

ENVIRONMENTAL RISK MANAGEMENT AUTHORITY DECISION

Amended under s67A of the HSNO Act on 9 of July 2010
4 June 2009

Application Code	HRC08007
Application Type	To reassess a hazardous substance under section 63A of the Hazardous Substances and New Organisms Act 1996 (“the Act”)
Applicant	Chief Executive of ERMA New Zealand
Application Received	2 February 2009
Submission Period	2 February – 17 March 2009
Considered by	A Committee of the Authority (“the Committee”)
Purpose of the Application	To undertake a modified reassessment to amend the approvals of certain Class 1 substances (explosives)

1 Summary of decision

- 1.1 The Committee approves the addition of a new control requiring a controlled substance licence (CSL) for a person to possess certain Class 1 substances (explosives) as more particularly set out in **Appendix 1** to this decision, to the approvals of those explosives listed in table 1 of **Appendix 1**.
- 1.2 For some lower-risk explosives (smokeless powder, blackpowder and other propellants), the Committee approves as an alternative to a CSL, a requirement for a firearms licence (table 2 of **Appendix 1**). In providing for this alternative, the Committee places an additional obligation on persons selling or supplying these powders and propellants.
- 1.3 The Committee agrees to a transitional period for the new controls to take effect. In particular, the Committee wishes to give existing approved handlers the opportunity to obtain the CSL at the same time as they renew their approved handler test certificate. An approved handler whose test certificate renewal date falls on or before 31 December 2009 can obtain his or her CSL no later than 1 January 2010.

2 Background

- 2.1 This decision should be read in conjunction with the Chief Executive’s reassessment application dated 2 February 2009 and the subsequent Update Paper prepared by the Agency following the close of the public consultation period. The Update Paper summarised the submissions and new information received following notification of the application (including additional confidential

information from New Zealand Police) and presented revised recommendations for the Committee to consider.

- 2.2 Explosives were approved under the HSNO regime by regulations in August 2003. The *Hazardous Substances (Fireworks, Safety Ammunition, and Other Explosives Transfer) Regulations*¹ require certain explosives to be under the control of an approved handler. At the time of their approval, there was no provision in the Act, for the Authority to impose a control requiring a licence to possess the substances. Since then, the Act has been amended by the inclusion of sections 77A and 95B to allow a control to be imposed requiring people in possession of certain hazardous substances to obtain and comply with a CSL.
- 2.3 Prior to the transfer of explosives to the Act, the previous Explosives Act required a “certificate of competency” to be obtained for certain explosives. Although not mandated in that Act, the Chief Inspector of Explosives would typically require a police check to be undertaken as part of the issuing of a certificate of competency.
- 2.4 A CSL control is intended to ensure that only a ‘fit and proper person’ possesses the relevant substance (in this case, explosives) and that possession of the substance is necessary for that person to carry out his or her work. To obtain a CSL, a person must be certified as an approved handler, be fit and proper, be 17 years of age or older and require the substance for their work. A Police check of a person’s criminal history (if any) is undertaken as part of the fit and proper person assessment. It is noted that a CSL control already exists on other high risk substances approved under the Act, that also have the potential to be used unlawfully against people.
- 2.5 In 2008, ERMA New Zealand received a report from the New Zealand Police summarising their concerns about the management and security of explosives under the HSNO regime. The report stated that access to and use of explosives, particularly within organised crime groups, is a growing risk. The Police indicated that adding a CSL requirement would aid the prevention of crime and also directly link with the strategic direction of New Zealand Police by aiding the outcome of “confident, safe and secure communities”.
- 2.6 In October 2008, the Authority determined that there were grounds for reassessing the approvals for certain explosives and the Chief Executive of ERMA New Zealand subsequently lodged the application pursuant to section 63A of the Act.

3 Application process

- 3.1 The application was publicly notified on the ERMA New Zealand website on 2 February 2009 and subsequently in the four main metropolitan newspapers (New Zealand Herald, Dominion Post, Christchurch Press and Otago Daily Times).

¹ SR 2003/176

- 3.2 Submissions closed on 17 March 2009, 30 working days after public notification. A total of forty four (44) submissions were received from the persons or organisations listed in **Appendix 2** to this decision and a number of submitters requested a public hearing. The issues raised in the submissions were analysed by the Agency and summarised (according to common themes) in the Update Paper presented to the Committee and all submitters prior to the hearing. One submission which was received after the Update paper was completed, was considered by the Committee.
- 3.3 The application was also notified to certain local authorities, Government departments and Crown Entities including the New Zealand Police, Maritime New Zealand, Civil Aviation Authority, the Ministry for the Environment, Ministry of Health and the Department of Labour Work Place Group, as well as test certifiers and training organisations which in the opinion of the Authority would be likely to have an interest in the application.
- 3.4 The Agency's project team comprised the following members of ERMA New Zealand staff:

Name	Title
Dr Simon J. Buckland	Manager, Compliance Co-ordination Hazardous Substances
Dr Peter Dawson	Principal Scientist, Hazardous Substances
Helen Gear	Consultant
Janet Gough	Principal Analyst
Michael Morris	Manager, Reassessments

- 3.5 A public hearing was held at the offices of ERMA New Zealand, Wellington, on Tuesday 12 May 2009. The following members of the Authority's Hearings Committee heard and considered the application in accordance with a delegation under section 19(2)(b): Richard Woods (Chair), Dr Max Suckling and Dr Deborah Read.

4 Consideration

- 4.1 In making this decision the Authority has applied the relevant sections of the Act and followed the relevant provisions of the Methodology as detailed in the decision path set out in **Appendix 3** to this decision.

The requirements of section 63A

- 4.2 According to section 63A(1), a modified reassessment may be carried out where the Authority considers that the reassessment will involve only a specific aspect of the approval and the proposed amendment is not a minor or technical amendment to which section 67A applies.
- 4.3 The Committee is satisfied that the addition of a licensing requirement on certain Class 1 explosives is more than minor and could not be considered as a minor or technical amendment to which section 67A applies.

- 4.4 Further, as the reassessment only relates to a specific aspect of the approvals of those Class 1 explosives, namely the addition of a licensing control, the Committee is satisfied that it can properly be considered under section 63A.

