

HSE Chemicals Regulation Division

Enforcement developments in the PPP sector, regulator perspective

Laura Catterall
HM Inspector of Health and Safety/PEO Team Leader
CRD Enforcement
October 2022

CRD - who we are and what we do

- Division of HSE
- 4 locations: York, Bootle, Bristol, London
- 320 staff (approx)
- Regulatory assessment managers
- Specialist regulatory scientists
- Policy makers
- Enforcement team



Pesticides Enforcement Teams

- Triage Team
- Pesticide Enforcement Officers
- CRD Inspectors
- NPET – National Pesticides Enforcement Team (HSE Field Operations Division)

PPP Legislation



- Food and Environment Protection Act 1985
- Control of Pesticides Regulations 1986
- Regulation (EU) no. 1107/2009 of the European Parliament and of the Council
- The Plant Protection Products Regulations 2011
- The Plant Protection Products (Sustainable Use) Regulations 2012
- Pesticide (Maximum Residue Levels) (England and Wales) Regulation 2008
- Pesticide (Maximum Residue Levels) (Scotland) Regulation 2008
- Official Control Regulation (EU) 625/2017
- The Official Controls (PPP) Regulations 2020

Other Legislation



- Health and Safety at Work Etc. Act 1974 and regulatory statutory provisions made under it such as COSHH, WHSWR, DSEAR, WAH, MHR
 - Biocides
 - CLP
 - REACH
-
- Other authorities legislation – Fire Authority & Environment Agency

Official Control Regulation (EU) 625/2017

OCR EC 625/2017 adopted on 27 April 2017 (repeals 882/2004)

Scope extended – explicitly covers PPPs and extends the scope to active substances and safeners, synergists, co-formulants and adjuvants

Requires enough suitably qualified staff and the legal powers to perform controls

Requires a list of operators to be created

Controls should be performed:

- Regularly;
- In accordance with a risk-based approach;
- With appropriate frequency;
- Without prior notice (unless necessary and duly justified);
- At all stages of production, processing, distribution and use.

The Official Controls (Plant Protection Product) Regulations 2020



Duty to register

Regulation 5(1):

“Each operator must notify the competent authority of—

(a) the name of the operator;

(b) the activities carried out by the operator that relate to the placing on the market and use of plant protection products and components and the sustainable use of pesticides;

(c) the premises on which those activities are carried out.”

Phase 1 – Manufacturers, Importers, Distributors (Sept 2021)

Phase 2 – Users (June 2022)

<https://www.hse.gov.uk/pesticides/register.htm>

Offences

- Failure to provide the information required by regulation 5(1)
- Obstruct an authorised person in the performance of their functions

Role of a Pesticide Enforcement Officer

- Conduct official controls on operators throughout the plant protection product (PPP) supply chain in Great Britain (England, Scotland and Wales)
- Check how well operators are complying with their duties under plant protection product law
- Bring operators back into compliance where breaches are identified
- Give advice on relevant general health and safety matters

PEO Powers

- Power of entry – may enter any land.... vehicle, vessel, aircraft, hovercraft or marine structure private dwelling in accordance with a warrant
- General powers
- Seizure and disposal
- Enforcement Notices

PEO Visits



May ask to see:

- Records – sales, disposal, usage
- Storage facilities
- PPE arrangements and spill kits
- PPP product packaging and labelling
- Examples of products held in stock
- Certification for Training

May ask about:

- Day to day activities on site
- Previous visits by other enforcing bodies
- Details of how products are stored, handled, and disposed of
- Purchasing samples for independent check of the product formulation

What action can a PEO take?

- offer advice (either verbal or in writing)
- write a letter providing guidance or requiring action
- issue an enforcement notice requiring improvements
- issue an enforcement notice prohibiting an activity
- HSE may prosecute for breaches of plant protection product laws

Guidance for Suppliers

The Yellow Code

- The Code of Practice for suppliers of pesticides to agriculture, horticulture and forestry (published 1998)
- Written to support FEPA / COPR - out of date but still contains useful guidance

Yellow Code

Code of Practice for suppliers of pesticides to agriculture, horticulture and forestry



