

CIEH Standing Conference on Land Contamination

E-Newsletter #2 – January 2007



Following the positive reception given to the first edition of our occasional newsletter last October, as you see, we have decided to continue our trial with the publication of this second edition. Though only three months have passed, there is much to report and again, do let us know what you think - feedback and suggestions of topics for inclusion in future editions are welcome. Send them to bill.baker@conland.fsworld.co.uk.

As before, we are distributing this edition via our contacts in the various specialist Contaminated Land and generalist Pollution Groups and asking them to cascade it electronically to their groups' members. That is intended to help to support those groups but if you receive it by some other route, a colleague on the next desk for example, contact your local group secretary and get your own name on their e-mailing lists.

Soil Guideline Values

The big news, foreshadowed in the last newsletter, has of course been the release on 24 November of Defra's "Way Forward" discussion document, drawing on the work of the SGV Taskforce and a number of bilateral and other meetings held over the summer involving the CIEH among other stakeholders. It was subsequently published by Defra as CLAN 6/06.

Launching the paper, Taskforce Chairman and former EHP Jane Forshaw said "The production of this paper and the supporting documents has been a considerable exercise in gathering, assessing and taking into account many views and ideas, and I would like to personally thank each of you and the organisations you represent for the time, energy and expertise you have contributed to this process and the emerging conclusions.

Cautioning that the goal had been 'progress not perfection', she continued "obviously it would be helpful if Defra could see a body of support emerging behind the package, but you will all need time to digest the contents and debate within your own various communities over the coming weeks."

How to Respond

A copy of the paper was circulated immediately by the CIEH to all the Groups, followed-up with a letter to CEHOs in all English and Welsh local authorities, urging them to respond. Comments have been requested to h.price@cieh.org by Friday 26 January, after which those received will be collated for the Standing Conference's Risk Assessment Working Group to look at. A final response will then be drawn-up to go to Defra by the February closing date. Pointers for comments might include:

- Are the aims and objectives (pps11, 12) right; do they go far enough/miss anything?
- Does the approach to the toxicology (paras 5.7-5.9) suggest an appropriate balance of risk and precaution?
- Do the changes proposed to the exposure scenarios (paras 5.16, 5.17) bring sufficient realism?
- Are the changes, taken together, likely to deal with the dilemma of high background concentrations?
- Do you agree with the approaches set out to risk management in general (para 5.43) and to decisions on unacceptable intake (para 5.44)?
- Is there anything to add to the Way Forward on decisions on individual sites (para 5.54)?
- Is the list of proposed outputs (para 6.4) complete?

The CIEH's initial response was given by Steve Moreby to a Brownfield Briefing conference in London on 13 December. A copy of his presentation can be found under "What's New" on the CIEH contaminated land website, go to: <http://conland.cieh.org>.

Also speaking at the launch, Sue Ellis, Head of Defra's LEQ Division which includes the Contaminated Land Branch announced the department's intention to establish a stakeholder forum to allow informed discussion of issues pertinent to the delivery of contaminated land issues, including the proposed Soil Framework Directive. The CIEH will be a member, representing the professional voice of practitioners, and Defra will make further announcements on this in the near future.

Techy Stuff

GACs

Not unconnected to the last topic, while Defra was announcing that one set of guideline values, albeit with different statistical tests, was in its view sufficient for both planning and enforcement

contexts, the CIEH and LQM were launching their Generic Assessment Criteria to a packed audience of public and private sector practitioners. Such was the interest that a second event is now set for 18 January, in Nottingham. For further details or an order form for copies of the dossier containing the numbers along with full details of their derivation (price £100 plus £6.50 p&p), go to LQM's website at: www.lqm.co.uk

CLEA 2002 Withdrawn

The Environment Agency formally withdrew the CLEA 2002 software on 9 October 2006. Launched in 2002 with the original CLR technical package, the software is no longer compliant with current technical guidance (for example, Briefing Notes 1 to 4) and lacks the versatility of the more recent CLEA UK beta version 1.0.

