ATTACHMENT I

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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: DCMA Class Petition for Exemptions from Bans on Processing or Distributing in Commerce: Pigments Containing More Than 50 ppm PCB's

Dear Sir or Madam:

1. Introduction, Purpose and Scope. The Dry Color Manufacturers' Association ("DCMA") is a trade association many members of which manufacture diarylide pigments or phthalocyanine pigments, or both classes of pigments. DCMA has previously participated in the PCB's rulemaking with respect to such manufacture of pigments on behalf of member companies. One or more of these members themselves process such pigments, and also distribute them in commerce to various other persons who also process them for the same purposes, primarily as colorants in the production of printing inks, textile inks, paints and coatings, and plastics, rubber, and fibers. Other miscellaneous production includes concrete and roofing granules.

These pigments may contain more than 50 ppm PCB's, depending upon manufacturing processes. In general it is quite unlikely that the processed products would themselves contain more than 50 ppm PCB's. This is so because this processing necessarily involves dilution, of a fashion authorized by the PCB ban regulation published at 44 Fed. Reg. 31514 (May 31, 1979).

Approximately 20 persons (mainly DCMA members companies) have filed petitions for exemptions from the ban on the manufacture (including import) of such pigments that do, or may, contain more than 50 ppm PCB's. A much larger number of companies (because of intermediate processing and because of distribution by non-processors) are engaged in distribution of these pigments in commerce. The processors of such pigments are also quite numerous, probably numbering 2,000 or more. Many of these processors are small companies who are unlikely to monitor the Federal Register or otherwise keep promptly abreast

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of regulatory developments. Accordingly, many of them, probably the great majority of them, would if left to their own devices and resources have had great difficulty in learning about the PCB regulations published on May 31, 1979, in time to prepare and file their own individual petitions for processing exemptions. Moreover, it appeared unlikely that EPA would wish to conduct rulemaking procedures for thousands of different pigment processors.

In view of these considerations, DCMA has decided to file this single comprehensive petition capable of covering distribution in commerce and the various forms of processing of pigments, requiring the participating processing companies to prepare and provide to DCMA only the specific information about the kind of processing and estimated quantity of material processed.

Also in view of these considerations, DCMA has encouraged the principal trade associations in the processing area, and their member companies, to prepare and file similar class petitions for the processing performed by their members, and efforts have been made to avoid duplicate coverage, in two or more class petitions, of the same company. Not all such processors are members of these trade associations, and as a practical matter many processors could be reached, within the time allowed, only through normal channels of distribution from the pigment manufacturers. Accordingly, DCMA and its pigment manufacturing members have endeavored to include in this petition any and all processors who wish to be included and who have provided DCMA with the minimum information thought to be necessary for such inclusion.

The text of this petition will describe separately each kind of processing for which an exemption is requested, and, for each pigment, the estimated aggregate quantity of PCB's and PCB contaminated materials involved in each kind of processing of each pigment. The companies engaged in each kind of processing are listed in non-confidential appendices to the petition. The detailed required information for each company engaged in the same kind of processing, i.e., processing sites and quantities, is of substantial competitive and proprietary significance and is accordingly presented in separate appendices for which confidential treatment is requested. This information is aggregated in the text of the petition, which thus serves as a non-confidential summary of the confidential information. This information has been provided to DCMA by each company on a confidential basis, and DCMA has not disclosed such information about any company to any other company.

DCMA believes that this petition presents all of the required information in a concise manner convenient for the Agency as well as for processors. DCMA would, however, be glad to try to supplement this information upon request.

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DCMA also wishes to reserve the right to supplement this petition (if the July 1, 1979, filing deadline is not extended) by adding additional processor companies to those covered by this petition, where such companies were not in a position to provide the required company specific information to DCMA in time for inclusion and filing by July 1, 1979.

2. Appropriateness of This Class Petition. As the preceding discussion shows, practical aspects of filing petitions within the time currently allowed and the Agency's own convenience can be well served by this class petition. In addition, it should be noted that by and large all of the processing and distribution in commerce of pigments covered by this petition (or by any other similar petitions that may be filed by other trade associations) would involve pigments manufactured pursuant to exemptions from the manufacturing ban which EPA has proposed to grant. This petition is thus closely related, environmentally, economically, and technologically, to those petitions. The Agency has considered the manufacturing ban petitions as a group, and in doing so has been aware of the principal kinds of processing and distribution in commerce that follow pigment manufacture. In effect, this petition amplifies the general information that the Agency has already considered, by providing the detailed information about processors that the Interim Procedural Rules (44 Fed. Reg. 31558, May 31, 1979) require.

