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Section 12 Summary

Although the EA Study document includes consideration of the appropriate level of details about the Undertaking at an EA level of detail as part of the planning process, the details of the Project will be refined and other changes may arise during the detailed design phase and/or during the construction and operational periods. This section describes the proposed procedure to accommodate changes to the Project. These changes could occur because the environmental setting has changed since the Undertaking was approved or there is a new technology of which the Regions would like to take advantage.

12. Changes to the EA

Although the EA Study document includes consideration of the Undertaking at an EA level of detail as part of the planning process, the details of the Project will be refined and other changes may arise during the detailed design phase and/or during the construction and operational periods. The following section describes the procedure to accommodate changes to the Project. In accordance with the EAA, a change to an undertaking, after it is approved may be considered a new undertaking. However, including change procedure in the environmental assessment will allow the Regions to make certain modifications to the approved Undertaking without having the change regarded as a new undertaking under the EAA.

In recognition of the fact that there could be changes to the Undertaking following its approval by the Minister under the EAA during detailed design and/or construction, Durham and York are proposing an amendment procedure to this EA Study. This amendment procedure would benefit all parties potentially involved by providing an agreed to and well understood approvals process for ensuring that proposed changes to the Undertaking are effectively and appropriately dealt with.

With this in mind, Durham and York are proposing that any refinements or changes to the Undertaking be first reviewed by them and then grouped into one of two categories:

- Category 1 - a minor amendment required; or,
- Category 2 - a major amendment required.

As a result of this approach, two amendment procedures are being proposed: one associated with Category 2 and one associated with Category 3.

12.1 Change Review Process

During the detailed design, construction or operation of the Undertaking, changes to some aspects of the Project may occur due to many factors, including:

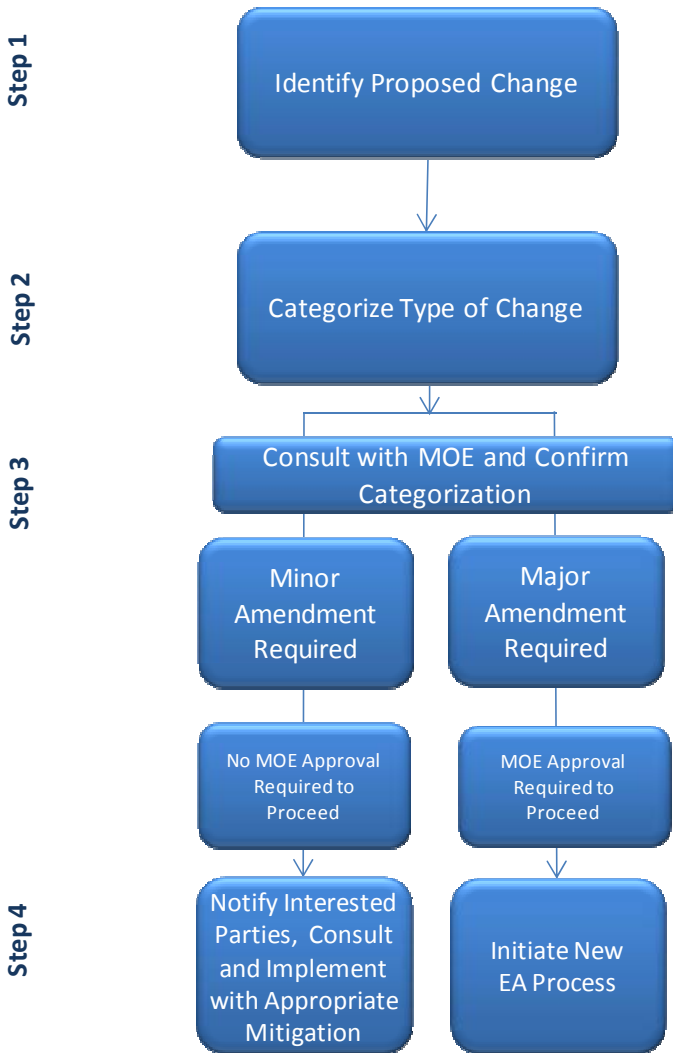
- a) unforeseen site-specific problems encountered only during detailed design, construction or operation;
- b) normal course refinements in the design at the detailed design stage;
- c) improvements in the design to provide greater environmental benefits and/or less adverse effects;
- d) elements of the Project that were not previously envisioned;
- e) circumstances that develop at the time of construction;
- f) issues identified in other approvals processes;
- g) changes to the regulatory framework (i.e., new legislation or regulations); and,
- h) new opportunities or needs in relation to the Facility.

Where such changes may occur, a process must be followed to consider them within the context of the Minister approved EA in order to determine if an amendment to the EA is required based on the significance of the change. Therefore, any potentially material changes to the

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approved Undertaking will be considered by Durham and York for EA significance prior to them being carried out. Figure 12-1 presents the proposed process for identifying, assessing and implementing potential changes to the EA.

