



EPA Guidance for Licensees on Requests for Alterations to the installation/facility

ENVIRONMENTAL PROTECTION AGENCY
An Ghníomhaireacht um Chaomhnú Comhshaoil
PO Box 3000, Johnstown Castle Estate, Co Wexford, Ireland
Telephone: +353-53-9160600; Fax: +353-53-9160699
E-mail: info@epa.ie Website: www.epa.ie
Lo Call: 1890 335599

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Introduction

This guidance is for IPC, Waste and Industrial Emissions licensees.

The EPA has added new functionality to EDEN to provide for the submitting of requests relating to alterations to the installation/facility via an on-line application. This guidance supports the application.

This guidance is not exhaustive and does not preclude a licensee from selecting any particular option.

It aims to assist licensees in managing proposed alterations to the installation/ facility including those alterations comprising or for the purposes of the activity.

Proposed alterations to be notified to the EPA are not limited to those which have an adverse impact on the environment but include changes in site management, range of processes carried out, fuels, raw materials, intermediates, products or wastes generated. Proposed alterations are substantial where it includes any change in the nature or functioning, extension, reconstruction of the installation if those proposals would or likely to, change or increase emissions or cause new emissions in a manner which would have consequences for the environment.

For the purposes of clarity, the EPA cannot grant a licence where emissions will result in the contravention of any relevant:

- air quality standard,
- water quality standard or objective,
- noise regulations,
- EC standard for an environmental medium or
- emission standards.

Categories of Alterations

This guidance aims to bring about efficiencies in processing requests and make transparent the legal requirements underpinning decision making, and in so doing enable licensees to engage with the EPA in a timely and efficient manner. Currently there are three mechanisms available for regularising an alteration request and these are as follows:

- (i) a request for approval (Condition 1 approval) to the Office of Environmental Enforcement via a 'licensee return' on EDEN,
- (ii) a licence amendment (technical/clerical amendment (TA /CA)), or
- (iii) a review of the licence.

In general, alterations which are managed under a Request for Approval or by way of a Licence Amendment are regarded as relatively minor. The specific nature of individual requests will be taken into account by the EPA. Please note that the EPA may, in considering any request for an alteration, take other matters into account and may review the licence even when it appears that the proposed alteration is immaterial.

The table on page 4 sets out in-so-far as is possible typical alterations that can be accommodated under the various mechanisms available to the EPA. This guide is designed to screen the environmental significance of the proposed alteration and assist licensees in understanding and selecting the most appropriate mechanism to their request and thereby reducing the administrative burden and improve efficiencies. Explanatory notes are provided to give some background to the questions posed and to explain how the answers

given may influence the outcome. The IED/IPC/Waste licence application form provides further guidance on the requirements set out below and is a key reference document. The information provided at the time of licensing and as varied by the conditions of your licence is the reference to be used in answering the following questions.

By way of further explanation it may be useful to understand that the questions in the table have been formulated having regard to the following legal instruments:

1. [European Communities \(Birds and Natural Habitats\) Regulations 2011](#) and 2013
2. [EIA Regulations 2012 \(S.I. No. 282, 283, 457 of 2012\)](#)
3. [IED Directive and Regulations 2013 \(S.I. No. 565 & 566 of 2012 and 137, 138 & 148 of 2013\)](#)
4. [Section 83\(5\) of the EPA Act 1992 as amended and Section 40\(4\) of the Waste Management Act, 1996 as amended \(in particular\).](#)

This guidance does not consider the nature and circumstances of technical amendments or reviews initiated by the EPA.

This guidance does not deal with other requests for approvals that are specifically catered for by a condition of the licence such as changes to scope and frequency of monitoring or variations in waste types being accepted. These requests should be made under the appropriate 'Licensee Return' in LMA and by reference to the specific relevant condition of the licence.

On-line Request Alteration Application

This guidance supports the on-line 'Request Alteration' application available on LMA via your EDEN log-in.

The application has a 'screening' stage, an 'option selection' stage and 'licence amendment details' stage. **Please note that Condition 1 alteration requests can no longer be directly submitted via the 'make a licensee return' button in LMA as the screening stage must be completed via the 'Request Alteration' button.** For 'Requests for Approval' (Condition 1), the licensee is re-routed from the 'option selection' stage to existing 'Licensee Returns' functionality. 'Screening' stage responses are compiled into a screening report which will form part of the record for the licence alteration request.

The on-line application has built-in logic which assesses responses to the screening questions and recommends the option most appropriate for proceeding with the licence alteration request. Following the recommended option avoids requests being refused or delayed and should reduce administrative burden.

A 'Request for Approval', will be considered by the Office of Environmental Enforcement and a 'Licence Amendment' request will be considered by the Environmental Licensing Programme. Previously all requests for alterations had to be first submitted to the OEE for assessment, this new application will allow licensees to bypass this process where an alteration is identified as outside of the scope of a request for approval under Condition 1 of a licence.

The licence alteration application via LMA requires supporting information to be submitted which should be prepared in advance. The documents required may include overview diagrams and completed tables from the Licence Application Form. In addition:

- For a Licence Amendment, an appropriate assessment screening report will be required to be submitted.

