



DECISION

25 July 2014

1. Summary

Substance	J57.71
Application code	APP202016
Application type	To import or manufacture a hazardous substance in containment under Section 31 of the Hazardous Substances and New Organisms Act 1996 ("the Act")
Applicant	HaS Expertise Ltd (on behalf of Lonza Wood Production (NZ) Ltd)
Purpose of the Application	To manufacture J57.71 in containment for export to a destination outside New Zealand
Unique identifier of substance	J57.71
Date application received	28 January 2014
Consideration date	25 July 2014 The consideration was postponed for 73 working days until 25 July 2014 in accordance with section 59 of the Act.
Considered by	The Chief Executive ¹ of the Environmental Protection Authority ("the EPA")
Decision	Approved with controls
Approval code	HSC100117
Classification	3.1D, 6.1E (aspiration), 6.3B,6.4A, 6.5A, 6.5B, 6.9B (oral and inhalation), 9.1A, 9.3C, 9.4B

¹ The Chief Executive of the EPA has made the decision on this application under delegated authority in accordance with section 19 of the Act.

2. Background

- 2.1. A containment approval can be granted under section 31 of the Act for substances that will be manufactured in New Zealand but which are not intended to be used in New Zealand. Export only approvals are time-limited and are typically granted to a specific manufacturer.
- 2.2. J57.71 is a timber treatment chemical that the applicant intends to manufacture in New Zealand and then export to China, Malaysia or other markets. J57.71 is not intended for sale in New Zealand.
- 2.3. HaS Expertise Ltd has sought approval to manufacture J57.71 in containment in New Zealand for export only, on behalf of the manufacturer (Lonza Wood Protection (NZ) Ltd).

3. Eligibility and consultation

- 3.1. The purpose of the application amounts to 'formulating, relabelling, repacking or storing any hazardous substance for export to a destination outside New Zealand' in accordance with section 30(ca) of the Act; therefore, I consider that this application is appropriate for consideration as a containment approval under section 31 of the Act.
- 3.2. The staff of the EPA ("the staff") have reviewed the application form, an environmental management plan, emergency response plans covering poisoning, fire and spill incidents, and the proposed containment system as outlined in the application. The staff have advised me that the information is sufficient to understand what is proposed, and to assess the risks of approving the manufacture of J57.71 in containment for export only.
- 3.3. Worksafe New Zealand² was advised of the application and invited to comment. No comments were received.
- 3.4. The applicant was given an opportunity to comment on the draft decision. They disagreed with the classifications set for the substance and the consideration date was waived under s59 of the Act to allow the applicant to provide further information.
- 3.5. The classifications were reviewed and adjusted based on the information provided by the applicant.

4. Hazardous properties

- 4.1. J57.71 is a timber treatment chemical that contains three pesticide active ingredients: tebuconazole, propiconazole and permethrin. These active ingredients are currently approved under the Act. They are also present in approved timber treatment products at similar concentrations to those proposed for J57.71.

² Formally the Labour Group for the Ministry of Business, Innovation and Employment

4.2. The staff have classified J57.71 as having the following hazards:

HSNO classification J57.71	Definition
3.1D	Flammable liquid
6.1E (aspiration)	Acute toxicity
6.3B	Skin irritant
6.4A	Eye irritant
6.5A	Respiratory sensitiser
6.5B	Contact sensitiser
6.9B (oral and inhalation)	Target organ/systemic toxicant
9.1A	Aquatic toxicity
9.3C	Terrestrial vertebrate toxicity
9.4B	Terrestrial invertebrate toxicity

5. Potential risks

- 5.1. The applicant has identified and assessed the potential risks posed during the manufacture, packaging, storage and transport of J57.71, and has provided detailed proposals for the management of those risks.
- 5.2. The applicant has provided a detailed emergency management plan for the manufacturing site, that describes how the manufacturers will prevent and respond to spills, fire and poisoning. The plan includes staff training requirements, staff responsibilities and how to conduct trial evacuations in preparation for an emergency.
- 5.3. The emergency management plan includes an inspection and maintenance programme to check: pumps, pipelines and tanks which contain hazardous substances; spill kits and emergency equipment; and the site storm water system.
- 5.4. The staff have assessed the risks to human health, the environment and Māori cultural issues as set out below. Based on those considerations, and compliance with the controls imposed, I consider that J57.71 can be adequately contained.

