



CIEH Standing Conference on Land Contamination E-newsletter #1 – October 2006

Not least over the last year, we have been aware that a lot has been going on between meetings of the Standing Conference which, so far, have been our main way of keeping you up-dated. Though our website plays a role in that too, particularly for the release of major documents such as those relating to radioactively contaminated land, its format has its limitations and in an attempt to plug the gap, we have decided to trial an occasional e-newsletter for cascading through the many Contaminated Land and Pollution Groups. Feedback and topics for future inclusion are welcome to bill.baker@conland.fsworld.co.uk.

Soil Guideline Values

The big issue of late has, of course, been about Soil Guideline Values, their purpose, the basis of their derivation and related guidance on the risk assessment of contaminated sites for both Part 2A and the planning process. As a result of the consideration of these issues, originally by the Cabinet Office SGV Taskforce in which the CIEH took part, Defra is now in the process of developing an amended policy. Proposals for that, initially expected before the Summer, are due to be published for consultation shortly and we will be asking the CL Groups for their views before responding formally. The consultation period is expected to be short, however, and a quick turn-around will be needed.

It is generally accepted that, to date, government guidance in the form of published SGVs, the CLEA model etc, has led to risk-based regulatory decisions being more complex than they should be and undermined confidence in the whole process. The SGV Taskforce composed of stakeholders from all parts of the contaminated land community very quickly confirmed that and, after much discussion, accepted the need for a set of

guideline values which more closely represent the conditions for the determination of a site as contaminated under Part 2A i.e. being in such a condition that there is "Significant Possibility of Significant Harm" to the various Part 2A receptors. Defra confirmed consequently that the currently published SGVs should now be considered as representing a condition of minimal risk.

Subject to the forthcoming consultation, the new numbers are likely to be based on a review of the CLEA exposure scenarios for standard development situations, along with a change in the CLEA model from probabilistic to deterministic, the use of toxicological information related to "LOAEL" and, possibly, a revised level of acceptable cancer risk. Already causing controversy, however, it is understood that it is intended that these will be the only set of guidelines to be developed and the SGV series will be dropped, Defra, (supported by DCLG which is responsible for planning issues), arguing that one set is sufficient in the light of PPS23 which sets out developers' roles in addressing unacceptable risks.

CIEH/LQM GAC Workshop

Believing, nonetheless, that this would entail a higher level of risk for normally risk-averse developers and their consultants and having, on balance, taken the alternative view, the CIEH and LQM held a two-day workshop in July at which around 40 delegates from both the public and private sectors were guided through the application of the CLEA model to arrive at some 30 additional "Generic Assessment Values" for priority contaminants still lacking SGVs. These values are now being thoroughly checked and QA'd by the LQM staff and a handbook describing the derivation process for each of the values is planned to go on sale following a launch currently pencilled-in for late November.

We are confident that these will rapidly become the "values of choice" among both local authorities and the industry, representing levels of "minimal risk" with which assessments of planning proposals can be made with more confidence than would be possible when relying on values lacking full derivation details.

CIEH Guidance on Determination

Earlier this year and in the wake of CLAN 2/05 the CIEH published a Professional Practice Note to help local authorities with their decisions on determinations under Part 2A. Developed by Judith Lowe who was originally heavily involved in the development and preparation of the Part 2A regime and is currently directing the development of Defra's discussion paper referred-to above, this is available under "Documents" on the CIEH web site (<http://conland.cieh.org>). The CIEH's advice places a heavy emphasis on the application of toxicological information and the commissioning of suitable consultants where necessary to advise on the potential determination of sites as "contaminated".

Contaminated Land Training

In recognition of that and the central role of toxicology in the risk assessment process, as part of the CIEH's on-going training programme for CLOs a series of courses on "Toxicology for Land Contamination" has now been organised. They are to be held in the usual local centres beginning at the end of November and continuing into early 2007. Full details of these courses and an application form have gone out to all local authorities and specialist groups and appear, as usual, on the website.

In the meantime, our "EMAQ" programme of training continues with events on site investigation and characterisation in November and more on remediation techniques lined up for March. Again, further details are available via the website.

