

Enbridge Gas's Feedback on Amendments to Certain Requirements under the Excess Soil Regulation

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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.

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Introduction

Enbridge Gas appreciates having the opportunity to comment on the updated amendments to certain requirements under the excess soil regulation. Earlier this year Enbridge Gas provided comments on the proposed regulatory changes for the beneficial reuse of excess soil at pits and quarries in Ontario posted by the Ministry of Northern Development, Mines, Natural Resources and Forestry (MNDMNR) the comments below are in conjunction with those previously submitted.

Removing reuse planning requirements from low-risk projects

Enbridge Gas supports the removal of the application of reuse planning requirements (RPR) from low-risk projects, as proposed by the Ministry of Environment, Conservation and Parks (MECP), including:

- the non-application of reuse planning requirements to projects on lands with agricultural or other use, or residential, parkland or institutional use, so long as those lands were not used, in part, as enhanced investigation project areas, and
- the revocation of Section 14 of the regulation.

While MECP considers the triggers for RPR, Enbridge Gas recommends that MECP consider the scenario where a project area comprises a portion of a registered parcel of land with an enhanced investigation area located outside of the working boundaries of the project area.

In its current form, the regulation defines a project area to be a single property or adjoining properties on which the project is carried out. However, project boundaries are often not carried out on the entirety of legal land parcels (i.e., properties), and instead include only a portion of a legal parcel. Currently, the regulation would suggest that any enhanced investigation project areas occurring on a legal land parcel outside the defined workspace of a project would still need to be considered when determining the applicability of RPR for the project.

Enbridge Gas also understands that many infrastructure projects (i.e. repairs, replacements, relocations, and/or reinforcements) occur in rights-of-way that are within agricultural, residential, parkland or institutional zoned areas and are not adjacent to or within enhanced investigation areas. Following from the rationale of not requiring RPR on lands with agricultural or other use, or residential, parkland or institutional use, it seems reasonable to consider rights-of-way and municipal roadways in these areas as having a similar soil risk profile. Therefore, the additional effort of carrying out RPR for these project areas is less beneficial given the lower risk. Management of excess soil from these low-risk infrastructure projects occurring with this type of Community land use (rights-of-way) should also be included within the RPR exemption.

It is recommended that in coordination with the proposed amendments MECP provide additional clarification and guidance for both generators and receivers of excess soil for the management of excess soil (both as a waste, or when destined for reuse) when a project is determined to be exempt from RPR (per Schedule 2).

Enbridge Gas, as a generator and project leader for projects, generates excess soil in both large (i.e. >2000m³) and small quantities (>5m³). Enbridge Gas has identified that there is an opportunity for MECP to provide further criteria and guidance on the efforts expected for appropriate management of excess soils not subject to RPR.



In Enbridge Gas's experience, actions for non-RPR project soil management (specifically, due-diligence soil characterization) are largely dictated by the acceptance criteria set by the intended receivers of the soil. Many of the established receivers of excess soil as waste (i.e. Class 1 management sites) are taking a conservative approach to setting their sites' acceptance criteria, and/or interpreting the clauses set out in their sites' ECAs/regulatory instruments. As it is impractical for a receiver to evaluate the risk of contamination from every soil load they receive, receivers are instead defaulting to mandating all generators to provide soil characterization reports (i.e. bulk analysis and/or waste classification analysis (TCLP)) issued by a Qualified Person (QP) to confirm the soil's quality prior to acceptance at their facilities.

This has removed the option for generators to evaluate the risk profile of soil and make risk-based decisions for low-risk soil. This has led to cost overruns and construction delays in the short planning cycles of Enbridge Gas's smaller infrastructure projects when both liquid and dry excess soil is generated. It has also been observed to place major strain on the QPs providing professional excess soil support services to the province, as the volume of low volume soil characterization work has increased substantially. These outcomes are contrary to MECP's stated objectives of reducing project costs, and greenhouse gas emissions via reduced truck travel.

Therefore, Enbridge Gas recommends that MECP provides technical guidance on how receivers ought to evaluate incoming soil quality (i.e.. via a due-diligence soil characterization report, or screening form, etc. from the generator). This guidance could include a framework for making risk-based decisions, such as visual/olfactory screening of incoming soils by receivers, so that they can be reasonably assured that the soil, if qualified, would be non-hazardous (i.e., non-leachate toxic) waste to avoid the need for generators to have to complete confirmatory waste classification (i.e. via TCLP/mSPLP sample analysis), at a minimum. This strategy is in line with wording in recently updated ECAs issued to Class 1 facilities receiving both liquid and dry soil.

Soil Storage Amendment

Enbridge Gas supports the proposed amendment of allowing soil storage piles to be a maximum of 10,000 cubic meters.

Conclusion

Enbridge Gas supports the MECP in its ongoing outreach and implementation efforts for the Excess Soil regulation. Enbridge Gas appreciates the opportunity to provide additional feedback and recommendations on the updated amendments to Certain Requirements under the Excess Soil Regulation. 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).