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SUSPECTED DUPLICATE
TO LLY WASHINGTON DC
FMS LARRY H. HOLGERS, DELIVER DONT PHONE
AMCHEM PRODUCTS, INC.
BROOKSIDE AVE.
AMELER, PA 19002

SUBJECT: SUSPENSION OF REGISTRATIONS FOR CERTAIN USES OF
2,4,5-T AND SILVEX

ENVIRONMENTAL PROTECTION AGENCY
SUSPENSION OF REGISTRATIONS FOR CERTAIN USES OF 2,4,5-T AND SILVEX
FIFRA LOCKET NOS. 409 AND 410

NOTICE AND ORDER

1. ACTIVE PARTIES

ANY PARTY MAY BE AN ACTIVE PARTY. IF PARTIES DO NOT INTEND TO PARTICIPATE IN THE INTRODUCTION OF EVIDENCE OR EXAMINATION OF WITNESSES, THEY WILL BE CONSIDERED INACTIVE PARTIES. INACTIVE PARTIES WILL NOT LOSE THE RIGHT TO FILE PROPOSED FINDINGS AND CONCLUSIONS AND REPLIES. THEY WILL NOT, HOWEVER, BE ENTITLED TO EXPEDITED SERVICE (SEE V BELOW), AND THEY WILL NOT BE SERVED WITH WRITTEN WITNESS STATEMENTS AND OTHER PAPERS RELATING TO THE INTRODUCTION OF TESTIMONY AND THE CONDUCT OF HEARINGS.

TO BE AN ACTIVE PARTY, A PARTY MUST FILE A STATEMENT TO THIS EFFECT CONCERNING A REFERENCE TO ITS HAVING FILED AND SERVED ITS STATEMENT OF INTENTION TO INTRODUCE EVIDENCE AND/OR CROSS-EXAMINE WITNESSES AS PROVIDED IN 10, BELOW WITH THE HEARING CLERK BY APRIL 12 AND SHALL SERVE SUCH STATEMENT ON ALL PARTIES BY HAND DELIVERY OR TELFX BY NOON, APRIL 13.

II. ORDER OF INTRODUCTION OF EVIDENCE
EVIDENCE WILL BE INTRODUCED IN THE FOLLOWING ORDER:

THE COMPLETE EVIDENCE ON THE RISK ASSOCIATED

WITH THE SUSPENDED USES OF 2,4,5-T AND SILVEX WILL BE INTRODUCED BY ALL PARTIES BEFORE COMMENCEMENT OF THE INTRODUCTION OF EVIDENCE ON THE BENEFITS OF SUCH USES.

THE RESPONDENT WILL INTRODUCE ITS COMPLETE EVIDENCE ON RISK FIRST. THE PETITIONERS (PESTICIDE REGISTRANTS) WILL THEN INTRODUCE THEIR COMPLETE EVIDENCE ON RISK.

FOLLOWING THE COMPLETION OF EVIDENCE ON RISK, THE RESPONDENT WILL PRESENT ITS EVIDENCE ON THE BENEFITS OF THE SUSPENDED USES, TO BE FOLLOWED BY THE EVIDENCE ON BENEFITS OF THE PETITIONERS.

THE PARTIES MAY CHOOSE THE ORDER OF PRESENTATION OF SUBJECT MATTER IN INTRODUCING EVIDENCE ON RISK AND IN INTRODUCING EVIDENCE ON BENEFITS.

III. REQUIREMENTS REGARDING WRITTEN WITNESS STATEMENTS EXCEPT IN UNUSUAL CIRCUMSTANCES, AND AS APPROVED BY THE PANEL, INTRODUCTION OF DIRECT TESTIMONY AND DOCUMENTARY EVIDENCE AND OTHER EXHIBITS SHALL (IN THE CASE OF ORAL DIRECT TESTIMONY) BE RECEIVED BY, AND IN OTHER CASES CONSIST OF, INTRODUCTION OF A SWORN WRITTEN STATEMENT OF A WITNESS WHICH SHALL INCORPORATE HIS COMPLETE DIRECT TESTIMONY AND/OR IDENTIFY WITH SPECIFICITY THE DOCUMENTARY EVIDENCE

AND OTHER EXHIBITS TO BE INTRODUCED THROUGH HIM. SUCH STATEMENT SHALL BE FILED WITH THE HEARING PANEL AND SERVED ON ADVERSE PARTIES NO LATER THAN 11:00 A.M. ON THE THIRD DAY PRECEDING THE DAY ON WHICH IT IS ANTICIPATED THAT THE WITNESSES WILL TESTIFY (E.G. 10:00 A.M., FRIDAY, IN THE CASE OF A TUESDAY HEARING). EXHIBITS NEED NOT BE SERVED ON PARTIES, BUT THEY SHALL BE FILED WITH THE HEARING PANEL AS PROVIDED IN V.F.R.O., EXCEPT THAT PAPER COPIES CAN BE PROVIDED IN THE CASE OF TOLKI EXHIBITS BY ARRANGEMENT WITH THE PANEL. COUNSEL SHOULD ATTEMPT TO OBLIGE OTHER PARTIES WHO REQUEST COPIES OF EXHIBITS.

