

ASBESTOS IN SOIL, MADE GROUND AND CONSTRUCTION WASTE

Joint Industry Working Group Meeting with HSE and EA

MEETING No. 3 – CL:AIRE's Office, London

13th February 2013

Attendees

NAME

Steve Forster – Chair of JIWG
Nicola Harries - Secretariat
Trevor Howard
Craig Bell

REPRESENTING

EIC
CL:AIRE
EA
HSE

Agenda

1. Interface between HSE and EA on policy, regulation and enforcement
 - a. Review draft joint statement
2. HSE Guidance on Demolition – Dealing with Buildings that Contain Asbestos - ALG 02/08
 - a. Update on HSE/ALG advice on recycling demolition materials containing asbestos
 - b. Review of implications on environmental risk management framework
3. REACH update
 - a. Meeting/contact with DEFRA
4. CDG/ADR update
 - a. Meeting/contact with DfT
5. Recycling of Asbestos Contaminated Soil and C&D Waste
 - a. EA Quick Guide - Asbestos Contaminated Soils and Rubble at Construction Sites
 - b. Waste Exemptions T5, T7, U1
 - c. SRP 2010 No.7, 2010 No.8, 2010 No.11, 2010 No.12
 - d. Review EA flow chart
6. HSE Guidance on Worker Protection from Asbestos in Soils - HSG248 Annex (CFM WG2 Task Group)
 - a. Update on progress
 - b. Interface with CIRIA and JIWG guidance
7. UKAS Accreditation for Testing and Inspection
 - a. Update on HSE clarification on application to field visual screening
8. Laboratory analysis
 - a. EIC Task Group – UK standardised methodology
 - b. CAR2012 definition of asbestos/HSG248 definition of 'trace'
9. Training and Competence
 - a. BOHS update
10. AOB
11. Next Meeting

No.	DISCUSSION	ACTION
	<p><u>WELCOME and APOLOGIES</u></p> <p>The chair Steve Forster (SF) welcomed all to the meeting and thanked people for making the time available to meet. Apologies were given for Bob McIntyre and Tim Morris – EA Waste.</p>	
1.	<p>Interface between HSE and EA on policy, regulation and enforcement</p> <p>a. Review draft joint statement</p> <p>Both Trevor Howard (TH) and Craig Bell (CB) were content with the wording in the joint statement. SF asked whether it would be appropriate to add the names of the EA and HSE at the bottom of the statement. Both TH and CB will discuss internally and confirm.</p> <p>TH & CB suggested that DoT should also sign. This was agreed but at present we do not have the right contact to ask.</p> <p>Figure 1 is also to be attached to the statement. This needs to be reviewed. Nicola Harries (NH) to circulate to TH and CB for review and sign off.</p>	<p>TH & CB</p> <p>NH, TH & CB</p>
2.	<p>HSE Guidance on Demolition – Dealing with Buildings that Contain Asbestos - ALG 02/08</p> <p>a. Update on HSE/ALG advice on recycling demolition materials containing asbestos</p> <p>CB confirmed that Greg Heywood is leaving his post in Asbestos Liaison Unit; as yet he is not aware of his replacement. CB confirmed that he will inform SF as soon as he knows.</p> <p>In the interim, CB suggested that SF contact Colin Seditas. CB to provide introduction. SF to contact Colin Seditas to introduce himself.</p> <p>CB is aware of conflicting advice within ALG 02/08 documents and that the asbestos community deem the guidance documents to be HSE documents as they are hosted on their website.</p> <p>It was suggested that perhaps SF provide a short critique identifying the conflicting advice in ALG 02/08 with other guidance and where there are inconsistencies which can then be forwarded to the ALG for discussion at the next ALG meeting and help focus what needs to be changed. It was thought that it would be helpful to remove ALG 02/08 in the interim.</p> <p>CB to discuss with ALG.</p> <p>It was noted that the ALG has representation from the EA as well as HSE. TH to enquire who from the EA is represented on the ALG to support the temporary removal whilst amendments are made.</p>	<p>CB</p> <p>CB & SF</p> <p>SF</p> <p>CB</p> <p>TH</p>