Information review

- 4.5 The Committee has reviewed the available information, including the notified application, the submissions received (including information provided by submitters at the public hearing), confidential information provided by the New Zealand Police and Combined Threat Assessment Group, and the Agency's Update Paper, and is satisfied that the information is relevant and appropriate and is sufficient to demonstrate that the effects are of a sufficient magnitude to warrant attention under the Act.
- 4.6 In so concluding, the Committee has had regard to the risk management framework under the Act. Clause 8 requires the Authority to be mindful of the scale and significance of the risks, costs and benefits when reviewing the information available. In addition, according to clause 29, when there is scientific and technical uncertainty or disputed information, the Authority must determine the materiality and relevance of that uncertainty. If such uncertainty cannot be resolved, clause 30 requires the Authority to take into account the need for caution in managing the adverse effects of the substance.

Identification of the effects associated with the proposal

- 4.7 Under section 63A(6), in deciding whether to approve or decline an application for a modified reassessment, the Authority must take into account all the effects (whether positive or adverse) associated with the reassessment. The Committee has noted, and accepts, the Agency's view (see paragraph 5.2.1 of the Update Paper) that the addition of a CSL control on explosives does not introduce any new risks to the environment, human health and safety and Māori cultural and spiritual values, but that the following non-negligible risks and costs (adverse effects) can be identified in relation to effects on society and community and the market economy:
- (i) restricting employment opportunities;
 - (ii) resulting in a loss of current employment (including the cost of finding alternative employment);
 - (iii) affecting the distribution and supply of goods (including the cost);
 - (iv) increasing costs because of the need to obtain a CSL;
 - (v) increasing costs by the need to replace staff; and
 - (vi) increasing other compliance costs.
- 4.8 Further, the Committee notes (and accepts) the Agency's view that the addition of a CSL control will have the benefit of reducing the opportunity for criminals and terrorists to acquire explosives and cause harm through improper use and that this

will indirectly create benefit for the environment, human health and safety and Māori cultural and spiritual values. The Committee further agrees that increasing security around access to explosives is consistent with international best practice and as such demonstrates New Zealand's commitment to addressing global security concerns.

- 4.9 The Committee is satisfied that there are no other material effects which can be identified in relation to this application.

Assessment of effects

- 4.10 The Committee notes that the Agency has undertaken an assessment of the social and market economy effects referred to above as set out in section 5.3 of the Update Paper in terms of the likelihood of occurrence and the magnitude of consequence should they arise. This assessment was undertaken against two scenarios, the first being maintaining the status quo and the second being the addition of the proposed CSL control.
- 4.11 The Agency's assessment (summarised in tables 5.1 and 5.2 of the Update Paper) identified three significant (non-negligible) adverse effects associated with the addition of the control and two significant risks associated with maintaining the status quo. The three effects associated with the addition of the control (cost of replacing staff, cost of finding alternative employment and increased compliance costs), whilst *low* on an *individual* basis, were all assessed as *negligible* when considered from a *national* perspective. However, the Agency's assessment of the two adverse effects associated with the status quo showed that the reduction in risk that the addition of the CSL control would offer varied between *medium* and *low* reflecting the high potential impact (*major* to *massive*) that misuse of explosives could have on the market economy and society.
- 4.12 Overall, the Agency considered that the addition of the CSL control will provide benefit to New Zealand by significantly reducing the opportunity for explosives to cause harm:
- (i) to the market economy through the costs associated with the damage the misuse of explosives may cause; and
 - (ii) to society in terms of increased fear and anxiety the community might suffer.
- 4.13 The Committee accepts the Agency's assessment of the effects as set out above.

Identification and assessment of best international practices

- 4.14 Under section 63A(6), in deciding whether to approve or decline an application for a modified reassessment, the Authority must take into account the best international practices and standards for the safe management of hazardous substances (in this case, explosives).
- 4.15 The Committee notes that the analysis undertaken in the application of the legislative requirements for accessing explosives in the United Kingdom,

Australia and South Africa shows strong similarities with the proposal to add a CSL requirement.

- 4.16 The Committee also notes that the proposal will have no impact with respect to New Zealand's international obligations.

5 Overall evaluation of the combined impact of all of the risks costs and benefits

- 5.1 The Committee is required under the Act, to consider whether or not the positive effects (benefits) of adding the CSL control outweigh the negative effects (risks and costs) of doing so. If the benefits outweigh the risks and costs, the Committee may approve the addition of the control to the existing approvals. If the benefits do not outweigh the risks and costs, the Committee may decline the application.
- 5.2 In addition, under section 77A of the Act, the Committee must be satisfied that as against any other controls that apply to the substances, the proposed control is either:
- (i) more effective in terms of its effect on the management, use and risks of the substances; or
 - (ii) more cost effective in terms of its effect on the management, use and risks of the substances; or
 - (iii) more likely to achieve its purpose.

Addressing submitters' concerns

- 5.3 The Committee notes that the concerns of a number of submitters in regard to smokeless powder (any quantity) and black powder (in quantities less than 15 kg) have been addressed by the Agency's proposal for a firearms licence requirement as an alternative to a CSL. The Committee accepts this as a practical and pragmatic solution to minimise compliance costs.
- 5.4 The Committee also notes the changes made from the original application released for consultation in regard to the requirements for emergency signalling and related safety devices. The Committee agrees that safety items, including marine flares and railway track signals, should not require a CSL.
- 5.5 Similarly, the Committee notes the changes made from the original application to address submitters' concerns regarding the transportation of explosives, including:
- 5.5.1 recognising existing provisions for fit and proper under the Maritime Transport Act and the Civil Aviation Act; and
 - 5.5.2 not requiring a CSL or firearms licence for transporting small quantities (up to 15 kg) of smokeless powder, black powder and other propellant powders.