IV. SCHEDULE AND RELATED MATTERS

THE FOLLOWING SCHEDULE IS ESTABLISHED:

APRIL 10
EACH PARTY WHO INTENDS TO INTRODUCE DIRECT EVIDENCE (INCLUDING DOCUMENTARY AND OTHER EXHIBITS) WILL PROVIDE THE NAMES OF THE WITNESSES WHOSE TESTIMONY IT WILL INTRODUCE (OR THROUGH WHOM EXHIBITS WILL BE INTRODUCED); A BRIEF DESCRIPTION OF EACH WITNESS' PROPOSED TESTIMONY (INCLUDING IDENTIFICATION OF EXHIBITS); A STATEMENT WHETHER THE TESTIMONY WILL BE IN WRITING ALONE OR WHETHER PERMISSION TO INTRODUCE ORAL DIRECT TESTIMONY WILL ALSO BE

REQUESTED; AND IN THE LATTER CASE, THE ESTIMATED TIME FOR SUCH ORAL TESTIMONY AND A BRIEF JUSTIFICATION FOR ALLOWING ORAL TESTIMONY IN ADDITION TO WRITTEN TESTIMONY. THIS INFORMATION WILL BE SPORED ON EVERY PARTY AND WILL BE FILED WITH THE HEARING PANEL. FILING AND SERVICE UPON PARTIES IN THE GREATER WASHINGTON AREA WILL BE BY HAND DELIVERY, AND SERVICE UPON OTHER PARTIES BY TELE (OR OTHER GUARANTEED 24-HOUR DELIVERY), IN EACH CASE BY CLOSE OF BUSINESS APRIL 10.

APRIL 12

EACH PARTY WHO WISHES TO CROSS-EXAMINE ANY

LISTED WITNESS WILL PROVIDE A LIST OF THE WITNESSES IT PROPOSES TO CROSS-EXAMINE; AN ESTIMATE OF THE TIME NEEDED FOR CROSS-EXAMINATION OF EACH SUCH WITNESS; AND A BRIEF STATEMENT INDICATING THE LIKELY BENEFIT OF SUCH CROSS-EXAMINATION. THIS INFORMATION WILL BE SERVED AND FILED, IN THE SAME MANNER AS WAS THE INFORMATION ON DIRECT TESTIMONY, BY CLOSE OF BUSINESS APRIL 12.

APRIL 13 AND 16

PARTIES WHO HAVE INDICATED AN INTENTION TO INTRODUCE EVIDENCE (DIRECT TESTIMONY AND EXHIBITS) AND/OR A WISH TO CROSS-EXAMINE WILL ATTEMPT TO

ALLOCATE AMONG THEMSELVES THE AVAILABLE HEARING TIME, TO INCLUDE ALLOCATIONS BETWEEN THE PISK AND BENEFIT ASPECTS OF THE HEARING WITHIN THESE TWO CATEGORIES, ALLOCATION AMONG THE RESPONDENT, THE PETITIONER LOW CHEMICAL COMPANY AND OTHER PESTICIDE REGISTRANT PETITIONERS SHOULD BE ATTEMPTED. COUNSEL SHALL ALSO CONFER CONCERNING OBJECTIONS TO PROPOSED WITNESSES. COUNSEL SHALL ALSO EMPLOY THEIR BEST EFFORTS TO STIPULATE FACTS AND TO WAIVE THE ISSUES FOR THE PANEL. WHERE SUCH AGREEMENTS CANNOT BE REACHED, COUNSEL SHALL ATTEMPT TO ARRIVE AT A USEFUL STATEMENT OF THE DIFFERENCES AMONG THE PARTIES AND ACCEPTED FACT STATEMENTS OF MAJOR ISSUES. RESPONDENT SHALL CONVOKE A CONFERENCE FOR THE

FOLLOWING PURPOSES TO BE HELD (TUESDAY, APRIL 13, OR MONDAY MORNING, APRIL 14). ALL ACTIVE PARTIES ARE URGED TO PARTICIPATE IN THIS CONFERENCE. PARTIES SHOULD CONTACT MR. MICHAEL LIND FOR THE TIME AND PLACE OF THE CONFERENCE. FOLLOWING THE CONFERENCE, COUNSEL SHALL PREPARE A REPORT OF REPORTS TO THE HEARING PANEL ON THE RESULTS OF THESE ATTEMPTS TO ALLOCATE TIME AND STIPULATE AND SHALL SUBMIT REQUESTS FOR ALLOCATION OF HEARING TIME TO THE EXTENT AGREEMENT WAS NOT REACHED. SUCH REPORT AND REQUESTS SHALL BE FILED WITH THE HEARING PANEL AT 5:00 P.M., APRIL 16.

APRIL 16

THE RESPONDENT SHALL FILE AND SERVE THE WRITTEN STATEMENTS OF ITS WITNESSES WHO WILL APPEAR DURING THE WEEK OF APRIL 16.