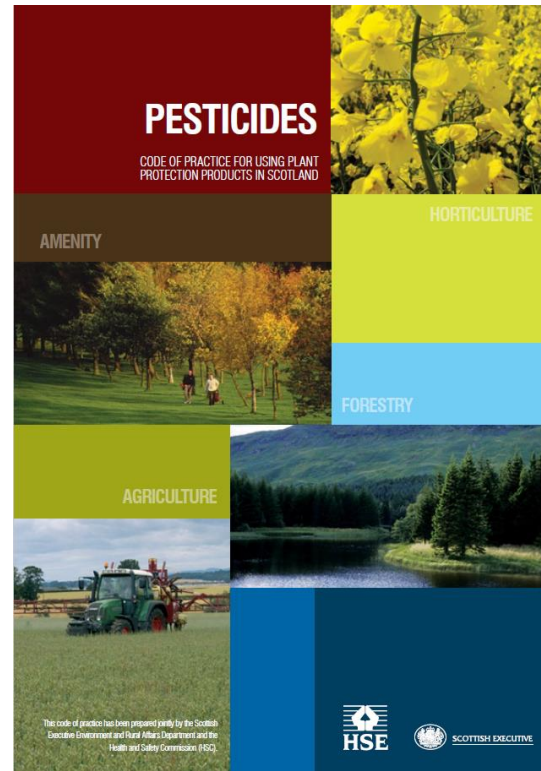
1

Guidance for Users



Codes of Practice for England, Wales & Scotland

- Written to support FEPA / COPR - out of date but still contains useful guidance



Common Issues

Unauthorised Products



Regulation 17(6) Plant Protection
Products (Sustainable Use)
Regulations 2012

Article 28 Regulation 1107/2009
and Regulation 9 Plant Protection
Products Regulations 2011



Unauthorised Products



Inventory checks prior to the visit



Follow up in store



Action: Require removal of product and review of systems for stock control



Segregation





Regulation 17(1) Plant Protection Products
(Sustainable Use) Regulations 2012

Dangerous Substances and Explosive
Atmosphere Regulations 2002 (DSEAR)

Management of Health and Safety at Work
Regulations 1999 (as amended)



Separation v Segregation

- **Separation**  **by distance**
- **Segregation**  **30 min fire resistance**

Segregation

- **Oxidisers and flammable liquids/solids** - Segregate

not kept in the same building compartment, with compartment walls not being imperforate, of at least 30 min fire resistance and sufficiently durable to withstand normal wear and tear

- **Corrosives and flammable liquids/solids** - Separate

Separate packages by at least three meters in the storeroom or storage area outside or segregate if distance is not reasonable given size of store.

ACTION: Review your policy on segregation to ensure only compatible products are stored near each other.

Segregation



HSG 71: Chemical warehousing The storage of packaged dangerous substances

Table 2 General recommendations for the separation or segregation of different classes of dangerous substances

CLASS	CLASS	2	3
Compressed gases			
2.1 Flammable		KEEP APART	Segregate from
2.2 Non-flammable/non-toxic		KEEP APART	KEEP APART
2.3 Toxic		Segregate from	Segregate from
Flammable liquids			
2.1 Flammable		Segregate from	Segregate from
Flammable solids			
4.1 Readily combustible		Segregate from	KEEP APART
4.2 Spontaneously combustible		Segregate from	Segregate from
4.3 Dangerous when wet		Segregate from	Segregate from
Oxidising substances			
5.1 Oxidising substances		Segregate from	Segregate from
5.2 Organic peroxides		ISOLATE	ISOLATE
Toxic substances			
6.1 Toxic		KEEP APART	KEEP APART
Corrosive substances			
8.1 Corrosive		KEEP APART	KEEP APART

Segregate from

These combinations should not be kept in the same building compartment or outdoor storage compound. Compartment walls should be impervious, of at least 20 minutes fire resistance and sufficiently durable to withstand normal wear and tear. Brick or concrete construction is recommended. An alternative is to provide separate outdoor storage compounds with an adequate space between them.

Separation may not be necessary

Separation may not be necessary, but consult suppliers about requirements for individual substances. In particular, note that some types of chemicals within the same class, particularly Class 8 corrosives, may react violently, generate a lot of heat if mixed or evolve toxic fumes.

ISOLATE

This is used for organic peroxides, for which dedicated buildings are recommended. Alternatively, some peroxides may be stored outside in fire-resistant secure cabinets. In either case, adequate separation from other buildings and boundaries is required.

