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Section 12 Summary

Although the EA Study document includes consideration of the appropriate level of details about the Undertaking as part of the planning process, the details of the Project will be refined and other changes may arise during the 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 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 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 an amendment 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 three categories:

- Category 1 - no amendment required;
- Category 2 - a minor amendment required; or,
- Category 3 - 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

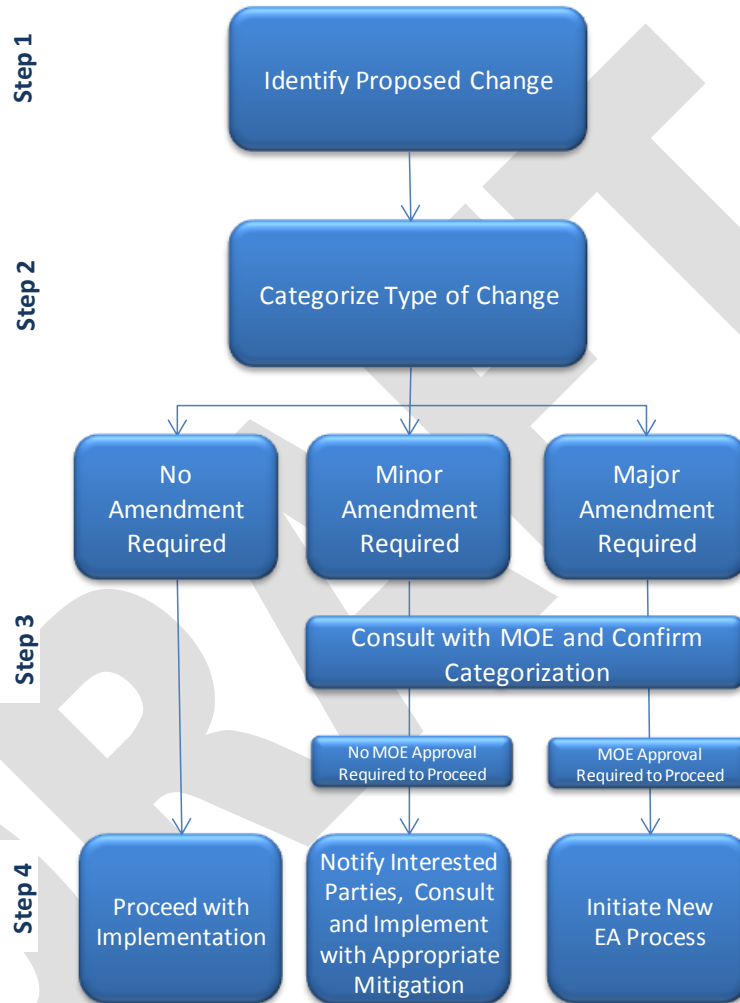
During the detailed design, construction or operation of the Undertaking, changes to some aspects of the project may occur due to:

- 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; and,
- g) changes to the regulatory framework (i.e., new legislation or regulations).

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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 changes to the 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:

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

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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 will determine the significance of that change in terms of its potential effect on the environment, potential effects on stakeholders (including the public), and/or a commitment made in the Minister approved EA.

12.2 No 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 is determined to be negligible, then no amendment would be required and Durham and York could go ahead and implement the change. 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.

Essentially, those changes that would be regarded as requiring ‘no amendments’ would be those that would also not trigger any requirement to seek amendments under the EPA to the required C of As for the Facility.

If the significance of the change results in an increased potential adverse effect, then it would be categorized as either a minor or major amendment.

12.3 Minor Amendments

Proposed changes to the Undertaking of a minor nature that go beyond normal course refinements as the facility design progresses would be categorized as minor amendments. Minor changes would not alter the Undertaking significantly in terms of what would be built, where it would be built, how it would be built, and/or when it would be built. Minor changes would be those that would likely trigger the need for amendments to the C of As but 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) Changes in the frequency of on and offsite monitoring and/or changes in the parameters that would be monitored and/or reporting requirements.
- b) A change in the storage capacity or maximum rate of receipt of waste at the Site on any one day.
- c) Implementation of onsite pre-processing of waste materials to recover additional materials and to improve fuel quality.

Where the proposed change is determined to be a minor amendment, then the following process will be followed:

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

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

Minor amendments will be addressed without requesting formal approval from the Minister, but will be subject to any applicable legislation as required prior to construction. Should the Minor Amendment include 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.

12.4 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 Site 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.