

ENVIRONMENTAL RISK MANAGEMENT AUTHORITY DECISION

3 March 2011

Application Code	ERMA200593
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”)
Applicant	Zelam Ltd
Date Application Received	31 August 2010
Submission Period	8 September 2010 – 20 October 2010
Consideration Date	3 March 2011
Considered by	A Committee of the Authority (“the Committee”)
Purpose of the Application	To manufacture Permatek IM30 (containing imidacloprid) as a timber treatment for protection against termite attack.

1 Summary of application

- 1.1 Zelam Ltd is seeking approval to manufacture Permatek IM30 for release. Permatek IM30 is a timber treatment chemical containing imidicloprid and is intended to provide protection against termite attack.
- 1.2 Imidacloprid is present in other timber treatment chemicals currently available in New Zealand.

2 Decision

- 2.1 The import or manufacture of Permatek IM30 for release is **approved with controls**.
- 2.2 In making this decision the Authority has applied the relevant sections of the Act and clauses of the Methodology as detailed in the decision path attached to this decision as Appendix 1.
- 2.3 The substance has been given the following unique identifier for the ERMA New Zealand Hazardous Substances Register:

Permatek IM30

2.4 The Committee has given Permatek IM30 the following classifications:

Hazardous Property	Classification
Target Organ Toxicity	6.9B
Aquatic Ecotoxicity	9.1A
Soil Ecotoxicity	9.2B
Ecotoxicity to Terrestrial Vertebrates	9.3B
Ecotoxicity to Terrestrial Invertebrates	9.4A

3 Application process

3.1 The application was formally received on 31 August 2010 and was publicly notified on 8 September 2010 with submissions closing on 20 October 2010.

3.1.1 No comments or submissions were received.

3.2 The Agency prepared an Evaluation and Review Report (“the E&R Report”) to aid the Committee in its decision making process. The E&R Report consists of the Agency’s review of the application and available data regarding the substance and/or its constituent components. In the E&R Report, the Agency proposed a suite of controls considered suitable to manage the risks associated with the release of Permatek IM30 and assessed the potential risks the substance may pose to the environment, human health, Māori, society and community and to the market economy.

3.3 The Department of Labour, the Agricultural Compounds and Veterinary Medicines (ACVM) Group and the applicant were given the opportunity to comment on the E&R Report and the controls proposed therein.

3.4 No external experts were used in the consideration of this application.

3.5 The following members of the Authority considered the application: Dr Manuka Henare (chair) and Dr Kieran Elborough.

3.6 The information available to the Committee comprised:

- the application; and
- the E&R Report including a confidential appendix.

4 Consideration

Default controls

4.1 In the E&R Report, the Agency classified Permatek IM30 (see 2.4 above) and assigned default controls based on its hazardous properties as set out in the HSNO Regulations. The default controls were used as a reference for evaluation of the application in the E&R Report. The default controls are listed in Appendix 3 of the E&R Report and have not been reproduced here.

Identification and assessment of the risks, costs and benefits of the substance

Identification of potential risks and costs

- 4.2 The potential risks and costs associated with Permatek IM30 arise from its hazardous properties as set out in paragraph 3.2 above and potential exposure of the substance to workers, operators, bystanders and the environment throughout its lifecycle.
- 4.3 The costs and risks were assessed together in an integrated fashion in the Agency's assessment.

Identification of benefits

- 4.4 The applicant claims that the manufacture of Permatek IM30 will provide the following benefits:
- lower toxicity in comparison to other timber treatment chemicals, which will reduce the risk of long term health issues to workers using it;
 - lower ecotoxicity in comparison to other timber treatment chemicals, which will reduce the risk to the environment in the event of spillage; and
 - provide wider choice to the timber treatment industry, be more cost effective and increase export sales.
- 4.5 The Agency's assessment concluded that benefits may be derived for New Zealand by allowing the use of Permatek IM30.

Assessment of the potential risks and costs of the substance

- 4.6 Taking into account the Agency's assessment of the potential risks and costs associated with Permatek IM30 in New Zealand, the Committee considers that, with controls in place:
- the risks to human health and safety arising from the effects associated with Permatek IM30 are negligible;
 - the risks to the environment arising from the effects associated with Permatek IM30 are negligible;
 - significant adverse impacts on the social or economic environment with the controlled use of Permatek IM30 are not anticipated;
 - it is unlikely that Permatek IM30 could have a significant impact on Māori culture or traditional relationships with ancestral lands, water, sites, wāhi tapu, valued flora and fauna or other taonga;
 - there is no evidence to suggest that the controlled use of Permatek IM30 will breach the principles of the Treaty of Waitangi.

5 Variations to default controls and setting of exposure limits

- 5.1 A number of variations to the default controls for Permatek IM30 were proposed in the E&R Report. These variations and the setting of exposure limits and application rates are discussed below.