To expedite Agency action on this petition, DCMA hereby designates and incorporates by reference the following evidence previously submitted to or prepared on behalf of the Agency in PCB rulemakings:

June 22, 1977, Comments of DCMA on Proposed PCB Rules on Marking and Disposal, including June 15, 1977, Statement by James Renson on the economic impacts within the printing ink industry.

June 27, 1977, testimony of DCMA, Transcript pp. 2-39 through 2-58.

July 11, 1978, letter to EPA from W. C. Parle, Vice President, Harmon Colors Corp., about phthalocyanine crudes and pigments.

August 4, 1978, letter to EPA from Arthur P. Hopmeier, about copper phthalocyanine crudes and pigments.

August 4, 1978, Main Comments of DCMA, including appendices thereto.

Transcript of August 30, 1978, hearing (testimony of DCMA and member companies).

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August 30, 1978, Written Statements, including appendices, of DCMA, Phthalchem, Chemetron Pigments, and Sun Chemical Corporation.

October 10, 1978, Reply Comments, including appendices, of DCMA.

Petitions filed by manufacturers and importers of pigments for exemptions from the manufacturing ban.

April 1979 EPA Support Document/Voluntary Environmental Impact Statement and PCB Manufacturing, Processing, Distribution in Commerce, and Use Ban Regulations: Economic Impact Analysis.

Proposed Rulemaking for PCB Manufacturing Exemptions, 44 Fed. Reg. 31564 (May 31, 1979).

3. Name, Address and Telephone Number of Petitioner. This information appears above in the letterhead, for DCMA. DCMA's counsel with respect to the petition is:

Donald L. Morgan
Cleary, Gottlieb, Steen & Hamilton
1250 Connecticut Avenue, N.W.
Washington, D. C. 20036
202-828-3097

It is requested that any communications concerning this petition be directed to counsel.

The names, addresses, and telephone numbers of the companies covered by this petition, as well as the names of knowledgeable individuals with each company, are listed in various appendices to this petition.

4. Length of Time Requested for Exemptions. For each and every aspect of this multi-part petition, the exemption time requested is one year.

5. Manner of Release of PCB's into the Environment, and Absence of Unreasonable Risk of Injury to Health or Environment. Very little if any such release should occur during processing or distribution in commerce. Very small quantities of pigments may enter process wastewaters; no detectable quantities are found in emissions to the atmosphere; only accidental spills during distribution would result in any release. As noted at 44 Fed. Reg. 31566, the greatest potential for environmental exposure is in the application of paints and inks, in products containing far less than 50 ppm PCB as the

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result of unavoidable, and authorized, dilution occurring in normal commercial processing. There could be similar very low PCB concentrations in plastics and other end use materials for pigments, and some environmental release upon the disposal and eventual degradation of such end use materials. The total quantity of PCB's so released is very small relative to other PCB sources.

EPA has estimated total PCB usage at about 750 million pounds, with the total pounds of PCB's in pigments being only 5,700 pounds per year, 44 Fed. Reg. 31515, Table 2 (May 31, 1979). DCMA believes this is a reasonable conservative estimate.

It should be noted that the quantities for which exemptions are now being requested may in the arithmetical aggregate exceed the Agency's estimate. There are at least three reasons why this is not inconsistent with the Agency's estimate. First, since there is not yet a generally accepted validated analytical method for PCB's in pigments, there is substantial uncertainty as to actual PCB content. Inasmuch as the ban regulations apply to actual PCB content and analytical methods may be validated in the future which may show greater concentrations of PCB's than presently would appear to be present, prudence dictates that individual companies seek exemptions whenever they may have actual concentrations in excess of 50 ppm. Second, many PCB's will be counted more than once, in successive and separate processing steps. Third, petitioning processors necessarily must estimate the sources of future pigment supplies and the PCB content of those future supplies. Since these cannot be firmly or accurately predicted, prudence again dictates estimating on the high side.

Since it is not industry practice to maintain inventory for more than six months (and generally less), and six months from the date of the manufacturing ban will have elapsed before processing and distribution exemptions could be granted, it follows that no more PCB's will in fact be covered by processing and distribution exemptions than are covered by manufacturing exemptions.

The great diffusion of the eventual relatively small release of PCB's from pigments is ample reason for concluding, as EPA has previously indicated, that there is not an unreasonable risk of injury to health or environment from the aggregate of the activities for which exemptions are sought by this petition. These matters have been dealt with in evidence previously submitted to or compiled on behalf of the Agency in PCB's rulemaking.

