

 <p>Environmental Protection Agency An Ghníomhaireacht um Chaomhú Comhshaoil</p>	OFFICE OF ENVIRONMENTAL SUSTAINABILITY
ENVIRONMENTAL LICENSING PROGRAMME	
TO:	Sharon Finegan, Director
FROM:	Breen Higgins, Inspector, Environmental Licensing Programme
DATE:	09 December 2021
RE:	Technical Amendment to Waste Licence Register Number: W0107-01, held by Waste Recovery Services (Fermoy) Limited for a facility located at Cullenagh, Fermoy, Co. Cork.

The Agency received a request on 03/09/2021 from Waste Recovery Services (Fermoy) Limited (WRS), Licence Reg. No. W0107-01 to technically amend its Licence. The request relates to an increase in the overall maximum quantity of waste for acceptance at the facility (from 6,500 tonnes up to 10,000 tonnes).

This memo recommends that the change **cannot be** accommodated by a Technical Amendment, in accordance with Section 42B(1)(a), (b) or (c) of the Waste Management Act 1996 as amended.

1. Background

WRS was granted a licence; Reg. No. W0107-01, on 18/04/2002 for a facility located at Cullenagh, Fermoy, Co. Cork.

The facility is licenced under Class 12 and 13 Waste Disposal Activities¹ and Class 3, 4 and 13 Waste Recovery Activities² of the Third and Fourth Schedules of the Waste Management Act 1996 as amended. Note 1 allows for the changes to the waste acceptance subject to remaining within the overall tonnage limit.

The licence is for the processing of 6,500 tonnes of non-hazardous waste per annum.

2. Technical Amendment request

On the 03/09/2021 the Agency received a request for a Technical Amendment (TA) of Waste Licence Reg. No. W0107-1, in order to allow for an increase in the maximum waste tonnage accepted at the facility from 6,500 tonnes to 10,000 tonnes per annum.

¹ Repackaging prior to submission to any activity referred to in a preceding paragraph of this Schedule, and storage prior to submission to any activity referred to in a preceding paragraph of this Schedule, other than temporary storage, pending collection, on the premises where the waste is produced.

² Recycling or reclamation of metals and metal compounds; recycling or reclamation of other inorganic materials; and the storage of waste intended for submission to any activity referred to in a preceding paragraph of this Schedule, other than temporary storage, pending collection, on the premises where the waste is produced.

The proposed change is to '*Schedule A.1. Waste Acceptance*' of the existing licence. The increase would apply to the maximum annual quantity of municipal waste and commercial & industrial wastes accepted at the facility.

3. Consultation with the Office of Environmental Enforcement (OEE)

I have consulted with OEE Inspectors Adrian Farrell and Joseph Hunter, in relation to this technical amendment request. The OEE confirmed that the proposed temporary increase in tonnage of waste for acceptance at the installation cannot be accommodated under the existing licence. OEE has confirmed that there are no legal proceedings in train in respect of this licence.

4. Assessment

The proposed amendment request was assessed against the relevant criteria in the Agency's guidelines for licence alterations³.

The licensee has requested an substantial increase in the annual waste acceptance limit at the facility. Any increase in the maximum annual waste acceptance limit is considered a significant change and such a request would not normally be undertaken by TA based on Agency's guidelines for licence alterations.

As the requested amendment is considered a significant change under Agency licence alteration guidelines, it would therefore warrant public participation which can only be considered by way of a licence review.

For an amendment to be accommodated by way of technical amendment it would need to satisfy Section 42B of the Waste Management Act 1996 as amended which states that "*The Agency may amend a licence or revised licence for the purposes of:*

- (a) correcting any clerical error therein,*
- (b) facilitating 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, or*
- (c) otherwise facilitating the operation of the licence and the making of the amendment does not result in the relevant requirements of Section 40(4) ceasing to be satisfied."*

The amendment request to increase the acceptance of waste above the existing limit in the licence cannot be considered to be (a) correcting any clerical error or (b) facilitating the doing of anything pursuant to a condition attached to a licence where the doing of that thing may reasonably be regarded as having been contemplated by the terms of the condition or terms of the licence when taken as a whole.

It is also considered that the amendment cannot be accommodated by way of Section 42B(1). For an amendment to be accommodated under Section 42B(1) it must satisfy both criteria (i)

³ Guidance on Requests for Alterations to a Licensed Industrial or Waste Activity (EPA, June 2019).

otherwise facilitating the operation of the licence and (ii) does not result in Section 40(4) failing to be satisfied.

In relation to part (i) the significant increase in the waste acceptance limit cannot be interpreted as otherwise facilitating the operation of the licence as to allow such an increase would facilitate a breach of a condition on waste tonnage within the existing licence. In relation to part (ii) the licensee has failed to provide sufficient supporting information to demonstrate that *Section 40(4)* will continue to be satisfied.

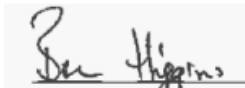
It is therefore considered that the proposed amendment cannot be accommodated by way of a technical amendment and a licence review would be required in order to consider the proposed changes as requested.

5. Recommendation

This memo recommends that the requested changes **cannot be** accommodated by a Technical Amendment of Licence W0107-01 (held by WRS Limited), in accordance with Section 42B(1)(a), (b) or (c) of the Waste Management Act 1996 as amended.

Signed,

Breen Higgins

A rectangular box containing a handwritten signature in black ink that reads "Breen Higgins".

Inspector
Environmental Licensing Programme