- In the case where planning permission is required, written confirmation from the planning authority must be provided as part of the documentation.
- An alteration that involves a boundary change will require a new location map and in certain circumstances an OEE Exit Audit Approval.
- In the case of changes to emissions to sewer, the Irish Water agreement must be uploaded (and for an IE licence, evidence of equivalent protection).
- In the case of a licence review or new application, you are required to complete the relevant Licence Application Form available on the EPA website (www.epa.ie) and follow the licensing application process.

It is recommended to allow sufficient time for the assessment of proposed alterations by the EPA. Appendix 1 includes a checklist of information required for this on-line application.

Screening Questions and Option Selection

	Category	Defining parameter
1	Review/ new licence	
	A positive answer to any of these questions indicates a licence review or new application is likely to be required	<p>Does the proposed alteration:</p> <ol style="list-style-type: none"> 1. Require a new class of activity or process?¹ 2. Cause new/ additional main emission point?² 3. Increase or change specified emissions significantly?³ 4. Increase significantly the overall total emissions from the installation/facility?⁴ 5. Involve development or proposed development that has already been granted planning permission or requires a grant of planning permission <u>and</u> was/is subject to EIA by the Planning Authority or An Bord Pleanála?⁵ 6. Require the preparation of an Natura Impact Statement (NIS) for consideration by any planning/ public authority?⁶ 7. Indicate that the EPA should conduct an Appropriate Assessment (on foot of a screening for Appropriate Assessment)?⁷ 8. Conflict with BAT as set out in the relevant BAT conclusions?⁸ See Here 9. Adversely affects the energy efficiency of the installation/facility?⁹ 10. Adversely affects the environmental risk of the installation/facility significantly? 11. Cause an increase above the capacity limitations specified in a licence?¹⁰ 12. Require an extension of operating hours (where controlled by the licence) for an installation/ facility where the public is likely to have an interest in such an extension?¹¹ 13. Involve the incineration or co-incineration of waste

		<p>materials displaying hazardous properties that were not previously authorised (as per the WID/IED)?</p> <p>14. Introduce materials or techniques which adversely alter the probability, magnitude and duration or complexity of the site transboundary impact?</p> <p>15. Constitute a substantial change?¹²</p>
	Changes typically requiring a review of a licence	<ul style="list-style-type: none"> • New/additional class of activity • New process lines with main emission points
	Significance test	To <u>assist</u> in answering question 3, 4 and 10 above but the tests are not exhaustive
	A positive answer to any of these questions indicates that the change is significant	<p>Does the proposed alteration:</p> <ol style="list-style-type: none"> Require an increase of an ELV which has been based on BAT specified in the relevant BAT Conclusion or BAT Guidance Note? Lead to an increase of VOC emissions of more than 10% from an installation that consumes greater than 10 tonnes/ year of solvent?¹³ Involve an emission of fluorinated greenhouse gas, ozone depleting substances, substances of very high concern (REACH), priority (hazardous) substances in surface water or groundwater, VOC that carry hazard statements H340, H350, H350i, H360D or H360F or halogenated VOCs (H341 or H351)? Bring the activity within the scope of the Seveso regulations or modify an existing establishment from lower tier to upper tier? Exceed storage quantities specified in the table on page 19 of the EPA (draft) Guidance Note to Industry on the Requirements for Fire-water Retention Facilities? Require the preparation of a baseline report (IE licence only)?¹⁴
2	Licence Amendment (TA/CA)	
	Where the answer is negative to all of the foregoing, a positive answer to one or more of these questions indicates a CA/TA is required.	<p>Does the proposed alteration:</p> <ul style="list-style-type: none"> • Require a change to a condition or schedule of the licence? <p><i>As per Section 96(1) of the EPA Act 1992 as amended and Section 42B(1) of the Waste Management Act 1996 as amended the following:</i></p> <ul style="list-style-type: none"> • Specific purpose for the facilitating the operation of the <i>Licence</i>, (and such an amendment has nothing to do with facilitating the operation of the

		<p>installation/facility) (<i>i.e. technical amendment</i>)?</p> <ul style="list-style-type: none"> • Require the correcting of a clerical error (typographical error) (<i>i.e. Clerical amendment</i>)? • Facilitate the doing of anything pursuant to a condition attached to the licence where the doing of that thing may reasonably be regarded as having been contemplated by the terms of the condition or the terms of the licence taken as a whole but which was not expressly provided for in the condition i.e. allows matters in the licence to be clarified to the extent that no greater or lesser obligation is placed on the licensee than was placed upon the licensee by the original Licence, but the matter at issue is more easily understood (<i>i.e. technical amendment</i>)?
	Examples of alterations which <u>may</u> be accommodated by TA	<p>Changes to ELVs for an emission to sewer subject to Irish Water (IW) approval.</p> <p>Inclusion of a new emission parameter, subject to an impact assessment and compliance with BAT or BAT Conclusions.</p> <p>An amendment to the site boundary which results in a reduction in the site area with the approval of OEE¹⁵.</p> <p>The installation of abatement/change of abatement subject to compliance with BAT or BAT Conclusion.</p> <p>The reduction of an ELV to reflect revised legislation.</p> <p>A change of waste types acceptable for disposal /recovery, other than incineration, on site, subject to the total quantity of waste acceptance not being exceeded as specified in the licence. Changes in waste acceptance for incineration may be acceptable where the new wastes are considered compatible with existing approved waste.</p>
3	Request for approval under Condition 1	
	Where the answer is negative to all of the foregoing, a positive answer to this question indicates a request for approval is required	Can the proposed alteration be accommodated & controlled under the existing licence conditions and limits?
	Examples of changes which <u>may</u> be accommodated by a request for approval	<p>New minor emission points.</p> <p>Changes anticipated and annunciated in the conditions of the licence.</p> <p>Material substitution for environmental reasons.</p> <p>New raw materials.</p> <p>Trials of new products and processes¹.</p> <p>New products and new processes.</p>