Setting of exposure limits and application rates

- 5.2 Control **T1** relates to the requirement to limit public exposure to toxic substances by the setting of Tolerable Exposure Limits (TELs), which are derived from Acceptable Daily Exposure (ADE) values. Based on the proposed use pattern, Permatek IM30 does not contain any components that meet the requirements of Regulation 11(1)(a). Thus, this control is **deleted**.
- 5.3 Control **T2** relates to the requirement to limit worker exposure to toxic substances by the setting of Workplace Exposure Standards (WESs). **WES values are set** for components E, I and M of Permatek IM30.
- 5.4 Control **E1** relates to the requirements to limit exposure of non-target organisms in the environment through the setting of Environmental Exposure Limits (EELs). **No EEL values are set** at this time for Permatek IM30 and the default values are **deleted**.
- 5.5 Control **E2** relates to the requirement to set an application rate for a class 9 substance that is to be sprayed on an area of land (or air or water) and for which an EEL has been set. As the substance is not intended for application to an area of land and no EEL has been set, this control has been **deleted**.

Additions and modifications to controls

- 5.6 The Committee notes that the risk assessment has been undertaken on the basis that the substance is used as a timber treatment chemical. Accordingly, the Committee considers that the approval should be restricted to the use of the substance as a timber treatment chemical. An additional control which adds this restriction is shown in Table 2.1 of Appendix 2.
- 5.7 The Committee notes that the specified controls do not address the risks associated with stationary container systems, nor do they allow for dispensation where it is unnecessary for any associated pipework to have secondary containment. Accordingly, the Committee considers that the application of controls addressing these risks will be more effective than the specified (default) controls in terms of their effect on the management, use and risks of the substance. The revised controls are shown in Table 2.1 of Appendix 2.
- 5.8 Control **EM12** relates to the requirements for secondary containment of pooling substances¹. The EM12 secondary containment requirements have been

¹ Regulations 35 – 41 of the Hazardous Substances (Emergency Management) Regulations 2001

triggered for Permatak IM30 as a result of its 9.1A classification. The Committee considers that the risks associated with the containment of substances which are not class 1 to 5 substances (i.e. do not ignite or explode) are different to those associated with class 1 to 5 substances. Consequently the Committee considers that the secondary containment requirements can be reduced. The Committee considers that these reduced secondary containment measures are adequate to manage the risks of a spillage of Permatak IM30. Therefore, an additional control, which varies the EM12 control, is more cost-effective in terms of managing the risks of the substance. The revised controls are shown in Table 2.1 of Appendix 2.

- 5.9 Control **I16**² includes a requirement to identify certain toxic components on product labels. The Committee, consistent with the guidance provided by the Global Harmonised System (GHS), considers that regulation 25(e) should be varied such that the concentration cut-offs that apply to a component with a hazard classification of 6.5, 6.6, 6.7, 6.8 or 6.9, for the purpose of triggering this requirement, are as follows:

HSNO Classification of Component	Concentration Cut-off for Label (%)
6.5A, 6.5B	0.1 ³
6.6A, 6.7A	0.1
6.6B, 6.7B	1
6.8A, 6.8C	0.3
6.8B	3
6.9A, 6.9B	10

- 5.10 Control **E3** relates to the requirement to protect bees. As the substance is intended for use in timber treatment facilities, the Committee considers that the risks to bees are minimal. Thus, this control is **deleted**.
- 5.11 Control **E5** relates to the requirement to keep records of use. This control is not considered relevant as Permatak IM30 is intended for use in timber treatment facilities and may not legally be applied outdoors for the purpose of causing biocidal action. Thus, this control is **deleted**.
- 5.12 Controls **E7** and **AH1** relate to requirements for ecotoxic substances to be under the control of an approved handler. The Committee considers that these controls are not relevant for Permatak IM30, given that the substance is not used in a wide dispersive manner and is consequently of a lesser risk to the environment. Thus, these controls are **deleted**.
- 5.13 Control **TR1** relates to the requirements for a substance to be tracked and is triggered for Permatak IM30 only by virtue of its ecotoxicity. Consequently, the Committee considers that tracking the substance would be unduly onerous, as

² Regulation 25 of the Hazardous Substances (Identification) Regulations 2001

³ Identification of sensitising components may be required below the 0.1% level if a lower value has been used for classification.

the key risks can be managed through other controls such as packaging, labelling and emergency management requirements. Thus, this control is **deleted**.

6 Overall evaluation of risks and costs

- 6.1 On the basis of the assessment of risks and costs and taking into account the controls imposed, including the additional controls, the Committee considers that Permatak IM30 poses negligible risks and costs to the environment and to human health.

7 Review of controls for cost-effectiveness

- 7.1 The Committee considers that the proposed controls are the most cost-effective means of managing the identified potential risks and costs associated with this application.
- 7.2 The applicant was given an opportunity to comment on the proposed controls as set out in the E&R Report. The applicant made no comments on the proposed controls.