Risks to human health and the environment

- 5.5. The staff have advised me that adverse effects on human health or the environment could arise from:
 - An accident during the manufacture, storage, handling, or transportation of J57.71 resulting in its release. For example, if a vehicle carrying containers of J57.71 was involved in a traffic accident, the containers could be damaged and J57.71 could be spilled into a waterway, and potentially affect bystanders or emergency workers.

- Workers not wearing the correct personal protective equipment and subsequently being exposed to J57.71. For example, a person could be exposed to J57.71 if they handled equipment used to manufacture it, and then touched their eyes, nose or mouth.
 - Failure to follow the management procedures, attached to and forming part of this approval (see Appendix E) resulting in the release of the substances from containment and exposure to people.
- 5.6. The controls in Appendices A and B are set to reduce the risk of adverse effects occurring. These controls relate to the manufacture, storage, packaging, transport, handling, emergency management and disposal of J57.71.
- 5.7. Assuming compliance with the containment regime proposed by the applicant, the containment controls in Appendices A and B, and controls in place under other legislation, I consider that the risks to human health and the environment are negligible.

Risks to the relationship of Māori to the Environment

- 5.8. The staff have considered the potential Māori cultural effects of this application in accordance with sections 6(d) and 8 of the Act.
- 5.9. From the information provided, and considering that the application is for containment, the staff consider that J57.71 is unlikely to have an impact on the relationship between Māori culture and their traditions with their ancestral lands, water, sites, waahi tapu, valued flora and fauna and other taonga. This is on the condition that J57.71 is managed in accordance with the HSNO controls established for this application, and in accordance with any other relevant controls applying under other legislation.
- 5.10. In addition, the manufacture of these substances does not involve significant community exposure or significant exposure to the environment. Therefore, provided there is compliance with the assigned controls, I consider that the risk to the relationship of Māori to the environment is negligible.
- 5.11. However, should inappropriate handling, transport or disposal of the substances result in the contamination of waterways, the approval user must notify local iwi authorities within 24 hours. This should include advising them of the nature of the contamination and the measures taken in response to the contamination. Contact details for iwi authorities are available from the local regional council.

6. Controls

- 6.1. Under section 32 of the Act, a containment approval must include controls for each of the applicable matters specified in Schedule 3 of the Act and may include controls that provide for any other matters in order to give effect to the purpose of the Act.
- 6.2. The purpose of the controls is to ensure that the substances can be adequately contained.
- 6.3. Schedule 3 requires that the following matters be addressed:

- preventing the escape of the contained hazardous substance and preventing contamination of the facility
 - excluding unwanted organisms from the facility or controlling organisms within the facility
 - excluding unauthorised people from the facility
 - preventing unintended release of the substance by experimenters
 - controlling the effects of any accidental release of the substance
 - inspection and monitoring requirements of the containment facility.
- 6.4. The applicant has indicated how the Schedule 3 matters will be addressed in the application form and confidential information provided with the application. They have also supplied an emergency management plan (refer to Appendix E of this decision) that sets out the proposals for the prevention of and response to spills, fires and poisoning incidences.
- 6.5. The staff have prepared a set of controls that they consider must be applied to J57.71 to ensure that it is contained and to manage the risks to human health and the environment. The controls imposed on this approval are listed in Appendices A and B.
- 6.6. The applicant was given an opportunity to comment on the proposed controls as set out in this decision. The applicant requested amendments to the controls and classification and supplied information to support that change. The applicant has indicated that they are satisfied with the proposed controls.

7. Decision

- 7.1. I have considered this application to import or manufacture hazardous substances in containment, made under section 31 of the Act, and have applied the relevant sections of the Act and clauses of the Hazardous Substances and New Organisms (Methodology) Order 1998 ("the Methodology") as detailed in the decision path and explanatory notes available from the EPA website.
- 7.2. Having considered the risks associated with J57.71, I am satisfied that the controls imposed will result in the substance being adequately contained.
- 7.3. The application to import into containment J57.71 for the purpose of export only is **approved with controls** as set out in Appendices A and B, and in accordance with the relevant provisions of the Act and the Methodology.
- 7.4. This approval expires on 25 July 2019.