CLASS	4	5	6	6
Compressed gases				
2.1 Flammable	Segregate from	Segregate from	ISOLATE	KEEP APART
2.2 Non-flammable/non-toxic	Separation may not be necessary	Separation may not be necessary	Segregate from	KEEP APART
2.3 Toxic	KEEP APART	Segregate from	Segregate from	KEEP APART
Flammable liquids				
2.1 Flammable	KEEP APART	Segregate from	Segregate from	KEEP APART
Flammable solids				
4.1 Readily combustible	KEEP APART	Segregate from	Segregate from	KEEP APART
4.2 Spontaneously combustible	KEEP APART	KEEP APART	Segregate from	KEEP APART
4.3 Dangerous when wet	Segregate from	KEEP APART	Segregate from	KEEP APART
Oxidising substances				
5.1 Oxidising substances	Segregate from	Segregate from	KEEP APART	KEEP APART
5.2 Organic peroxides	Segregate from	ISOLATE	Segregate from	KEEP APART
Toxic substances				
6.1 Toxic	KEEP APART	KEEP APART	KEEP APART	KEEP APART
Corrosive substances				
8.1 Corrosive	Separation may not be necessary	KEEP APART	KEEP APART	Separation may not be necessary

KEEP APART

Separate packages by at least 3 m in the storehouse or storage area outdoors. Materials in non-combustible packaging that are not dangerous substances and that present a low fire hazard may be stored in the separation area. This standard of separation should be regarded as a minimum between substances known to react together readily; if that reaction would increase the danger of an escalating incident.

Segregate from

The lower standard when to the outside storage of gas cylinders. Where non-liquefied flammable gases are concerned, the 3 m separation distance may be reduced to 1 m.

KEEP APART

Where a particular material has the properties of more than one class, the classification giving the more onerous segregation should be used.

Storage of Aluminium Phosphide

Regulation 17(1) Plant
Protection Products
(sustainable Use)
Regulations 2012

Regulation 17(4) Biocidal
Products Regulations EC No
528/2012 (BPR)



Storage of Aluminium Phosphide

Guidance found in:

- Yellow code - stored above bund height in a separate, moisture-proof, and fireproof chest, bin or vault. The container should be marked 'Gassing Compound - Do Not Use Water' and should be kept locked.
- RAMPS UK Code of Good Practice ([RAMPS UK \(ramps-uk.org\)](http://ramps-uk.org))
- Safety Data Sheet

ACTION: Review storage arrangements for Phostoxin to ensure they meet the requirements outlined in the Yellow Code and RAMPS guidance

APPENDIX 1

Correct storage of aluminium phosphide

1. Storage needs

- Ensure that the store is large enough to hold the peak pesticide requirements
- Provide adequate storage for empty containers awaiting disposal.

2. Store location

- Site the store away from areas that present a risk of fire
- Do not store near to drains, watercourses, wells and boreholes or areas liable to flooding
- Make sure that cabinet stores are not located in domestic dwellings, retail areas, staff rooms, offices, animal houses or areas where human or animal food is stored or processed
- Make sure that access to the aluminium phosphide store within a larger building is not through such areas as named in the previous bullet point
- Make sure that all staff know what to do in the event of a chemical spillage or fire
- Make sure there is ready access for pesticide deliveries and/or the emergency services.

3. Construction

- Provide a store that is resistant to fire, capable of retaining leakage/spillage, dry, frost-free, adequately ventilated and secure against unauthorised access
- Use bunding to ensure that leakage from the store or the area in which the store is located will be contained
- Ensure that the cabinets etc. is stored above the level of the bunding away from direct sunlight and sources of heat
- The store itself or the area in which it stands should be roofed
- Remove combustible materials away from the store
- Seal off internal drains if present

4. Using cabinet/bin/chest stores

- Purpose-built proprietary cabinets for pesticide storage are available
- Use a metal, fire resistant cabinet
- Site away from traffic movement areas
- Stand metal cabinets within a bunded area. Ensure cabinets are fixed above the bund
- Make all cabinets, etc. secure (lockable) or locate them in a secure (locked) area.
- Ensure that cabinets etc. cannot fall over e.g. by bolting or strapping to a structure.
- Ensure all cabinets have a watershedding lid

5. Organising and marking the store

- Mark the exterior of the store (and where it is located within a larger building, the exterior of the building) with the general danger warning sign – black exclamation mark in yellow triangle
- Mark the store itself with the "Gassing Compound – Do Not Use Water" combined symbols sign

- Provide adequate shelving, lighting and frost protection
- Do not store aluminium phosphide products near water-based or acidic products.



