



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> PESTICIDES	<b>Number</b> 32-01
<b>Originating Department</b> DEPARTMENT OF ENVIRONMENT PROTECTION AND DEPARTMENT OF HEALTH AND HUMAN SERVICES	<b>Effective Date</b>

Montgomery County Regulation on:

PESTICIDES

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Issued by: County Executive  
Regulation No. 32-01

Authority: Code Section 33B-6  
Supersedes: Regulation No. None  
Council Review: Method (2) under Code Section 2A-15  
Register Vol. 18, No. 10

Comment Deadline: October 31, 2001  
Effective Date:  
Sunset Date: None

**Summary:** This regulation establishes public education and safety requirements for retailers that sell pesticides for use by the general public.

**Address:** Written comments on these regulations should be sent to:

Ellen Scavia, Chief  
Division of Environmental Policy and Compliance  
Department of Environmental Protection  
255 Rockville Pike  
Rockville, Maryland 20850

Richard Helfrich, Director  
Health Promotion, Prevention & Permitting Services  
Department of Health and Human Services  
255 Rockville Pike  
Rockville, Maryland 20850

**Staff Contact:** For formation or to obtain a copy of this regulation, contact Ellen Scavia at 240-777-7770 or Richard Helfrich at 240-777-3986.



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## Sec. 1. Regulation

### Section I: General Provisions

- A. Authority. In accordance with the authority conferred under Chapter 33B, Section 33B-6, of the Montgomery County Code, 1994, as amended (hereinafter referred to as the "Code"), the County Executive hereby promulgates this regulation to implement County law pertaining to public education and safety measures required of retail sellers of pesticides as set forth in Chapter 33B of the Code.
- B. Applicability. This regulation applies to all pesticide retailers in Montgomery County.

### Section II: Definitions

The definitions of the terms used in this regulation are provided in Chapter 33B, Section 33B-1, of the Code. For purposes of this regulation, the following additional words and phrases will have the meaning respectively ascribed to them in this regulation:

Director of Environmental Protection - The Director of the Montgomery County Department of Environmental Protection or the Director's designee.

Director of Health and Human Services - The Director of the Montgomery County Department of Health and Human Services or the Director's designee.

Food Service Facility - Any enterprise that prepares or sells food or drink for human consumption on or off the premises. Food service facility includes any restaurant, coffee shop, retail market, cafeteria, short order café, luncheonette, tavern, sandwich stand, soda fountain; and any food service facility in an industry, institution, hospital, club, school, church, catering kitchen, or camp.

General Use Pesticide - Any pesticide classified by the U.S. Environmental Protection Agency (EPA) as a general use pesticide. General use pesticide includes any pesticide product or ingredient not listed in the EPA's Restricted Use Products Report.

Non-bulk Pesticides - Any pesticide distributed, sold, offered for sale, packaged, or repackaged in containers designed for less than 10 gallons of liquid or less than 56 pounds of dry weight.

Pesticide Producer Establishment - Any place assigned an establishment number by the U.S. Environmental Protection Agency where a pesticide or device or active ingredient used in creating a pesticide is produced, or held, for distribution or sale.



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Pesticide Retailer - A person that sells at retail non-bulk pesticides or non-bulk quantities of a material that contains a pesticide.

Properly Labeled - The written, printed, or graphic matter that appears on or is attached to a pesticide, or its immediate container, and the outside container or wrapper of any retail package of pesticide that contains sufficient instructions for use and caution to satisfy the requirements of state and federal pesticide labeling laws.

### Section III: Display and Storage of Pesticides

- A. A pesticide retailer must ensure that all pesticides, whenever displayed or stored in a retail establishment, are physically separated from food, medicine, beverages, or feed. The retailer may display or store the pesticides across the aisle from any food or medicine product or place a solid, nonporous, physical barrier between those products and any pesticide. The retailer must take other reasonable precautions if necessary to prevent a pesticide from contaminating any product that is likely to be ingested by a human or a domestic animal.
- B. A pesticide display or storage area must contain only pesticide containers that are properly labeled and are free of leaks, cracks, tears, or open seams.

### Section IV: Pesticide Spills

- A. A pesticide retailer must promptly clean up any spilled pesticide product upon discovery of the spill.
- B. Disposal
  - 1. A pesticide retailer must not dispose of a pesticide that escapes from its container or packaging except in accordance with applicable state and federal laws.
  - 2. A pesticide retailer must not dispose of a pesticide by discharging or dumping the pesticide or the pesticide container or packaging into a sewer, ditch, lake, or any other area that may release the pesticide into ground or surface waters.
- C. Repackaging
  - 1. A pesticide retailer may repackage a pesticide that escapes from its container for return to the distributor of that product if:
    - a. the retailer has an agreement that provides for the return of spilled pesticides; and



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- b. the procedures used by the retailer to prepare the product for its return to the distributor comply with applicable state and federal laws.
- 2. A pesticide retailer must not repackage a pesticide for sale to customers unless the retailer is registered with the U.S. Environmental Protection Agency as a pesticide producer establishment.

### Section V: Inspections

- A. The Director of Health and Human Services must routinely inspect food service facilities for compliance with County pesticide laws in the regular course of performing any food safety inspection required under Chapter 15 of the Code.
- B. The Director of Environmental Protection must investigate each complaint alleging a violation of County pesticide laws by a retailer other than a food service facility and may conduct any other on-site visit necessary to achieve compliance with the laws.

### Section VI: Public Education

- A. A pesticide retailer must make written materials on general pesticide use and safety available to each purchaser of non-bulk pesticides by placing the materials within two feet of any area where the pesticides are displayed for purchase.
- B. Although the written materials displayed under this Section need not be product-specific, the materials must:
  - 1. be obtained from or have the prior approval of the Department of Environmental Protection; and
  - 2. include information that advises the general public about opportunities for consumers to consider recommended alternative pest control measures.

### Sec. 2. Severability

If a court holds that a portion of this regulation is invalid, the other portions remain in effect.



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### Sec. 3. Effective Date

This regulation takes effect 30 days after approval by the County Council.

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Douglas M. Duncan,  
County Executive

### Distribution:

Secretary, County Council  
County Executive  
Chief Administrative Officer  
County Attorney  
Director, Department of Environmental Protection  
Director, Department of Health and Human Services

**Approved as to Form and Legality**  
**Office of County Attorney**

By [Signature]  
Date 9/10/01

Walter E. Wilson