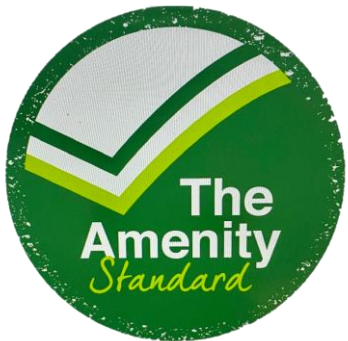




# Amenity Forum

## “Policy, Compliance, Enforcement”



Zoom – June 13th



# **“Compliance, Enforcement”**



## **Amenity Forum Update Sessions HSE**

### **OCR, Pesticide Enforcement Team**

**Mike Potts, Principal Enforcement Officer from HSE**

## 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

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- Case Management 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



## Authorised Persons

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- 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

# Role of a Pesticide Enforcement Officer

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- Conduct official controls on HSE enforced 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 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
- Inspection records for equipment

## May ask about:

- Day to day activities on site
- Previous visits by other enforcing bodies
- Details of how products are used, stored, handled/transported, and disposed of

## What action can a PEO take?

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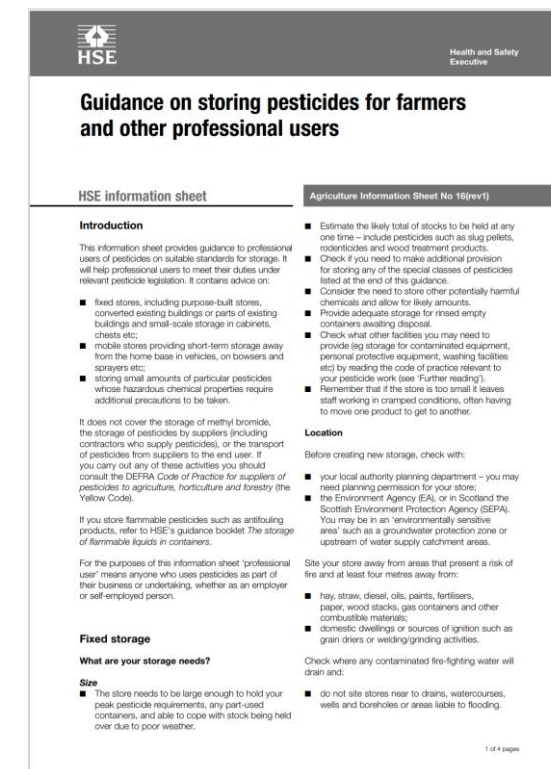
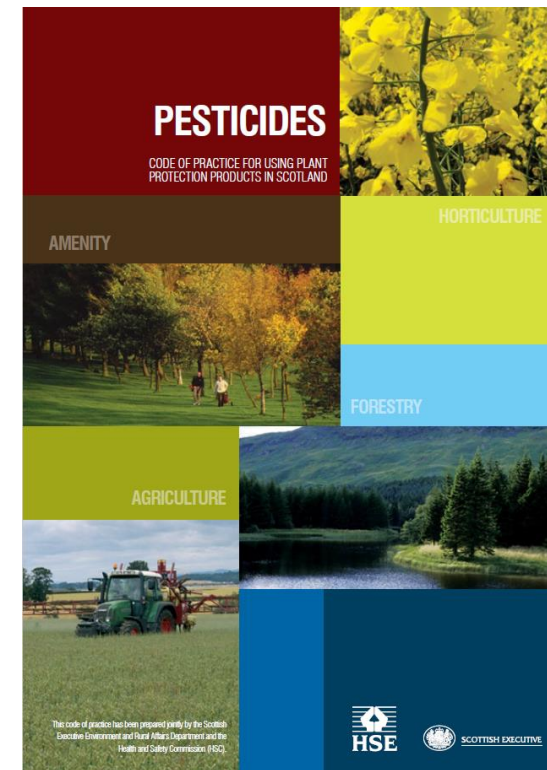
- offer advice (either verbal or in writing)
- write a letter providing guidance or requiring action
- issue an enforcement notice requiring improvements
- issue an enforcement notice prohibiting an activity
- HSE may prosecute for breaches of plant protection product laws

# Guidance for Users



## Codes of Practice for England, Wales & Scotland

- Written to support FEPA / COPR - out of date but still contains useful guidance
- AIS16 – Guidance on storing pesticides for farmers and other professional users



## Current Position - PEO Teams

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- 3 teams – York, Bootle, Bristol – 13 PEOs & 3 Team Leaders
- Recruitment – 5 vacancies
- Training

## Official Controls: Current Position

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Total number of controls conducted April 2022 – March 2023:

- Official Control Visits: 139
- Follow Up Visits: 4
- OCR Registration Checks: 2
- Formulation Monitoring: 26

# Enforcement Action taken (April 2022 – March 2023)



## PPP Legislation

- Unauthorised Products – Inventory Checks
- Segregation/separation
- Storage of Aluminium Phosphide
- Cracked/compromised bunding
- Non-PPP (often combustible) items kept within the store
- Emergency procedures

## Other legislation

- PPE/Face Fit Testing
- Unsuitable racking
- Workplace transport
- Storage at height
- CHIP labelling
- Blocked fire escapes (referral to Fire Authority)



## Enforcement Action taken (April 2022 – March 2023)

**Number of letters sent: 99**

**Enforcement Notices Served: 13**

Issue	Regulation	Number
Unauthorised products	17(6) PPPSUR	4
Storage	17(5) PPPSUR	6
Spill Kits	17(1) PPPSUR	2
Record Keeping	19(2) PPPR	1

# Where have we been? - OCR visits



# HSE Visits – What Next?

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## Official Control Visits

- Phase One visits
  - Continue with PPP Distributor Visits
  - PPP Manufacturers
- Phase Two visits
  - Amenity Users
  - Agriculture
  - Contractors

# **Main Areas of Non-Compliance**

# 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 on site



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





# 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



# Dealing with Spillages

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

**Control of Substances Hazardous to Health  
Regulations 2002 (as amended)**

- Inadequate spill kit – no absorbent materials, brush, shovel, impermeable bags, tags
- Inadequate PPE/RPE to deal with a spillage
- Inadequate trained staff to deal with a spillage



# 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>



# 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 cabinet 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 water-shedding 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 split 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 vermin 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, Data of publication 2015, Series code: HSG251 (Second edition)



# 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:

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- Management of Health and Safety at Work Regulations 1999
- 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
- Workplace (Health, Safety and Welfare) Regulations 1992
- Manual Handling Operations Regulations 1992
- Lifting Operations and Lifting Equipment Regulations 1998

**Questions .....?**