February 22, 2002

CEDAR
CHEMICAL CORPORATION

Center for Regulatory Effectiveness
Suite 700
11 DuPont Circle, NW
Washington, DC 20036

Dear Sirs:

We at Cedar Chemical in Memphis, TN have reviewed your website posting regarding metolachlor and have the following comments:

- First off the public should be made aware that the action taken by Syngenta to "develop" S-metolachlor is simply a scheme to try to maintain the monopoly it has held for over 25 years. Granting a generic registration will not reduce the choices. A generic, lower cost metolachlor will enable a farmer to better chose the total treatment needed and maybe not just what he can currently afford.

- We agree, the EPA's credibility is at stake. The FIFRA regulations as well patent laws were designed to promote both product development and competition. The reduced risk pesticide initiative was designed to help reduced risk pesticides enter the market faster, not at the expense of products, like metolachlor, that are already proven safe. That would be like the FDA trying to decide if aspirin is safer than Tylenol and then trying to remove one from the market. A free market should the right to decide its preference for one product over another.

- No one argues that successful R&D efforts should be rewarded. That is the function of both US patents and the FIFRA ten year exclusive data use provisions. Ciba-Geigy/Novartis/Syngenta have been more than compensated with the rewards of maintaining a monopoly on metolachlor for over 25 years. Yearly profits are in excess of $300,000,000. It is now time for the second part of patent and FIFRA provisions, a free market and competition.

- The contradicting environmental propaganda war Syngenta started to wage when Cedar applied to the EPA to bring a generic metolachlor to the market gave us cause to question.S-metolachlor's reported activity. Those inconsistencies include:
  1. S-metolachlor is reported to have no difference in any way to regular metolachlor except in grass control. Toxicity, environmental fate, movement in the soil, chemical characteristics, etc. are all exactly the same. If its biologic activity is different from R-metolachlor, then it would make sense that something would be

different than just grass control, especially in how other living organisms would react to contact with S-metolachlor.

2. If S-metolachlor is truly the only active component of naturally forming metolachlor, why didn't Syngenta remove all of the R-metolachlor instead of bringing a product still containing 17% R-metolachlor to the market? Could it be some synergy exists between the 2 chiral isomers?
3. Numerous university tests showed a rate response in control of "off label" weeds regardless of metolachlor type. This would indicate that maybe too much metolachlor had been historically applied.

After testing showed there was little or no difference between the weed control activity of metolachlor and S-metolachlor, Cedar applied for registration of metolachlor at the same reduced rates. The testing even included evaluation of pure R-metolachlor as a herbicide to confirm the results. It was no surprise to find R-metolachlor is a herbicide, even causing the expected corn phytotoxicity when metolachlor is applied without a safener.

- Besides the fact that regular metolachlor has shown itself to be a safe, effective herbicide through the "test of time" provided by 25 years of actual use in all 50 states, dropping the use rate of regular metolachlor proportionally to that of the S-metolachlor removes any perception that S-metolachlor offers a lower risk.

- It is our belief that a generic metolachlor on the market offers some <u>real</u> reductions in risk to the environment and the United States economy:

  1. Currently all the metolachlor marketed in the United States is produced in Switzerland. That means about 40,000,000 pounds of metolachlor technical is shipped across 2 continents and the Atlantic Ocean before arriving at a formulation facility and then shipped again. Undeniably, that is a lot of exposure and risk. Cedar would produce and formulate its metolachlor in Helena, Arkansas, nearly the center of the market.

  2. A lower cost foundation herbicide, like metolachlor would enable more farmers take advantage of the benefits of metolachlor, already proven safe, instead of other products having known, actual risks, such as atrazine.

  3. Metolachlor is the most widely used foundation herbicide. A generic source would provide US farmers a tremendous savings as competition will set pricing. We would estimate savings would soon exceed $100,000,000 annually.

  4. Besides lowering the transportation risks, US production of metolachlor would enable US companies to participate in metolachlor production keeping the benefits and profits at home, not exported to Switzerland.

- Your web site stated "Pesticides with lower application rates, such as S-Metolachlor, can reduce costs to farmers (by using less product) while maintaining the same level of weed control." In a perfect world this statement might be true, but the metolachlor world is currently monopolized by Syngenta. When it introduced S-metolachlor to the market, it was more than proportionately higher than regular metolachlor. Thus it appears the per acre cost to farmers increased by 5%.

One can see this issue is not about bringing a reduced risk to the market, it is another story about a huge, foreign multinational trying to maintain its market monopoly. Just like they are doing in the pharmaceutical industry.

Finally, if one metolachlor is believed better than another, then let the market decide!

Sincerely,

Stanley Bernard
Vice President
Crop Protection Products