8 Comparison of risks, cost and benefits

- 8.1 As the Committee considers that the risks to the environment and human health are negligible with the controls in place, the Committee may approve the manufacture for release of Permatak IM30 if it is evident that the benefits associated with the substances outweigh the costs.
- 8.2 As no costs not associated with risks have been identified, the Committee is satisfied that the potential benefits associated with the substance outweigh the costs.

9 Recommendations

- 9.1 The Committee recommends that, should inappropriate or accidental use, transport or disposal of Permatak IM30 result in the contamination of waterways, the appropriate authorities, including the relevant iwi authorities in the region, should be notified. This action should include advising them of the contamination and the measures taken in response.

10 Environmental user charges

- 10.1 The Committee considers that the application of controls to Permatak IM30 will provide an effective means of managing risks associated with this substance. At this time no consideration has been given to whether or not environmental charges should be applied to this substance as an alternative or additional means of achieving effective risk management.

11 Confirmation and setting of controls

11.1 The controls listed in Appendix 2 will apply to Permatak IM30.

12 Decision

12.1 The Committee determines that:

12.1.1 Permatak IM30 has the following hazard classifications:

Hazardous Property	Classification
Target Organ Toxicity	6.9B
Aquatic Ecotoxicity	9.1A
Soil Ecotoxicity	9.2B
Ecotoxicity to Terrestrial Vertebrates	9.3B
Ecotoxicity to Terrestrial Invertebrates	9.4A

12.1.2 The positive effects of Permatak IM30 outweigh the adverse effects.

12.1.3 The manufacture and release of the hazardous substance, Permatak IM30, is thus **approved** with controls as listed in Appendix 2. I am also satisfied that, as the import of Permatak IM30 would not impose any additional risks over the importation of the substance, this approval should apply to both importation and manufacture of Permatak IM30.

Dr Manuka Henare
Chair

Date: 3 March 2011

ERMA New Zealand Approval Code:

HSR100491

Appendix 1: Decision Path

Context

This decision path describes the decision-making process for applications to **import or manufacture a hazardous substance**. These applications are made under section 28 of the HSNO Act, and determined under section 29 of the Act.

Introduction

The purpose of the decision path is to provide the Authority with guidance so that **all relevant matters** in the HSNO Act and the Methodology have been addressed. It does not attempt to direct the weighting that the Authority may decide to make on individual aspects of an application.

In this document ‘section’ refers to sections of the HSNO Act, and ‘clause’ refers to clauses of the HSNO (Methodology) Order 1998 “(the Methodology”).

The decision path has two parts –

Flowchart (a logic diagram showing the process prescribed in the Methodology and the HSNO Act to be followed in making a decision), and
Explanatory notes (discussion of each step of the process).

Of necessity the words in the boxes in the flowchart are brief, and key words are used to summarise the activity required. The explanatory notes provide a more comprehensive description of each of the numbered items in the flowchart, and describe the processes that should be followed to achieve the described outcome.

For proper interpretation of the decision path it is important to work through the flowchart in conjunction with the explanatory notes.

Figure 1 FLOWCHART

Decision path for applications to import or manufacture a hazardous substance, application made under section 28 of the Act and determined under section 29.

For proper interpretation of the decision path it is important to work through the flowchart in conjunction with the explanatory notes