	<p>b. Review of implications on environmental risk management framework</p> <p>It was agreed that the main risk to people with respect to asbestos is the inhalation of fibres when working with asbestos. The H&S regulations indicate that one needs to avoid exposure from inhalation as much as possible by taking appropriate action. Therefore this needs to be clear when developing an environmental risk framework to ensure that there is no contradiction between the different regulatory regimes. Therefore it is important to understand what materials are suitable for processing and what levels would be deemed to be acceptable to be left in the recycled material.</p> <p>It was agreed that it would be helpful to have an understanding of how other European countries deal with recycled materials and whether they have permissible limits for asbestos to be left in the material if not intentionally added to allow reuse. Also, do they have a “duty to manage” type regulations? SF was aware that Australia has such a system.</p> <p>It would be useful to understand how France, Netherlands and Poland work? NH confirmed that she has contacts within France and the Netherlands and can make enquiries.</p> <p>CB is aware that the Employment and Social Affairs Committee is currently examining current asbestos legislation in European Member State Countries, he will send a link as there may be information here?</p>	<p>NH</p> <p>CB</p>
3.	<p>REACH update</p> <p>a. Meeting/contact with DEFRA</p> <p>CB had previously provided a contact within the Defra International Chemicals Team – Keith Bailey, but at present SF has had no contact. Annex 17 part 6 “Articles or mixtures of which asbestos is intentionally added” is where a definitive statement needs to be made.</p> <p>It is currently not being considered a problem, however it is acknowledged that the different legislation contradicts itself and therefore the JIWG Asbestos Code of Practice needs to get a definitive statement from the REACH team in Defra to protect people following the JIWG Asbestos Code of Practice that REACH was never supposed to apply to asbestos in soil, made ground or construction and demolition waste as this is a “legacy” issue and was not intentionally added.</p> <p>It was suggested that the JIWG comes up with a statement that gets sent to the REACH team in Defra that sets out why they feel that REACH does not apply to asbestos in “legacy” terms (because it is bound within the material and not intentionally added) and set out the problems that it could cause if it is considered to fall under REACH.</p>	<p>SF</p>
4.	<p>CDG/ADR update</p> <p>a. Meeting/contact with DfT</p> <p>There has been no progress trying to find a contact within DfT to discuss transportation issues with regard to asbestos. The problem lies as there is no</p>	

	<p>de minimis for transporting asbestos under the Carriage of Dangerous Goods Act where asbestos is prohibited to be transported unless it is in UN approved sealed bags and in lockable skips.</p> <p>Again this is not considered a problem at the moment; however the JIWG Code of Practice needs to provide definitive guidance to ensure people stay within the law. The DfT is implementing the UN agreement. Therefore it is important to find out how other countries address this issue. SF was aware that Australia has asked the UN for special provision to have a certain level of asbestos to be contained in recycled aggregate. The UK needs something similar.</p> <p>CL:AIRE had recently had a meeting with Richard Benyon MP and raised this issue with lack of contact with DfT. It is hoped that his department may be able to help. NH to feedback.</p>	NH
5.	<p>Recycling of Asbestos Contaminated Soil and C&D Waste</p> <p>a. EA Quick Guide - Asbestos Contaminated Soils and Rubble at Constructions Sites</p> <p>The JIWG have been asked to comment on the quick guide. TH will feed all comments back to his waste colleagues. This will help them understand the main issues that the development industry has with the guide.</p> <p>SF was asked to provide a short summary of all the main issues that the JIWG would like to see addressed with respect to waste guidance to enable the Asbestos Code of Practice to be reasonably practicable.</p> <ul style="list-style-type: none"> a. Waste Exemptions T5, T7, U1 b. SRP 2010 No.7, 2010 No.8, 2010 No.11, 2010 No.12 c. Review EA flow chart <p>It was acknowledged that there are a number of permits and exemptions that could affect asbestos in soil so it is important that everything is linked up and protocols for processing and screening are consistent to allow reuse of material as long as it can be demonstrated that it meets all the criteria and is fit for purpose. The Asbestos Code of Practice will need to come up with robust guidelines to follow and signposting.</p> <p>The EA flow chart is still in draft format and will be worked on once further clarification is sought on how to deal with the regulatory issues that have been flagged up by the development community.</p>	<p>SF & TH</p> <p>SF</p>
6.	<p>HSE Guidance on Worker Protection from Asbestos in Soils - HSG248 Annex (CFM WG2 Task Group)</p> <p>a. Update on progress b. Interface with CIRIA and JIWG guidance</p> <p>CB believes that HSG 248 would be ready in draft by May 2013 but he would check this and get back.</p> <p>SF explained that at the last JIWG meeting it was stated that WG2 Task Group does not have a date for another meeting as HSL are waiting for input from HSE.</p>	CB