6a. Dealing with a spillage - Indoors

- To mitigate risks from spillage, flasks should only be opened outdoors at the site of use
- Always wear the appropriate protective clothing including a respirator to deal with any spillage
- Provide dry inert absorbent granules and an impermeable container to deal with any spill or leaking package incidents.
- Prevent dispersion.
- Collect spilled material.
- Keep it dry.
- Store in a safe place.
- Keep the area ventilated
- Contact supplier for advice on disposal.
- Report incidents to the supplier.
- Ensure that the emergency incident helpline's telephone number is readily available.

6b. Dealing with a spillage - Outdoors

- Flasks should only be opened outdoors at the site of use
- Always wear the appropriate protective clothing including a respirator to deal with any spillage
- For individual tablets push the product into nearest burrow and seal
- For larger quantities it will go against label instructions to overdose a burrow, so dig a hole at least a foot deep and push the spill tablets into the hole and fill it in
- Mark the area and cordon it off
- Inform the land owner of the spillage and action taken

7. Other needs

- Store must be locked at all times when unattended
- Ensure an adequate number of suitable PPE and dry powder fire extinguishers are available on site
- Establish an action plan in case of an incident e.g. fire, gas release
- Report theft incidents immediately

8. Further information

- Agriculture Information Sheet No. 16 – Guidance on storing pesticides for farmers and other professional users
- Agriculture Information Sheet No. 22 – Gassing of rabbits and vertebrate pests
- Code of Practice for Suppliers of Pesticides to Agriculture, Horticulture and Forestry PB 3529 DEFRA, 1998 (The Yellow Code)
- Product material safety data sheet.
- RAMPS acknowledge HSE as the source for certain information in this guidance.
- Fumigation: Health & safety guidance for employers & technicians carrying out fumigation operations, Date of publication 2015, 5 series code: HSG251 (Second edition)

Bunding

- PPSUR Reg 17(1) & 17 (5)
- ... all reasonable precautions to ensure that operations do not endanger human health or the environment.
-ensure that products are stored in areas that are constructed in such a way as to prevent unwanted releases.



Bunding



- Visual check of the condition of the bund
- Check it is impermeable
- Confirm maintenance arrangements
- Judgement on the extent of damage
- Where risk of contamination immediate repair may be required
- Determine appropriate timescale for repair
- Consult with EA

Storage of Combustibles

- PPPs should be kept separate from combustible materials in order to:
 - Minimise fire risk
 - Minimise production of harmful fumes if a fire occurs



Storage of Combustibles



← Snooker Table

Hot Tub →



COSHH/Face Fit Testing



- COSHH Risk Assessment – identify the hazardous substances being stored and the specific risk posed by them - SDS
- Adequate RPE – appropriate for the hazard and reduces exposure to the level required to protect the wearer
- Suitable RPE – it is right for the wearer, the task and the environment
- Tight-fitting – relies on a good seal with the wearers face – face fit tested & clean shaven
- Training

<https://www.hse.gov.uk/pubns/priced/hsg53.pdf>



Racking



- Racking should:
 - Be properly designed and installed
 - safely take the loads of the goods being stored
- Where FLTs are used:
 - racking should be secured to the floor;
 - protected with column guards to minimise the risk from accidental impact.

Shelving

Shelving should:

- be corrosion resistant
- be made of impermeable material
- be sufficiently strong and stable allowing for the circulation of air and easy cleaning
- display the maximum safe working load and design configuration

Warehousing and storage: A guide to health and safety
HSG76 (Second edition)



Additional Legislation:

- Dangerous Substances and Explosive Atmospheres Regulations 2002
- Control of Substances Hazardous to Health Regulations 2002 (as amended)
- Provision and Use of Work Equipment Regulations 1998
- Management of Health and Safety at Work Regulations 1999
- Workplace (Health, Safety and Welfare) Regulations 1992
- Manual Handling Operations Regulations 1992
- Lifting Operations and Lifting Equipment Regulations 1998