6. Good Faith Efforts. Pigment manufacturers have made and are continuing to make good faith efforts to adjust or modify their manufacturing processes so as to reduce the formation of PCB's to less than 50 ppm. These efforts are

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described in the evidence listed above, particularly in the August 30, 1978, DCMA presentations and in the petitions for exemptions from the manufacturing bans.

7. Economic Consequences. These matters have been addressed in the economic impact analysis prepared for the Agency by Versar and in the DCMA presentations listed above, and we trust that that evidence need not be set forth here.

8. Petition for Exemption for Processing of Prime Pigments into Process Forms. Following the initial manufacture of pigments, i.e., that manufacturing during which PCB contaminants are generated, pigment manufacturers and a much larger number of other companies prepare different forms of the pigments for different uses or customers, activities apparently regarded as "processing" by the PCB ban regulations. These various forms include dispersions, concentrates, flushes, chips, and dry color blends, among others.

General information about such processing, as well as general information about the other kinds of processing covered by this petition, e.g., the formulation of printing inks, appears in the testimony and statements (including appendices) previously submitted to the Agency by DCMA or member companies. Additional general information appears in "Pigments, Organic", pages 555-589 in Volume 15 of the Kirk-Othmer Encyclopedia of Chemical Technology, a copy of which is attached hereto as Appendix A. (This encyclopedia contains extensive additional information about processing, e.g., the production of printing inks and textile printing inks.)

While there are various process forms for a given pigment, it is the pigment which contains the PCB's, and thus all of the forms are regarded for present purposes as the same chemical substance or the same mixture. Similarly, it seems appropriate to regard the processing of pigments into process forms as "for the same use", recognizing that subsequent processing may involve different uses.

The following pigments are covered by this petition to exempt the processing of prime pigments into process forms:

Pigment Yellows 12, 13, 14, 17, 183, Pigment Oranges 13, 16, and 34, and "all others" (DCB derived diarylide pigments).
Phthalocyanine Blues.
Phthalocyanine Greens.

The name, address, contact individual and telephone number for each manufacturer covered by this processing petition are listed in Appendix B hereto. For each such manufacturer, Confidential Appendix B-1 lists the location of the site[s] where such processing occurs and the quantity (in pounds) of each such pigment estimated to be processed

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during Calendar 1980. The aggregate quantities are as follows:

Pigment Yellows 12, 13, 14, 17, 183, Pigment Oranges 13, 16, and 34, and "all others". 2,790,857 lbs.
Phthalocyanine Blues. 11,656,895 lbs.
Phthalocyanine Greens. 3,324,230 lbs.

Since the PCB concentrations in these materials will be less than 500 ppm, the Interim Procedural Rules call for a statement of the "total PCB volume". Necessarily this must be estimated. DCMA believes that no more than 25% of the diarylide pigments will contain more than 50 ppm PCB's, and that this 25% would range up to 300 ppm but would not average more than 100 ppm. On this basis, the quantity of PCB's for which an exemption is hereby sought for processing by manufacturers is 34.89 pounds (25% x total quantity x 50 ppm, the difference between the estimated 100 ppm average and the allowable 50 ppm).

We assume for present purposes that all of the phthalocyanines covered by the petition for processing into process forms will contain more than 50 ppm PCB's; it is believed that these will range up to 350 ppm but would not average more than 200 ppm. On this basis the quantity of PCB's for which exemption is sought is 2,247.17 pounds (150 ppm x total quantity).

As noted above, these quantities are not necessarily additive to quantities estimated for other exemptions. In general, the same quantities will need to be exempted for successive processing steps.

The class grouping employed here, processing of prime pigments into process form, by pigment manufacturers, is justified because of the substantial similarity of the utilization of PCB contaminated pigments within the grouping.

9. Petition for Exemption for Processing of Pigments, in Prime or Process Form, for the Production of Printing Inks. Appendix C hereto lists the names, addresses, contact individuals, and telephone numbers for the companies for which this exemption is requested. Confidential Appendix C-1 lists for each such company the site[s] at which such processing occurs and for each site the estimated annual usage or consumption during calendar year 1980 for each of the pigments listed below. The aggregate quantities are as follows:

Pigment Yellows 12, 13, 14, 17, 183, and "all others": 966,185 pounds.
Phthalocyanine Blues: 791,927 pounds.
Phthalocyanine Greens: 96,767 pounds.

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DCMA estimates, on the same basis described in Section 8 above, that these quantities of diarylide pigments will contain 12.08 pounds of PCB's, and that these quantities of phthalocyanine blues will contain 118.79 pounds of PCB's, and that these quantities of phthalocyanine greens will contain 14.52 pounds of PCB's.