Rob Forlong

Chief Executive, EPA

Date:

25/07/14

Appendix A: Controls applying to J57.71

General

1. This approval expires on 25 July 2019
2. This approval applies exclusively to Lonza Wood Production (NZ) Ltd who is referred to in the controls as the "approval user".
3. This approval applies exclusively to the manufacture, storage, transport and disposal of J57.71 for the purpose of exporting J57.71 from New Zealand. Under this approval J57.71 must not be used as a timber treatment chemical or for any other purpose in New Zealand.
4. The approval user must ensure that J57.71 is not applied to, discharged to or disposed of to water³.
5. The approval user must ensure that J57.71 is managed in accordance with the default controls, assigned for the substance and the variations to those default controls applied in this approval, as if the approval was granted under s29 of the Act and the Authority had given the substance the following hazard classifications in accordance with s77(1):

3.1D	Flammable liquid
6.1E (aspiration)	Acute toxicity
6.3B	Skin irritant
6.4A	Eye irritant
6.5A	Respiratory sensitiser
6.5B	Contact sensitiser
6.9B (oral and inhalation)	Target organ/systemic toxicant
9.1A	Aquatic toxicity
9.3C	Terrestrial vertebrate toxicity
9.4B	Terrestrial invertebrate toxicity

The default controls for the substance are specified in Appendix B

Manufacture

6. The approval user must ensure that J57.71 is only manufactured in a facility that is designed for the manufacture of timber treatment chemicals.
7. The approval user must ensure that the manufacturing site is secure and unauthorised entry is prevented (e.g. by fencing, locked gates and/or visitor sign-in).

³ where 'water' means water in all its physical forms, whether flowing or not, and whether over or under ground, but does not include water in any form while in a pipe, tank or cistern or water used in the dilution of the substance prior to application or water used to rinse the container after use

Packaging and Information

8. The approval user must ensure that packages containing J57.71 are labelled in accordance with the Hazardous Substances (Identification) Regulations 2001, as specified in appendix B, or in accordance with the alternative labelling requirements as set out below:

Alternative labelling requirements for export-only substances

Individual packages

- 1) The packaging of single containers of J57.71 and their hazardous components, whether contained within a multiple package or not, will comply with the labelling requirements of one of the following-
 - a) the Globally Harmonised System; or
 - b) a regulatory authority recognised by the EPA in the country of destination:
 - i) for J57.71, labelling that meets the requirements of the Australian Pesticides and Veterinary Medicines Authority (APVMA) is recognised by the EPA.
 - ii) for imported hazardous components, labels that meet the requirements of Australia, USA and the EU for the transport of chemicals.
 - 2) If individual packages comply with (1), they need not comply with –
 - a) regulations 11 and 12 of the Hazardous Substances (Disposal) Regulations 2001; and
 - b) regulations 6 to 8 of the Hazardous Substances (Emergency Management) Regulations 2001; and
 - c) regulations 6, 7, 9, 14, 18, 20, 25, or 36(8) of the Hazardous Substances (Identification) Regulations 2001.
9. Safety Data Sheets, compliant with the Hazardous Substance (Identification) Regulations 2001, must accompany J57.71 at all stages of its lifecycle in New Zealand.
10. The approval user must ensure that information on safety precautions necessary to provide safeguards against any of the substance's physical, toxic and ecotoxic properties accompanies the substance at all stages of its lifecycle in New Zealand. This must include information on the protective clothing that should be used when handling the substance and first aid measures for immediate responses to emergencies pending medical attention.

Emergency Management

11. The person with overall responsibility for each manufacturing or storage site, or for the transport of the substance, must ensure that the manufacturing, storage or transport activities comply with the emergency management provisions as prescribed by the Hazardous Substances (Emergency Management) Regulations 2001, as specified in Appendix B.

12. Any person handling J57.71 must ensure that any spill, or material contaminated by a spill, is collected and placed in a sealed container and reported to the approval user.

Disposal

13. The approval user must export or dispose of all of J57.71 before the expiry of this approval, unless a new approval is issued under the Act.

