

 <p>Environmental Protection Agency An Ghníomhaireacht um Chaomhú Comhshaoil</p>	OFFICE OF ENVIRONMENTAL SUSTAINABILITY
ENVIRONMENTAL LICENSING PROGRAMME	
TO:	Sharon Finegan, Director
FROM:	Eoin McCaffrey, Inspector, Environmental Licensing Programme
DATE:	9 December 2021
RE:	Technical Amendment to Industrial Emissions Licence Register Number: W0201-03, held by Bord na Mona Public Limited Company (PLC), Main Street, Newbridge, County Kildare for the Drehid Waste Management Facility located in the townlands of Parsonstown, Loughnacush, Kilkeaskin, Drummond, Timahoe West, Coolcarrigan, Killinagh Lower & Killinagh Upper, Carbury, County Kildare.

The Agency received a request on 22/09/2021 from Bord na Mona PLC, Licence Reg. No. W0201-03 to technically amend its Licence. The request relates to a temporary increase in the overall maximum quantity of waste for acceptance at the Drehid Waste Management Facility until the end of 2021 (from 120,000 tonnes up to 140,000 tonnes).

This memo recommends that the change **cannot be** accommodated by a Technical Amendment, in accordance with Section 96(1)(a), (b) or (c) of Environmental Protection Agency Act 1992 as amended.

1. Background

Bord na Mona PLC was granted a licence; Reg. No. W0201-01, on 03/08/2005 for an installation located in the townlands of Parsonstown, Loughnacush, Kilkeaskin, Drummond, Timahoe West, Coolcarrigan, Killinagh Lower & Killinagh Upper, Carbury, County Kildare. The installation is licenced under Class 11.5¹ and 11.4 (b)(i)² of the First Schedule to the EPA Act 1992 as amended.

A revised licence, Licence Reg. No. W0201-02 was issued to Bord na Mona PLC on 09/04/2009 with a further revised licence (Reg. No. W0201-03) issued on 24/03/2010. Licence Reg. No. W0201-03 has been amended on three occasions, including for the purposes of Section 82A(11) of the EPA Act as amended on 20/12/2013. This amendment gives effect to the requirements of Directive 2010/75/EU (Industrial Emissions Directive).

The current licence (W0201-03) provides for the landfilling of 120,000 tonnes per annum of non-hazardous municipal, commercial and industrial wastes and the operation of a compost facility accepting a maximum of 20,000 tonnes of bio-waste per annum.

¹ Landfills within the meaning of Section 5, receiving more than 10 tonnes of waste per day or with a total capacity exceeding 25,000 tonnes, other than landfills of inert waste.

² Recovery, or a mix of recovery and disposal, of non-hazardous waste with a capacity exceeding 75 tonnes per day involving one or more of the following waste activities, (other than activities to which Urban Waste Water Treatment Regulations 2001 (S.I. No. 254 of 2001) apply: biological treatment; when the only waste treatment activity carried out is anaerobic digestion, the capacity threshold for this activity shall be 100 tonnes per day.

2. Technical Amendment request

On the 22/09/2021 the Agency received a request for a Technical Amendment (TA) of IE Licence Reg. No. W0201-03, in order to allow for a temporary increase in the maximum waste tonnage accepted at the installation until the end of 2021 from 120,000 tonnes to 140,000 tonnes per annum.

The proposed change is to '*Schedule A.2. Waste Acceptance*' of the existing licence. The increase would apply to the maximum annual quantity of municipal waste and commercial & industrial wastes accepted for landfilling.

The licensee states in its request that the reason for the waste acceptance increase is due to: increasing volumes of waste arising over the previous couple of months; difficulties experienced by the company Greyhound in exporting its Solid Recovered Fuel (SRF) to Sweden; the low demand from waste to energy plants (WtE) across Europe; and delays in a decision for a licence to Irish Cement Limited (EPA Reg. No. P0030-06).

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

I have consulted with the OEE Inspector, Ciaran Cuddihy, 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 a temporary increase (greater than 16%) in the annual waste acceptance limit at the installation until the end of 2021. 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 96(1) of the EPA Act 1992 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

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

(c) otherwise facilitating the operation of the licence and the making of the amendment does not result in the relevant requirements of section 83(5) 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 96(1)(c). For an amendment to be accommodated under Section 96(1)(c) it must satisfy both criteria (i) *otherwise facilitating the operation of the licence* and (ii) *does not result in Section 83(5) 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 83(5) 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 W0201-03 (held by Bord na Mona PLC), in accordance with Section 96(1)(a), (b) or (c) of the EPA Act 1992 as amended.

Signed,



Eoin McCaffrey
Inspector
Environmental Licensing Programme