APRIL 17

A PREHEARING CONFERENCE WILL BE HELD AT 9:00 A.M., AT THE ENVIRONMENTAL PROTECTION AGENCY, CAPITAL MAIL BUILDING NO. 2, ROOM 1118, 1091 JEFFERSON LANE, ALEXANDRIA, VIRGINIA, TO CONSIDER THE REMAINING QUESTIONS AS TO THE APPOINTMENT OF HEARING TIME BETWEEN THE RISK AND BENEFIT ASPECTS OF THE HEARING AND AMONG THE PARTIES, THE SCHEDULING

OF WITNESSES, AND FOR OTHER PURPOSES. NO PARTY WHO FAILS TO BE PRESENT AT THE PREHEARING CONFERENCE, EXCEPT FOR GOOD CAUSE SHOWN, WILL RECEIVE AN ALLOCATION OF HEARING TIME. THE PANEL WILL ALLOCATE HEARING TIME AMONG ACTIVE PARTIES AT THE PREHEARING CONFERENCE OR NO LATER THAN THE FOLLOWING DAY. TIME WILL BE ALLOCATED ON THE BASIS OF 22 FULL DAYS OF HEARING, APRIL 19 THROUGH MAY 18. THE WEEK OF MAY 21 WILL BE RESERVED FOR HEARING WITNESSES RECOMMENDED BY THE HEARING PANEL AND FOR WITNESSES UNAVAILABLE FOR GOOD CAUSE DURING THE PRECEDING HEARING SCHEDULE, OR AS OTHERWISE PROVIDED BY THE PANEL.

WHETHER REQUESTS TO PRESENT ORAL DIRECT TESTIMONY WILL BE GRANTED IN THE CASE OF INDIVIDUAL WITNESSES AND WHETHER REQUESTS TO CROSS-EXAMINE PARTICULAR WITNESSES WILL BE GRANTED WILL NOT BE MADE AS A PART OF THE ALLOCATION OF TIME TO PARTIES, BUT WILL BE ADDRESSED INDIVIDUALLY EITHER AT THE PREHEARING CONFERENCE, OR IN MOST CASES, AS THE HEARING PROCEEDS.

APRIL 19

THE FIRST TWO HEARING DAYS FOR THE INTRODUCTION OF EVIDENCE (RESPONDENT'S WITNESSES ON RISK) WILL BEGIN AT 9:00 A.M. AND WILL BE HELD IN ROOM 1118, SAME ADDRESS AS ABOVE.

SUBSEQUENT HEARINGS ARE ALL EXPECTED TO BE HELD AT THE SAME ADDRESS. TIME OF COMMENCEMENT AND HEARING ROOM NUMBERS FOR EACH HEARING DAY WILL BE ANNOUNCED AT THE PRECEDING DAY'S HEARING.

AT ALL TIMES FOLLOWING THE ALLOCATION OF HEARING TIMES COUNSEL SHOULD BE PREPARED TO PROVIDE THE HEARING PANEL AND OTHER PARTIES THEIR GOOD FAITH BEST ESTIMATES AS TO THE DATES IN WHICH AND EXPECTED TIMES WHEN THEY PROPOSE TO CALL WITNESSES AND ANY CHANGES IN THE WITNESSES THEY INTEND TO CALL. IN THIS CONNECTION, COUNSEL SHALL EXERT THEIR BEST EFFORTS TO AVOID LATENESS AND WASTE OF TIME AND ALLOW

COUNSEL AND THE HEARING PANEL TO FOCUS ON THE MOST IMPORTANT ISSUES.

V. SERVICE AND FILING

EXCEPT AS OTHERWISE PROVIDED IN PARTICULAR CASES, SERVICE WILL BE MADE ON ACTIVE PARTIES IN THE GREATER WASHINGTON AREA BY HAND DELIVERY PROMPTLY AFTER FILING. SERVICE ON ACTIVE PARTIES OUTSIDE THE WASHINGTON AREA WILL BE MADE BY TELETYPE OR EXPRESS MAIL (OR OTHER GUARANTEED 24-HOUR DELIVERY). WHEN SERVICE ON INACTIVE PARTIES IS REQUIRED, IT WILL BE BY FIRST CLASS MAIL. WHEN FILING A DOCUMENT WITH THE HEARING PANEL, AN

ORIGINAL PLUS TWO COPIES SHALL BE DELIVERED TO THE
HEARING OFFICE, AND THREE COPIES SHALL BE DELIVERED
TO THE OFFICES OF THE HEARING PANEL AT CRISTAL MALL
BUILDING NO. 2, ROOM 1009, 1041 OBERLIN LAVIS
HIGHWAY, ARLINGTON, VIRGINIA.

APRIL 6, 1979

CHARLES N. CRECCO
CHAIRPERSON, HEARING PANEL

DR. WILLIAM A. FRONCE
MEMBER, HEARING PANEL

ROBERT L. COUGHLIN
MEMBER, HEARING PANEL

BY:
SONIA C. ANDERSON
HEARING OFFICE

0928 PST

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