Conclusions

- 5.6 Upon reviewing all the information contained in the application and the Update Paper, (including the Agency's recommendations) and information received (and heard) from submitters, the Committee considers that the addition of the CSL control on the approved explosives listed in table 1 of **Appendix 1** to this decision and the firearms licence control for the propellant powders listed in table 2 of **Appendix 1** will create significant benefit in reducing the risks associated with any misuse of explosives in New Zealand. The Committee notes that there will potentially be a significant but low level effect on people and businesses legitimately dealing with explosives, but believes this effect is insignificant when assessed from a national perspective.
- 5.7 The Committee notes that it is not easy to quantify the risks with regard to criminal or terrorist access to explosives which in turn mean that it is not easy to determine the benefits of implementing the recommendations quantifiably either. The Committee agrees, however, that as these risks exist as rare events of high magnitude, it is appropriate to address them.
- 5.8 Further, in this regard, the Committee notes as follows:
- (i) there is an increasing trend of terrorist acts and related crimes internationally, and the situation could be different in 5 or 10 years from now. The Committee wishes to take a proactive, not a reactive approach and avoid leaving appropriate regulatory measures until an event occurs;
 - (ii) that although the current risk of terrorist attack in New Zealand may be low, in evidence provided at the hearing, New Zealand Police highlighted the potential for explosives to be shipped abroad for illegal use. The Committee therefore also wishes to address the concern that terrorist activities overseas could be instigated or facilitated from New Zealand;
 - (iii) New Zealand Police gave further evidence at the hearing that tightening the security requirements to possess Class 1 explosives will greatly reduce the likelihood of home-made explosive devices being made and the Committee sees this as an important benefit;
 - (iv) while a great deal of evidence presented at the hearing had opposed the need for a CSL requirement when transporting explosives, the Committee accepted the evidence given at the hearing by New Zealand Police that they recover more explosives than are reported stolen and not to impose a CSL on the transportation phase of the lifecycle, would result in a regulatory "gap" in the supply chain which would represent a potentially high risk. Nonetheless, the Committee did hear the concerns of submitters dealing with smokeless powder and black powder, and agreed that a person transporting up to 15 kg of these propellant powders should not require a CSL or a firearms licence;
 - (v) the Agency had recommended phasing in the CSL requirement so that for existing approved handlers, the date for obtaining a CSL will align with the first renewal date for their approved handler test certificate. The Committee is satisfied that this will facilitate orderly compliance with the new control,

reduce compliance costs, and so assist in meeting the concerns of some of the submitters.

- 5.9 Having regard to the above matters, the Committee considers that the benefits associated with the addition of a CSL control outweigh the significant but low level increase in adverse effects on those sectors that deal with explosives in New Zealand.
- 5.10 The Committee is further satisfied that the imposition of a CSL control on explosives (or firearms licence for propellant powders) will be more effective than the current range of controls in reducing the opportunity for explosives to be used for purposes for which they are not intended, namely criminal and terrorist purposes, as well as more likely to achieve this purpose, thus fulfilling the requirements set out under subsections 77A(4)(a) and (c) of the Act.

6 Decision

6.1 The Committee determines as follows:

- 6.1.1 that the application meets the criteria for consideration under section 63A and the requirements of subsections 77A(4)(a) and (c);
- 6.1.2 having considered all the effects associated with the reassessment proposal and best international practices and standards for the safe management of Class 1 explosives, that:
- (i) the controls on the Class 1 explosives listed in table 1 of **Appendix 1** to this decision should be varied to add a CSL control requiring those persons in possession of them to obtain a controlled substance licence under section 95B; and
 - (ii) for blackpowder in quantities less than 15 kg, a firearms licence (or firearms dealers licence) issued under the Arms Act can be held as an alternative to a CSL; and
 - (iii) the controls on the Class 1 explosives listed in table 2 of **Appendix 1** to this decision should be varied to add a control requiring those persons in possession of them to hold a firearms licence (or firearms dealers licence) issued under the Arms Act, or as an alternative a CSL; and
 - (iv) the controls on the Class 1 explosives listed in table 3 of **Appendix 1** to this decision should be varied to place an obligation on persons selling or supplying them; and
 - (v) the controls should provide for a relaxation of the requirements for the transportation of Class 1 substances under certain situations.
- 6.1.3 accordingly, that the additional controls set out in **Appendix 1** of this decision shall apply with effect from 1 July 2009 (subject to the transitional provisions set out in clause 10 thereof).

6.2 In accordance with clause 36(2)(b) of the Methodology, the Committee records that, in reaching these conclusions, it has applied the balancing tests in section 29 of the Act and clauses 26 and 27 of the Methodology and has also applied the relevant criteria in the decision path set out in the **Appendix 3** to this decision.

Richard Woods

Date:

Chair

Amendment July 2010

Amendment made to Appendix 1 s5 (2): As part of their duties under the Customs and Excise Act and Civil Aviation Act, New Zealand Customs Officers and members of AVSEC who are approved handlers are now exempt from the CSL requirement when dealing with substances listed in table 1 of the Schedule.

This amendment was considered minor in effect and completed under section 67A of the HSNO Act 2006.

Deborah Read

Date:

HRC08007 committee

Appendix 1: Varied controls

1 Preamble

- (1) Pursuant to section 63A of the Hazardous Substances and New Organisms Act 1996, the Environmental Risk Management Authority varies the controls that attach to the substances specified in the Schedule below.
- (2) Those controls are specified in the Hazardous Substances (Fireworks, Safety Ammunition, and Other Explosives Transfer) Regulations 2003.

2 Commencement

The varied controls set out in this Appendix come into force on 1 July 2009.

3 Interpretation

- (1) Unless the context otherwise requires—

Act means the Hazardous Substances and New Organisms Act 1996

controlled substances licence means a licence granted under section 95B of the Act

Customs Officer means a person appointed by the Chief Executive as a Customs Officer for the purpose of the Customs and Excise Act 1996, or any person employed by the Chief Executive who is declared by the Chief Executive to be a Customs Officer for the purpose of the Customs and Excise Act 1996 whether at the time of appointment or otherwise.

existing controls means the controls that, at the date of commencement, attached to the substances specified in the Schedule

firearms dealer's licence means a dealer's licence issued under section 5 of the Arms Act 1983

firearms licence means a licence issued under section 24 of the Arms Act 1983

member of Aviation Security Services (AVSEC) means a person who is employed by the General Manager to exercise any particular power, function or duty under the Civil Aviation Act 1990.

member of the New Zealand Police means a person who holds the office of constable or a Police employee authorised by warrant from the Commissioner to exercise any particular power, function or duty under the Arms Act 1983

policing has the meaning given to it by section 4 of the Policing Act 2008

regulations means the Hazardous Substances (Fireworks, Safety Ammunition, and Other Explosives Transfer) Regulations 2003

- (2) Any term that is defined in the Act or the regulations and used, but not defined in this Appendix, has the same meaning as in the Act or the regulations, as the case may be.

4 Variation to existing controls

The existing controls are varied by adding the controls specified in clauses 5 to 10.