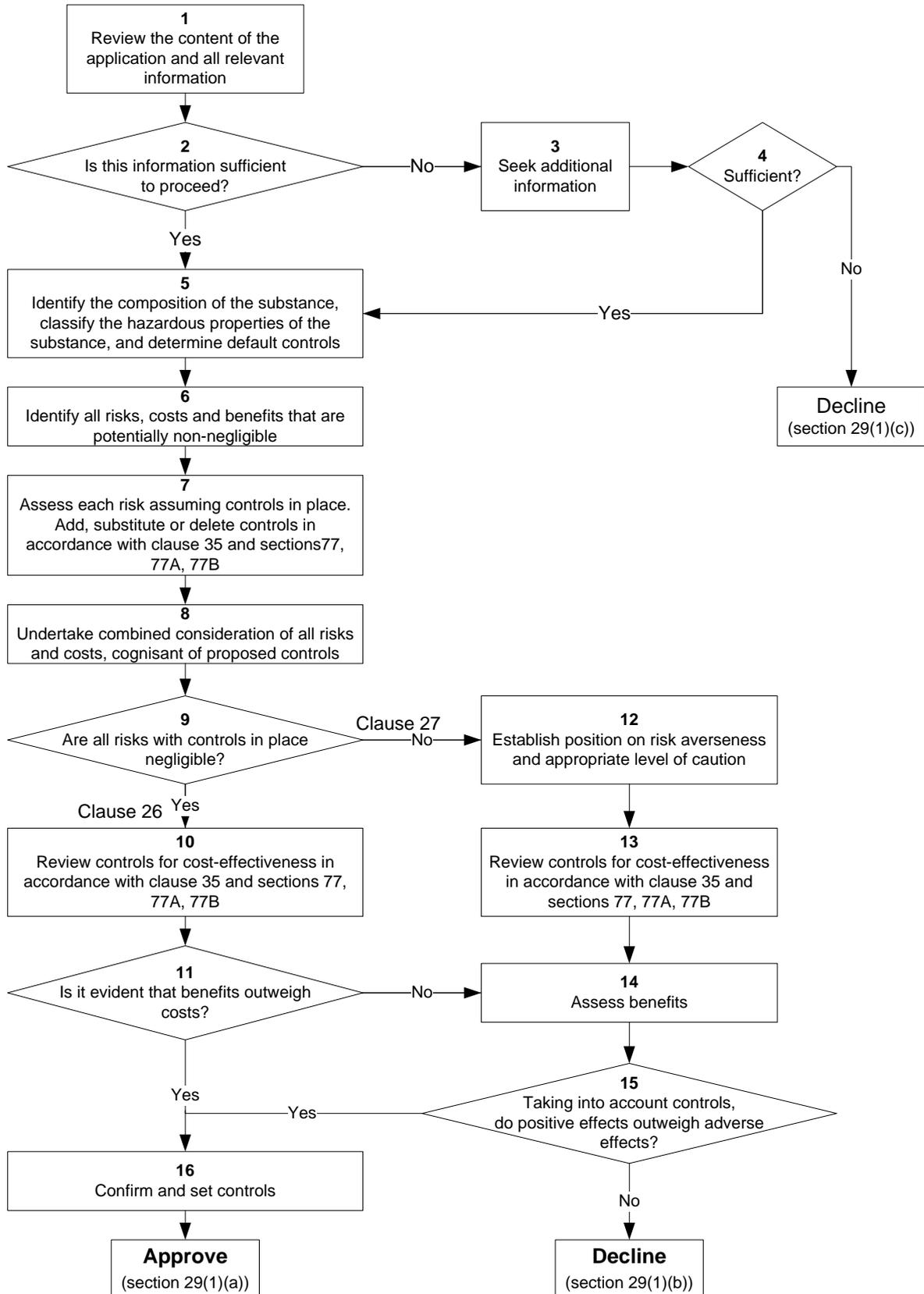


Figure 1 EXPLANATORY NOTES

Item 1: Review the content of the application and all relevant information

Review the application, the E&R Report, and information received from experts and that provided in submissions (where relevant) in terms of section 28(2) of the Act and clauses 8, 15, 16 and 20 of the Methodology.

Item 2: Is this information sufficient to proceed?

Review the information and determine whether or not there is sufficient information available to make a decision.

The Methodology (clause 8) states that the information used by the Authority in evaluating applications shall be that which is appropriate and relevant to the application. While the Authority will consider all relevant information, its principal interest is in information which is significant to the proper consideration of the application; ie information which is “necessary and sufficient” for decision-making.

Item 3: (if no) Seek additional information

If there is not sufficient information then additional information may need to be sought from the applicant, the Agency or other parties/experts under section 58 of the Act (clause 23 of the Methodology).

Item 4 Sufficient?

When additional information has been sought, has this been provided, and is there now sufficient information available to make a decision?

If the Authority is not satisfied that it has sufficient information for consideration, then the application must be declined under section 29(1)(c).

Item 5: (If ‘yes’ from item 2 or from item 4) Identify the composition of the substance, classify the hazardous properties, and determine default controls

Identify the composition of the substance, and establish the hazard classifications for the identified substance.

Determine the default controls for the specified hazardous properties using the regulations ‘toolbox’.

Item 6: Identify all risks, costs and benefits that are potentially non-negligible⁴

⁴ Relevant effects are **marginal effects**, or the changes that will occur as a result of the substance being available. Financial costs associated with preparing and submitting an application are not marginal effects and are not effects of the substance(s) and are therefore not taken into account in weighing up adverse and positive effects. These latter types of costs are sometimes called ‘sunk’ costs since they are incurred whether or not the application is successful.

Costs and benefits are defined in the Methodology as the value of particular effects (clause 2). However, in most cases these ‘values’ are not certain and have a likelihood attached to them. Thus costs and risks are generally linked and may be addressed together. If not, they will be addressed separately. Examples of costs that might not be obviously linked to risks are direct financial costs that cannot be considered as ‘sunk’ costs (see footnote 1). Where such costs arise and they have a market economic effect they will be assessed in the same way as risks, but their likelihood of occurrence will be more certain (see also item 11).

Identification is a two step process that scopes the range of possible effects (risks, costs and benefits).

Step 1: Identify all possible risks and costs (adverse effects) and benefits (positive effects) associated with the approval of the substance(s), and based on the range of areas of impact described in clause 9 of the Methodology and sections 5 and 6 of the Act⁵. Consider the effects of the substance through its lifecycle (clause 11) and include the likely effects of the substance being unavailable (sections 29(1)(a)(iii) and 29(1)(b)(iii)).

