

RISK REVIEW

Noel Arnold & Associates - Risk Management Consultants

Update on Managing Asbestos in Soils Liability

9th September 2009

A new Guidance Note finalised by WA Health Department has provided direction with regard to managing asbestos containing material (ACM) in soil. The state - specific document, considered a precursor to a national approach, offers much needed guidance in assessing risks posed by ACM in soil. Other State regulators are adopting the guideline as best practice.

The risks associated with ACM contaminated soils can impact on land owners, developers and site users alike. This Risk Review summarises the changes in how ACM in soil is managed and clarifies the following obligations for companies:

- Handling contaminated soils;
- Operating on sites which may contain asbestos; or
- Buying or leasing land which also may contain ACM.

Occupational Health or Environmental Risk?

ACM debris is found on many sites including parks, residential redevelopments, industrial land and schools. The potential risk posed by ACM is different depending on the particular land use(s). This has presented problems in adopting a consistent approach when assessing the potential risk posed by ACM.

Asbestos is controlled by State OHS Regulations in order to protect worker safety and in environmental regulations to protect human health. Environmental regulations also

provide direction with respect to managing ACM in soil as a waste.

Victorian Guidelines

EPA Victoria has recently released the Industrial Waste Resource Guidelines (IWRG) which replaced the prescribed waste guidelines. The new guidelines bring a significant change to how waste is managed including ACM in soil.

In Victoria, the Regulations require that land owners and developers examine re-use options prior to disposing of soil. This may require on site treatment including sieving or hand picking asbestos by a Class A licensed contractor.

EPA Victoria has removed the 1% asbestos in soil criteria previously used to classify the material as a prescribed waste.

If asbestos is identified, and disposal is the best option, under the IWRG the waste soil is classified as Category C waste and a \$30 per tonne levy applies. It is noted that this waste categorisation does not consider the chemical contamination status of the soil (if any).

Victorian OH&S (2007) regulations prohibit the re-use, transport and storage of soil containing ACM (except for disposal), but provide an exemption from the prohibitions in relation to soils from which visible asbestos containing material has been removed so far as reasonably practical.

NSW Guidelines

There are currently no Department of Environment, Climate Change and Water (DECCW) endorsed guidelines relating to the investigation or assessment of asbestos material contamination on sites. NSW DECCW Auditors are required to exercise their professional judgement in the assessment of whether a site is suitable for its intended land use, seeking advice from NSW Health where appropriate.

According to NSW WorkCover, it is up to the occupational hygienist to determine whether asbestos within soils is considered bonded or friable (*Working with Asbestos Guide*, NSW WorkCover, March 2008).

Effectively managing asbestos in soils

Given that the carcinogenic hazards of asbestos exposure are well known, there has been much debate over the potential risks of low concentrations of asbestos in soil. The first step in determining the risk is to establish the concentration of asbestos in soil. This process is prescribed in Australian Standard AS4964. The WA Health Department have adopted an investigation threshold of 0.01% for ACM in soil. However, there is an obligation in all jurisdictions to remove visible ACM. If, through risk assessment, the concentration of ACM is considered to be minor, capping of subsurface contamination together with ongoing management controls can be accepted as an

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approach to managing the risks.

Historically, soil contaminated with ACM has been excavated and disposed to a licensed facility. This process is effective in removing asbestos from the environment, but is costly, shortens the life of landfills and is inconsistent with the waste hierarchy (i.e. disposal is the last option).

There remains an overriding obligation to ensure that asbestos does not pose a health risk to site occupants, workers or persons on adjacent sites.

Conclusion

Land owners and managers who find their site is potentially contaminated with asbestos containing materials should be familiar with the new WA guidelines and in Victoria be familiar with the requirements of the Industrial Waste Resource Regulations 2009.

While both of these documents have been recently released, they do not override the existing obligations prescribed in state based OHS Asbestos regulations.

Both of these newly released documents are available at the following web links:

[Guidelines for the Assessment, Remediation and Management of Asbestos-Contaminated Sites in Western Australia](#)

[Environment Protection \(Industrial Waste Resource\) Regulations 2009. Publication IWRG611.1 \(July 2009\) - Asbestos Transport and Disposal](#)

Further Information

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