5 Controlled substances licence required for possession of certain substances

- (1) No person may possess any amount of a substance described in table 1 in the Schedule unless the person is the holder of a controlled substances licence authorising possession of the substance.
- (2) Subclause (1) does not apply—

- (a) to a person who is under the immediate supervision of a person who has a current controlled substances licence authorising possession of the relevant substance in accordance with that subclause; or
- (b) to a member of the New Zealand Police who is in possession of the relevant substance for the purposes of policing; or
- (c) to Customs Officers who are approved handlers of explosives (under section 82 of the Hazardous Substances and New Organism Act 1996) and are in possession of the relevant substance for the purpose of carrying out their duties in respect of the Customs and Excise Act: or
- (d) to members of AVSEC who are approved handlers of explosives (under section 82 of the Hazardous Substances and New Organism Act 1996) and are in possession of the relevant substance for the purpose of carrying out their duties in respect of the Civil Aviation Act; or
- (e) to a person who is in possession of black powder (gunpowder; UN0027) if—
 - (i) the amount of the substance that the person possesses at any time is less than 15 kg; and
 - (ii) the person is the holder of—
 - (a) a firearms licence; or
 - (b) a firearms dealer’s licence.

6 Firearms licence, firearms dealer’s licence or controlled substances licence required for possession of smokeless powders and certain other propellants

- (1) No person may possess any amount of a substance described in table 2 in the Schedule unless the person is the holder of—
 - (a) a firearms licence; or
 - (b) a firearms dealer’s licence; or
 - (c) a controlled substances licence authorising possession of the substance.
- (2) Subclause (1) does not apply to a person who is under the immediate supervision of a person who is entitled to possess the substance under subclause (1).

7 Exceptions for transportation of substances

- (1) Clauses 5 and 6 do not apply to a person who possesses a substance described in table 1 or table 2 in the Schedule for transportation if,—
 - (a) in the case of a substance transported by sea,—
 - (i) the person is the holder of a maritime document issued under Part 5 of the Maritime Transport Act 1994; and
 - (ii) the Maritime Rule Part 24A – Carriage of Cargoes – Dangerous Goods is complied with; and
 - (b) in the case of a substance transported by air,—
 - (i) the person is the holder of an aviation document issued under Part 1 of the Civil Aviation Act 1990; and
 - (ii) the Civil Aviation Rules are complied with; and
 - (c) in the case of a substance transported by rail,—

- (i) the rail wagon or freight container containing the substance is continuously locked and/or secured; and
 - (ii) a person who holds a controlled substances licence is present at dispatch and receipt of the substance and where the rail wagon or freight container is opened between dispatch and receipt (other than in an emergency); and
 - (iii) the Land Transport Rule – Dangerous Goods Rule 45001/1 is complied with.
- (2) Clauses 5 and 6 do not apply to a person who possesses a substance described in table 3 in the Schedule for transportation if—
- (a) the quantity of the substance that the person possesses at any time is less than 15 kg; and
 - (b) the Land Transport Rule – Dangerous Goods Rule 45001/1 is complied with.

8 Requirement for dangerous goods (D) endorsed driver licence

- (1) This clause applies to any person in charge of any transportation on public roads of a substance described in table 1 or table 2 in the Schedule.
- (2) Where such a person applies for a controlled substances licence authorising possession of the substance in amounts equal to or less than the quantities specified for the relevant classification in table 6 in Schedule 2 of the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001, regulation 6A of the Hazardous Substances and New Organisms (Personnel Qualification) Regulations 2001 applies as if paragraph (c) were omitted and the following substituted:
- (c) hold a driver licence with a current dangerous goods endorsement issued under Part 10 of the Land Transport (Driver Licensing) Rule 1999; and

9 Licence required for sale or supply

No person may sell or supply a substance described in table 3 in the Schedule to another person unless the person purchasing or taking receipt of the substance is the holder of—

- (a) a firearms licence; or
- (b) a firearms dealer’s licence; or
- (c) a controlled substances licence authorising possession of the substance.

10 Transitional provision for holder of approved handler test certificate

- (1) Clauses 5 and 6 do not apply to the possession of a substance by a person who, at the close of 30 June 2009, is the holder of an approved handler test certificate for that substance, until the later of—
- (a) the first renewal date of the approved handler test certificate that follows after the close of 30 June 2009; and
 - (b) 1 January 2010.
- (2) Clause 9 does not apply to the sale or supply of a substance to a person to whom subclause (1) applies.

**Schedule
Table 1**

UN Number	Class	Explosive Description
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UN Number	Class	Explosive Description
UN0114	1.1A	Guanyl nitrosaminoguanyltetrazene (Tetrazene) wetted with not less than 30% (by mass) being water or a mixture of alcohol and water.
UN0129	1.1A	Lead azide wetted with not less than 20% (by mass) being water or a mixture of alcohol and water.
UN0130	1.1A	Lead styphnate (lead trinitroresorcinate) wetted with not less than 20% (by mass) being water or a mixture of alcohol and water.
UN0135	1.1A	Mercury fulminate wetted with not less than 20% (by mass) being water or a mixture of alcohol and water.
UN0150	1.1D	Pentaerythrite tetranitrate (pentaerythritol tetranitrate; PETN) wetted with not less than 25% (by mass) being water, or Pentaerythrite tetranitrate (pentaerythritol tetranitrate; PETN), desensitized with not less than 15% (by mass) being phlegmatizer.
UN0154	1.1D	Picric acid – trinitrophenol.
UN0208	1.1D	Trinitrophenylmethylnitramine(tetryl).
UN0209	1.1D	Trinitrotoluene (TNT).
UN0027	1.1D	Black powder (gunpowder); meal or granular. Substance consisting of a mixture of charcoal, potassium nitrate, and sulphur.
UN0081	1.1D	Blasting explosives, Type A. Substances consisting of liquid organic nitrates such as nitroglycerin or a mixture of such ingredients with 1 or more of the following, nitrocellulose; ammonium nitrate or other inorganic nitrates; or aromatic nitro-derivatives, or combustible materials, such as wood-meal and aluminium powder.
UN0081	1.1D	Blasting explosives, Type A (permitted).
UN0082	1.1D	Blasting explosives, Type B. Substances consisting of a mixture of ammonium nitrate, sodium nitrate, and trinitrotoluene, with or without other substances such as wood-meal and aluminium powder.
UN0082	1.1D	Blasting explosives, Type B. Substances consisting of a mixture of ammonium nitrate and fuel oil with or without aluminium powder.

