

COMMENT RESPONSE DOCUMENT

INDUSTRY-WIDE COPRODUCT 001

**INDUSTRY-WIDE COPRODUCT DETERMINATION FOR
RECLAIMED ASPHALT PAVEMENT (RAP)**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT
DIVISION OF MUNICIPAL AND RESIDUAL WASTE**

APRIL 2006

LIST OF COMMENTATORS

- 1. Pennsylvania Asphalt Pavement Association (PAPA)**
- 2. Pennsylvania Department of Transportation (PennDOT)**

Comment: The reference to asphalt “emulsion” should be changed to asphalt “cement.” (Asphalt cement is material purchased and used in the hot mix process to bind aggregate and other ingredients to form the hot mix product. Asphalt emulsion is a different product not associated with the hot mix process used for road sealing and other applications.) (1)

Response: The Department has revised the Industry-Wide Coproduct (IWC) so that neither term is necessary in the final IWC.

Comment: It is understood that under the Coproduct Determination, the Department is only authorizing beneficial reuse of RAP, and not the storage. Stockpile storage will still require obtaining a General Permit from the Department as larger quantities of materials stockpiled, if not properly managed, can cause impacts due to wind and water dispersal. Two steps are recommended to address this – clarification on storage incidental to beneficial reuse, and preparation of a fact sheet, which will enumerate the various classes of asphalt materials as relates to the residual waste management regulatory program in Pennsylvania. The Association looks forward to working with DEP on a fact sheet in the near future. (1)

Response: The IWC limits storage of RAP to two construction seasons and requires RAP to be managed in accordance with environmental statutes and regulations. This includes operating in a manner that prevents wind and water dispersal. The Department believes that the requirements for qualifying under the IWC are clear, and therefore a fact sheet is not necessary.

Comment: The fact sheet should contain language indicating that pile storage incidental to construction can occur under the Coproduct Determination, if the material will be promptly beneficially reused, and ongoing stockpiling will continue to require obtaining a General Beneficial Reuse Permit. (1)

Response: The IWC allows for storage up to two construction seasons. Storage for longer than two construction seasons would require approval or a permit from the Department.

Comment: Language is recommended to be added to the Coproduct Determination as follows – “RAP material managed as coproduct shall only be stored for a maximum period of two weeks, in pile locations proximal to generation or reuse activities. At all times, piles incidental to construction shall be managed so as to prevent wind and water dispersal.” (1)

Response: The Department does not believe a two-week storage limitation is necessary or appropriate. The IWC requires RAP to be managed in accordance with environmental regulations. To prevent speculative accumulation, storage is limited to two construction seasons.

Comment: It is stated that the user of the RAP materials under the Coproduct Determination must submit Attachment A: Certification of RAP Use under Industry-Wide Coproduct Determination to the appropriate DEP Regional Office prior to using the material. However, Attachment A states “*and the property owner has been provided a copy of this form and has been informed that he or she should retain a copy for their permanent records.*” This statement implies that it is the generator of the RAP materials that is making the certification, not the user. Please clarify, as this appears to be a contradiction. We believe that it is appropriate for the user to be responsible for submitting the certification form to DEP and the generator responsible for providing a copy of the coproduct determination to the user (and retaining a copy of the signed certification). However, what protection does the generator have if they follow these procedures and the user fails to submit the form to DEP and/or to use the materials appropriately? (2)

Response: After further review of the uses allowed under this IWC, the Department determined that the notification is not necessary and it is not required in the final document.

Comment: The Coproduct Determination does not establish a timeframe between the time the material is used and the time at which it must be sealed. Is it possible to use the material throughout the summer, for example, and then seal all locations in one operation later in the year? (2)

Response: The final IWC specifies that RAP must be placed and sealed within the same construction season.

Comment: There is no mention of minimal quantities being exempt like there is in the general permit. We have many instances where we mill out bumps in the roadway, paving notches, and maintenance of small potholes and dispose of the material along the shoulder. As the quantity of materials generated by these activities is small (i.e. 2 wheelbarrows), we will now be required to collect and stockpile this material or use a sealer as required by the Coproduct Determination. This will result in increased costs for the small quantities generated in these instances. (2)

Response: The IWC determination is the Department’s concurrence that this waste stream could be substituted for a raw material or manufactured product. The IWC does not authorize disposal of this material. Any use that is not addressed in the IWC will require a permit from the Department.

Comment: The CPD states “*The use of RAP, including mixtures of RAP and clean fill from the milling of the edge of roadway shoulders, as a co-product in accordance with this industry-wide co-product determination includes its transportation and placement.*” In discussions with DEP we were informed that the Coproduct Determination would replace the RAP General Permit. Since the Coproduct Determination does not include the

storage of RAP, does this mean that the storage of RAP will still be governed under the requirements of the RAP General Permit WMGR090? Will the RAP General Permit still be utilized? (2)

Response: The IWC allows for storage for up to two construction seasons. Storage for longer than two construction seasons would require written approval under general permit WMGR090. All previous registrants under general permit WMGR090 will receive notice of the availability of the IWC and can determine if coverage under the permit is still necessary for their operations.

Comment: As the Coproduct Determination only includes the transportation and placement of RAP, please explain what storage requirements are applicable under this Coproduct Determination. DEP should clarify what the relationship is between the Coproduct Determination and the requirements of the RAP General Permit. (2)

Response: The Department believes that in most scenarios the reuse of RAP can occur under the IWC instead of the existing general permit, and all registrants under the general permit will receive notice of the availability of the IWC. The IWC identifies the storage requirements that apply.

Comment: A proper use of RAP under the Coproduct Determination states “*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*”. It is unclear as to whether the need to use a bituminous coating/sealer applies only to compacted shoulder pothole patching and driveway apron application, or also applies to compacted roadway applications, including compacted shoulder backup (the compacted area adjacent to the shoulder).

Our concern is that some Districts utilized the shoulder widening materials as compacted shoulder backup, but do not apply a sealer. If required to use a sealer, the additional costs will limit this application and result in even more costs if required to dispose of the material, as it cannot be used as clean fill. (2)

Response: The Department agrees with the comment regarding the application of a bituminous sealer on compacted shoulder backup (the compacted area adjacent to the shoulder) constructed from RAP material. The final IWC determination allows for the use of RAP in the compacted shoulder backup without a bituminous sealer.