Relevant costs and benefits are those that relate to New Zealand and those that would arise as a consequence of approving the application (clause 14).

Consider short term and long term effects.

Identify situations where risks and costs occur in one area of impact or affect one sector and benefits accrue to another area or sector; that is, situations where risks and costs do not have corresponding benefits.

Step 2: Document those risks, costs and benefits that can be readily concluded to be negligible⁶, and eliminate them from further consideration.

Note that where there are costs that are not associated with risks some of them may be eliminated at this scoping stage on the basis that the financial cost represented is very small and there is no overall effect on the market economy.

Item 7: Assess each risk assuming controls in place. Add, substitute or delete controls in accordance with clause 35 and sections 77, 77A and 77B of the Act.

The assessment of potentially non-negligible risks and costs should be carried out in accordance with clauses 12, 13, 15, 22, 24, 25, and 29 to 32 of the Methodology. The assessment is carried out with the default controls in place.

⁵ Effects on the natural environment, effects on human health and safety, effects on Maori culture and traditions, effects on society and community, effects on the market economy.

⁶ Negligible effects are defined in the Annotated Methodology as “Risks which are of such little significance in terms of their likelihood and effect that they do not require active management and/or after the application of risk management can be justified by very small levels of benefits.

Assess each potentially non-negligible risk and cost estimating the magnitude of the effect if it should occur and the likelihood of it occurring. Where there are non-negligible financial costs that are not associated with risks then the probability of occurrence (likelihood) may be close to 1. Relevant information provided in submissions should be taken into account.

The distribution of risks and costs should be considered, including geographical distribution and distribution over groups in the community, as well as distribution over time. This information should be retained with the assessed level of risk/cost.

This assessment includes consideration of how cautious the Authority will be in the face of uncertainty (section 7). Where there is uncertainty, it may be necessary to estimate scenarios for lower and upper bounds for the adverse effect as a means of identifying the range of uncertainty (clause 32). It is also important to bear in mind the materiality of the uncertainty and how significant the uncertainty is for the decision (clause 29(a)).

Consider the Authority's approach to risk (clause 33 of the Methodology) or how risk averse the Authority should be in giving weight to the residual risk, where residual risk is the risk remaining after the imposition of controls.

See ERMA New Zealand report 'Approach to Risk' for further guidance⁷.

Where it is clear that residual risks are non-negligible and where appropriate controls are available, add substitute or delete controls in accordance with sections 77 and 77A of the Act to reduce the residual risk to a tolerable level. If the substance has toxic or ecotoxic properties, consider setting exposure limits under section 77B. While clause 35 is relevant here, in terms of considering the costs and benefits of changing the controls, it has more prominence in items 10 and 13. If changes are made to the controls at this stage then the approach to uncertainty and the approach to risk must be revisited.

Item 8: Undertake combined consideration of all risks and costs, cognisant of proposed controls

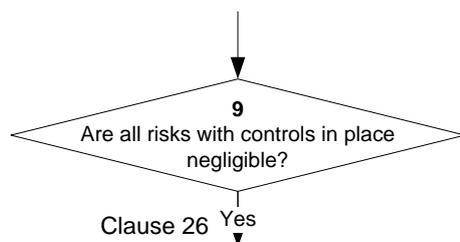
Once the risks and costs have been assessed individually, if appropriate consider all risks and costs together as a 'basket' of risks/costs. This may involve combining groups of risks and costs as indicated in clause 34(a) of the Methodology where this is feasible and appropriate, or using other techniques as indicated in clause 34(b). The purpose of this step is to consider the interactions between different effects and determine whether these may change the level of individual risks.

Item 9: Are all risks with controls in place negligible?

Looking at individual risks in the context of the 'basket' of risks, consider whether all of the residual risks are negligible.

⁷ <http://www.ermanz.govt.nz/resources/publications/pdfs/ER-OP-03-02.pdf>

**Item
10:**



(from item 9 - if 'yes') Review controls for cost-effectiveness in accordance with clause 35 and sections 77, 77A and 77B

Where all risks are negligible the decision must be made under clause 26 of the Methodology.

Consider the practicality and cost-effectiveness of the proposed individual controls and exposure limits (clause 35). Where relevant and appropriate, add, substitute or delete controls whilst taking into account the view of the applicant, and the cost-effectiveness of the full package of controls.

Item 11: Is it evident that benefits outweigh costs?

Risks have already been determined to be negligible (item 9). In the unusual circumstance where there are non-negligible costs that are not associated with risks they have been assessed in item 7.

Costs are made up of two components: internal costs or those that accrue to the applicant, and external costs or those that accrue to the wider community.

