Guidance on the inclusion of Cybutryne in the Inventory of Hazardous Materials IHM requirements under Regulation (EU) No 1257/2013.

Introduction

The Marine Environment Protection Committee, at its seventy-sixth session (MEPC 76) in June 2021, adopted the amendments to Annex 1 to the AFS Convention (Resolution MEPC.331(76)). The controls on Cybutryne came into force on 1 January 2023. The Convention as amended stipulates that all ships shall not apply or re-apply Cybutryne after 1 January 2023. It also states that ships bearing an anti-fouling system that contains Cybutryne in the external coating layer of their hulls or external parts or surfaces on 1 January 2023, shall either remove the anti-fouling system or apply a coating that forms a barrier to this substance leaching from the underlying non-compliant anti-fouling system. This should be done at the next scheduled renewal of the anti-fouling system after 1 January 2023, but no later than 60 months following the last application to the ship of an anti-fouling system containing Cybutryne.

MEPC 78 also established that there was no need to update the list of materials that had to be included in the Inventory of Hazardous Materials (IHM) under the Hong Kong Convention to include Cybutryne following the entry into force of the respective controls in the AFS Convention. This was because the existing relevant text in Appendix I to the Hong Kong Convention was generic enough. Nevertheless, the Committee noted that there might be a need to consider amending the 2015 Guidelines for the development of the IHM (Resolution MEPC.269(68)), which contained more specific guidance but was so far limited to organotin compounds.

Amendments to the 2015 Guidelines for the Development of the IHM were agreed in the Sub-Committee on Pollution Prevention and Response (PPR 10/17/1). These amendments focussed on adding anti-fouling systems containing Cybutryne into the list of materials to be included in the IHM Part 1 and in the form of material declaration. It also prescribes test methods for Cybutryne. The revised guidelines were adopted at MEPC 80 on 3 July 2023.

Implications for Regulation (EU) No 1257/2013

Annex I of the EU Regulation lists the hazardous materials which have to be identified on board a ship when the IHM is developed, in accordance with Article 5. The IHM should be properly maintained and updated throughout the operational life of the ship, reflecting new installations containing any hazardous materials referred to in Annex II and relevant changes in the structure and equipment of the ship.

Annex I of the EU Regulation includes “Anti-fouling compounds and systems regulated under Annex I to the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001 (AFS Convention) in force at the time of application or interpretation of this Annex”. The EU Regulation also stipulates that IHM should be compiled taking into account the relevant IMO guidelines (See articles 5(3), 5(4) and 12(3)).

Therefore, as Cybutryne is now included in Annex I of the AFS Convention, then this compound is now also included by default in the Ship Recycling Regulation through this reference.

Inclusion of Cybutryne in the Inventory of Hazardous Materials on ships visiting the EU

As the IHM documents on ships have already been approved by, or on behalf of, Flag States during the provision of Inventory Certificates and Statements of Compliance, then it is not expected that these will have to be amended until the validity of the Inventory Certificate for EU flagged ships or the Statement of Compliance for non-EU flagged ships runs out and the document needs to be re-approved. Therefore, all existing IHM documents should not be immediately revised to record Cybutryne if it is present on a ship.

The AFS Convention requires ships that have Cybutryne in their anti-fouling system to put a coating that forms a barrier to this substance leaching from the underlying non-compliant anti-fouling system or remove it at the next scheduled renewal of the anti-fouling system after 1 January 2023, but no later than 60 months following the last application to the ship of an anti-fouling system containing Cybutryne. At this stage, the IHM document for the ship in question should be updated/maintained to record the presence/absence of Cybutryne.

However, the inclusion of Cybutryne in the IHM should happen immediately when maintenance results in the update of the IHM to include new materials or a survey under Article 8(3) SRR takes place.

Finally new ships after 1 January 2023 should have aboard an IHM, which shall record that there is no Cybutryne in their anti-fouling system.