UN Number	Class	Explosive Description
UN0084	1.1D	Blasting explosives, Type D. Substances consisting of a mixture of organic nitrated compounds and combustible materials such as hydrocarbons and aluminium powder. These explosives must not contain nitroglycerin, similar liquid organic nitrates, chlorates, or ammonium nitrate.
UN0241	1.1D	Blasting explosives, Type E. Substances consisting of water as an essential ingredient and high proportions of ammonium nitrate or other oxidizers, some or all of which are in solution. The other constituents may include nitro-derivatives such as trinitrotoluene, hydrocarbons or aluminium powder, stabilizers and plasticizers, glass micro-balloons, and different oil blends.
UN0332	1.5D	Blasting explosives, Type E. Substances consisting of water as an essential ingredient and high proportions of ammonium nitrate or other oxidizers, some or all of which are in solution. The other constituents may include nitro-derivatives such as trinitrotoluene, hydrocarbons, or aluminium powder.
UN0029	1.1B	Detonators, non-electric for blasting. Articles consisting of a small metal or plastics tube containing explosives such as lead azide, PETN, or combinations of explosives. They are designed to start a detonation train. They may be constructed to detonate instantaneously, or may contain a delay element.
UN0030	1.1B	Detonators, electric for blasting. Articles consisting of a small metal or plastics tube containing explosives such as lead azide, PETN, or combinations of explosives. They are designed to start a detonation train. They may be constructed to detonate instantaneously, or may contain a delay element.
UN0030	1.1B	Detonators, electric for blasting (permitted). Articles consisting of a small metal or plastics tube containing explosives such as lead azide, PETN, or combinations of explosives. They are designed to start a detonation train. They may be constructed to detonate instantaneously, or may contain a delay element.
UN0030/0255	1.1B/1.4B	Detonators, electric for blasting. Articles consisting of a small metal or plastics tube containing explosives such as lead azide, PETN, or combinations of explosives. They are designed to start a detonation train. They may be constructed to detonate instantaneously, or may contain a delay element.
UN0030/0456	1.1B/1.4S	Detonators, electric for blasting. Articles consisting of a small metal or plastics tube containing explosives such as lead azide, PETN, or combinations of explosives. They are designed to start a detonation train. They may be constructed to detonate instantaneously, or may contain a delay element.

UN Number	Class	Explosive Description
UN0360	1.1B	Detonator assemblies, non-electric for blasting. Non-electric detonators assembled with, and activated by, such means as safety fuse, shock tube, flash tube, or detonating cord. They may be of instantaneous design or incorporate delay elements. Detonating relays incorporating detonating cord are included. Other detonating relays are included in detonators, non-electric UN0029.
UN0042	1.1D	Boosters without detonator. Articles consisting of a plastic or cardboard shell filled with a mixture of PETN and TNT (Pentolite) and the following optional ingredients, RDX, ammonium nitrate, sodium nitrate, potassium nitrate, barium sulphate, plasticisers, and other insert materials.
UN0048	1.1D	Charges, demolition. Articles containing a charge of a detonating explosive in a casing of fibreboard, plastics, metal or other material.
UN0059	1.1D	Charges, shaped, without detonator. Articles consisting of a casing containing a charge of detonating explosive with a cavity lined with rigid material, without means of initiation. They are designed to produce a powerful, penetrating jet effect.
UN0059/0349	1.1D/1.4S	Charges, shaped, without detonator.
UN0059/0441	1.1D/1.4S	Charges, shaped, without detonator.
UN0065	1.1D	Cord, detonating, flexible. Article consisting of a core of detonating explosive enclosed in spun fabric, with plastics or other covering unless the spun fabric is sift proof.
UN0065/0289	1.1D/1.4D	Cord, detonating, flexible. Article consisting of a core of detonating explosive enclosed in spun fabric, with plastics or other covering unless the spun fabric is sift proof.
UN0065/0349	1.1D/1.4S	Cord, detonating, flexible. Article consisting of a core of detonating explosive enclosed in spun fabric, with plastics or other covering unless the spun fabric is sift proof.
UN0288	1.1D	Charges, shaped, flexible, linear. Articles consisting of a V-shaped core of a detonating explosive clad by a flexible metal sheath.
UN0290/0289	1.1D/1.4D	Cord (fuse), detonating, metal clad/cord, detonating, flexible. Article consisting of a core of detonating explosive clad by a soft metal tube with or without protective covering.

UN Number	Class	Explosive Description
UN0333	1.1G	Fireworks. Display pyrotechnics designed for entertainment and not covered by the Hazardous Substances (Fireworks) Regulations 2001: Bouquets, coloured fires and lights, crackers, fountains, gerbs, lances, maroons, mines, port fires, rockets, roman candles, saxons, scintillettes, serpents, squibs (with or without reports), tourbillions, wheels, and other manufactured fireworks, being in each case fireworks intended for display or entertainment purposes.
UN0328	1.2C	Cartridges for weapons, inert projectile. Ammunition consisting of a projectile without a bursting charge but with a propelling charge.
UN0314	1.2G	Igniters. Articles containing 1 or more explosive substances used to start deflagration in an explosive train. They may be actuated chemically, electrically, or mechanically.
UN0334	1.2G	Fireworks. Display pyrotechnics designed for entertainment and not covered by the Hazardous Substances (Fireworks) Regulations 2001: Bouquets, coloured fires and lights, crackers, fountains, gerbs, lances, maroons, mines, port fires, rockets, roman candles, saxons, scintillettes, serpents, squibs (with or without reports), tourbillions, wheels, and other manufactured fireworks, being in each case fireworks intended for display or entertainment purposes.
UN0186	1.3C	Rocket motors. Articles consisting of a solid, liquid, or hypergolic fuel contained in a cylinder fitted with 1 or more nozzles.
UN0277	1.3C	Cartridges, oil well. Articles consisting of a casing of thin fibre, metal, or other material, and containing only propellant that projects a hardened projectile.
UN0101	1.3G	Fuse, instantaneous non-detonating (Quickmatch). Articles consisting of cotton yarns impregnated with a fine black powder.
UN0335	1.3G	Fireworks. Display pyrotechnics designed for entertainment and not covered by the Hazardous Substances (Fireworks) Regulations 2001: Bouquets, coloured fires and lights, crackers, fountains, gerbs, lances, maroons, mines, port fires, rockets, roman candles, saxons, scintillettes, serpents, squibs (with or without reports), tourbillions, wheels, and other manufactured fireworks, being in each case fireworks intended for display or entertainment purposes.