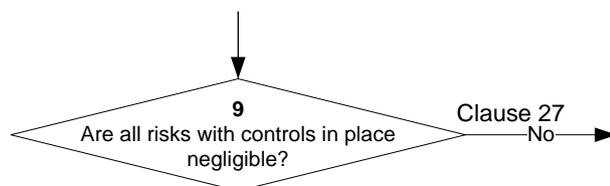
Consider whether there are any non-negligible external costs that are not associated with risks.

If there are no external non-negligible costs then external benefits outweigh external costs. The fact that the application has been submitted is deemed to demonstrate existence of internal or private net benefit, and therefore total benefits outweigh total costs⁸. As indicated above, where risks are deemed to be negligible, and the only identifiable costs resulting from approving an application are shown to accrue to the applicant, then a cost-benefit analysis will not be required. The act of an application being lodged will be deemed by the Authority to indicate that the applicant believes the benefits to be greater than the costs.

However, if this is not the case and there are external non-negligible costs then all benefits need to be assessed (via item 14).

⁸Technical guide 'risks, costs and benefits' page 6 - note that, where risks are negligible and the costs accrue only to the applicant, no explicit cost benefit analysis is required. In effect, the authority takes the act of making an application as evidence that the benefits outweigh the costs". See also protocol series 1 'general requirements for the identification and assessment of risks, costs, and benefits'.

**Item
12:**



(from item 9 - if ‘no’) Establish Authority’s position on risk averseness and appropriate level of caution

Although ‘risk averseness’ (approach to risk, clause 33) is considered as a part of the assessment of individual risks, it is good practice to consolidate the view on this if several risks are non-negligible. This consolidation also applies to the consideration of the approach to uncertainty (section 7)

**Item
13: Review controls for cost-effectiveness in accordance with clause 35 and sections 77, 77A and 77B**

This constitutes a decision made under clause 27 of the Methodology (taken in sequence from items 9 and 12).

Consider whether any of the non-negligible risks can be reduced by varying the controls in accordance with sections 77 and 77A of the Act, or whether there are available more cost-effective controls that achieve the same level of effectiveness (section 77A(4)(b) and clause 35(a)).

Where relevant and appropriate, add, substitute or delete controls whilst taking into account the views of the applicant (clause 35(b)), and making sure that the total benefits that result from doing so continue to outweigh the total risks and costs that result.

As for item 7, if the substance has toxic or ecotoxic properties, consider exposure limits under section 77B.

**Item
14: (if ‘no’ from item 11 or in sequence from item 13) Assess benefits**

Assess benefits or positive effects in terms of clause 13 of the Methodology.

Since benefits are not certain, they are assessed in the same way as risks. Thus the assessment involves estimating the magnitude of the effect if it should occur and the likelihood of it occurring. This assessment also includes consideration of the Authority’s approach to uncertainty or how cautious the Authority will be in the face of uncertainty (section 7). Where there is uncertainty, it may be necessary to estimate scenarios for lower and upper bounds for the positive effect.

An understanding of the distributional implications of a proposal is an important part of any consideration of costs and benefits, and the distribution of benefits should be considered in the same way as for the distribution of risks and costs. The Authority will in particular look to identify those situations where the beneficiaries of an application are different from those who bear the costs⁹. This is important not only for reasons related to fairness but also in forming a view of just how robust any claim of an overall net benefit might be. It is much more difficult to sustain a claim of an overall net benefit if those who enjoy the benefits are

⁹ This principle derives from Protocol Series 1, and is restated in the Technical Guide ‘Risks, Costs and Benefits’.

different to those who will bear the costs. Thus where benefits accrue to one area or sector and risks and costs are borne by another area or sector then the Authority may choose to be more risk averse and to place a higher weight on the risks and costs.

As for risks and costs, the assessment is carried out with the default controls in place.

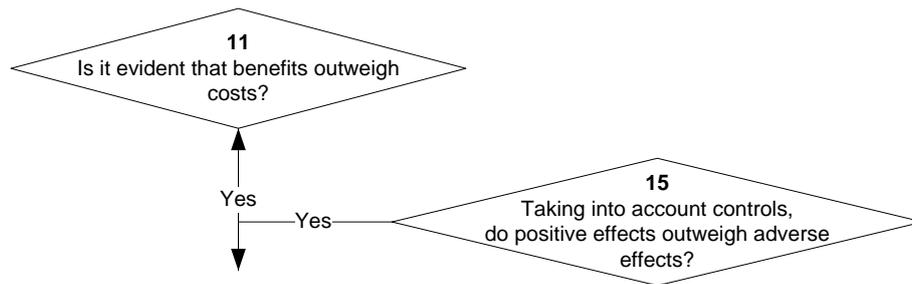
Item 15: Taking into account controls, do positive effects outweigh adverse effects?

In weighing up positive and adverse effects, consider clause 34 of the Methodology. Where possible combine groups of risks, costs and benefits or use other techniques such as dominant risks and ranking of risks. The weighing up process takes into account controls proposed in items 5, 7, 10 and/or 13.

