of SPI's membership including names, addresses and telephone numbers of manufacturing sites is contained in the attached publication, SPI-1979 Membership Directory and Buyers Guide, and the addenda thereto.

In accordance with the requirements of the Toxic Substances Control Act (TSCA) § 6(e)(3)(B) and with regard to the final Agency rule prohibiting the manufacturing, processing, distribution in commerce, and use of polychlorinated biphenyls (PCBs) (40 C.F.R. § 761 et seq., 44 Fed. Reg. 31543 (1979))[1/] and the Interim Procedures for Filing and Processing

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1/ SPI wishes to call the Agency's attention to the extremely broad and scientifically invalid definition assigned to the term PCB by Section 761.2(s) of the PCB Regulations. This definition would classify as PCBs, both monochlorobiphenyl as well as the product that might result from treating a tank car of biphenyl with a small amount of chlorine so that biphenyl containing 51 ppm of monochlorobiphenyl resulted.

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Petitions for Exemptions from the PCB Processing and Distribution in Commerce Prohibitions (40 C.F.R. § 750.30 et seq., 44 Fed. Reg. 31560 (1979)), by its attorneys, The Society hereby notifies the Environmental Protection Agency (EPA) of its support for the petition of the Dry Color Manufacturers' Association (DCMA) and of its consolidated petition for a class exemption for all SPI members which process and/or use diarylide and/or phthalocyanine pigments which might contain as impurities or contaminants PCBs in excess of 50 parts per million (ppm) from the requirements of the rule banning PCBs.

Plastics Industry Use of Pigments

All members of The Society are involved to some degree in the processing, distribution in commerce and/or use of pigments in the manufacture of plastics resins, plastics compounds, finished plastics products, and the machinery and associated devices and equipment used in manufacturing and processing plastics from the manufacture of the resins through the production of the end products.

Within the industry, there are two general methods for coloring plastics. The first is the direct addition of pigment to the resin. The second method involves the use of of color concentrates.

Color concentrates have two forms, liquid and solid. The liquids are made by disbursing pigment into a liquid vehicle at a concentration of 40 – 60%. The resultant paste is then mixed with colored or uncolored resin for processing. If the pigment is combined with a dry substance, e.g., a low molecular weight resin, the concentrate formed is a solid which is also 40 – 60% pigment. The solid, in stick or pellet form, can be "shaved off" or blended into colored or uncolored resin for processing.

Only those companies which use the direct-addition-of-pigment method and those which manufacture concentrates handle materials which might contain as much as 350 ppm PCBs. Those manufacturers which purchase concentrates use materials which contain on the order of only 100 ppm PCBs or less.

Processors and converters of the plastics resins into end products use, by whichever method, from about 100 ppm to 3% colorant in the resin. In 1978, the latest year

for which figures are available, the industry consumed 2,960 tons of phthalocyanine colorants and organic yellow pigments, those which are said to contain PCBs, as follows:

Phthalocyanine Blue	Phthalocyanine Green	Organic Yellows[2/]
1,750 tons	980 tons	230 tons

Of course, this total usage of the subject colorants is an overestimate because not all organic yellows are diarylide pigments, i.e., the type which might contain PCBs.[3/]

Use of Diarylide and Phthalocyanine Pigments By The Plastics Industry

According to EPA's apparent definition of the word "use" some SPI members using the diarylide and phthalocyanine

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2/ Modern Plastics Magazine, September, 1978, pp. 56 & 57.

3/ SPI is unable to estimate the total amount of PCBs which might be contained in the colorants used by the industry. Similarly, The Society is not familiar with the details as to the manner of release of PCBs into the environment as a result of the processing, distribution in commerce or use of these pigments by the plastics industry. Such information as the Agency might require in these areas could, perhaps, be better determined by placing an inquiry with the color manufacturers. To the extent that this data is nor forthcoming, The Society would be willing to attempt to develop it for the Agency.

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pigments and pigmented materials do not need any exemption. The final rule prohibiting the use of PCBs authorizes the use of those pigments even if they contain more than 50 ppm PCBs until January 1, 1982. 44 Fed. Reg. 31535 (1979). On behalf of its members, users of these pigments and pigmented materials, SPI would, however, encourage the Agency to grant all relief sought by the Dry Color Manufacturers' Association for its members so that the color industry's SPI member customers will not be deprived of necessary and valuable colorants. Any assistance which The Society and its members could provide in support of the DCMA class petition would gladly be supplied.

