



DECISION

30 September 2021

Summary

| Substance Name | MegaYacht Imperial AF |
|------------------------------------|---|
| Application code | APP204108 |
| Application type | To import or manufacture for release any hazardous substance under Section 28 of the Hazardous Substances and New Organisms Act 1996 ("the Act") |
| Application sub-type | Section 28A(2)(a) – rapid similar – having a similar composition and similar hazardous properties to a substance that has been approved under the Act |
| Applicant | APCO COATINGS (New Zealand) Limited |
| Purpose of the application | To import or manufacture MegaYacht Imperial AF for release |
| Date application formally received | 20 September 2021 |
| Consideration date | 30 September 2021 |
| Considered by | The General Manager ¹ of the Environmental Protection Authority ("the EPA") |
| Decision | Approved with controls |
| Approval code | HSR101508 |
| Hazard classifications | Flammable liquids Category 3, acute oral toxicity Category 4, acute inhalation toxicity Category 4, skin irritation Category 2, eye irritation Category 2, skin sensitisation Category 1, carcinogenicity Category 2, reproductive toxicity Category 2, specific target organ toxicity – repeated exposure Category 2, hazardous to the aquatic environment acute Category 1, hazardous to the aquatic environment chronic Category 1 |

¹ The General Manager of the Hazardous Substances and New Organisms group of the EPA has made the decision on this application under delegated authority in accordance with section 19 of the Act.

1. Substance

- 1.1. MegaYacht Imperial AF is an antifouling paint containing 532 g/L cuprous oxide, 24 g/L copper pyrithione and 66 g/L zineb as the active ingredients. It is intended to be imported and applied by professional users to newly built commercial vessels, as well as carrying out maintenance on commercial vessels.

2. Process and consultation

Application receipt

- 2.1. The application, including the statutory declaration, was formally received on 20 September 2021 under section 28 of the Act.

Information available for consideration

- 2.2. The information available for the consideration comprised:
 - the application form;
 - the confidential appendices to the application;
 - the EPA science memorandum.
- 2.3. There was sufficient information to assess the application.

Notification to government departments

- 2.4. In line with section 53(4) of the Act, as the application was not publicly notified under section 53(2) of the Act, government departments were equally not notified of the application for MegaYacht Imperial AF.

Legislative criteria for the application

- 2.1. This application meets the criteria for rapid assessment under section 28A(2)(a) of the Act, as it is considered that a substance having a similar composition and similar hazardous properties has been approved. This is referred to as the reference substance.
- 2.2. In considering this application, the relevant provisions of the Act, the EPA Notices, the Health and Safety at Work Act 2015 (HSW Act), the Health and Safety at Work (Hazardous Substances) Regulations 2017 (HSW (HS) Regulations) and the HSNO (Methodology) Order 1998 were taken into account.

3. Comparison of MegaYacht Imperial AF with the reference substance

Identity of reference substance

- 3.1. The approved substance SeaForce 90, which has the approval code HSR100412, has been identified as a reference substance which MegaYacht Imperial AF could be compared to as part of a rapid assessment. This reference substance is considered eligible for comparing with MegaYacht Imperial AF.

Hazardous properties

- 3.2. The hazard classifications of MegaYacht Imperial AF were determined based on the information provided by the applicant and other available information. The hazard classifications are shown in Table 1 alongside those of the reference substance.
- 3.3. The hazard classifications of MegaYacht Imperial AF are the same when compared to the reference substance.

Table 1: Hazard classifications of MegaYacht Imperial AF and the reference substance

| Hazard class | | MegaYacht Imperial AF | SeaForce 90 |
|--|------------|---|---|
| Flammable liquids | | flammable liquids Category 3 | flammable liquids Category 3 |
| Acute toxicity | Oral | acute oral toxicity Category 4 | acute oral toxicity Category 4 |
| | Inhalation | acute inhalation toxicity Category 4 | acute inhalation toxicity Category 4 |
| Skin corrosion/irritation | | skin irritation Category 2 | skin irritation Category 2 |
| Serious eye damage/eye irritation | | eye irritation Category 2 | eye irritation Category 2 |
| Respiratory or skin sensitisation | | skin sensitisation Category 1 | skin sensitisation Category 1 |
| Carcinogenicity | | carcinogenicity Category 2 | carcinogenicity Category 2 |
| Reproductive toxicity | | reproductive toxicity Category 2 | reproductive toxicity Category 2 |
| Specific target organ toxicity – repeated exposure | | specific target organ toxicity – repeated exposure Category 2 | specific target organ toxicity – repeated exposure Category 2 |
| Hazardous to the aquatic environment | | hazardous to the aquatic environment acute Category 1 | hazardous to the aquatic environment acute Category 1 |
| | | hazardous to the aquatic environment chronic Category 1 | hazardous to the aquatic environment chronic Category 1 |

Use

- 3.4. MegaYacht Imperial AF and the reference substance are both proposed for use as antifouling paints for use on marine vessels. There are no substantial differences in the lifecycle, use and purpose of MegaYacht Imperial AF and the reference substance.

