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Repackaging Violations Subject to Heavy Fines by EPA

*Understand
EPA
repackaging
requirements
and put a
plan in place
to avoid
violations
and fines.*

Repackaging bulk pesticides into mini-bulk containers requires retailers to comply with minimum criteria set by the Environmental Protection Agency (EPA), as outlined in their bulk policy of 1977. Until recently, retailers were encouraged to self-audit their compliance with few enforcement activities conducted by the EPA. Now that has changed. Site inspection has significantly increased. Retailers who repackage and fail to meet these minimum criteria are subject to fines of up to \$5,000 per violation. The EPA also has the authority to invoke criminal penalties.

The challenge for every full-service retailer is to fully understand EPA repackaging requirements and to implement a plan to avoid violations. This DuPont fact sheet was developed to help you accomplish that. It is not difficult to understand the EPA policy and follow the guidelines. In doing so you will be able to provide the service your growers want in a manner that complies with the EPA and helps you be a good steward of the products you handle.

Study the information included in this fact sheet, share it with your employees who work in repackaging and, if you need help, contact your local DuPont Representative.

KEEP ON FILE
Contains important EPA information

DuPont corn herbicide bulk and mini-bulk container clean-out guidelines.*

All bulk and mini-bulk tanks must be clean and free of all visible pesticide deposits prior to filling with DuPont™ Cinch®, Cinch® ATZ, Cinch® ATZ Lite or LeadOff®, unless you are refilling with the same product.

It is the responsibility of the bulk dealer and repackager to clean out the tanks, and dispose of waste waters in a proper and adequate manner. Follow the clean-out guidelines specified on the label of the product previously contained in the tank. If no clean-out guidelines are provided, contact the manufacturer for specific clean-out instructions. In order to assist you, the following guidelines are provided as a minimum clean-out procedure and should be followed unless they are inconsistent with specific instructions from the manufacturer.

- A. Visually inspect the bulk tank and equipment for any leaks, cracks or punctures.
- B. Place container in rinsing area.
 1. Area must be curbed, sloped or diked to ensure containment of all rinsate.
 2. A rinsate collection and storage system must be in place to segregate rinsates according to crop use.
 3. A plan for proper utilization of rinsate must be available.
 4. Wear appropriate safety gear.
- C. The tank should be drained to empty.
- D. Add minimum amount of clean water to allow re-circulation through the pump, meter and hoses.
- E. Add a commercial tank cleaning compound (Incide-Out¹ or Citra-Kleen² for example) to help with the decomposition of certain active ingredients. This detergent will also help clean the tank.
- F. Thoroughly drench the interior walls, ceiling and floor of the tank to help the cleaning process.
- G. Using a steam cleaning process or a high pressure/low water process, use the sprayer gun with an extended wand and begin to clean walls and floors.
 - H. The following spray gun and nozzle are recommended:

For steam cleaning: The temperature of the steam wash is recommended to be around 185°F and the sprayer should produce about 2000 psi.

For high pressure/low water volume: The sprayer should be capable of producing 1800 psi. to 2000 psi.

Gun type: PW 4000 A

Nozzle type: 24055 1/4 06
 - I. To clean the ceiling, use a short wand and nozzle or smaller type high pressure/low volume gun that will allow you to reach into the vessel. A soft-bristled scrub brush can also assist with the cleaning process. (Special note: The ceiling of a mini-bulk is the hardest to clean.)
 - J. After completion of cleaning the tank, recirculate the wash water through the pump, meter and hoses.
 - K. Drain the tank. Be sure to properly dispose of all waste water generated during the tank cleaning. Follow the label directions for rinsate disposal of the product previously in the tank. To remove the remaining product, use a “wet vacuum.”
 - L. Visually inspect the tank, meter and hoses to ensure they are free of any remaining pesticide residue/deposits. If not, repeat the cleaning steps described above.
 - M. Thoroughly rinse the tank, pump, meter and hoses. Rinse until rinsate is clear. Pressure rinsing is preferred with high pressure/low volume water.
 - N. Remove all old labels, placards, etc. Use of a high pressure/low volume water method is the preferred way of removing placards, labels, etc. (Make sure lid has been re-installed to prevent foreign product from getting into the clean tank.)
 - O. After the tank has properly dried, affix the new product label to the exterior of the tank.
 - P. Visually inspect the tank before filling for cracks and stressed areas. Also inspect the meter, pump, hoses, nozzle and coupling devices for wear and repair as needed.
 - Q. Proceed to fill the tank, checking for any leakage during the process. After filling, install tamperproof seals.
 - R. When not in use, store your tank in a spill containment area.

