



OFFICE OF RAIL REGULATION

ORR position paper on asbestos in the rail industry 2014

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Asbestos Position Paper

Purpose

In April 2014 we published our second [occupational health programme for 2014-19](#) which focuses on embedding the health and wellbeing of railway workers into the culture of our industry. It seeks to move the rail industry beyond consistent legal compliance towards excellence in managing occupational health, ensuring a more efficient, productive and healthier workforce. This position paper supports both our health programme and our strategic risk priorities document [LINK], by setting out how we will work with the industry over the next five years to ensure consistent compliance in the management of asbestos.

Vision

No-one contracts any asbestos-related disease from working or being in railway premises.

Excellence in control of risks from asbestos such that no significant exposure to asbestos occurs to anyone arising from working in the railway sector.

Aim/Target

1.1 All employers in the rail industry appropriately manage asbestos-containing materials (ACMs) in their premises¹ so that no one unknowingly works on or disturbs the material. Any work that is carried out that potentially exposes anyone to asbestos should comply with all relevant legal requirements and guidance.

1.2 All employers in the railway industry will: know the location and condition of any ACMs on their premises; share this information with anyone whose work may be liable to disturb ACMs; work to prevent exposure to those ACMs, and adequately manage any risks of accidental asbestos exposure.

1.3 Anyone whose work could potentially expose them to asbestos should be informed of the whereabouts of any asbestos-containing materials and what action is needed to avoid the risks of disturbing it.

¹ The definition of premises includes all buildings, railway infrastructure and rolling stock.

Introduction

1.4 Inhalation of asbestos fibres can cause serious diseases which are responsible for around 4000 deaths a year in the UK. There are three main diseases caused by asbestos: mesothelioma (always fatal), lung cancer and asbestosis (not always fatal, but debilitating).

1.5 Asbestos was widely used in the rail industry and can be found in stations, signal boxes, depots, and outbuildings. It was also used to insulate signalling and other electrical equipment beside the railway line. Most modern (post 1980) mainline rolling stock is unlikely to contain significant amounts of asbestos. Some individual components may have asbestos present. It can be found in a number of areas on heritage trains and older carriages. Residual traces of asbestos from damaged lineside troughing can also be found in some railway ballast.

What the law requires

1.6 The Control of Asbestos Regulations 2012 (CAR) carried forward requirements previously contained in 'The Control of Asbestos Regulations 2006'. These regulations are for ORR to enforce in its areas of responsibility, except for licensed asbestos work which remains HSE's responsibility.

- (a) Regulation 4 sets out the requirements of the duty to manage asbestos.
- (b) Regulation 8 requires licensed asbestos work to be undertaken by a contractor licensed by HSE.
- (c) Under Regulation 9 such work must be notified to HSE at least 14 days in advance of the start date. Some types of unlicensed work with asbestos now need to be notified to the relevant enforcing authority where they are likely to be above the control limits.
- (d) Regulation 22 now includes a new requirement that from April 2015 workers who carry out notifiable non-licensed work with asbestos should have a medical examination every three years by a licensed medical practitioner.

1.7 CAR also sets out the requirements prior to any work with asbestos starting, such as:

- (a) risk assessment;
- (b) plan of work;
- (c) information, instruction and training; and
- (d) the protective measures needed to prevent exposure to asbestos during and after work.

Some requirements only apply to licensed work, for example regulations 18, 19 and 20 - asbestos designated area, air monitoring and air testing.

1.8 These regulations are supported by an HSE ACoP and guidance, [Managing and working with asbestos](#).

1.9 The European regulation REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) prohibits the placing on the market of articles containing asbestos. We have new enforcement responsibilities under the REACH Enforcement (Amendment) Regulations 2013, which include the authority to issue asbestos exemptions. An exemption has been made for any person who places on the market a railway vehicle or component for use in a railway vehicle containing asbestos.

What we have done

1.10 ORR consulted with the industry on the new exemption under REACH, and has recently published a new Rail Guidance Document ([RGD-2014-01](#)) on the new REACH exemption requirements. We have also updated the RGD- 2003-11 on the management of asbestos in non-domestic premises to reflect recent policy and legal changes.