Needs Questionnaire

The CIEH has recently distributed a short questionnaire which asks for information concerning progress with the land contamination regulatory function and the resources available to local authorities. This is important as it will inform the bidding process for the local authority financial settlement. Responses are requested by 13 October.

Related to this, Defra recently indicated that for its next review of the contaminated land capital programme rules (currently set out in CLAN1/06) it would welcome feedback from local authorities who have used or who have considered bidding for support for investigation and remediation projects. Please send any comments to h.price@cieh.org and we will pass them on.

Another, short, questionnaire should shortly be going out to local groups concerning the "SiLC" (Specialists in Land Condition) scheme which the CIEH supports. The aim is to inform SiLC's business plan with information about the

contribution being made by the scheme to raising standards among consultants. Please respond to this if you can.

Planning and Pollution Control

There has long been some concern about the effectiveness of liaison between local planners and CLOs in the case of developments involving land which is, or may be affected by contamination. This situation is the subject of PPS23, published by DCGL in 2004 which calls for the application of risk-based best practice in accordance with CLR 11. The same approach has been confirmed by the amended Building Regulation Part C.

Discussion of the problems with officers from ODPM (now DCLG) at various past meetings has generally been received with a degree of incredulity, however, at a recent meeting called by Peter Ellis of DCLG to discuss the issue with representatives of the SCLC Planning Group, the RTPI, the association of local authority planners and English Partnerships, it was decided that EP should undertake some investigation by way of a questionnaire to be distributed to planners and the land contamination function in all local planning authorities. The results should be timely in the light of the second of the current consultation papers mentioned below.

Environment Agency Support to Local Authorities

The Agency announced at a SCLC Planning Group meeting and at May's Plenary Conference at the NEC that a revised policy of "Diminishing Resource and Guiding Principles" would be applied to their approach to consultation on groundwater protection etc in planning proposals and other regulatory actions concerning land affected by

contamination. This means that the Agency will in future provide site-specific advice only where the development is in an area of high vulnerability with a major aquifer or important abstraction facility.

Though still to be published, the policy is already taking effect in various regions where there are severe staffing problems with authorities noting a significant withdrawal of support. As the policy takes effect, the main implication is that a greater level of responsibility will fall on LPAs/CLOs to make judgements about groundwater. This is of especial concern in the context of the Water Framework Directive which, when transposed, will demand that more attention is paid to the protection of groundwater quality and should be drawn to the attention of Defra in the context of its survey of local authority resource requirements (above). There is also an associated training need in the procedures of groundwater risk assessment for the CLO community.

Consultation Papers

A couple of papers are out for consultation at the moment.

- a) *Proposals for Contaminated Land Regulations (N Ireland) 2006 and Statutory Guidance* - essentially the same regime as exists in England and Wales so no surprises, though radioactively contaminated land will be dealt with separately, and
- b) *Planning and Pollution Control* - a joint DCLG & Defra consultation on options for improving the way planning and pollution control requires working together and delivering new development, see www.communities.gov.uk and www.defra.gov.uk/environment/epp. Comments from the CL Groups are welcome to: h.price@cieh.org

CIEH Guidance

Where the need for technical guidance has no prospect of being fulfilled by the usual authorities, the CIEH will consider filling the gap as far as budgets will allow. The following guidance has either been produced or is actively being sponsored for publication in the future:

- A Professional Practice Note on Determination – published in May, see p2 above.
- A set of Generic Assessment Criteria and their derivations – the output of the CIEH/LQM workshop held in July is now being written up and is hoped to go on sale next month, see p2 above.
- A revision of R&D 66 - "Guidance on the Safe Development of Housing on Land Affected by Contamination" originally published by the Environment Agency/NHBC in June 2000 but in need of up-dating in the light of CLR11.

- "Risk Assessment and Management of Landfill Gas in the Context of Development" – a handbook for regulators and designers now being finalised by authors Geof Card and Steve Wilson to bring a greater level of understanding and consistency in this field.

Next SCLC Meetings

Following last May's meeting in Birmingham, we offered the next to Defra as the stage for the announcement of the outcome of its consultation on "The Way Forward". With the postponement of that, our meeting has slipped too and is not now likely to take place until the new year. That may, in turn, affect provisional plans to hold the subsequent meeting in association with "International Clean up" again. We'll let you know.

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