Figure 12-1 Proposed Change Review Process



With this in mind, the following questions will be applied to the proposed change as part of the review to determine how it should be dealt with within the context of the amendment procedures:

- a) Is there a change to what was proposed to be built?
- b) Is there a change to how something was to be built?
- c) Is there a change to when something was to be built?

Durham and York will utilize the responses to these questions to determine how the proposed change will be dealt with. For example, in the case where a “Yes” is provided, then Durham and York in consultation with the MOE, will determine the significance of that change in terms of its

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potential effect on the environment, potential effects on stakeholders (including the public), and/or a commitment made in the Minister approved EA.

12.2 Minor Amendments

As the design of the Facility progresses, if a change is considered to be normal course refinement to the initial conceptual design of the Undertaking, then it is likely that no amendment would be required and Durham and York could go ahead and implement the change (although it may require other approvals issued by the Ministry to be amended (such as C of As). Potential examples of this would include the alteration or change in location or configuration of equipment within the previously defined development area, where the alteration or change results in similar or reduced potential effects that have been previously identified or included in the approved EA. In these circumstances the proponent would notify the MOE of the change but would not seek formal approval to proceed.

Proposed changes to the Undertaking of a minor nature that go beyond normal course refinements as the Facility design progresses would also be categorized as minor amendments. Minor changes would not alter the Undertaking significantly. Minor changes would not include changes identified in Ontario Regulation 101/07, as amended, that would trigger an EA.

In the case of a minor amendment, regardless of the changes proposed, the conclusion that the Undertaking is required, and its status as the Undertaking in relation to the other alternatives considered during the EA, would not be affected or opened to re-evaluation.

Some examples of proposed changes that would be considered as requiring a minor amendment include the following:

- a) A change in the storage capacity or maximum rate of receipt of waste at the Site on any one day.
- b) Implementation of onsite pre-processing of waste materials to recover additional materials and to improve fuel quality.

In these types of circumstances, the following process will be followed:

- a) The Proponents will attempt to accommodate any concerns raised by any potentially directly affected stakeholders identified by the Regions.
- b) The Proponents will implement the proposed change ensuring that any appropriate mitigation/compensation/enhancement measures are documented and provided for and carried out.

Consultation to be undertaken in support of minor amendments will be determined in consultation with the MOE, EAAB.

Should the minor amendment include matters requiring amendments to the C of As, then approval will be required by the Director of the MOE under Section 9 or Section 27 of the EPA.

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12.3 Major Amendments

Proposed changes to the Undertaking of a more significant nature would be categorized as major amendments. In general, these proposed changes would alter the Undertaking significantly.

Some examples of these proposed changes would include the following:

- a) A change that increases the amount of waste that is authorized to be thermally treated at the Facility on any one day;
- b) A change that would result in a change in the Service Area for the Facility.

Where the proposed change is determined to be a major amendment, Durham and York will be subject to a new environmental assessment process for the major amendment in accordance with Ontario Regulation 101/07, as amended, under the EAA.

In the case of a major amendment, regardless of the changes proposed, the conclusion that the Undertaking is required, and its status as the Undertaking in relation to the other alternatives considered during the EA Study, would not be affected or opened to re-evaluation. Therefore, the scope of the new environmental assessment process would focus on the proposed change that is determined to be a major amendment.

12.4 Applicability of Ontario Regulation 101/07 – Waste Management Projects

The Undertaking would be classified as a thermal treatment site under Section 11 (1) 2 of O. Reg. 101/07 as the proposed Facility would be a: “Thermal treatment site that does not use coal, oil or petroleum coke as a fuel for thermal treatment and that produces EFW”. Such projects are not subject to Part II of the EAA.

As set out in O. Reg. 101/07 environmental screening is required for the following changes:

- a Thermal Treatment Site as described in section:11(1)2, 11(1)3 or 11(2) for a change that increases the amount of waste that is authorized to be thermally treated at the site on any day, in accordance with Section 17 of O. Reg. 101/07; and,
- A Waste Disposal Site as described in section 2(1), 11(1) or 11(2) for a change that would include new area to the geographic area from which the site is authorized to receive waste, in accordance with Section 18 of O. Reg. 101/07.

The Undertaking for which approval is being sought is a Thermal Treatment Facility that does not use coal, oil or petroleum coke as a fuel for thermal treatment and that produces Energy-from-Waste, capable of processing 140,000 tpy. The Certificate of Approval for the Facility will be sought for the initial design capacity of the Facility and therefore, should the Regions proceed with an expansion in the future, additional studies would be required to support the increase in capacity. This work would be required to be completed, to meet the environmental screening requirements under Ontario Regulation 101/07, as amended, (or the applicable piece of legislation at the time of expansion) subject to interpretation by the Ministry of the Environment.