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Phone: 202-463-1492  
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December 1, 2005

Mr. Carmen Rhodia  
Office of Pesticide Programs  
Registration Division, Mail Code: 7508C  
USEPA Headquarters  
Ariel Rios Building  
1200 Pennsylvania Avenue, N. W.  
Washington, DC 20460

Dear Carmen:

This letter follows up our recent discussion concerning the Cheminova product Impact, which is one of the products included in the April 12, 2005, request from states for a Section 18 emergency exemption for use against Asian soybean rust. As I mentioned, due to possible US trademark concerns, Cheminova has decided it will not use the name Impact – the global tradename for its flutriafol 125 SC product – in the United States. Instead, we intend to use the name TOPGUARD™ for this flutriafol product in the U.S. Accordingly, I have attached a replacement label with the revised product name.

If you have any questions about this product name change or need additional information, please do not hesitate to contact me at 202-463-1490.

Sincerely,

A handwritten signature in black ink, appearing to read 'Diane Allemang', written over a horizontal line.

Diane Allemang  
Vice President, Regulatory Affairs  
Cheminova, Inc.  
EPA Agent for Cheminova A/S

cc: Marty Draper, South Dakota State University  
John Sierk, Minnesota Department of Agriculture

**TOPGUARD™ 125SC**  
**fungicide**  
Section 18 Exemption  
For Use on Soybeans to Control Rust

**ACTIVE INGREDIENT:**

\*Flutriafol

**11.8%**

**INERT INGREDIENTS:**

**88.2%**

**TOTAL:**

**100.0%**

\*Contains 1.04 pounds per gallon of the active ingredient flutriafol

**KEEP OUT OF REACH OF CHILDREN**  
**CAUTION**

Si usted no entiende la etiqueta, busque a alguien para que se la explique a usted en detalle.  
(If you do not understand the label, find someone to explain it to you in detail.)

<b>IN CASE OF A MEDICAL EMERGENCY INVOLVING THIS PRODUCT, CALL TOLL FREE, DAY OR NIGHT, 1-866-303-6950</b>
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**FOR DISTRIBUTION AND USE ONLY IN THE STATES OF SOUTH DAKOTA AND MINNESOTA  
UNDER SECTION 18 EXEMPTION**

This labeling must be in the possession of the user at the time of pesticide application. It is a violation of Federal law to use this product in a manner inconsistent with its labeling. Read entire Directions for Use and Warranty Disclaimer before using this product. Follow all applicable directions, restrictions, Worker Protection Standard requirements, and precautions on the product label for **TOPGUARD 125SC fungicide**.

Any adverse effects resulting from the use of **TOPGUARD 125SC fungicide** under this exemption must be immediately reported to the State Department of Agriculture.

**EXACT AUTHORIZED USE:** This is an unregistered product. The U.S. Environmental Protection Agency has authorized the use of **TOPGUARD 125SC fungicide** under the specific exemption provisions of Section 18 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, on soybeans in certain states to control soybean rust. Before using this product verify the approval status with your state Department of Agriculture.

**EFFECTIVE PERIOD:** This labeling becomes effective XX/XX/05 and expires on 11/10/07.

**EPA SECTION 18 FILE SYMBOLS:** XX-XX-XX

**Manufactured For:**  
Cheminova Inc.  
1700 Route 23, Suite 300  
Wayne, NJ 07470

**PRECAUTIONARY STATEMENTS  
HAZARDS TO HUMANS AND DOMESTIC ANIMALS**

**CAUTION.** Harmful if swallowed, absorbed through skin, or inhaled. Causes moderate eye irritation. Avoid contact with eyes, skin or clothing. Avoid breathing dust or spray mist. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, or using tobacco. Remove and wash contaminated clothing before reuse. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals.

<b>FIRST AID</b>	
<b>IF IN EYES:</b>	Hold eye open and rinse slowly and gently with water for 15-20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. Call a poison control center or doctor for treatment advice.
<b>IF ON SKIN OR CLOTHING:</b>	Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center or doctor for treatment advice.
<b>IF INHALED:</b>	Move person to fresh air. If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably by mouth-to-mouth, if possible. Call a poison control center or doctor for further treatment advice.
<b>IF SWALLOWED:</b>	Call a poison control center or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to do so by a poison control center or doctor. Do not give anything by mouth to an unconscious person.

Have the product container or label with you when calling a poison control center or doctor, or going for treatment. You may also contact 1-866-303-6950 for emergency medical treatment information.

**PERSONAL PROTECTIVE EQUIPMENT (PPE)**

**Applicators and other handlers must wear:** long-sleeved shirt and long pants, waterproof gloves, and shoes plus socks.