		<p>Replacement boiler.</p> <p>New waste treatment process.</p> <p>Commissioning stage approvals.</p> <p>Short term changes to operating hours.</p> <p>Short term emissions (depending on time, nature and volumes involved).</p> <p>New packaging facility/ warehouse (not subject to EIA).</p>
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Explanatory Notes

- 1 Where an installation/facility reaches the capacity thresholds for an IED activity then the proposal is considered a substantial change and requires a review of the licence.

A change to the class of an activity, where the new class is under the same general class of the third and fourth schedules of the WMA Act 1996 as amended and does not involve moving from a Waste to IE licence, may be accommodated by technical amendment.

An activity or process at an installation solely for research, development or testing of new products and processes are excluded and may be considered and approved by OEE. New products or processes at an installation adequately controlled by the conditions of the licence may be considered and approved by OEE.
- 2 Refer to the [*Integrated Pollution Prevention and Control \(IPPC\) Licensing Application Guidance Notes*](#).
- 3 Specified emissions are those emissions listed in the Schedule of a licence.
- 4 Increase in relation to the total emission (main + minor + fugitive + potential emissions) of a parameter in terms of concentration or mass flow considered at the time of licensing.
- 5 Proposed alteration(s) that require an EIA by the planning authority / An Bord Pleanála indicates that the alteration is likely to have a significant effect on the environment and therefore the EPA would regard the alteration as being substantial in nature.
- 6 Proposed alteration(s) that require preparation of an NIS by the planning or other public authority indicates that the change may require the EPA to conduct an Appropriate Assessment. An Appropriate Assessment requires *inter alia* public participation and this can only be carried out under the licence review process currently. Refer to the *Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities*, published in 2009 & revised in 2010 by the DECLG, for guidance.
- 7 A screening for Appropriate Assessment report must be completed prior to answering this question. Refer to the *Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities*, published in 2009 & revised in 2010 by the DECLG, for guidance. An Appropriate Assessment requires *inter alia* public participation and this can only be carried out under the licence review process currently.
- 8 For IE licences, Section 86A(6) Derogations, Section 86A(7) emerging techniques derogation and Section 86A(3)(c)(iii) new BAT, can only be considered as part of a licence review.

- 9 Refer to the energy audit for the installation/facility and the BREF document on Energy Efficiency.
- 10 Such as an increase in the total amount of waste accepted or animal numbers housed at the installation.
- 11 Public participation at the time of licensing or grant of planning permission and level of complaints are good indicators of public interest.
- 12 Substantial change means a change in the nature or functioning, or an extension, of an installation or combustion plant, waste incineration or waste co-incineration plant which may have significant adverse effects on human health or the environment (refer Section 98A(5) of the EPA Act 1992 as amended).
- 13 Increase in relation to the total VOC emission (fugitive emissions + emissions in waste gases) considered at the time of licensing.
- 14 Refer to the Section 86B of the EPA Act 1992 as amended and the [*European Commission Guidance concerning baseline reports under Article 22\(2\) of Directive 2010/75/EU on industrial emissions \(2014/C 136/03\)*](#).
- 15 In the case of an alteration to the site boundary in order to reduce the site area, the OEE must first approve the exclusion area with the completion of an exit audit prior to applying for a technical amendment.

Appendix 1 Checklist

The licensee is required to provide information for (1) Request for Approval or (2) Licence Amendment as follows:

1. Request for Approval
 - a. Screening report (automatic).
 - b. Overview diagrams and tables from the licence application form as appropriate (uploads).
2. Licence Amendment (TA/CA)
 - a. Screening report (automatic).
 - b. Screening report for appropriate assessment (upload).
 - c. Where planning permission is required, written confirmation from the Planning Authority that EIA was not required in this instance (upload).
 - d. Where boundary is being amended, an updated site boundary location map and geo-reference digital drawing files (upload) and an OEE exit audit approval in the case of a reduction in area (upload).
 - e. In the case of changes to emissions to sewer, the Irish Water approval (upload) and for IE licence, provide evidence that an equivalent level of protection for the environment as a whole is guaranteed (free text field).
 - f. Other documents such as overview diagrams and tables from the licence application form as appropriate (upload).