The processing of pigments for the production of printing inks is described in materials referenced above. The printing ink grouping employed here is justified because of the substantial similarity of the utilization of PCB contaminated pigments within the grouping.

10. Petition for Exemption for Processing of Pigments in Prime or Process Form for the Production of Textile Printing Inks. Appendix D hereto lists the names, addresses, contact individuals, and telephone numbers for the companies for which this exemption is requested. Confidential Appendix D-1 lists for each such company the site[s] at which such processing occurs and for each site the estimated annual usage or consumption during calendar year 1980 for each of the pigments listed below. The aggregate quantities are as follows:

Pigment Yellows 12, 13, 14, 17, 183, and "all others": 655,760 pounds
Phthalocyanine Blues: 254,550 pounds
Phthalocyanine Greens: 81,991 pounds

DCMA estimates, on the same basis described in Section 8 above, that these quantities of diarylide pigments will contain 8.20 pounds of PCB's, and that these quantities of phthalocyanine blues will contain 38.18 pounds of PCB's, and that these quantities of phthalocyanine greens will contain 12.30 pounds of PCB's.

The processing of pigments for the production of textile printing inks is described in materials referenced above. The textile ink grouping employed here is justified because of the substantial similarity of the utilization of PCB contaminated pigments within the grouping.

11. Petition for Exemption for Processing of Pigments in Prime or Process Form for the Production of Paints and Coatings. Appendix E hereto lists the names, addresses, contact individuals, and telephone numbers for the companies for which this exemption is requested. Confidential Appendix E-1 lists for each such company the site[s] at which such processing occurs and for each site the estimated annual usage or consumption during calendar year 1980 for each of the pigments listed below. The aggregate quantities are as follows:

Pigment Yellows 12, 13, 14, 17, 183, and "all others": 234,695 pounds
Phthalocyanine Blues: 173,464.5 pounds
Phthalocyanine Greens: 123,779 pounds

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DCMA estimates, on the same basis described in Section 8 above, that these quantities of diarylide pigments will contain 2.93 pounds of PCB's and that these quantities of phthalocyanine blues will contain 26.02 pounds of PCB's, and that these quantities of phthalocyanine greens will contain 18.57 pounds of PCB's.

The processing of pigments for the production of paints and coatings is described in materials referenced above. The paints and coatings grouping employed here is justified because of the substantial similarity of the utilization of PCB contaminated pigments within the grouping.

12. Petition for Exemption for Processing of Pigments in Prime or Process Form for Paper Coloration. Appendix F hereto lists the names, addresses, contact individuals, and telephone numbers for the companies for which this exemption is requested. Confidential Appendix F-1 lists for each company the site[s] at which such processing occurs and for each site the estimated annual usage or consumption during calendar 1980 for each of the pigments listed below. The aggregate quantities are as follows:

Pigment Yellows 12, 13, 14, 17, 183, and "all others": 26,460 pounds
Phthalocyanine Blues: 22,450 pounds
Phthalocyanine Greens: 6,015 pounds

DCMA estimates, on the same basis described in Section 8 above, that these quantities of diarylide pigments will contain .33 pounds of PCB's, and that these quantities of phthalocyanine blues will contain 3.37 pounds of PCB's, and that these quantities of phthalocyanine greens will contain .9 pounds of PCB's.

The processing of pigments for the production of paper coloration is described in materials referenced above. The paper coloration grouping employed here is justified because of the substantial similarity of the utilization of PCB contaminated pigments within the grouping.

13. Petition for Exemption for Processing of Pigments in Prime or Process Form for Colorization of Plastics, Fibers, and Films. Appendix G hereto lists the names, addresses, contact individuals, and telephone numbers for the companies for which this exemption is requested. Confidential Appendix G-1 lists for each company the site[s] at which such processing occurs and for each site the estimated annual usage or consumption during calendar 1980 for each of the pigments listed below. The aggregate quantities are as follows:

Pigment Yellows 12, 13, 14, 17, 183, and "all others": 83,730 pounds
Phthalocyanine Blues: 303,597 pounds
Phthalocyanine Greens: 143,220 pounds

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DCMA estimates, on the same basis described in Section 8 above, that these quantities of diayrlide pigments will contain 1.05 pounds of PCB's, and that these quantities of phthalocyanine blues will contain 45.54 pounds of PCB's, and that these quantities of phthalocyanine greens will contain 21.48 pounds of PCB's.

The processing of pigments for the colorization of plastics, fibers, and films is described in materials referenced above. The colorization of plastics, fibers, and films grouping employed here is justified because of the substantial similarity of the utilization of PCB contaminated pigments within the grouping.

