

EIC CONTAMINATED LAND WORKING GROUP



Contaminated Land Working Group

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The EIC's voice has been heard loud and clear throughout the corridors of the Department of the Environment and the UK's environmental agencies throughout 2007. The coming year looks as though it is going to be just as busy for the highly active members of the Contaminated Land Working Group.

With over 200 member companies, the Working Group is the largest in the EIC with a rather daunting meeting attendance of 70 or 80 company representatives every quarter. The enthusiastic membership is what keeps the group fresh and interesting, with the ideas that are presented at the meetings fuelling the lobbying activities of the following months.

Consultants, contractors, lawyers, laboratories and the insurance sector are all well represented at the meetings, so there is always a broad spread of opinion to be garnered from each debate. It is fair to say that the consensus that is reached following these discussions broadly represents the view of the industry.

ACTIVE ENGAGEMENT

One of the lessons that the group has learned over

the years is that it takes a long time to achieve some of the successes that the EIC has achieved for the contaminated-land sector. The key to all of these has been in the active engagement of the right people in government or the regulatory agencies, and the calm, assured explanation of why a system, regulation or guidance note needs to be changed by responsible professional individuals. Without the input of the group's professional volunteers, progress would have been far slower.

The group's notable achievements include the popular Mobile Treatment Licence, the tax breaks for brownfield developers, successes in the search for a meaningful definition of waste soils, a new British Standard for soil gas risk assessment, and a myriad of improvements to guidance documents and legislation. All of these have sprung from the hard work of the EIC's enthusiastic staff and the essential impetus provided by the Group's busy volunteers who represent the 200 member companies.

THE ASSESSMENT OF CONTAMINATED LAND

Despite it being well over ten years since the introduction of Part IIa of the Environmental Protection

Act, there is still an enormous amount of confusion and uncertainty surrounding the various guidance documents that form the backbone of government policy on contaminated land. For example, the government's CLEA risk-assessment programme has been unpopular since its inception, the production of the Soil Guideline Values has been little short of a fiasco and consequently local authorities have been reluctant to take legal action against the owners of seriously contaminated land. Added to that, there is continuing confusion in the contaminated-land regime, and the planning system, as to what constitutes significant contamination. Consequently unnecessary remediation is carried out, and other sites that should be dealt with are ignored.

This unhappy state of affairs is now in the hands of DEFRA, the Environment Agency, the Health Protection Agency, the Chartered Institute of Environmental Health and others. Added to that, the entire team at DEFRA who are responsible for Part IIa has been changed recently. This presents the Working Group with an opportunity to persuade DEFRA that something really needs to be done. In 2006, DEFRA published a promising document [cont..](#)

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called 'The Way Forward' that addressed a number of important issues. To date this hasn't been taken any further and it looks as though a fundamental review of policy in this area may be taking place. The Group will be arguing for direct involvement in the creation of a new policy, one that is simple enough to be understood by the regulators and by specialists working in the industry. Perhaps part of the problem in the past has been the sheer complexity of the system that government was trying to impose.

Another significant change appears to be the greater interest being shown in this area by the Health Protection Agency and the Chartered Institute of Environmental Health. A group member has been invited to attend the HPA's Contaminated Land Risk Advisory Forum which looks as though it will be debating a number of highly technical issues in the coming months, and very likely helping to direct government policy in this area.

GROUNDWATER CONTAMINATION

Continued uncertainty in the assessment of groundwater pollution on contaminated sites is another huge frustration for the industry throughout the UK. The Water Act amends the definition of contaminated land in Part IIa so that minor cases of water contamination aren't subjected to inappropriate and unsustainable remediation. However, the guidance to implement this change is on hold while

the government assesses the implication of the Water Framework and Groundwater Directives.

Meanwhile in Scotland, SEPA's default position is that the water migrating from any polluted site must achieve drinking water standards by the site boundary, a ludicrous and obviously unsustainable argument in the highly industrialised parts of the country.

The group is heavily involved and is represented on the DEFRA Stakeholder Forum. At the time of writing, consultation is being prepared on the amended regulations with a timetable for the release of the new groundwater regulations in October 2008.

REMEDICATION LICENSING

Once again it's all change for a new remediation licence. No sooner has everyone got used to using Mobile Treatment Licences, then along comes the Environmental Permitting Review, with the idea of a new Standard Rule Permit. There won't be much material difference, and the new permit will look pretty much like a Mobile Treatment Licence. What this does perhaps suggest, is that in future other permits and consents that remediation contractors require, could be incorporated into the Standard Rule Permit, thus increasing efficiency both for the industry and for the busy regulators.

DEFINITION OF WASTE

No article on the activities of the Working Group

would be complete without comment on the definition of waste, probably the most irritating subject the group deals with. This single issue has resulted in the wasting of vast mountains of soil and aggregates that could have been put to sustainable end use, and that have had to be disposed of instead. The forthcoming European Waste Framework Directive will set out for priority waste streams rules on when they have been recovered and are no longer waste. Unexcavated soils will also be excluded, clarifying the Van de Walle situation, for those of you that have been following this faintly ridiculous story.

The Group is also assisting CL:AIRE in the preparation of a Code of Practice for the reuse of soils, which should give clear guidance to back up the Environment Agency's own publication 'The Definition of Waste: Developing Greenfield and Brownfield Sites'.

OTHER ACTIVITIES

Other volunteers are actively pursuing objectives in relation to the guidance on the disposal of oily waste soils (a huge percentage of hazardous waste returns), landfill tax and the other remediation tax incentives, the Soil Framework Directive, and the National Brownfield Strategy. There is also a highly active Scottish Group, addressing most of the issues covered in this article, but in the context of the Scottish Government and SEPA.

Those that are already involved in the Contaminated Land Working Group, know how useful the meetings are as an update on the industry, and as an opportunity for networking and exploring ideas. What is also clear is that, without the activities of the EIC's professional staff and the Group's volunteer force of lobbyists and experts, the contaminated-land industry would be in a far worse shape. There would be a multitude of barriers to the use of sustainable remediation technologies and state-of-the-art risk-assessment techniques.

JOIN UP!

If the contents of this article have been of interest to you then please consider joining the Working Group. Simply contact Merlin Hyman or Alistair Kean and make arrangements to attend one of our meetings. The more active members the Group has, the more chance there is of getting opinions heard and incorporated into the key regulations and guidance, and making the UK regeneration industry as efficient and sustainable as we would all like it to be.



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