Breach of containment

14. If for any reason a breach of containment occurs, the approval user must notify the EPA within 24 hours of the breach being detected.
15. If a breach in containment results in contamination of a waterway, the approval user must notify the relevant regional council and local iwi authorities within 24 hours. Contact details for iwi authorities are available from the relevant regional council.
16. Each notification of a breach of containment must include information about the nature of the breach and the measures taken in response to the breach.

Records and inspection

17. The approval user must keep a written record of J57.71 manufactured under this approval. That record must include:
 - a. date manufactured, and
 - b. volume manufactured, and
 - c. date exported or disposed of, and
 - d. export destination, or
 - e. disposal method, including chemical waste company and reference numbers where applicable.
18. A copy of this record must be made available to the EPA or HNSO enforcement officer within 48 hours of the record being requested in writing.

Appendix B: Default controls applied to J57.71

Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001

Code	Regulation	Description	Notes
F2	Reg 8	Restrictions on the carriage of flammable substances on passenger service vehicles	
F6	Regs 60 – 70	Requirements to prevent unintended ignition of class 2.1.1, 2.1.2 and 3.1 substances	
F11	Reg 76	Segregation of incompatible substances	

Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001

Code	Regulation	Description	Notes
T1	Regs 11 – 27	Limiting exposure to toxic substances through the setting of TELs	No TEL values are set for any component of J57.71 at this time
T2	Regs 29, 30	Controlling exposure in places of work through the setting of WESs	A WES value has been set for component D as detailed in the Workplace Exposure Standards document: http://www.business.govt.nz/worksafe/information-guidance/all-guidance-items/workplace-exposure-standards-and-biological-exposure-indices/workplace-exposure-standards-and-biological-indices-2013.pdf
T4	Reg 7	Requirements for equipment used to handle substances	
T5	Reg 8	Requirements for protective clothing and equipment	
T7	Reg 10	Restrictions on the carriage of toxic or corrosive substances on passenger service vehicles	
E1	Regs 32 – 45	Limiting exposure to ecotoxic substances through the setting of EELs	No EEL values are set at this time and the default EELs are deleted
E6	Reg 7	Requirements for equipment used to handle substances	
E7	Reg 9	Approved handler/security requirements for certain ecotoxic substances	

Hazardous Substances (Identification) Regulations 2001

Code	Regulation	Description	Notes
I1	Regs 6, 7, 32 – 35, 36(1) – (7)	Identification requirements, duties of persons in charge, accessibility, comprehensibility, clarity and durability	
I3	Reg 9	Priority identifiers for ecotoxic substances	
I5	Reg 11	Priority identifiers for flammable substances	
I8	Reg 14	Priority identifiers for toxic substances	
I9	Reg 18	Secondary identifiers for all hazardous substances	
I11	Reg 20	Secondary identifiers for ecotoxic substances	
I13	Reg 22	Secondary identifiers for flammable substances	
I16	Reg 25	Secondary identifiers for toxic substances	see Appendix D
I17	Reg 26	Use of generic names	
I18	Reg 27	Requirements for using concentration ranges	
I19	Regs 29 – 31	Additional information requirements, including situations where substances are in multiple packaging	
I21	Regs 37 – 39, 47 – 50	General documentation requirements	see Appendix D
I23	Reg 41	Specific documentation requirements for ecotoxic substances	
I25	Reg 43	Specific documentation requirements for flammable substances	
I28	Reg 46	Specific documentation requirements for toxic substances	
I29	Regs 51, 52	Signage requirements	

Hazardous Substances (Packaging) Regulations 2001

Code	Regulation	Description	
P1	Regs 5, 6, 7(1), 8	General packaging requirements	
P3	Reg 9	Criteria that allow substances to be packaged to a standard not meeting Packing Group I, II or III criteria	
P13	Reg 19	Packaging requirements for toxic substances	
P15	Reg 21	Packaging requirements for ecotoxic substances	
PG3	Schedule 3	Packaging requirements equivalent to UN Packing Group III	
PS4	Schedule 4	Packaging requirements as specified in Schedule 4	

Hazardous Substances (Disposal) Regulations 2001

Code	Regulation	Description	Variation
D2	Reg 6	Disposal requirements for flammable substances	
D4	Reg 8	Disposal requirements for toxic and corrosive substances	
D5	Reg 9	Disposal requirements for ecotoxic substances	
D6	Reg 10	Disposal requirements for packages	
D7	Regs 11, 12	Information requirements for manufacturers, importers and suppliers, and persons in charge	
D8	Regs 13, 14	Documentation requirements for manufacturers, importers and suppliers, and persons in charge	