Where this item is taken in sequence from items 12, 13 and 14 (i.e. risks are not negligible) it constitutes a decision made under clause 27 of the Methodology.

Where this item is taken in sequence from items 9, 10, 11 and 14 (i.e. risks are negligible, and there are external non-negligible costs) it constitutes a decision made under clause 26 of the Methodology.

Item 16:



(if 'yes' from items 11 or 15) Confirm and set controls

Controls have been considered at the earlier stages of the process (items 5, 7, 10 and/or 13). The final step in the decision-making process brings together all the proposed controls, and reviews them for overlaps, gaps and inconsistencies. Once these have been resolved the controls are confirmed.

Appendix 2: Controls for Permatak IM30

Note: Please refer to the regulations for the requirements prescribed for each control and the modifications listed as set out in section 4 of this document.

Table 2.1: Controls for Permatak IM30– codes, regulations and variations.

Control Code ¹⁰	Regulation ¹¹	Topic	Variations
Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001			
T2	29, 30	Controlling exposure in places of work	WES values are set for Components E, I and M of Permatak. Please refer to the document below: http://www.osh.govt.nz/order/catalogue/pdf/wes2010.pdf
T4	7	Requirements for equipment used to handle hazardous substances	
T5	8	Requirements for protective clothing and equipment	
E1	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	7	Requirements for equipment used to handle hazardous substances	
Hazardous Substances (Identification) Regulations 2001			
I1	6, 7, 32-35, 36 (1)-(7)	General identification requirements Regulation 6 – Identification duties of suppliers Regulation 7 – Identification duties of persons in charge Regulations 32 and 33 – Accessibility of information	

¹⁰ Note: The numbering system used in this column relates to the coding system used in the ERMA New Zealand Controls Matrix. This links the hazard classification categories to the regulatory controls triggered by each category. It is available from the ERMA New Zealand website www.ermanz.govt.nz/resources and is also contained in the ERMA New Zealand User Guide to the HSNO Control Regulations.

¹¹ These Regulations form the controls applicable to this substance. Refer to the cited Regulations for the formal specification, and for definitions and exemptions.

Control Code ¹⁰	Regulation ¹¹	Topic	Variations														
		Regulations 34, 35, 36(1)-(7) – Comprehensibility, Clarity and Durability of information															
I3	9	Priority identifiers for ecotoxic substances															
I9	18	Secondary identifiers for all hazardous substances															
I11	20	Secondary identifiers for ecotoxic substances															
I16	25	Secondary identifiers for toxic substances	Revised cut-offs for component labelling required by Regulation 25(e)														
I17	26	Use of Generic Names															
I18	27	Use of Concentration Ranges															
			<table border="1"> <thead> <tr> <th>HSNO Classification of Component</th> <th>Concentration Cut-off for Label (%)</th> </tr> </thead> <tbody> <tr> <td>6.5A, 6.5B</td> <td>0.1¹²</td> </tr> <tr> <td>6.6A, 6.7A</td> <td>0.1</td> </tr> <tr> <td>6.6B, 6.7B</td> <td>1</td> </tr> <tr> <td>6.8A, 6.8C</td> <td>0.3</td> </tr> <tr> <td>6.8B</td> <td>3</td> </tr> <tr> <td>6.9A, 6.9B</td> <td>10</td> </tr> </tbody> </table>	HSNO Classification of Component	Concentration Cut-off for Label (%)	6.5A, 6.5B	0.1 ¹²	6.6A, 6.7A	0.1	6.6B, 6.7B	1	6.8A, 6.8C	0.3	6.8B	3	6.9A, 6.9B	10
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6.9A, 6.9B	10																
I19	29-31	Alternative information in certain cases Regulation 29 – Substances in fixed bulk containers or bulk transport containers Regulation 30 – Substances in multiple packaging Regulation 31 – Alternative information when substances are imported															
I21	37-39, 47-50	Documentation required in places of work Regulation 37 – Documentation duties of															

¹² Identification of sensitising components may be required below the 0.1% level if a lower value has been used for classification.

Control Code ¹⁰	Regulation ¹¹	Topic	Variations
		<p>suppliers</p> <p>Regulation 38 – Documentation duties of persons in charge of places of work</p> <p>Regulation 39 – General content requirements for documentation</p> <p>Regulation 47 – Information not included in approval</p> <p>Regulation 48 – Location and presentation requirements for documentation</p> <p>Regulation 49 – Documentation requirements for vehicles</p> <p>Regulation 50 – Documentation to be supplied on request</p>	
I23	41	Specific documentation requirements for ecotoxic substances	
I28	46	Specific documentation requirements for toxic substances	
I29	51, 52	Signage requirements	
Hazardous Substances (Packaging) Regulations 2001			
P1	5, 6, 7 (1), 8	<p>General packaging requirements</p> <p>Regulation 5 – Ability to retain contents</p> <p>Regulation 6 – Packaging markings</p> <p>Regulation 7(1) – Requirements when packing hazardous substance</p> <p>Regulation 8 – Compatibility</p> <p>Regulation 9A and 9B – Large Packaging</p>	