Steps DuPont takes to ensure that the bulk product we deliver in your tank is free from cross contamination:

1. Cinch®, Cinch® ATZ, Cinch® ATZ Lite and LeadOff® are manufactured to eliminate any risk of cross contamination occurring in the manufacturing of the product.
2. DuPont employs only dedicated trucks to haul our finished bulk product, to eliminate the risk of cross contamination occurring during transportation.
3. If we use contracted commercial storage facilities for Cinch®, Cinch® ATZ, Cinch® ATZ Lite or LeadOff®, the facilities are dedicated to DuPont products to eliminate the risk of cross contamination during storage.

In doing business with DuPont, you can be assured that when the product reaches your bulk tank, it meets our specifications and is free from any other pesticide contaminant.

EPA enforcement activities: What are your rights and what should you expect?

Following the procedures outlined in this fact sheet does not prevent you from being involved in an EPA random inspection. In fact, your chances each year of being inspected are relatively high, and you should conduct business under the assumption that an inspection will occur.

The following section is to inform you as to what you can expect if you are ever involved in a random EPA inspection and to give you guidance on how to prepare. Also, you should become knowledgeable about your rights during an inspection, and consult with your legal advisor when appropriate.

* Keep on file to meet the Bulk Policy Requirement for DuPont bulk products.

Responding to a random EPA inspection.

Be prepared!

- Most inspections are unannounced. So there is no room for mislabeled tanks, poorly cleaned mini-bulk tanks, and missing paperwork. It's important that you make proper bulk handling a common practice at your place of business, and that you have your "house in order" if you are to avoid major violations and fines.
- Know the location of all pertinent filed documents. (EPA Establishment Number, repackaging agreements and tank clean-out guidelines are minimum.)
- Designate ahead of time a lead person in your dealership. This person should be knowledgeable about your business, and familiar with where you keep your filed paperwork, such as repackaging agreements, clean-out procedures, etc. This person should be prepared to stay with the EPA inspector during the entire inspection, and answer any questions that arise.

When the EPA inspector shows up at your place of business:

- Ask to see credentials/identification.
- Be cooperative, but know your rights and what the law requires. The inspector is from the enforcement branch, which does not participate in writing the rules. Inspectors are much like police officers who are not paid to write the laws, only to enforce them. They will appreciate your willingness to work with them and not against them.
- We cannot tell you whether or not to allow the inspection. Experts say it's generally not a good idea to deny entry. You

need to be aware that if you refuse to allow an inspection, the EPA has statutory authority, and can obtain a search warrant if you deny an inspector access. (In the event that an inspector serves you a warrant, you should contact an attorney.)

What will an inspector do during a normal inspection?

- You will be asked what products you handle in bulk.
- You will be asked if you repackaging bulk products into mini-bulk containers.
- You will be asked for your up-to-date, signed repackaging agreements.
- You will be asked for each manufacturer's mini-bulk tank clean-out guidelines.
- The inspector will visually inspect all bulk tanks and mini-bulk tanks, and will check to make sure each tank is labeled properly (i.e., most up-to-date label, net contents written on the label, EPA Establishment Number on the label, and appropriate DOT placards on two opposing sides of each mini-bulk tank).
- Samples will be taken out of random tanks. This is often taken through the pumping system on the tank.

Your rights during the inspection.

- You are entitled to an inspection during your normal business hours.
- You are entitled to know the reason and scope of the inspection.
- You are entitled to a split sample of any sample taken during the inspection.
- You are entitled to a copy of the inspection report when it is prepared.

- If you are unsure of how or whether to answer a particular question or request, seek legal counsel. However, experts recommend that you help the inspector to understand your business and answer most questions openly.

Enforcement (in the event of a problem).

- You will receive a note of noncompliance. This can include proposed fines and alleged violations of the law.
- The basic manufacturer of the product involved may also be sent a notice of noncompliance, possibly including fines, criminal charges, etc.
- The notice should provide a specific time frame in which to respond to the enforcement action. You may request a conference to informally discuss the violations charged and/or answer the complaint.
- If you request an informal settlement conference, take full advantage of the opportunity to discuss findings and noted violations with the EPA staff, any bias shown to your situation, and other, similar cases with consistent penalty policies. It is often the EPA's objective to resolve an enforcement matter through settlement.
- The EPA enforcement branch has authority to negotiate or reduce proposed fines, so it is to your advantage to request a reduction of any fine.
- You will have the right to appeal. Appeals are made through the appeals board in EPA headquarters.

Keep in mind that enforcement activities are generally to look for flagrant violations. Following the guidelines outlined in this fact sheet can help prevent this action.

