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
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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
• 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
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.

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
**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](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
Guidance for Users

Codes of Practice for England, Wales & Scotland

- Written to support FEPA / COPR - out of date but still contains useful guidance
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_compatiable products are stored near each other.
Segregation

HSG 71: Chemical warehousing The storage of packaged dangerous substances
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))
- Safety Data Sheet

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

- PPPSUR 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
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

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