Hazardous Substances (Emergency Management) Regulations 2001

Code	Regulation	Description	Variation
EM1	Regs 6, 7, 9 – 11	Level 1 information requirements for suppliers and persons in charge	
EM6	Reg 8(e)	Information requirements for toxic substances	
EM7	Reg 8(f)	Information requirements for	

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Code	Regulation	Description	Variation
		ecotoxic substances	
EM8	Regs 12 – 16, 18 – 20	Level 2 information requirements for suppliers and persons in charge	
EM9	Reg 17	Additional information requirements for flammable and oxidising substances and organic peroxides	
EM10	Regs 21 – 24	Fire extinguisher requirements	
EM11	Regs 25 – 34	Level 3 emergency management requirements: duties of person in charge, emergency response plans	
EM12	Regs 35 – 41	Level 3 emergency management requirements: secondary containment	<p>The following subclauses are added after subclause (3) of regulation 36:</p> <p><i>(4)For the purposes of this regulation, and regulations 37 to 40, where this substance is contained in pipework that is installed and operated so as to manage any loss of containment in the pipework it—</i></p> <p><i>(a)is not to be taken into account in determining whether a place is required to have a secondary containment system; and</i></p> <p><i>(b)is not required to be located in a secondary containment system.</i></p> <p><i>(5)In this clause, pipework—</i></p> <p><i>(a)means piping that—</i></p> <p><i>(i)is connected to a stationary container; and</i></p> <p><i>(ii)is used to transfer a hazardous substance into or out of the stationary container; and</i></p> <p><i>(b)includes a process pipeline or a transfer line.</i></p> <p><i>(a) is not to be taken into account in determining whether a place is required to have a secondary containment system; and</i></p> <p><i>(b) is not required to be located in a secondary containment system.</i></p>
EM13	Reg 42	Level 3 emergency management requirements: signage	

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Hazardous Substances (Personnel Qualifications) Regulations 2004

Code	Regulation	Description	Variation
AH 1	Regs 4 – 6	Approved Handler requirements (including test certificate and qualification requirements)	

Hazardous Substances (Tank Wagon and Transportable Containers) Regulations 2004

Code	Regulation	Description	Variation
Tank Wagon	Regs 4 to 43 as applicable	Controls relating to tank wagons and transportable containers.	

Schedule 8 of the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004

Code	Regulation	Description
Sch 8	Schedule 8	This schedule describes the controls for stationary container systems. The requirements of this schedule are detailed in the consolidated version of the Hazardous Substances (Dangerous Goods and Schedule Toxic Substances) Transfer Notice 2004.

Schedule 9 of the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004

Code	Regulation	Description
Sch 9	Schedule 9	This schedule describes the controls relating to secondary containment. The requirements of this schedule are detailed in the consolidated version of the Hazardous Substances (Dangerous Goods and Schedule Toxic Substances) Transfer Notice 2004, available from http://www.epa.govt.nz/Publications/Transfer-Notice-35-2004.pdf

Schedule 10 of the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004

Code	Regulation	Description
Sch 10	Schedule 10	This schedule describes the controls for the adverse effects of unintended ignition of class 2 and 3.1 flammable substances. The requirements of this schedule are detailed in the consolidated version of the Hazardous Substances (Dangerous Goods and Schedule Toxic Substances) Transfer Notice 2004, available from http://www.epa.govt.nz/Publications/Transfer-Notice-35-2004.pdf

Appendix C: Confidential Appendix – Composition

This appendix contains the composition of the substance

Appendix D: Labelling and safety data sheets

There are certain toxic components that are required to be identified on the product label and on safety data sheets under regulations 19 and 25 of the Hazardous Substances (Identification) Regulations 2001. For J57.71 the name and concentration of the following components must be specified on the label and/or the safety data sheet

Label	Safety Data Sheet
Component C	Components A, B, and C

Appendix E: Confidential Appendix

This appendix contains the confidential information supplied by the applicant, including the emergency management plan and spill management plan.

Appendix F: Application Form

This appendix contains the application form submitted by the applicant.

