

CIEH Standing Conference on Land Contamination

E-Newsletter #3 – April 2007



Only three months have passed since the last edition but already there is a lot more to report. 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, via a colleague on the next desk for example, why not contact your local group secretary and get your own name on their e-mailing list?

Soil Guideline Values

As predicted in the last Newsletter, all the responses to Defra's Discussion Paper received from the various CL Groups by the CIEH were collated for a meeting of the Standing Conference Risk-assessment Working Group on 8 February. Some were long, some were shorter but all were interesting though knitting them together into a coherent whole proved to be a challenge. The result was nonetheless delivered to Defra more-or-less on time, following consideration on behalf of the CIEH's Policy Board by Conference Chairman Alan Higgins. It can now be found *via* "What's New?" on the website (<http://conland.cieh.org/>).

The main features of the response were

- broad support for Defra's proposals and the underlying policy
- support for the greater use of LOAELs
- benchmarks should be derived as a matter of health policy; cost-benefit considerations should be treated separately, and overtly

- the benchmark proposed for multiple non-threshold substances is insufficiently protective
- there should be more realism in exposure pathways
- CLEA should be made fully deterministic
- guidance is needed on bioaccessibility testing and on dealing with asbestos among other things
- guidance generally needs to be clearer and perhaps consolidated
- a second set of guideline values is needed for use in the planning context
- a new model is needed for the production of future guideline values

Standing Conference Meeting

Defra is understood to have had c.50 responses which it has been busy considering since. Among the first to hear their conclusions, even before the formal announcement, will be delegates to the up-coming Standing Conference plenary meeting, to be held on 3 May at the

National Exhibition centre, Birmingham (well, Solihull actually). Topping the bill once again will be Sue Ellis, Divisional Manager of Defra's newly-renamed Local Environment *Protection* Division, followed directly by Contaminated Land Branch Head, Seth Davies.

Other contributors include Paul Nathanail on the "Barge" (Bioaccessibility Research Group of Europe) project, Hugh Mallett and George Fordyce on the revision of R&D66 (the "applied model procedures") and Geoff Card and Steve Wilson previewing the Ground Gas Handbook, shortly to be published by the CIEH.

The meeting is open to everyone from a local authority, not just the usual group reps but you must register on-line first, making sure to check the Standing Conference box too. There's still time but you must hurry: go to the calendar on the Standing Conference website (<http://conland.cieh.org/events.asp>) in the first instance, then follow the links.

In the meantime, work on some of the promised WF outputs, in particular redrafting CLR7 and modifying CLEA-UK, is already well-advanced.

Counting our Chickens?

Up for an Innovation Award for Technology at the parent conference, "International Cleanup 07", is the LQM/CIEH Generic Assessment Criteria. Published at the end of last year, over 400 copies have now been distributed. Watch this space!

An invitation from the EIC

The Environmental Industries Commission will be presenting its usual Land Remediation Policy Briefings at International Cleanup this year and is offering members of the Standing Conference its own Members' Discount for the events, taking place at the NEC on 1 and 2 May. If you are interested, you will need to tick the 'EIC Members' fees boxes on the form to be

found at: <http://www.eic-uk.co.uk/images/icu2007.pdf> and return it, making a note that you are a Member of CIEH. Further details can be found there too.

New Contaminated Land Forum

The first meeting of Defra's new forum took place in February. Set up particularly with the European Commission's proposed Soil Framework Directive - now on the table for negotiations - in mind, the CIEH is a full member. The minutes of the meeting can be found at:

<http://www.defra.gov.uk/environment/land/contaminated/pdf/CLF5.pdf>

Soil framework directive

The Directive has potentially serious implications for the current UK approach to contaminated land. First mooted in the Community's 6th Environmental Action Plan and a Communication "Towards a Thematic Strategy on Soil Protection", what emerged in September 2006 was very different: whereas the 2002 thinking had been to limit a Directive to some monitoring requirements about soil quality, the published proposal contains a number of very specific obligations about land contamination (in Chapter 3).