Control Code¹⁰	Regulation¹¹	Topic	Variations
P3	9	Packaging requirements for substances packed in limited quantities	
P15	19, 21	Packaging requirements for toxic and ecotoxic substances	
PG3	Schedule 3	The tests in Schedule 3 correlate to packaging requirements of UN Packing Group III (UN PGIII)	
PS4	Schedule 4	This schedule describes the minimum packaging requirements that must be complied with when a substance is packaged in limited quantities	
Hazardous Substances (Disposal) Regulations 2001			
D4	8	Disposal requirements for toxic and corrosive substances	
D5	9	Disposal requirements for ecotoxic substances	
D6	10	Disposal requirements for packages	
D7	11, 12	Disposal information requirements	
D8	13, 14	Disposal documentation requirements	
Hazardous Substances (Emergency Management) Regulations 2001			
EM1	6, 7, 9-11	Level 1 emergency management information: General requirements	
EM7	8(f)	Information requirements for ecotoxic substances	
EM8	12-16, 18-20	Level 2 emergency management documentation requirements	
EM11	25-34	Level 3 emergency management requirements – emergency response plans	

Control Code ¹⁰	Regulation ¹¹	Topic	Variations
EM12	35-41	Level 3 emergency management requirements: secondary containment	<p>The following subclauses shall be added after subclause (3) of regulation 36:</p> <ul style="list-style-type: none"> (4) <i>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> <ul style="list-style-type: none"> (a) <i>is not to be taken into account in determining whether a place is required to have a secondary containment system; and</i> (b) <i>is not required to be located in a secondary containment system.</i> (5) <i>In this clause, pipework—</i> <ul style="list-style-type: none"> (a) <i>means piping that—</i> <ul style="list-style-type: none"> (i) <i>is connected to a stationary container; and</i> (ii) <i>is used to transfer a hazardous substance into or out of the stationary container; and</i> (b) <i>includes a process pipeline or a transfer line.</i> <p>The following subclauses shall be added after subclause (1) of regulation 37:</p> <ul style="list-style-type: none"> (2) <i>If pooling substances that do not have class 1 to 5 hazard classifications are held in a place above ground in containers each of which has a capacity of 60 litres or less—</i> <ul style="list-style-type: none"> (a) <i>if the place's total pooling potential is less than 20,000 litres, the secondary containment system must have a capacity of at least 25% of that total pooling potential:</i>

Control Code ¹⁰	Regulation ¹¹	Topic	Variations
			<p>(b) if the place's total pooling potential is 20,000 litres or more, the secondary containment system must have a capacity of the greater of—</p> <p>(i) 5% of the total pooling potential; or</p> <p>(ii) 5,000 litres.</p> <p>(3) Pooling substances to which subclause (2) applies must be segregated where appropriate to ensure that leakage of one substance may not adversely affect the container of another substance.</p> <p>The following subclauses shall be added after subclause (1) of regulation 38:</p> <p>(2) If pooling substances which do not have class 1 to 5 hazard classifications are held in a place above ground in containers 1 or more of which have a capacity of more than 60 litres but none of which have a capacity of more than 450 litres—</p> <p>(a) if the place's total pooling potential is less than 20,000 litres, the secondary containment system must have a capacity of either 25% of that total pooling potential or 110% of the capacity of the largest container, whichever is the greater:</p> <p>(b) if the place's total pooling potential is 20,000 litres or more, the secondary containment system must have a capacity of the greater of—</p> <p>(i) 5% of the total pooling potential; or</p> <p>(ii) 5,000 litres</p> <p>(3) Pooling substances to which</p>

Control Code ¹⁰	Regulation ¹¹	Topic	Variations
			<i>subclause (2) applies must be segregated where appropriate to ensure that the leakage of one substance may not adversely affect the container of another substance.</i>
EM13	42	Level 3 emergency management requirements: signage	
Hazardous Substances (Tank Wagons and Transportable Containers) Regulations 2004			
Regulations 4 to 43 where applicable		The Hazardous Substances (Tank Wagons and Transportable Containers) Regulations 2004 prescribe a number of controls relating to tank wagons and transportable containers and must be complied with as relevant	
Additional controls set under s77A			
The controls relating to stationary container systems, as set out in Schedule 8 of the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 (Supplement to the New Zealand Gazette, 26 March 2004, No. 35, page 767), as amended, apply to this substance, notwithstanding clause 1(1) of that schedule.			
Addition of subclauses after subclause (3) of Regulation 36 and after Regulations 37 and 38 of the Hazardous Substances (Emergency Management Controls) Regulations 2001 (control EM12).			
Permatek IM30 may not be used for any purpose other than for the treatment of timber.			