UN Number	Class	Explosive Description
UN0430	1.3G	Articles, pyrotechnic (for technical purposes). Articles that contain pyrotechnic substances and are used for technical purposes such as heat generation, gas generation, theatrical effects, and the like.
UN0442/0444	1.1D/1.4D	Charges, explosive, commercial, without detonator. Articles consisting of a charge of detonating explosive without means of initiation, used for explosive welding, jointing, forming and other metallurgical processes.
UN0488	1.3G	Ammunition, practice. Ammunition without a main bursting charge, containing a burster or expelling charge. Normally, it also contains a fuse and a propelling charge.
UN0255	1.4B	Detonators, electric (for blasting). Articles consisting of a small metal or plastic tube containing explosives such as lead azide, PETN, or combinations of explosives.
UN0257	1.4B	Fuses, detonating. Articles designed to start a detonation or a deflagration in ammunition. They incorporate mechanical, electrical, chemical, or hydrostatic components and generally protective features.
UN0361	1.4B	Detonator assemblies, non-electric (for blasting) as listed under UN0360 detonator assemblies, 1.1B. Articles consisting of a small metal or plastic tube containing explosives such as lead azide, PETN, or combinations of explosives.
UN0276	1.4C	Cartridges, power device. Articles consisting of a casing with a charge of deflagrating explosive and a means of ignition.
UN0338	1.4C	Cartridges for weapons, blank or cartridges, small arms, blank. Articles that consist of a cartridge case with a centre or rim fire primer and a confined charge of smokeless or black powder but no projectile. Used for training, saluting, and in starter pistols, and the like.
UN0339	1.4C	Cartridges for weapons, inert projectile or cartridges, small arms. Ammunition consisting of a projectile without a bursting charge but with a propelling charge.
UN0410	1.4D	Fuses, detonating with protective features. Articles designed to start a detonation or a deflagration in ammunition. They incorporate mechanical, electrical, chemical, or hydrostatic components and generally protective features.

UN Number	Class	Explosive Description
UN0412	1.4E	Cartridge for weapons with bursting charges. Fixed (assembled) or semi-fixed (partially assembled) ammunition designed to be fired from weapons. Each cartridge includes all the components necessary to function the weapon once. The name and description must be used for small arms cartridges that cannot be described as cartridges, small arms. Separate loading ammunition is included under this name and description when the propelling charge and projectile are packed together.
UN0066	1.4G	Cord, igniter. Article consisting of textile yarns covered with black powder or another fast burning pyrotechnic composition and with a flexible protective covering, or it consists of a core of black powder surrounded by a flexible woven fabric.
UN0297	1.4G	Ammunition, illuminating with or without burster, expelling charge, or propelling charge. Ammunition designed to produce a single source of intense light for lighting up an area.
UN0301	1.4G	Ammunition, tear-producing. Ammunition containing toxic agent. It also contains 1 or more of the following, a pyrotechnic substance, a propelling charge with primer and igniter charge, a fuze with burster or expelling charge.
UN0303	1.4G	Ammunition, smoke with or without burster, expelling charge, or propelling charge (other than water-activated ammunition with white phosphorus or phosphides).
UN0320	1.4G	Primers, tubular. Articles consisting of a primer for ignition and an auxiliary charge of deflagrating explosive such as black powder used to ignite the propelling charge in a cartridge case for cannon, and the like.
UN0325	1.4G	Igniters. Articles containing 1 or more explosive substances used to start deflagration in an explosive train.
UN0336	1.4G	Fireworks. Display pyrotechnics designed for entertainment and not covered by the Hazardous Substances (Fireworks) Regulations 2001: Bouquets, coloured fires and lights, crackers, fountains, gerbs, lances, maroons, mines, port fires, rockets, roman candles, saxons, scintillettes, serpents, squibs (with or without reports), tourbillions, wheels, and other manufactured fireworks, being in each case fireworks intended for display or entertainment purposes.
UN0362	1.4G	Ammunition, practice. Ammunition without a main bursting charge, containing a burster or expelling charge. Normally, it also contains a fuze and a propelling charge.

UN Number	Class	Explosive Description
UN0431	1.4G	Articles, pyrotechnic (for technical purposes). Articles that contain pyrotechnic substances and are used for technical purposes such as heat generation, gas generation, theatrical effects, etc.
UN0105	1.4S	Fuse, safety. Article consisting of a core of fine grained black powder (typically 65% potassium nitrate, 24% sulphur, and 11% carbon), 5 grams/metre surrounded by a flexible woven fabric with 1 or more protective outer coverings (bitumen, plastic, or yarn and wax). In some cases, sodium nitrate may be substituted for potassium nitrate.
UN0131	1.4S	Lighters, fuse. Articles of various designs actuated by friction, percussion, or electricity and used to ignite safety fuse.
UN0337	1.4S	Firework. Display pyrotechnics designed for entertainment and not covered by the Hazardous Substances (Fireworks) Regulations 2001: Bouquets, coloured fires and lights, crackers, fountains, gerbs, lances, maroons, mines, port fires, rockets, roman candles, saxons, scintillettes, serpents, squibs (with or without reports), tourbillions, wheels, and other manufactured fireworks, being in each case fireworks intended for display or entertainment purposes.
UN0349	1.4S	Articles, explosive, N.O.S. (not otherwise specified).
UN0432	1.4S	Articles, pyrotechnic (for technical purposes). Articles that contain pyrotechnic substances and are used for technical purposes such as heat generation, gas generation, theatrical effects, and the like.

Table 2

UN Number	Class	Explosive Description
UN0160/0161	1.3C*/1.1C	Smokeless powder (single base, double base, triple base).
UN0499	1.3C	Propellants. Solid substances consisting of a deflagrating solid explosive used for propulsion.

* Smokeless powder contained in total quantities greater than 500 kg is classified as 1.1C

Table 3

UN Number	Class	Explosive Description
UN0027	1.1D	Black powder (gunpowder). Meal or granular. Substance consisting of a mixture of charcoal, potassium nitrate, and sulphur.
UN0160/0161	1.3C*/1.1C	Smokeless powder (single base, double base, triple base).
UN0499	1.3C	Propellants. Solid substances consisting of a deflagrating solid explosive used for propulsion.