Processing and/or Distribution of Pigments In the Plastics Industry

Because almost every member of SPI is (again, according to the Agency's definitions) involved in the processing and/or distribution of low-concentration PCB pigments in commerce, in accordance with the instructions in the Interim Procedural Rules applicable to obtaining exemptions,

SPI requests by this consolidated petition an exemption for the entire class of its membership. 40 C.F.R. § 750.31(d)(2). Without such an exemption, all processing and distribution in commerce of pigments and pigmented materials which might contain 50 ppm or greater concentrations of PCBs as impurities or contaminants would be banned after July 1, 1979. 44 Fed. Reg. 31558 (1979).

In accordance with the directions for petition content, (40 C.F.R. § 750.31(d)(4); 44 Fed. Reg. 31561 (1979)), The Society requests that the exemption it seeks on behalf of its members be permitted for the maximum length of time, one year.

The Requested Exemption Is Justified And Should Be Granted

The exemption requested on behalf of all members of The Society of the Plastics Industry is justified and should be granted by EPA because: 1) no unreasonable risk of injury to health or the environment would result from granting the exemption; 2) good faith efforts have been made

to limit the concentration of PCBs in pigments as well as to find substitutes for the PCBs; and 3) not granting the requested exemption would have a severe adverse economic impact on the plastics industry.

As to the basis for SPI's claim that its membership's use of the subject pigments would not pose an unreasonable risk of injury to health or the environment, the plastics industry has a very low volume use of these pigments. In addition to the low quantity of use, the average PCB content of the pigments in use has been reduced substantially over the last several years. Also worthy of note is the fact that not only do these pigments now have a much lower concentration of PCBs than before, but once the pigments are mixed or compounded with other substances, the PCB content is further "diluted." According to EPA estimates, the PCB concentrations in these mixtures and, therefore, in the finished resin products are expected to be less than 50 ppm. 44 Fed. Reg. 31535 (1979). Given the low volume of use of these pigments, the low concentration of the unintentional PCB by-product, and the further dilution of the concentration by the mixture or compounding of the pigments in the manufacturing process, the expectation for human or environmental exposure is very limited.

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This being the case, EPA should conclude that the processing and distribution in commerce of these pigments by the plastics industry should be exempted from the PCB ban and that, by so doing, no unreasonable risk to health or the environment would eventuate.

As is stated by the Agency, not only have the color manufacturers been developing alternative processing methods to avoid PCB contamination but the Record indicates that the pigment industry will have made the changes necessary to reduce PCB levels to less than 50 ppm in the near future. 44 Fed. Reg. 31535 (1979). Based on information supplied to both the Agency and SPI, it is apparent that the color manufacturers have already achieved a very significant reduction in the PCB content of their pigments and, in so doing, should be regarded as having demonstrated the requisite good faith efforts to come into compliance with the requirements of the Act.

As to the economic consequences of denying the plastics industry petition for exemption, little definitive can be said about the actual dollar cost to the plastics industry and its suppliers and customers were the subject colors not available. However, one of the major attributes of plastics is the ease with which they can be colored to meet almost any specification.

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Phthalocyanine blue and green and diarylide yellow are of particular interest vis-a-vis the color needs of the industry. Plastic resins are subjected to high temperature levels during processing into the finished product. In addition to their many other useful characteristics, the colors of interest are widely used within the industry because of their superior heat stability relative to other colorants. The nonavailability of these pigments would, therefore, affect numerous applications in the industry and, undoubtedly, cause severe economic dislocations.

SPI Is The Appropriate Class Grouping For This Petition

The membership of The Society of the Plastics Industry, Inc. is an appropriate class grouping for this petition. 40 C.F.R. § 750.31(d)(9)(iii); 44 Fed. Reg. 31561 (1979). The Society is a trade association whose members process, distribute in commerce and use the pigments under consideration in a similar manner and with similar products. Additionally, this consolidated petition should be regarded as one which replaces 1,485 individual petitions, the substance of which would be identical to the present petition.

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In consideration of all the foregoing, The Society of the Plastics Industry, Inc. requests that its petition in support of the Dry Color Manufacturers' Association and its consolidated petition for an exemption for the entire class of SPI members from the rule banning the processing and distribution in commerce of certain pigments containing 50 ppm or greater PCBs be granted.

Very truly yours,

The Society of the Plastics Industry, Inc.

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