1.11 ORR also undertook asbestos training for RSD inspectors in September 2012 to enable them to

- (a) Understand what the regulations require of employers;
- (b) Understand what good practice in asbestos management looks like in premises;
- (c) Understand how employers deal with maintenance and lower risk work involving asbestos-containing products on the infrastructure; and
- (d) An appreciation of railway practices to control exposure to asbestos fibre.

1.12 ORR has carried out extensive inspection of Network Rail's (NR) management of asbestos. Enforcement action was averted during the autumn of 2013 by NR's prompt action to prepare appropriate written asbestos management plans for all routes. A complaint of poor asbestos management at Euston Station resulted in the serving of two Improvement Notices on Network Rail in 2014 relating to the provision of a suitable asbestos survey for this site, and the provision of suitable follow up action on the survey findings. Compliance checks are being carried out at other Network Rail managed principal stations. We have worked with NR to understand and agree practical measures to minimise any risk from handling of used track ballast contaminated with low levels of asbestos from damaged troughing.

Where the industry is

1.13 Network Rail has asbestos management plans, but significant work is still needed to develop and refine them along with other management tools, including their asbestos register so as to provide a suitable

and effective management system. This work is ongoing. Recent involvement of the Professional Head of Buildings Asset Management Services has provided some assurance, but from such a low base, considerably more is required to demonstrate proper control. Work is under way to develop asbestos management plans for all the Network Rail managed stations, and to further clarify responsibilities and sharing of information on asbestos between Network Rail, their contractors, and train operators at leased stations.

1.14 There has also been some evidence of a lack of management and control of work with asbestos in the heritage railway sector with enforcement notices served on Ribble Steam Rail Ltd in 2012.

1.15 London Underground (LUL) has infrastructure dating back over a period of 150 years and asbestos is located in various parts of its infrastructure. Under its “dutyholder” role under the Control of Asbestos Regulations 2012, LUL commenced a full review of the presence and location of all types of asbestos across its infrastructure during 2012-13. All LUL stations were re-inspected and the asbestos survey records updated and upgraded together with the station specific asbestos management plans. This information is now readily accessible on-line via the LUL Intranet. The LUL asbestos register now covers stations, track, tunnels (both deep tunnels and sub-surface) and cabling routes. LUL are continuing the review to look at open track sections and areas such as vent shafts, noise shelves and inverts.

What needs to be done and how

In order for the rail industry to achieve consistent compliance, and move towards excellence in proactively managing risk from asbestos, we would expect to see:

- Accurate records of the location and condition of asbestos in the management plan;
- Proactive management of asbestos-containing materials to ensure they remain in good condition or, where there are risks associated with its location or condition, the material is repaired or adequately protected or, if in a vulnerable position, removed;
- Any removal of asbestos would be based on an appropriate assessment of the risks of it being disturbed or damaged;
- Where there is opportunity, for example during major refurbishment, and it is reasonably practicable to do so, to progressively remove ACMs from railway premises;
- That access to management plans showing the location of ACMs is available to everyone who may disturb or damage them, including for example contractors and those sharing premises; and

- Rail companies can reliably identify any work on asbestos that requires additional controls including notifiable non-licensed work (NNLW) and licensed work, and can ensure that the necessary stringent controls are in place, using approved licensed contractors where necessary.

ORR will:

Ensure that rail duty holders' health policies specifically address any risks from asbestos containing materials in railway premises, including buildings, infrastructure, and rolling stock;

Carry out targeted inspections on management of risk from asbestos, using RM3- health to assess key elements of management capability;

Continue to focus on the duty to manage asbestos on railway premises including in depots and stations, including improving awareness of minor railways that they need to have proper records and management plans in place;

Continue to track progress by Network Rail, at central and route level, in delivering priority work on asbestos under their Health and Wellbeing Strategy and action plan;

Work collaboratively with the minor railways and rolling stock leasing companies (ROSCOs) to further build understanding of, and check compliance with, the exemptions on the sale or transfer of rolling stock containing asbestos;

Continue work with Network Rail to improve visibility of their health management measures on potential asbestos exposures, via Network Rail's License and published [Annual Return](#); and

Continue to raise awareness of any changes to legal requirements, guidance and good practice in managing asbestos, via our web site, quarterly update on health, and our periodic health e-bulletin.

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