



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Pesticide and Seed

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Robert D. Waltz, Ph.D.
State Chemist &
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August 12, 2011

**Notice of Product Registration Cancellation
Certified Mail**

Ellen J. Kullman
Chief Executive Officer
E. I. du Pont de Nemours and Company, Inc.
1007 Market Street
Wilmington, DE 19898

RE: Product Registration Cancellation for Imprelis Herbicide (EPA Reg. # 352-793)

Dear Ms. Kullman:

The Indiana Pesticide Registration Law, IC 15-16-4, provides the following:

Sec. 51. The state chemist shall administer this chapter.

Sec. 61. (a) Each pesticide product that is:

- (1) produced, distributed, sold, displayed, or offered for sale within Indiana;
or
- (2) delivered for transportation or transported:
 - (A) in intrastate commerce; or
 - (B) between points within Indiana through any point outside Indiana;must be registered in the office of the state chemist.

Sec. 66. A person may not distribute:

- (1) an unregistered pesticide product;
- (2) an adulterated pesticide product; or
- (3) a misbranded pesticide product.

Sec. 25. As used in this chapter, "misbranded" refers to any of the following:

- (1) Any pesticide product if its labeling bears any:
 - (A) statement;
 - (B) design; or
 - (C) graphic representation;relative to the pesticide product or to its ingredients that is false or misleading.
- (2) Any pesticide product if any of the following apply:
 - (A) It is an imitation of or is offered for sale under the name of another pesticide product.
 - (B) Its labeling bears any reference to registration under this chapter.
 - (C) The labeling accompanying it does not contain instructions for use that are necessary and, if complied with, adequate for the protection of the public.

(D) The label does not contain a warning or caution statement that may be necessary and, if complied with, adequate to prevent injury to humans and other vertebrate animals.

(E) The label does not bear an ingredient statement on that part of the immediate container and on any outside container or wrapper through which the ingredient statement on the immediate container cannot be clearly read of the retail package that is presented or displayed under customary conditions of purchase. However, a pesticide product is not misbranded under this definition if the size or form of the immediate container or the outside container or wrapper of the retail package makes it impracticable to place the ingredient statement on the part that is presented or displayed under customary conditions of purchase and the ingredient statement appears prominently on another part of the immediate container, outside container or wrapping, or labeling, as permitted by the state chemist.

(F) Any word, statement, or other information required under this chapter or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) to appear on the labeling is not prominently placed on the labeling with conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in terms that make it likely to be read and understood by the average individual under customary conditions of purchase and use.

(G) In the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it is injurious to humans or other vertebrate animals, vegetation, except weeds to which it is applied, or the individual applying the pesticide.

(H) In the case of a plant regulator, defoliant, or desiccant when used as directed, it is injurious to humans or other vertebrate animals, vegetation to which it is applied, or the individual applying the pesticide. However, physical or physiological effects on plants or parts of plants are not considered to be injurious, if that is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations.

(I) The immediate container does not clearly display the United States Environmental Protection Agency establishment number indicating the specific location where the pesticide product was produced.

Sec. 64. (e) The state chemist, in accordance with the procedures specified in this section, may deny, suspend, or cancel the registration of a pesticide whenever the state chemist determines that:

- (1) the pesticide product;
- (2) the pesticide product's labeling; or
- (3) the person submitting the application for registration of the pesticide product;

does not comply with this chapter.

(f) If:

- (1) an application for registration is refused; or

(2) the state chemist proposes to deny, suspend, or cancel a registration; notice of the action and information concerning the person's right to obtain a review under section 64.5 of this chapter must be given to the applicant or registrant.

Sec. 64.5. (a) A person who is:

- (1) regulated under this chapter; and
 - (2) aggrieved by any decision of the state chemist;
- may obtain a review by the board if the person files a written petition with the board not later than thirty (30) days after the state chemist's decision.

Sec. 6. As used in this chapter, "board" means the Indiana pesticide review board established by section 42 of this chapter.

E.I. du Pont de Nemours and Company (DuPont) first submitted DuPont Imprelis Herbicide, EPA Reg. #352-793 (Imprelis), for registration in Indiana on September 9, 2010.

The Office of Indiana State Chemist (OISC) first registered Imprelis for sale, distribution, and use in Indiana on September 10, 2010.

DuPont submitted Imprelis for re-registration in Indiana on December 2, 2010.

OISC re-registered Imprelis for sale, distribution, and use in Indiana on January 1, 2011.

OISC received the first consumer complaint regarding suspected injury/damage to non-target trees from the application of Imprelis to adjacent turf on June 7, 2011.

Since that time, OISC has collected evidence in numerous consumer complaint investigations that suggests Imprelis, when used as directed or in accordance with commonly recognized practice, has caused injury to non-target vegetation, except weeds to which it has been applied, and is therefore **MISBRANDED**.

Based on the preceding and the potential for additional non-target vegetation injury that could result from additional use of this product, the OISC is hereby proposing to **CANCEL** the registration of DuPont Imprelis Herbicide, EPA Reg. #352-793, in the State of Indiana, effective immediately upon your receipt of this letter.

Questions regarding this matter or the review process established in Sec. 64.5 of IC 15-16-4 may be directed to me at scottde@purdue.edu or (765) 494-1593.

Sincerely,



David E. Scott
Pesticide Administrator

Cc: S.K. (Tim) Theodorakis, Registration Manager, DuPont Professional Products
Michael McDermott, Global Business Leader, DuPont Professional Products
Jacob J. Vukich, Mgr. Registration and Regulatory Affairs, DuPont Crop Protection
Dr. Robert Waltz, Indiana State Chemist
Edward White, Assistant Pesticide Administrator, OISC
Dr. George Saxton, Compliance Officer, OISC