4. Rapid assessment of adverse effects

- 4.1. The rapid risk assessment of adverse effects has taken into account the hazardous properties of the substance, the considerations under Part 2 of the Act, the prescribed controls under the Act and the requirements under other relevant legislation such as the HSW Act 2015, Land Transport Rule 45001, Civil Aviation Act 1990 and Maritime Transport Act 1994.
- 4.2. The assessment:
- considered the risks posed by MegaYacht Imperial AF compared to those associated with the reference substance;
 - determined whether any variations or additions to the prescribed controls were required to manage the risks of this substance, and identified controls that may not be applicable or necessary that could, therefore, be deleted.

Assessment of risks to human health

- 4.3. The risks to human health are similar to those of the reference substance and as such are managed by the suite of controls.

Assessment of risks to the environment

- 4.4. The risks to the environment from this substance are similar to those of the reference substance and as such are managed by the suite of controls.

Assessment of risks to Māori and their relationship to the environment

- 4.5. The risks to Māori and their relationship to the environment from this substance are similar to those of the reference substance and as such are managed by the suite of controls.

Assessment of risks to society, the community and the market economy

- 4.6. No risks to society, communities or the market economy from the approval of MegaYacht Imperial AF have been identified.

New Zealand's international obligations

- 4.7. No international obligations that may be impacted by the approval of MegaYacht Imperial AF have been identified.

Summary of assessment

- 4.8. The risks associated with MegaYacht Imperial AF arise from its hazardous properties and its proposed use pattern. These risks are similar to those posed by the reference substance, and the suite of controls applied to the reference (including any modifications and deletions) can be applied to MegaYacht Imperial AF to equally mitigate its risks to human health and the environment, so that these are negligible.

5. Prescribed controls

- 5.1. The hazard classifications of MegaYacht Imperial AF determine a set of prescribed controls specified by the EPA Notices² under section 77 of the HSNO Act. There are also requirements in the HSW (HS) Regulations. Note: the HSW (HS) requirements are not set for the substance under this approval but apply in their own right.
- 5.2. The prescribed controls set the baseline for how the substance must be managed and include specifications on how the substance is to be packaged, labelled, stored, disposed, transported, handled and used. The prescribed controls also set information requirements (eg Safety Data Sheets), signage and emergency management requirements. These controls form the basis of the controls specified in Appendix A of the Approval document for MegaYacht Imperial AF.
- 5.3. The Labelling, Safety Data Sheet (SDS), Packaging, Disposal and Hazardous Property Controls (HPC) Part 1, Part 3, Part 4A and Part 4B Notices apply to MegaYacht Imperial AF.

Exposure limits

- 5.4. Under s77B of the Act, the EPA may set a Tolerable Exposure Limit (TEL) for a substance with toxic properties and an Environmental Exposure Limit (EEL) for a substance with ecotoxic properties:
 - Regulation 13.17 of the HSW (HS) Regulations prohibits the use of a class 6 substance (ie a substance with a hazard classification in the hazard grouping health hazards) in excess of a TEL;
 - Clause 49 of the HPC Notice prohibits use of a substance with a hazard classification in the hazard grouping environmental hazards in excess of an EEL.
- 5.5. No TEL values have been set previously for the active ingredients in MegaYacht Imperial AF because it is considered that exposure to this substance is not likely to result in an appreciable toxic effect to people, provided controls on use are followed.
- 5.6. An EEL values had been set previously for the active ingredients in MegaYacht Imperial AF, however, the EEL values are removed as the level of risk of adverse effects to the environment has been qualitatively assessed as being negligible, with controls in place.
- 5.7. There are Workplace Exposure Standard (WES) values currently set for components of MegaYacht Imperial AF but, as they are not Prescribed Exposure Standard (PES) values, they are guidance values used for the management of health risk. No PES has been set for any component of MegaYacht Imperial AF.
- 5.8. Clause 17 of the Hazardous Substances (Labelling) Notice 2017 and Section 3 of the Schedule in the Hazardous Substances (Safety Data Sheets) Notice 2017 require that certain toxic, corrosive or

² There may also be default controls in regulations made under the Act for certain hazardous substances such as fireworks.

ecotoxic components are identified on the product label and on the SDS, respectively. Section 8 of the Schedule in the SDS Notice requires occupational exposure limits to be identified on the SDS.