These include an obligation on Member States (MS) to limit the introduction, even accidentally, of dangerous substances on or in soil and a requirement within 25 years to measure the levels of all dangerous substances, carrying out an on-site risk assessment at each site "where there may be sufficient reason to believe that they [the levels] pose a significant risk to human health or the environment". Sites found to pose such risk after assessment are to be placed on a national inventory of "contaminated sites". All sites on the inventory are to be remediated.

In addition, land used for specified purposes currently, or with a history of such uses, would require a "soil status

report" to be made available to the competent authority and parties to any sale. This should show site history, concentration levels of relevant substances and the levels at which "significant risk" could be assumed according to a methodology to be devised by the MS.

Several aspects of these proposals look unclear, impractical, inconsistent, technically unsound, or unjustified. The obligation to remediate, for example, disregards cost, practicality and possible negative environmental impacts. The relationship with existing EU law such as the Waste Framework Directive, and its proposed amendments currently in negotiation in the EU, including the proposed exclusion of unexcavated contaminated soil from the scope of the latter is also unclear and there are concerns about how some of the obligations could fit with MS' varying systems of property law.

Not of least concern, however, is the possibility that a future harmonisation of risk assessment methodologies for soil contamination, flagged for future action in the Directive, could produce something significantly different to that under Part 2A of the Environmental Protection Act and planning policy, along with the uncertainty that would bring to the UK in the meantime. Negotiations continue.

National brownfield forum

In parallel with Defra's Forum, another one, with a focus on the more commercial and economic aspects of brownfield redevelopment, has been set up by English Partnerships (EP). Each will be represented on the other.

National Brownfield Strategy

Reference was made in the last Newsletter to EP's Brownfield Strategy, published in December, and to the endorsement in that for an accreditation scheme for professionals under the umbrella of SiLC, rather like the system

of Approved Inspectors under Building Control. According to EP, that now just awaits Ministerial sign-off, along with the plan dependent on it to assess up to 18,000 mainly smaller brownfield sites by the end of 2009.

IPM-net

The CIEH has been invited to join the Scientific and Technical Advisory Committee of IPM-net, full title - the Integrated Pollution Management Knowledge Transfer Network - formally the First Faraday network. Funded by the DTi and Defra, its purpose is to improve the UK's innovation performance in the management and remediation of pollution by increasing and speeding up knowledge transfer into UK businesses. The main purpose of the S&TAC is to provide advice on knowledge needs. Representing the needs of contaminated land regulators will, we hope, lead to them being met sooner.

LACORS

LACORS and CIEH policy staff met informally recently to discuss a variety of environmental protection topics. Among them were our "Needs & Resources" survey of last September (Newsletter #2) and the LGA/Environment Agency's 2003 "Working better together protocol", now under revision.

Lacors and the CIEH held a joint conference on "the Year Ahead" in Stratford-upon-Avon on 22/3 March. Contaminated land got a mention in a typically entertaining presentation on environmental protection by Tim Everett, Director of Services at Worthing. Go to: <http://www.cieh.org/library/Knowledge/Tim%20Everett.pdf> A repeat event is already being planned for around the same time next year.

Rogers

Also appearing at the Year Ahead event was Peter Rogers, author of March's "National enforcement priorities for local

authority regulatory services", available via the Cabinet Office website: www.cabinetoffice.gov.uk Pitting environmental health policy areas against trading standards and with a pre-determined limit of five priorities, it was perhaps not surprising that contaminated land, omitted entirely in fact from the initial long-list, didn't make the final cut, but it was in good company along with noise nuisances and housing standards.

Like those, classifying it as a likely local priority for many urban or mixed urban authorities, the report did, however, acknowledge that contaminated land can "cause death, injury, serious illness including cancer and reproductive disorder...property blight, reduced property values, [the] deterrence of investment and development and legal and other uncertainty." Couldn't have put it better.

Waste Policy

The Agency's Waste Policy Division has been working on the definition of waste in the context of the development of greenfield and brownfield sites.

