

Availability of List of Pennsylvania Industry-Wide Coproducts to Include Reclaimed Asphalt Pavement (RAP)

Industry-Wide Coproduct #1

By this notice the Department of Environmental Protection (Department) is proposing the first industry-wide coproduct determination. The Department has determined that reclaimed asphalt pavement (RAP), including mixtures of RAP and clean fill from the milling of the edge of roadway shoulders, that is reused for roadway construction should be included on the list of industry-wide coproducts to be established by the Department under the regulatory authority of 25 Pa. Code Section 287.9 of the residual waste regulations and the statutory authority of the Solid Waste Management Act (35 P. S. §§ 6018.101-6018.1003).

For the purpose of this industry-wide coproduct determination, RAP is defined as small particles (typically up to an inch in size) of bitumen and inorganic materials produced by the mechanical grinding of bituminous pavement surfaces that have not been subject to a spill or release of regulated substances. RAP is not the equivalent of used asphalt (typically in chunks greater than an inch in size) and thus is not considered to be clean fill under the Department's Management of Fill Policy.

The Department is authorized under the Solid Waste Management Act, The Clean Streams Law (35 P.S. §§ 691.1 – 691.1001) and 25 Pa. Code §§ 91.27 (relating to general water quality management permits) and 287.9 (relating to industry-wide coproduct determinations) to establish a list of classes of materials as industry-wide coproducts for specific uses if the following conditions are met:

- 1.) Chemical and physical characteristics of the material generated do not vary over time.

RAP is made up of asphalt emulsion and stone aggregate. The materials vary little in the production of asphalt pavement. RAP's chemical and physical composition does not vary over time.

- 2.) Historical use of the material complies with industry standards and specifications.

RAP has been effectively reused for decades as an ingredient in new asphalt pavement and as a roadway aggregate. RAP complies with asphalt industry standards and specifications.

- 3.) Historical use of the material over an extended time period has demonstrated that the material, when used as specified, performs as an effective substitute for an intentionally manufactured product or produced raw material.

RAP has been demonstrated to be an effective substitute for virgin asphalt pavement ingredients and is commonly reused by the asphalt paving industry. This is evident by RAP's conformance with asphalt industry standards and specifications for the production and use of asphalt pavement materials.

- 4.) There is historical documentation that a market for the material and its use exists.

RAP has been historically and effectively reused in the asphalt paving industry. Due to the increasing cost of asphalt emulsions its use is expected to increase even beyond the current reuse rate.

- 5.) Historical use of the material does not violate the Environmental Protection Acts or regulations thereunder and does not harm or present a threat of harm to public health, safety, welfare or the environment based on an evaluation under 25 Pa. Code Section § 287.8 (relating to coproduct determinations).

If RAP materials are reused in accordance with the industry-wide coproduct specifications as outlined in the industry-wide coproduct determination, no public health or environmental harm should occur.

The Department has determined on an industry-wide basis that RAP, including mixtures of RAP and clean fill from the milling of the edge of roadway shoulders, is a coproduct in accordance with Section 287.9 when used as follows:

- 1.) As an aggregate, a sub-grade or a sub-base material for roadway construction, when used alone or blended with other materials in a manner that complies with PennDOT Specifications as outlined in Publication #408 for roadway construction directly beneath, and contained by a road surface paved with Portland cement concrete or bituminous pavement;
- 2.) As a construction material for compacted roadway shoulder applications, including compacted shoulder backup or compacted shoulder pothole patching material in roadway or driveway apron applications, covered with a thin bituminous coating (sealer) that complies with PennDOT Specifications as outlined in Publication #408;
- 3.) As a construction material to construct, or repave needed roadway or vehicle use areas such as parking lots or driveways if such application is performed when the RAP contains enough asphalt or additional binder to keep the material in place after compaction by mechanized rolling;
- 4) In a manner that does not violate the Air Pollution Control Act (35 P.S. §§4001 – 4015) and The Clean Streams Law and the regulations promulgated thereunder; and
- 5.) In a manner that does not create a nuisance or is harmful or presents a threat of harm to the public health, safety or the environment.

The use of RAP, including mixtures of RAP and clean fill from the milling of the edge of roadway shoulders, as a coproduct in accordance with this industry-wide coproduct determination includes its transportation and placement. This proposed industry-wide coproduct determination would allow the reuse of RAP without a permit.

This proposed RAP industry-wide coproduct determination document is available for public comment. Public comments must be submitted by December 19, 2005, and may recommend additional requirements or revisions to the proposed industry-wide coproduct determination. Comments concerning the industry-wide coproduct determination should be directed to Daniel Lapato, Division of Municipal and Residual Waste, Bureau of Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381.

Persons interested in obtaining more information or obtaining a paper copy of the proposed industry-wide coproduct determination should contact Peter Arnt of the Division of Municipal and Residual Waste at the above telephone number. TDD users may contact the Department through the Pennsylvania Relay Service at (800) 654-5984. The proposed RAP industry-wide coproduct determination document is also accessible on the Department's website at www.dep.state.pa.us (DEP Keyword "Public Participation"; then "Proposals Open for Comment", or DEP Keyword "Residual Waste").

After the close of the 30-day comment period, the Department will publish the final Industry-Wide Coproduct Determination list in the *Pennsylvania Bulletin*.

KATHLEEN A. McGINTY
Secretary