Antifouling Paints and the Biocidal Products Regulation

The British Coatings Federation’s Marine Coatings Group (MCG) remains concerned that there is some confusion within the UK leisure boat industry regarding the current and future availability of antifouling paints for protecting yachts and boats. This note is intended to provide clarity on the key legislation currently affecting antifouling paints (the Biocidal Products Regulation (EU) No.528/2012 (BPR)). The objectives of this legislation are to ensure that antifouling paints with the appropriate quality and performance remain available on the European market, and that these may be used safely by informed DIY painters, with minimum impact on the environment. Whilst proving to be a complicated and expensive process for antifouling paint manufacturers, we trust that the objective will be achieved if industry, users and regulators work together.

Under the BPR, all antifouling paints need to undergo an Authorisation process in the coming years, as they are classed as Biocidal Products (products containing biocides with biocidal claims attached to them). The deadlines for submitting applications varies according to the type of biocide(s) used in the paint. The submission involves presenting a “dossier” of information, detailing the effectiveness, stability and possible human and environmental impacts of the paint, to one of the appointed “Competent Authorities” in the EU (for example, the Health and Safety Executive in the UK). Users of antifouling paints are encouraged to seek expert advice (from manufacturers and chandlery / retailers) as to the most suitable product to be used on their craft, depending on use and location (studies and articles in the trade press have also provided detailed information on this).

The submission deadline for those paints which are based on copper flake and other already-approved biocides (these are the majority of antifouling paints currently available on the European market) was 31st December 2017. Note that there are some paints out in the market which are based on other forms of copper and/or other biocides that are still to be approved under the BPR. Whilst the biocides (also known as ‘active substances’) are still under evaluation by the authorities these paints may continue to be sold without restriction. The equivalent deadline for the submission of the dossiers for these paints is expected to be several years’ away, and will be confirmed through the legislation relating to the active substance approval, once this is published.

Antifouling paints that had to meet the December 2017 deadline may be categorised as follows:

1. BPR Authorisation has been applied for (a dossier was submitted before 31st December 2017)
   If an application was submitted for an antifouling paint and the dossier has now been accepted by the authorities for their evaluation, then this product can continue to be manufactured, supplied
and used whilst the dossier is being reviewed by the authorities. There is no fixed timescale for dossier evaluation – this may take several years. Manufacturers should be prepared to provide written statements confirming the eligibility for continued sale of their product, on request.

2. **No application made, no dossier submitted**

Any paint with the December 2017 deadline requirement, for which a dossier was not submitted, is **no longer permitted to be sold within the European market**. The deadline for terminating the sale of these products was **30th June 2018**. Customers who still have stock of these paints that have now been withdrawn from the market must use this stock up by the end of 2018. **It is not permitted to use these paints after 2018**. Manufacturers and suppliers should be consulted as to their recommendations for alternative products if the product has been withdrawn.

3. **BPR Authorisation applied for, but rejected after review by a Competent Authority**

If a product for which approval has been sought, is subsequently rejected by the relevant authorities, that product will have to be withdrawn from the market, with a phasing out period of 6 months to sell, and 12 months to use. Manufacturers will inform customers and retailers if this situation arises.

**To summarise:**

- The industry and the regulators are working hard to make the implementation of the Biocidal Products Regulation a success
- The future situation with regard to this Regulation post-Brexit is not known at this time
- Antifouling paints have not been banned
- Copper-based antifouling paints have not been banned
- Antifouling paints containing co-biocides (‘booster’) biocides have not been banned
- Some antifouling paints have been withdrawn over the past 12 months, and are no longer legal
- Additional products may have to be withdrawn as the BPR evaluation procedure continues over the coming years
- Some new products have been introduced to the market to replace the withdrawn products
- Manufacturers should be able to provide written confirmation of the status of their products to retailers and customers, in particular whether their product was subjected to the December 2017 deadline and whether it is still legally-available for sale
- Any products for which such a confirmatory statement is not forthcoming should be challenged, and the authorities notified - the BCF are able to assist with this reporting of illegal paints

Further information on antifouling paints, including best practice guidance and the BCF’s DIY Safe Antifouling initiative, may be found at the following website – [www.safeantifouling.com](http://www.safeantifouling.com)

This note has been approved by all antifouling paint members of the BCF Marine Coatings Group:

- AkzoNobel (International Paint Ltd)
- Jotun Paints (Europe) Ltd
- Aquarius Marine Coatings
- PPG Protective & Marine Coatings
- Avko Limited
- Sherwin Williams Protective & Marine Coatings
- Chugoku Paints
- Teal & Mackrill Ltd
- Hempel UK Ltd

*All enquiries regarding the contents of this document may be sent to the MCG secretary:
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