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12. Changes to the EA

Although the EA Study documentation includes consideration of the appropriate level of details about the Undertaking as part of the planning process, 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. 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. In accordance with the *Environmental Assessment Act*, a change to an undertaking after it is approved is considered a new undertaking. However, including an amendment procedure in the environmental assessment will allow the Regions to make minor modifications to the approved undertaking without having the change regarded as a new undertaking under the *Environmental Assessment Act* (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 Regions 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 Regions are proposing that any unforeseen 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

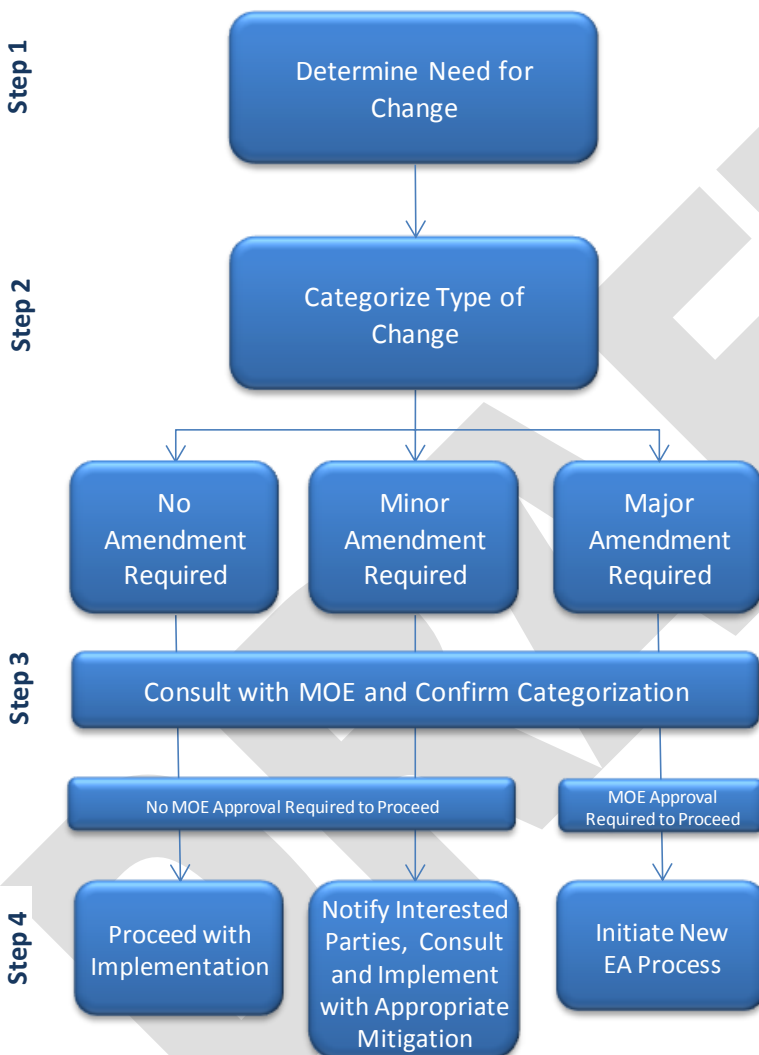
During the detailed design, construction or operation of the Undertaking, changes to some aspects of the project may occur due to:

- a) unforeseen site-specific problems encountered only during detailed design, construction or operation;
- b) improvements in the design to provide greater environmental benefits and/or less adverse effects;
- c) elements of the project that were not previously envisioned;
- d) circumstances that develop at the time of construction;
- e) issues identified in other approvals processes; and,
- f) 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 is required based on the significance of the change. Therefore, any unforeseen changes to the Minister approved Undertaking will be reviewed by Durham and York Regions 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 Regions 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 Regions 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

If the significance of the change is determined to be negligible, then no amendment would be required and Durham and York Regions could go ahead and implement the change. Potential examples of this would include the following:

- a) 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.
- b) Regular anticipated adjustments/updates to the Design and Operations report or various Procedures Manuals and/or Emergency Response Plans for the Facility.

Essentially, those changes that would be regarded as requiring ‘no amendments’ would be those of that would also not trigger any requirement to seek amendments under the EPA to the required Certificates of Approval 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 approved EA of a minor nature 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 trigger the need for amendments to the Certificates of Approval but would not include changes identified in Ontario Regulation 101/07 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) Shifts or reconfigurations in the vertical or horizontal locations and footprint of the Facility layout. For instance, reconfiguration of onsite road infrastructure to better support inbound and outbound traffic movements.
- b) Changes in the frequency of on and offsite monitoring and/or changes in the parameters that would be monitored and/or reporting requirements.
- c) A change in the storage capacity or maximum rate of receipt of waste at the Site on any one day.

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- d) 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:

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

Consultation undertaken in support of minor amendments will at minimum address the requirements that have been identified as part of the approval process for applications under Part V, Section 27 of the EPA in the applicable MOE guidelines.

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 Certificate(s) of Approval, then approval will be required by the Director of the Ministry of the Environment under Section 9 or Section 27 of the EPA.

12.4 Major Amendments

Proposed changes to the approved EA Study of a more significant nature would be categorized as major amendments. In general, these proposed changes would 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.

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 Regions will be subject to a new environmental assessment process for the major amendment in accordance with Ontario Regulation 101/07 under the EAA, as essentially major amendments would be those that have been identified as a "Change" within this regulation that would render the Change as being subject to Part II of 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.

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12.5 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 subject to Part II of the EA Act.

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 expansion to thermally process up to the equivalent of 400,000 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 may be required to be completed, to meet the environmental screening requirements under Ontario Regulation 101/07 subject to interpretation by the Ministry of the Environment. However, it is the proponents expectation that should the Facility be expanded within the short-term (i.e., within the next five (5) years), a number of the specific supporting documents that would be required to support environmental screening would not require updating as these studies have already assessed the potential impacts of the Undertaking at its maximum capacity of 400,000 tpy.