* Smokeless powder contained in total quantities greater than 500 kg is classified as 1.1C

Appendix 2: Submitters

Submission No.	Submitter
12015	Dargaville Firearm and Militaria Collectors Club
12016	Barry Wah Lee
12017	Chaz Forsyth
12019	New Zealand Defence Forces
12022	Ben Timmins
12023	Prime Explosives
12026	New Zealand Antique and Historical Arms Association Ltd (NZAHAA)
12027	Errol McIntyre
12028	John B Hart
12029	Northland Black Powder Club
12030	Steve's Wholesale Ltd
12031	Tony Cheyne
12032	Brent Oldham
12033	Hayes and Associates Ltd
12034	Graeme Malone
12035	Philip Quaife
12036	George S McIntosh
12037	R Latimer
12038	Grant Burton
12039	Aaron Fulton
12040	Bill Falcone
12041	Maritime New Zealand
12042	Alan Broomhall
12043	Hayden Francis
12044	Firework Professionals Ltd
12045	Ian Montgomery
12046	New Zealand Society of Gunsmiths inc (NZSG)
12047	Far North Firearms shooting Association Inc (FNFSA)
12048	New Zealand Armed Constabulary Force Reenactment Society Inc (NZACFRS)
12049	New Zealand Muzzle Loading Association Inc (NZMLA)
12050	Evan Birchfield
12051	David York
12052	New Zealand Ammunitions Company Ltd
12053	Orica Mining Services
12054	New Zealand Chemistry Industry Council

12055	Road Transport Forum NZ
12056	John Ivanof
12057	New Zealand Deerstalkers Association Inc
12058	Stuart Hayman
12059	Federated Farmers
12060	Tai Poutini Polytechnic
12061	MinEx Health and Safety Council Inc
12062	Aggregate and Quarry Association of New Zealand Inc
12063	Rural Contractors New Zealand
12079	The Institute of Quarrying New Zealand (Inc.)

Appendix 3: Decision Path

Context

This decision path describes the decision-making process for applications to **modify an approval to import or manufacture a hazardous substance** under section 63A of the HSNO 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 ERMA New Zealand Methodology.

The decision path has two parts –

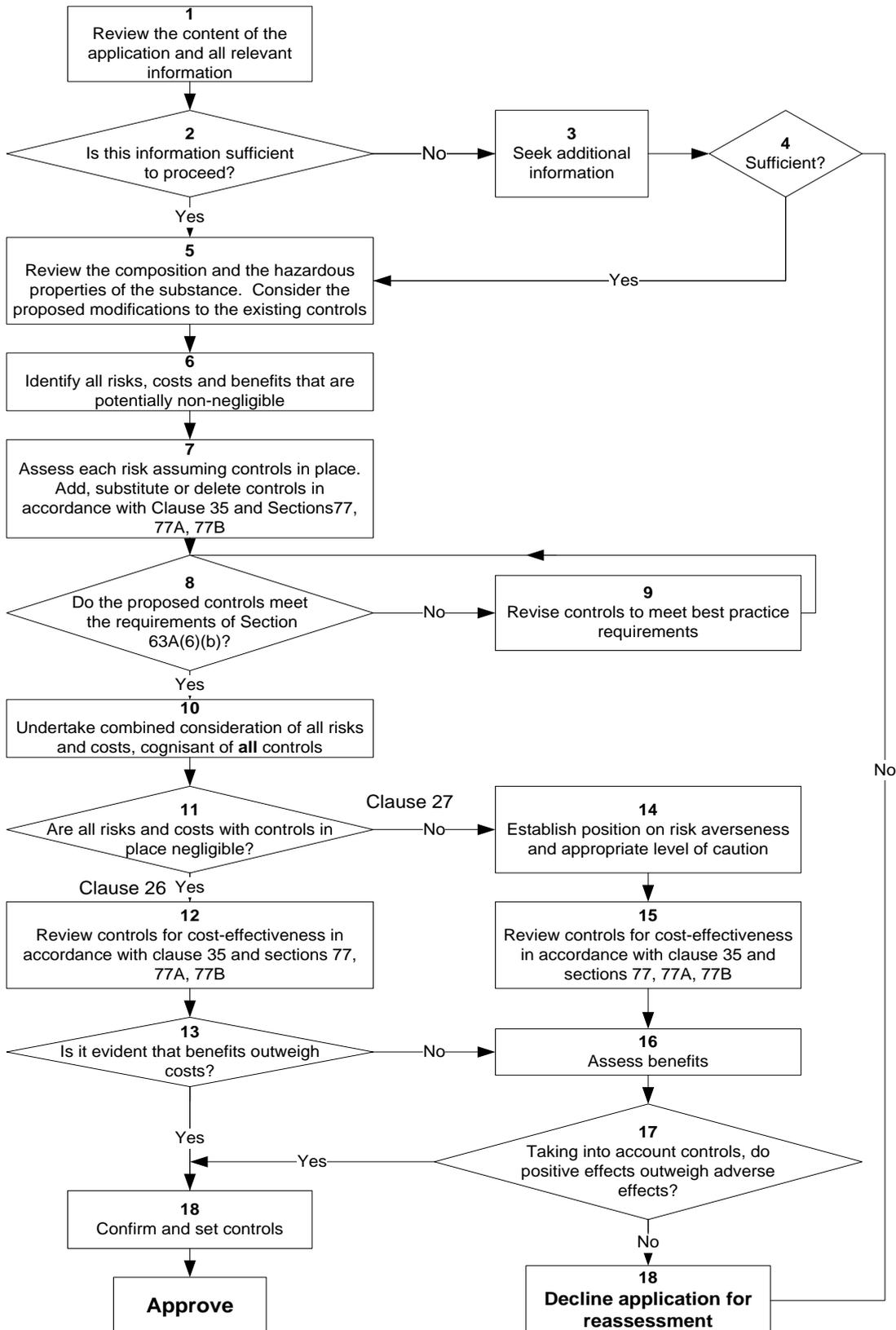
- **Flowchart** (a logic diagram showing the process prescribed in the Methodology and the HSNO Act to be followed in making a decision), and
- **Explanatory notes** (discussion of each step of the process).

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 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.

FLOWCHART

Decision path for modified reassessment for amendments to hazardous substance approvals: application made and determined under section 63A.



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.

While section 63A is not mentioned in section 53 (public notification), sections 63A(4) and (5) provide discretion for the Authority to consider public notification (cf section 53(2)) and guidance re consultation where an application is not publicly notified.

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.

Item 3: (if ‘no’) Seek additional information

If there is not sufficient information then additional information may need to be sought under section 52 or 58 of the Act.

If the applicant is not able to provide sufficient information for consideration then the application is not approved. In these circumstances the Authority may choose to decline the application, or the application may lapse.

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 for reassessment must be declined (see item 18).

Item 5: (if ‘yes’ from item 2 or from item 4) Review the composition and the hazardous properties of the substance, and the proposed modifications to the existing controls

Review the composition of the substance, its hazardous properties, and the existing suite of controls on the substance. The level of detail for this review will depend on the nature of the application for modified reassessment. In most cases a detailed review will not be required.

Consider the proposed modifications to the existing controls.