6. Changes to prescribed controls

- 6.1. The following modifications to the EPA Notice controls apply to MegaYacht Imperial AF, as set out in Table 2:

Table 2: Justification for s77 changes to prescribed controls (see Appendix A of the Approval document for the control wordings)

| Control | Justification |
|------------------|--|
| Label | The Antifouling Paints Reassessment determined that additional label information was necessary for antifouling paints to ensure that users of the antifouling paints are informed of their requirements to avoid off-site deposition and avoid waste entering the environment. |
| Labelling Notice | It is considered appropriate to add this requirement to MegaYacht Imperial AF as a variation to the labelling requirements of the Hazardous Substances (Labelling) Notice 2017. |

- 6.2. The following additional HSNO controls apply to MegaYacht Imperial AF under section 77A of the Act, as set out in Table 3:

Table 3: Justification for s77A additional controls (see Appendix A of the Approval document for the control wordings)

| Control | Justification |
|-------------------------------|---|
| Use restriction | As the risk assessment of the proposed substance has been based on its use as an antifouling paint, other uses of this substance could lead to higher, unmanaged risks to human health and/or the environment. Therefore, the addition of the following use restriction control is applied to MegaYacht Imperial AF: No person may use this substance for any purpose other than as an antifouling paint to prevent, by the slow release of biocides, the build-up of aquatic organisms on the hulls of vessels or other surfaces in contact with water. |
| Personal protective equipment | The Antifouling Paints Reassessment determined that an additional personal protective equipment control was necessary to apply requirements for users outside of the workplace when applying and removing antifouling paints. This requirement as it applies to workplaces is covered by the requirements of the Health and Safety at Work (Hazardous Substances) (HSW (HS)) Regulations 2017. An additional control is applied to MegaYacht Imperial AF in order to apply the requirements from the Antifouling Paints Reassessment for the use of MegaYacht Imperial AF in places other than workplaces. This additional control is varied from the wording used in the Antifouling Paints Reassessment to reflect that this control covers places other than workplaces. |
| Collection | Antifouling Paints Reassessment applied an additional requirement to antifouling paints specifying that when antifouling coatings are removed from the hull of a boat, the resulting |

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| | <p>waste must be collected and disposed of in accordance with the Hazardous Substances (Disposal) Regulations 2001.</p> <p>It is considered appropriate to apply this requirement to MegaYacht Imperial AF to minimise the potential for waste from antifouling paint removal to result in contamination of the environment. The control is updated to make reference to the Hazardous Substances (Disposal) Notice 2017.</p> |
| Controlled work area and signage | <p>The Antifouling Paints Reassessment applied an additional control specifying requirements for controlled work areas and signage. This control was applied to protect sensitive areas and bystanders from exposure to antifouling paints.</p> <p>This requirement, as it applies to workplaces, is now covered by the requirements of the HSW (HS) Regulations.</p> <p>The additional control from the Antifouling Paints Reassessment is applied to MegaYacht Imperial AF, with the original wording varied so that the requirements are applied to use of MegaYacht Imperial AF outside of workplaces. Additionally, references to certain clauses for the Hazardous Substances (Identification) Regulations 2001 are updated to reference the corresponding requirements in the HSW (HS) Regulations.</p> |
| Impurity | <p>The EPA has previously set content specifications and impurity limits for cuprous oxide and an impurity limit for zineb, when used as active ingredients in antifouling paints.</p> <p>These limits are aligned with the limits set by the Australian Pesticides and Veterinary Medicines Authority (APVMA).</p> <p>It is considered appropriate to apply these limits to MegaYacht Imperial AF to limit the amount of these impurities that could cause harm to human health or the environment.</p> |

Assessment of changes to controls

- 6.3. The changes to the prescribed controls in the above section under sections 77 and 77A of the Act fulfil the legislative criteria.
- 6.4. These controls have been incorporated into Appendix A of the Approval document for MegaYacht Imperial AF.

7. Decision

- 7.1. Having considered the composition, hazardous properties and use of MegaYacht Imperial AF, I am satisfied that it meets the criteria for rapid assessment under section 28A(2)(a) as a substance having a similar composition and similar hazardous properties has been approved under the Act. I consider that there are no other effects of MegaYacht Imperial AF that would prevent this application for MegaYacht Imperial AF being approved under section 28A of the Act.
- 7.2. I am satisfied with the hazard classifications identified in Table 1 and have applied this classification to MegaYacht Imperial AF.
- 7.3. I consider that applying the suite of controls to MegaYacht Imperial AF set out in Appendix A of the Approval document will ensure adequate management of the adverse effects of MegaYacht Imperial AF.

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- 7.4. Therefore, the application to import or manufacture of MegaYacht Imperial AF is approved with controls as listed in Appendix A of the Approval document.



Dr Christopher Hill

Date: 30 September 2021

General Manager, HSNO, EPA