**Mixers and loaders must wear:** long-sleeved shirt and long pants, waterproof gloves, and shoes plus socks.

Discard clothing and other absorbent materials that have been drenched or heavily contaminated with this product's concentrate. Do not reuse them. Follow manufacturer's instructions for cleaning/maintaining PPE. If no such instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

**USER SAFETY RECOMMENDATIONS**

Users should: Wash hands before eating, drinking, chewing gum, using tobacco or using the toilet. Remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing. Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

**ENVIRONMENTAL HAZARDS**

This pesticide is toxic to freshwater, estuarine and marine fish and invertebrates. Do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Runoff may be hazardous to aquatic organisms in neighboring areas. Do not contaminate water when disposing of equipment washwater or rinsate.

**STORAGE AND DISPOSAL**

**PROHIBITIONS:** Do not contaminate water, food or feed by storage, disposal or cleaning of equipment.

**STORAGE:** Store unused product in original container in a cool, dry area.

**PESTICIDE DISPOSAL:** Wastes resulting from the use of this product may be disposed of on site or at an approved waste disposal facility.

**CONTAINER DISPOSAL:** Triple rinse (or equivalent). Then offer for recycling or reconditioning, or puncture and dispose of in a sanitary landfill, or incineration, or, if allowed by state and local authorities, by burning. If burned, stay out of smoke.

### DIRECTIONS FOR USE

It is a violation of Federal law to use this product in any manner inconsistent with its labeling. Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the agency responsible for pesticide regulation.

**READ ENTIRE LABEL. USE STRICTLY IN ACCORDANCE WITH PRECAUTIONARY STATEMENTS AND DIRECTIONS, AND WITH APPLICABLE STATE AND FEDERAL REGULATIONS.**

#### AGRICULTURAL USE REQUIREMENTS

Use this product only in accordance with its labeling and with the Workers Protection Standard, 40 CFR part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about Personal Protective Equipment (PPE) and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow worker entry into treated areas during the restricted entry interval (REI) of 12 hours.

PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil or water, is: coveralls, waterproof gloves, and shoes plus socks.

**A maximum of 2 million acres of soybeans may be treated in South Dakota under this exemption.  
A maximum of 3.6 million acres of soybeans may be treated in Minnesota under this exemption.**

#### RECOMMENDED APPLICATIONS

For use in soybeans to control soybean rust (*Phakopsora meibomia*; *Phakopsora pachyrhizi*).

**Rate per acre:** 7 fluid ounces

**Use Directions:** Apply **TOPGUARD 125SC fungicide** as a broadcast foliar spray at first appearance of rust pustules on any leaves anywhere in the plant canopy. Repeat application between 18-20 days after first treatment if environmental conditions are favorable for continued disease development or when field scouting shows first reappearance of rust pustules, generally no later than 18 days after first treatment under variable conditions. Apply in a minimum of 10 gallons of spray solution per acre by ground sprayer or in a minimum of 5 gallons per acre by aircraft spray equipment. Spray to provide thorough coverage of all existing foliage.

**Restrictions:** Applications may not be made within 21 days of harvest. Do not enter treated fields for 12 hours after application. Do not feed soybean forage or hay to livestock. Do not make more than two applications of flutriafol containing products to soybeans per season. Do not apply more than 0.114 pounds of the active ingredient flutriafol to soybeans per acre per year. A maximum of three total applications using approved Section 18 products collectively are allowed under this soybean rust Section 18.

**For product information, call toll free, 1-800-548-6113.**

### **WARRANTY DISCLAIMER**

Cheminova warrants that this product conforms to the chemical description on the label and is reasonably fit for the purposes stated on the label when used in strict accordance with the directions, subject to the inherent risks set forth below. CHEMINOVA MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER EXPRESS OR IMPLIED WARRANTY.

### **INHERENT RISKS OF USE**

It is impossible to eliminate all risks associated with use of this product. Crop injury, lack of performance, or other unintended consequences may result because of such factors as use of the product contrary to label instructions (including conditions noted on the label, such as unfavorable temperatures, soil conditions, etc), abnormal conditions (such as excessive rainfall, drought, tornadoes, hurricanes), presence of other materials, the manner of application, or other factors, all of which are beyond the control of Cheminova or the seller. All such risks shall be assumed by Buyer.

### **LIMITATION OF REMEDIES**

The exclusive remedy for losses or damages resulting from this product (including claims based on contract, negligence, strict liability, or other legal theories), shall be limited to, at Cheminova's election, one of the following:

- (1) Refund of purchase price paid by buyer or user for product bought, or
- (2) Replacement of amount of product used

Cheminova shall not be liable for losses or damages resulting from handling or use of this product unless Cheminova is promptly notified of such loss or damage in writing. In no case shall Cheminova be liable for consequential or incidental damages or losses.

The terms of the Warranty Disclaimer above and this Limitation of Remedies cannot be varied by any written or verbal statements or agreements. No employee or sales agent of Cheminova or the seller is authorized to vary or exceed the terms of the Warranty Disclaimer or this Limitation of Remedies in any manner.

<sup>TM</sup>**TOPGUARD** is a trademark of Cheminova A/S