

# Enbridge Gas Feedback on Implementation Pause of Excess Soil Requirements in Effect January 1, 2022

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ERO: 019-5203  
April 8, 2022

## *About Enbridge Gas Inc.*

*Enbridge Gas is Canada's largest natural gas storage, transmission and distribution company based in Ontario, with more than 170 years of service to customers. The distribution business provides safe, affordable, reliable energy to about 3.8 million homes, businesses and industries and is leading the transition to a clean energy future through net-zero emissions targets and investments in innovative low-carbon energy solutions. The storage and transmission business offers a variety of storage and transportation services to customers at the Dawn Hub, the largest integrated underground storage facility in Canada and one of the largest in North America. Enbridge Gas is owned by Enbridge Inc., a Canadian-based leader in energy transportation and distribution. Learn more at [enbridgegas.com](http://enbridgegas.com).*

## Executive Summary

Enbridge Gas appreciates the opportunity to comment on the proposal to temporarily pause the implementation of provisions in the Excess Soil Regulation that came into effect January 1, 2022 until January 1, 2023. Enbridge Gas is supportive of this implementation pause and sees this as a way of giving those that manage soil in Ontario more time to understand the new excess soil regulations as well as an opportunity to provide education on the regulations.

## Proposed Timing

The Ministry of Environment, Conservation and Parks (MECP) is proposing to pause the implementation of Sections 8-16 of the regulation (i.e. the Planning Requirements) that came into effect on January 1, 2022, with the stated intent to allow more time for Ontario's soil management industry to properly understand and implement them. Through implementation of the regulation thus far, Enbridge Gas agrees that Ontario's soil management community could benefit from more time to understand the compliance requirements of the 2nd phase of the regulation and supports the proposed delay.

Given the complexity of implementation of the regulation, Enbridge Gas believes an additional 6-8 months is insufficient to allow industry to adequately adjust. Therefore, it is recommended that the regulatory amendment be revised to include a proposed re-commencement of the provisions to January 1, 2024. Alternatively, the MECP could also consider moving forward with the adjusted implementation date of January 1, 2023, while including a period where education would be the focus over compliance.

## Education and Technical Understanding

Through implementation thus far, Enbridge Gas has noted that in order for the regulation to achieve its objectives, all parties involved in the soil management process need to thoroughly understand the regulation and the changes it has imposed.

Enbridge Gas has learned that this includes a rather intensive educational component on the technical aspects of soil management. Although qualified persons (QPs) have a sound technical understanding of the regulation and can be retained by project leaders to support with the sampling and analysis of soil when required, duties related to determining when to employ a QP, and to the implementation of the findings of QP soil investigative work is still required to be done by project leader representatives, operators, contractors, haulers and receivers who often have no technical background or understanding of soil quality analysis. When the parties making decisions do not have an adequate knowledge base and do not understand their role in the application of the regulation, there is no assurance that appropriate decisions regarding soil management will be made.

To further expand the base-level understanding for all soil management actors in the province, Enbridge Gas recommends that additional, plain language technical guidance, additional documentation and/or

educational resources be made available by MECP to a wider audience, to help those required make informed soil management decisions.

## Schedule 2 – Non-Application of the Regulation

In the few months that the Planning Requirements have been in effect in the province, Enbridge Gas has worked diligently to determine how and when the Phase 2 components of the regulation apply to Enbridge Gas' varying array of projects and infrastructure-related operations. The MECP's excess soil webinar series was found to be very informative and helped to clarify when to apply the Planning Requirements. However, ambiguity remains regarding the definition of "maintaining infrastructure in a fit state of repair, as it relates to Schedule 2, 3. 6.

Enbridge Gas has attempted to apply the definition to the various ways its infrastructure is repaired, altered, reinforced, relocated, replaced or otherwise maintained. To avoid misinterpretation, it would be helpful to have additional, formal guidance on how and when to apply the Schedule 2 condition. Enbridge Gas recommends that this, and other similar information be included in a plain language technical guidance document to accompany the regulation and Soil Rules.

In addition, now that the application of the Planning Requirements has become clearer, new questions have arisen on whether their application in certain scenarios is in line with the MECP's intent of the regulation. This is specifically apparent for project areas which only partly include land parcels that meet the definition of Enhanced Investigation Project Areas (EIPAs). The additional time, cost, and effort to apply Planning Requirements to projects is significant, and it is Enbridge Gas' position that it should not be done when the benefits of completing the undertaking are low.

It is recommended that the MECP considers including conditions in the regulation which allow project leaders to subdivide or delineate project areas for the specific purpose of being able to apply the Planning Requirements only to portions of the overall project area designated as EIPAs. Alternatively, the MECP could revise the conditions of Schedule 2 of the regulation to explicitly exempt projects from application of Sections 8-16 of the regulation, when all of the following criteria apply:

- The project area is within an Area of Settlement,
- The project is not being completed for the purpose of remediating contaminated land,
- The project area is only partly comprised of one or more EIPA(s),
- Less than 100m<sup>3</sup> of excess soil is generated from the EIPA portion of the overall project area,
- The excess soil generated from the EIPA portion of the project area is directly transported to a waste disposal site that is not a Class 2 management site, and
- The remaining part of the project area which is not considered an EIPA does not generate greater than 2000m<sup>3</sup> of excess soil.

## Liquid Soil Receiving Facilities

The most difficult aspect of compliance since the onset of O.Reg 406/19 has been and continues to be management of liquid soils. Few receiving sites across the province have appropriate instruments in place to allow for acceptance of liquid soils from projects, leaving large geographical gaps with few or no options for disposal where on-site processing is not feasible. Enbridge Gas encourages the MECP to continue to prioritize the review process and approval of Environmental Compliance Approvals for liquid soil receivers to ensure excess soil generators have appropriate options to comply with the regulation across Ontario.

## Conclusion

Enbridge Gas appreciates having the opportunity to comment on the government's proposed *Implementation Pause of Excess Soil Requirements in Effect January 1, 2022* and is supportive of the proposal. If you have any questions or require additional information, please do not hesitate to contact Nicole Gruythuyzen, Senior Advisor Government Affairs ([nicole.gruythuyzen@enbridge.com](mailto:nicole.gruythuyzen@enbridge.com)).