14. Petition for Exemption for Processing of Pigments in Prime or Process Form for the Production of Artists' Materials. Appendix H hereto lists the names, addresses, contact individuals, and telephone numbers for the companies for which this exemption is requested. Confidential Appendix H-1 lists for each company the site[s] at which such processing occurs and for each site the estimated annual usage or consumption during calendar 1980 for each of the pigments listed below. The aggregate quantities are as follows:

Pigment Yellows 12, 13, 14, 17, 183, and "all others": 1,995 pounds
Phthalocyanine Blues: 16,755 pounds
Phthalocyanine Greens: 15,470 pounds

DCMA estimates, on the same basis described in Section 8 above, that these quantities of diarylide pigments will contain .02 pounds of PCB's, and that these quantities of phthalocyanine blues will contain 2.51 pounds of PCB's, and that these quantities of phthalocyanine greens will contain 2.32 pounds of PCB's.

The processing of pigments for the production of artists' materials is described in materials referenced above. The artists' materials grouping employed here is justified because of the substantial similarity of the utilization of PCB contaminated pigments within the grouping.

15. Petition for Exemption for Processing of Phthalocyanines in Prime or Process Form for the Production of Dyestuffs and Other Chemically Modified Phthalocyanines. Appendix I hereto lists the names, addresses, contact individuals, and telephone numbers for the companies for which this exemption is requested. Confidential Appendix I-1 lists for each company the site[s] at which such processing occurs and for each site the estimated annual usage or consumption during calendar 1980 for each of the pigments listed below. The aggregate quantities are as follows:

Phthalocyanine Blues: 266,000 pounds

DCMA estimates, on the same basis described in Section 8 above, that these quantities of phthalocyanine blues will contain 39.90 pounds of PCB's.

The processing of pigments for the production of dyestuffs and other chemically modified phthalocyanines is described in materials referenced above. The dyestuffs and other chemically modified phthalocyanines grouping employed here is justified because of the substantial similarity of the utilization of PCB contaminated pigments within the grouping.

16. Petition for Exemption for Processing of Pigments in Prime or Process Form for Miscellaneous Uses. Appendix J hereto lists the names, addresses, contact individuals, and telephone numbers for the companies for whom this exemption is requested, with for each company a brief identification of the particular process. Confidential Appendix J-1 lists for each such company the location[s] of site[s] at which such processing occurs, and, separately, the estimated usage or consumption for calendar 1980 of each of the following pigments. The aggregate quantities are as follows:

Pigment Yellows 12, 13, 14, 17, 183, and "all others": 2,400 pounds
Phthalocyanine Blues: 9,700 pounds
Phthalocyanine Greens: 401,900 pounds

DCMA estimates, on the same basis described in Section 8 above, that these quantities of diarylide pigments will contain .03 pounds of PCB's, and that these quantities of phthalocyanine blues will contain 1.46 pounds of PCB's, and that these quantities of phthalocyanine greens will contain 60.29 pounds of PCB's.

The miscellaneous grouping employed here is justified because of the very small quantities involved.

17. Petition for Exemption for Distribution in Commerce of Prime Pigments and Materials Derived From Such Pigments that May Contain More than 50 ppm PCB's.

This petition is submitted on behalf of the companies who are listed in Appendices A through J and on behalf of other companies who distribute in commerce any of the pigments listed above for the common use, broadly construed, of imparting color to articles of commerce, including but not limited to the companies listed on Appendix K hereto. Confidential Appendix K-1 lists for each listed company the estimated amount of pigments for calendar 1980.

The distribution in commerce consists of the distribution of pigments in prime or process form and materials derived from such pigments, to and by companies engaged in one or more of the activities covered by Sections 8 through 16 above.

While, as noted above, in pigments and derived products it is not believed that the true aggregate quantity of PCB's that could be processed or distributed in commerce would exceed the Agency's estimate of 5,700 pounds, the estimated amount of PCB's covered by this distribution petition is, because of multiple distribution of the same PCB's and because of the applicability of this exemption request to companies in addition to those listed in the Appendices to this petition, stated at 6,000 pounds at present.

The grouping employed herein is justified on the basis of the substantial similarity, in all relevant respects, of the activities of the persons who would be covered by the requested exemption insofar as pigment materials containing more than 50 ppm of PCB's are involved.

18. Petitioner Dry Color Manufacturers' Association should be able to provide, upon request, additional information relating to any or all portions of this petition.

DRY COLOR MANUFACTURERS' ASSOCIATION

By _____
J. Lawrence Robinson,
Executive Director

Appendices

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