A list of common mistakes that cause violations:

1. Failed to follow the clean-out guidelines for tank rededication.
2. Failed to clean out pump and meter systems.
3. Used a common pump and meter for multiple products.
4. Used a “transfer pump” to recirculate multiple bulk products.
5. Did not use the most up-to-date label information for the product.
6. No net contents and/or EPA Establishment Number on the tank label.

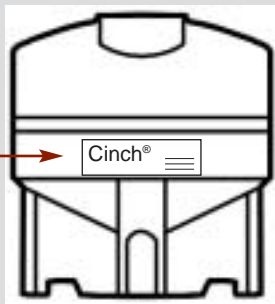
OFFICE

ON FILE

- EPA Establishment Number
- Repackaging (label) authorization
- Manufacturer’s clean-out guidelines

MINI-BULK TANK

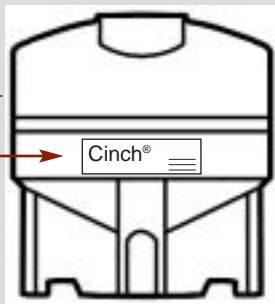
- Start with a clean tank, pump and meter
- Placard and label as illustrated



DOT
Hazard
Placard

DOT Placards

- Placed on two opposing sides

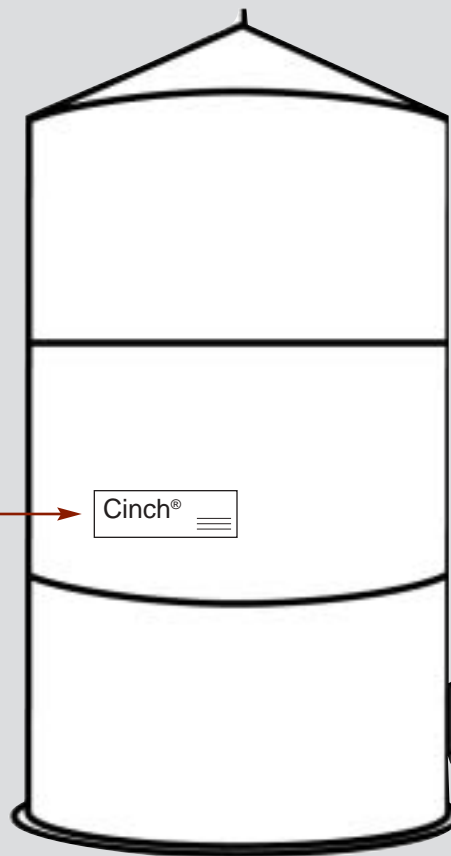


Up-to-Date Tank Label

- In the space provided on the label you must write in *your* EPA Establishment Number and the net contents.

BULK TANK

- Start with a clean tank, pump and meter
- Placard and label as illustrated



Up-to-Date Tank Label

- The tank label left by the bulk delivery driver should be placed at eye level and in plain view. (The *DuPont* EPA Establishment Number, which is required for the bulk tank, is preprinted on the label.)
- You must write in the net contents in the space provided.

DuPont corn herbicide mini-bulk checklist.

Y/N

Tank condition:

- Is the tank free of visible holes, cracks, dents or cuts?
- If the tank is of poly construction, is it less than six years old? (If not, the tank must be taken out of service.)
- Is the tank empty and clean, or does it contain the same DuPont product? (See bulk and mini-bulk tank clean-out guidelines.)
- Is this tank MACA 75 approved?

Tank valves, hoses and seals:

- Do any tank fittings show visible signs of leaking or heavy wear?
- Are all fittings clean?

Pumps and meters:

- Are pumps and meters clean? (See bulk and mini-bulk tank clean-out guidelines.)
- Are pumps and meter sales in good condition?
- Have pumps and meters been checked for proper operation and calibration?

Labels:

- Does the tank have the proper tank labels and DOT placards placed on two opposing sides of the tank?
- Is your (retailer's) EPA Establishment Number written on the tank label?
- Is the net contents (in gallons) written on the tank label?

It is the repackager's responsibility to adequately prepare the mini-bulk tank for refilling. If any of the items above are marked "No," the mini-bulk tank should not be filled with DuPont™ Cinch®, Cinch® ATZ, Cinch® ATZ Lite or LeadOff®. This checklist is provided for your assistance and should be considered as the minimum precaution to take in your preparations to refill the mini-bulk tank.

Cinch® ATZ, Cinch® ATZ Lite and LeadOff® are restricted use pesticides.

Always read and follow all label directions and precautions for use.

The DuPont Oval, DuPont™, The miracles of science™, Cinch®, Cinch® ATZ, Cinch® ATZ Lite and LeadOff® are registered trademarks or trademarks of DuPont or its affiliates.

¹ Incide-Out is a product of Precision Laboratories Incorporated.

² Citra-Kleen is a product of Nyco Products Company.