Since its release in November 2005, the Environment Agency claims feedback from CLEA UK beta users has suggested that this software has performed effectively in the majority of cases. It is therefore being recommended by the Agency for use in human health risk assessment in conjunction with advice found on the CLEA web pages.

Emphasising that CLEA UK is an aid to decision-making and does not replace the need for sound professional judgement in risk assessment, the Agency says it will consider the formal status of the CLEA UK beta software following the review of Soil Guideline Values being undertaken by Defra (above). That proposes, of course, changing the model to a fully deterministic one – a spreadsheet rather than a "black box" – and more user-friendly as a result.

RCLEA

Following the recent extension of Part 2A to radioactivity, two new CLR publications have been added to the Defra webpages, concerning RCLEA. These are CLR 13 and 15, which have been placed on-line as

drafts pending finalisation of the text. CLR 14, the detailed technical document, is currently being prepared, and is a development of the consultation document on RCLEA issued by Defra, go to:

<http://www.defra.gov.uk/environment/land/contaminated/pubs.htm#tech>

Defra has also announced that the older "DOE" CLRs, and the ICRCCL documents, are now available on the web. These can now be found on the EUGRIS website at: <http://www.eugris.info/index.asp>

The Agency has re-ordered some of its webpages to make them more usable. Have a look at www.environment-agency.gov.uk/landcontamination : and tell them what you think.

Questions, Questions

The Autumn brought even more requests for information from you than usual and four surveys in particular:

Bioaccessibility

Having become aware that bioaccessibility test data (derived from laboratory experiments mimicking the human gut to indicate intake of chemical contaminants from soil) was being submitted to local authorities as part of risk assessments for land contamination, the Agency set out to find out how widespread this was. It sent a questionnaire to all 375 local and unitary authorities in England and Wales. The purpose of the questionnaire was to illicit information in particular on:

- the use of bioaccessibility testing of soils for heavy metals in England and Wales, and
- local authorities' experiences and views on the acceptability of the results of such tests in the risk management of land contamination.

The Environment Agency received responses from approximately a quarter

of the authorities. The survey is now completed and copies of the report can be downloaded at:

<http://publications.environment-agency.gov.uk/pdf/SCH00906BLLW-e-e.pdf> Alternatively, a summary can be found at:

<http://publications.environment-agency.gov.uk/pdf/SCH00906BLLX-e-e.pdf>

PPS23

In early October, we helped distribute a questionnaire for English Partnerships on the implementation of PPS23 and in particular Annex 2. The issues raised included whether or not local planning authorities are being consistent with regard to the information they require in support of planning applications on previously developed land; the quality of the information provided by prospective developers and the extent to which contaminated land officers are being consulted in respect of the information; and closure reporting on completion of site remediation works.

Despite asking, however, so far they have failed to let us have a summary of the findings but we'll keep trying.

SiLC

The SiLC (Specialists in Land Condition) scheme, set up following Richard Rogers' Urban Taskforce is still young but the aim of this survey was to gauge its early impact as an aid to its future business planning. Responding Groups reported quite a variation in the numbers of reports being received by participating authorities and the effect of the confusion over guideline values was clear in the low numbers of Pt 2A reports coming in. No doubt consequently, compounded by their small number (at just over 100 so far), SiLCs have been slow to make an impression.

If it proved too soon for the responses to clearly demonstrate the scheme's benefit though, neither were they critical of SiLCs

individually or dismissive of the scheme in general – indeed most were supportive - though there were suggestions that it is pitched at too high a level and some scepticism that it will ever achieve the penetration among the small consultancies and, as one response put it, “geotech-types” which is either desirable or necessary to set benchmarks. The conclusion of the SiLC Professional and Technical Panel, its Steering Group chaired by DCLG, was, however, that the survey lent welcome support for the continuation and extension of the scheme while noting the responses also set some store for standard-raising in better technical guidance and reduced tolerance of poor reports by regulators, something the CIEH would support.