In April 2006, it published "The Definition of Waste: developing greenfield and brownfield sites" (<http://www.environment-agency.gov.uk/business/444304/502508/1357364/>). This, along with the changes they came up with for the Mobile Treatment Licensing regime addressed many of the issues that the industry had raised and though the guidance highlighted the need for some further work, it said that this would be done through the National Brownfield Strategy (NBFS). EP included this accordingly with other policy issues in their consultation workshop in December 2006.

Notwithstanding, following pressure from Ministers and industry, the Agency agreed to facilitate the further work on the definition, involving a broad spectrum

of stakeholders, and it has now provided a paper on the use of contaminated materials on sites where they originate. Further papers are promised on materials arising from fixed soil treatment centres and on the CLUSTER concept of donor, hub and receiving sites.

Underpinning these developments is the promotion of best practice in the characterisation and remediation of sites, important to which are site remediation strategies and verification reports. Recognising that the industry can be a source of best practice, the Agency has asked CL:AIRE to collate examples of strategies and to go on to develop generic protocols for the re-use of treated materials on a site-by-site basis.

Questions

MCERTS

These newsletters would not be complete without news of at least one forthcoming survey and this time, it's another from the Environment Agency on the way. Covering both the Agency and local authorities, it aims to discover whether the Agency's MCERTS policy on the chemical testing of soils is being used in the field. A link to the MCERTS policy page on the Agency's site is on our website.

PPS23

English Partnerships has been asked again, and has now promised, to supply a summary of the conclusions from its survey of local authority planners and CLOs on the implementation of PPS23 last October (Newsletter #2). We hope to report on that next time.

Additions to the Website

There has been just one significant addition since the last Newsletter, apart from our "Way Forward" response (above), and it's on the same topic: the presentation by Steve Moreby on behalf of the CIEH to a "Brownfield Briefing" conference held in Hull in February.

Consultations

Tax

Out for consultation currently from HM Treasury is a paper "Tax incentives for the development of brownfield land". The deadline for response is 14 June. Go to www.hm-treasury.gov.uk/budget/budget_07/documents/bud_bud07_brownfield.cfm

Soil directive

Defra's first public consultation on the proposed Soil Directive is expected to be published at the beginning of July. The next meeting of the Contaminated Land Forum (above) on 17 May will be given over to a stakeholder workshop on the Directive. Full and corresponding members will be invited.

Planning & pollution control

Defra and CLG have published a summary of responses to their recent consultation on the planning and pollution control interface. It's on the CLG website. The CIEH's response seems to have been pretty mainstream and CLG says that further work is "on-going".

On the Way

Guidance

Adapting the "Yellow Guide" to the CIEH's new document design rules has been taxing our printers but it is now almost ready and will be released shortly. Also almost ready for release are the Ground Gas Handbook, first announced last year and an excellent training tool aimed at planners, developed by the Standing Conference's Planning Working Group. All three will appear on the website.

The same group has also produced a set of model planning conditions, how best to release which is currently being discussed with DCLG. Meanwhile, work

on revising R&D66 continues with partners Buro Happold, the NHBC and with in-put from the Agency.

Training

Dates are now being finalised for a series of events on ground gas spanning the summer break and complementing the handbook (above). Details will appear on the website soon.

EMAQ+ is making a timely return to the topic of human health risk assessment in July. Remember, spare places at EMAQ+ events are open to all-comers but it's cheaper if you subscribe. The eagle-eyed may also have noticed that the EMAQ+ website is undergoing a re-vamp, bringing its look more up-to-date and improving its functionality at the same time. Bear with us until that is completed.

Conferences

The CIEH will be showcasing best practice in environmental health at its "Best of the Best" conference to be held in Nottingham on 15-16 October. A session on an aspect of contaminated land has been proposed. Go to www.cieh.org/events for more.

Ins and Outs

Last but not least, significant people changes in the Standing Conference include the departures of Alan Crossfield of Lincoln and Paul Pearse of Colchester, both headed for the world of consultancy. Alan has been a useful contributor to the Risk-assessment Working Group while Paul brought his own style to leading the Planning Working Group. Best wishes to both for their futures on "the dark side".

Compiler: Howard Price with acknowledgements to Defra, the Environment Agency and CL:AIRE