	<p>It was also noted that there are some concerns about some of the content within the draft Annex as it seems to be going into areas that could be seen as not good practice within the contaminated land community and ultimately will contradict with the JIWG Asbestos in Soil Code of Practice.</p> <p>CB noted the concerns and confirmed that he has not seen the draft HSG248 and will be reviewing the draft when complete.</p>	
7.	<p>UKAS Accreditation for Testing and Inspection</p> <p>a. Update on HSE clarification on application to field visual screening</p> <p>It was discussed whether UKAS accreditation is required for:</p> <ul style="list-style-type: none"> a. Site screening – field visual screening & b. Quantification of asbestos fibres <p>The only requirement in law (Reg. 21, CAR 2012) is “every Employer who analyses a sample of any material to determine whether it contains asbestos...” must meet the criteria set out in ISO 17025. Essentially, identification of asbestos fibres is a test that requires mandatory UKAS accreditation.</p> <p>For field screening of samples in order to determine whether <u>potential/suspect</u> ACMs or asbestos fibres are present, you do not have to be UKAS accredited. You must be UKAS accredited if you are actually identifying asbestos fibres, therefore strictly speaking if you are just identifying fibrous materials on a site in order to better determine which samples need to be submitted to a UKAS-accredited laboratory for identification, then you do not need to be UKAS accredited. It is acknowledged, however, that any samples not selected for laboratory analysis by such a screening process then cannot be deemed to be “asbestos free”, Any field visual screening protocol would have to address how such screened samples were reported.</p> <p>In terms of quantification/counting of asbestos fibres, the only requirement in law (Reg. 20, CAR 2012) is “every Employer who carries out any measurement of the concentration of asbestos fibres present in the air...” must meet the criteria set out in ISO 17025. Essentially, fibre counting of air samples is a test that requires mandatory UKAS accreditation.</p> <p>The recognised method for fibre counting does not, as a default, require the identification of asbestos fibres, or differentiating between asbestos- and non-asbestos fibres. There is a test which can be used to differentiate between asbestos- and non-asbestos fibres and such a test would have to be conducted by a laboratory accredited by UKAS for such tests. For quantification of asbestos fibres in soil samples, it is possible that if no differentiation/identification is carried out, then no UKAS accreditation would be required. In practice, however, a degree of differentiation/identification is performed and so it would seem unlikely that a laboratory carrying out differentiation/identification and mass quantification would not already have UKAS accreditation for measurement of concentration of asbestos fibres.</p>	

	<p>It seems semantics, but this is an important point of clarification particularly where two industries – brownfield/contaminated land and asbestos management will come together with the JIWG Asbestos in Soil Code of Practice. Therefore if you are sampling material on site this would constitute field visual screening and UKAS accreditation was not required. CB agreed this could be the base but would depend on the exact procedures being undertaken on site. CB will check legal position with HSE's legal advisers and others.</p>	CB
8.	<p>Laboratory analysis</p> <p>a. EIC Task Group – UK standardised methodology</p> <p>No progress to report on this.</p> <p>b. CAR2012 definition of asbestos/HSG248 definition of 'trace'</p> <p>It was agreed that it is important to understand and define what 'trace' means. If this is not defined then practitioners following the JIWG Asbestos in Soil CoP could get challenged. The difficulty is that the HSE ACoP was not written with respect to soil and the regulations do not mention an acceptable level in principle.</p> <p>Could there be a way of formulating a methodology to help define 'trace' bearing in mind that it must be compliant with all government departments including DoT for CDG regulations.</p> <p>What do other countries do? USA identify <1% of asbestos by mass in soil is not considered asbestos containing material.</p> <p>SF was requested to come up with a form of words for 'trace' for HSE and EA to consider.</p> <p>It is important to determine what a national background level of asbestos is as this would help define 'trace'. This point was raised by CL:AIRE at a recent meeting with Richard Benyon. NH to report back.</p>	<p>SF</p> <p>NH</p>
9.	<p>Training and Competence</p> <p>a. BOHS update</p> <p>There was a discussion about BOHS's presentation of their draft training modules in relation to asbestos in soil to support the publication of HSG 248 at the last JIWG meeting. It showed at the JIWG meeting that the two industries (land contamination and asbestos management) are very different in their approach to competency of professionals through fixed training modules.</p> <p>It was agreed that industry needs to decide what is needed and not the training providers. Industry should dictate the competency required of its own staff. There was concern voiced that development of new BOHS training modules might be premature as the JIWG Asbestos in Soil CoP has not yet been drafted.</p> <p>It was agreed that it would be preferential to develop training jointly between</p>	

	BOHS and JIWG and to see what training would be relevant but it must also be recognised that BOHS are not the only training provider.	
10.	AOB No further business was discussed. NH to set up the next meeting in 3 months. SF thanked people for their time.	NH