Item 6: Identify all risks, costs and benefits that are potentially non-negligible²

The modified reassessment process concentrates on a specific aspect of the approval (section 63A(1)(a)). All risks, costs and benefits that are potentially non-negligible need to be identified. However, emphasis should be placed on effects that are expected to change as a result of the proposed changes to controls.

² 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. However, in most cases these ‘values’ are not certain and have a likelihood attached to them. Thus costs and risks are generally synonymous and may be addressed together. Examples of costs that cannot be considered as risks are one-off direct financial costs incurred by applicants, that cannot be considered as ‘sunk’ costs (see footnote 1). Where such costs arise they will be considered in the same way as risks, but their likelihood of occurrence will be more certain.

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 Act³. 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 negligible⁴, 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. Assess each potentially non-negligible risk and cost estimating the magnitude of

³ 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.

⁴ 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.

the effect if it should occur and the likelihood of its 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)).

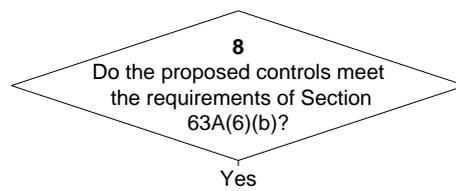
Consider the Authority's approach to risk (clause 33 of the Methodology) or how risk averse the Authority should be in giving weight to the residual risk, where residual risk is the risk remaining after the imposition of controls. See ERMA New Zealand report 'Approach to Risk' for further guidance⁵.

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 12 and 15.

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: Do the proposed controls meet the requirements of Section 63A(6)(b)?**
Consider whether the proposed controls meet best international practices and standards for the safe management of hazardous substances. This includes the full suite of proposed controls including existing controls and modified controls.
- Item 9: (if 'no' from item 8) Revise controls to meet best practice requirements**
If the controls do not meet the best international practice criteria, then modify the controls so that they do meet them.

**Item
10:**



⁵ <http://www.ermanz.govt.nz/resources/publications/pdfs/ER-OP-03-02.pdf>

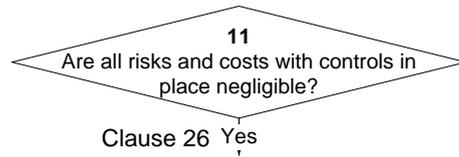
(if ‘yes’ from item 8) Undertake combined consideration of all risks and costs, cognisant of proposed controls

Once the risks and costs have been assessed individually consider all risks and costs together as a ‘basket’ of risks/costs. If it is feasible and/or appropriate, this may involve combining groups of risks and costs as for Clause 34 of the Methodology. The purpose of this step is to consider synergistic effects and determine whether these may change the level of individual risks.

Item 11: Are all risks and costs with controls in place negligible?

Looking at individual risks in the context of the ‘basket’ of risks, consider whether any of the residual risks (costs) are negligible.

Item 12:



(if ‘yes’ from item 11) 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 cost-effectiveness of the proposed individual controls and exposure limits. 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 13: 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 costs⁶. 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

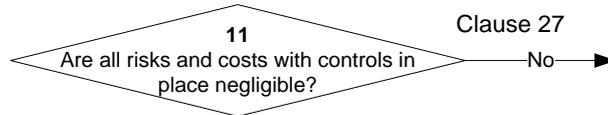
⁶Technical Guide ‘Risks, Costs and Benefits’ page 6 - Note that, where risks are negligible and the costs accrue only to the applicant, no explicit cost benefit analysis is required. In effect, the Authority takes the act of making an application as evidence that the benefits outweigh the costs”. See also Protocol Series 1 ‘General requirements for the Identification and Assessment of Risks, Costs, and Benefits’.

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 16).

Item

14:



(if ‘no’ from item 10) 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

15:

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 10, 13, 14 and 15).

Consider (a) whether any of the non-negligible risks can be reduced by varying the controls in accordance with section 77 and 77A of the Act, and (b) the cost-effectiveness of the controls. Where relevant and appropriate, add, substitute or delete controls whilst taking into account the view of the applicant, and making sure that the benefits of doing so outweigh the costs. As for item 6, If the substance has toxic or ecotoxic properties, consider exposure limits under section 77B.

Item

16:

(if ‘no’ from item 13, or in sequence from item 15) 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 its 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 costs⁷. 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

⁷ This principle derives from Protocol Series 1, and is restated in the Technical Guide ‘Risks, Costs and Benefits’.

to sustain a claim of an overall net benefit if those who enjoy the benefits are 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 17: **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 (9), 12 and/or 15.

Where this item is taken in sequence from items 14, 15 and 16 (i.e. risks are not negligible) it constitutes a decision made under clause 27 of the Methodology.

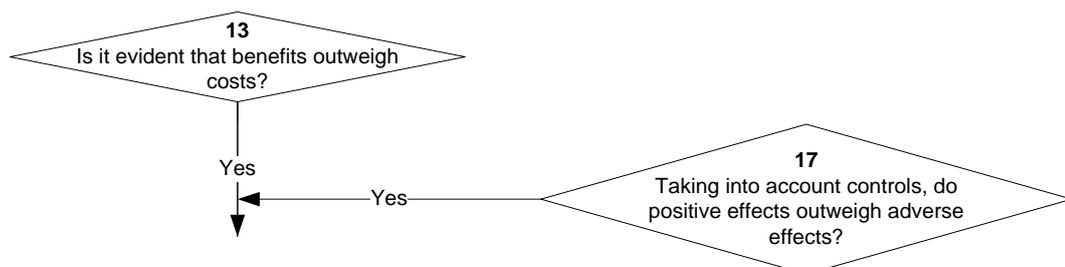
Where this item is taken in sequence from items 11, 12 and 13 (i.e. risks are negligible, and there are external or public costs) it constitutes a decision made under clause 26 of the Methodology.

Item 18: **(if ‘no’ from item 4 or item 17) Decline application for reassessment**
 (from item 4) The Act is silent on the situation if there is insufficient information to consider the application. However, sections 55-61 (section 63A(3)) are deemed to hold, therefore the Authority concludes that the application for reassessment may be declined if there is insufficient information.

(from item 17) The Authority may decline the application under section 63A(6) after taking into account the effects of the substance and best international practices and standards.

Section 63A(2)(b) notes that this modified reassessment process cannot result in an approval to import or manufacture the substance being revoked. Therefore, if the process results in a ‘decline’ decision, then the result is that the modified reassessment of the substance is not approved, and the existing controls remain in force.

Item 19:



(if ‘yes’ from items 13 or 17) Confirm and set controls
 Controls have been considered at the earlier stages of the process (items 5, 7 (9), 12 and/or 15). 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.