The CIEH has also supported the HBF’s proposal for accredited professionals to certify compliance of completed works with regulatory requirements and further backing for the role of the SiLC scheme in that followed in EP’s Brownfield Strategy, published on 13 December which recommended “Funding should be made available by government to secure the expansion of the SiLC scheme.” go to: www.englishpartnerships.co.uk

Needs & Resources

Seeking data with which to lobby for local authorities in the government’s Comprehensive Spending Review (CSR07), the CIEH asked in September for a range of information on their activity and anticipated costs.

Disappointingly, only 96 authorities saw the importance of responding but those alone had identified over 29,000 sites appearing to warrant detailed Pt 2A inspection, over 1,000 of which were actually underway. Three-quarters reported that their financial resources were inadequate to complete their inspection programme, the 41 authorities which were able to put any figure on it

calculating they needed nearly £19m in capital support over the next three years.

Why the rest couldn’t even provide an estimate is worrying but might be explained by the further finding that about two-thirds of all authorities employ fewer than 2FTEs for all their contaminated land work – Pt 2A, planning and Building Control – and the lack of suitably qualified staff was ranked highest among the factors adversely affecting progress. More gratifying, the availability of training ranked lowest. The findings (but not, of course, individual authorities’ returns) have been passed to Defra. We can only hope they will be reflected in future RSG settlements though the LGA’s continuing opposition to ring-fencing means any increases cannot be guaranteed actually to get to where they are needed.

Extra Loot for RCL

Still on the subject of money, Defra e-mailed local authorities in November, pointing out that the extended statutory regime for the identification and remediation of radioactively contaminated land came into force on 4 August.

Continuing, the message said that whereas Defra Circular 01/2006 stated that £400,000 had been set aside for local authorities to cover the additional burden of extending the regime, because the RSG settlement for 2006/07 had closed, this money was to be distributed by means of grants under s.31 of the Local Government Finance Act 2003.

Prompting some to question whether the message was genuine or a “phishing” expedition, local authorities were asked to advise Defra of details of the bank account they wished their unconditional shares of £1,130 each to be paid into. The message ended “No further reminders will be sent.” Well, it was genuine and as the saying goes, every

little helps, so if you haven't claimed yours yet, get in touch quickly with Fiona Shand, RASD, Defra, 3/G27, Ashdown House, 123 Victoria Street, London S1E 6DE.

Planning & Pollution Control

The CIEH's response to the recent Defra/DCLG consultation on Planning and Pollution Control is now on its contaminated land website. Key points include:

- The paper should have paid more explicit attention to local authorities' pollution control functions
- Some overlap in regulatory responsibilities is preferable to gaps
- There is no objection to the combination of waste management licensing and development control in the context of contaminated land
- Development control has an important function in preventing pollution before it occurs
- Requiring parallel applications would increase regulatory and environmental risk
- Planners and pollution regulators need to work more closely together but many hold-ups are caused by poor applications
- Formal practice guidance from government could be helpful but legislation risks weakening the regulatory regime

On the Way

Guidance

Work has been going on since the Summer to up-date the "Yellow Guide" – the Local Authority Guide to Part 2A, first published in 2001. That is now almost complete and the second edition, taking

account of the extension of the regime to include radioactively contaminated land, is expected to be released on the website soon. A further revision, to include any changes resulting from the Way Forward, will be considered later in the year.

Training

Four further events, in Exeter, Cambridge, London and York, remain in the current course on Toxicology for Land Contamination. The first takes place on 25 January; go to the CIEH website for details.

Conferences

The Society for Chemical Industry is holding a half-day event on – yes – the Way Forward on 7 February. Details at www.soci.org

Standing Conference Meetings

We're talking to Defra about the date and content of the next plenary meeting. We'll keep you posted.

Ins and Outs

Last but not least, significant people changes in the Standing Conference include a new chairman for the Advisory Committee in Jonquil Maudlin (Bristol) and a new leader for the Risk Assessment Working Group in Darren Beesley (Camden). Many thanks to their respective predecessors Nick Howard and Becky Brown for their hard work and commitment in addition to their day jobs. Nick remains on the Advisory Committee nevertheless as a representative of the North-west.

Compiler: Howard Price