



CONSULTATION PAPER
Regulation 27(7)
National By-Product Criteria
for
Road Planings used in RAP Plants.

This consultation paper has been developed by the Environmental Protection Agency (EPA). This consultation paper provides a rationale for the development of the draft *national* by-product criteria being considered by the Agency to provide for road planings being used as a raw material in Reclaimed Asphalt Pavement (RAP) plants.

FOREWORD

Road planings are *currently used* as a raw material in Reclaimed Asphalt Pavement (RAP) plants. Road planings are being *notified* to the Agency as a *by-product* material for use in RAP plants. The notification of by-product road planings has increased steadily over the years and currently road planings is one of the top two materials being notified to the Agency. Notifications to-date have been made on a *case-by-case basis* whereas this consultation paper proposes a departure from this system by putting in place *National By-Product Criteria* which will apply to the use of by-product road planings in RAP plants. This will put in place a self-assessment/notification system and remove the need for case-by-case notifications.

1. INTRODUCTION

1.1 [What does the term ‘road planings’ mean?](#)

Road planings are produced at a road development (production process). Road planings are generated when the surface course¹ of a pavement² is cold milled. Road planings are also referred to as site-won asphalt. Road planings can be dispatched by the producer to a Reclaimed Asphalt Pavement plant where they are used as an input in the manufacture of reclaimed asphalt.

1.2 [What does the term ‘cold milling’ mean?](#)

Cold milling is the controlled removal of an asphalt surface course using a cold milling machine which uses a rotating drum to remove the pavement surface to a specific depth below ground prior to resurfacing the pavement.

1.3 [What is a ‘producer’?](#)

Producer means the holder who transfers road planings to another holder for the first time as a by-product material.

The producer is the person with *overall* responsibility, e.g. Transport Infrastructure Ireland or the local authority, for the roadway development *or* the person who has been *designated* with the responsibility to act on the behalf of the person with overall responsibility e.g. a main contractor.

The producer with overall responsibility or designated responsibility will *sign* the Statement of Conformity required by the proposed National By-Product Criteria for by-product road planings leaving the site of generation. This sign-off will provide *evidence* that the road planings dispatched to the RAP plant *meet* the National By-Product Criteria.

1.4 [What is an ‘approved supplier’](#)

It is proposed that a *producer* will set-up a *contract* with a RAP plant providing for the *supply* of *suitable* by-product road planings from a road development to the RAP plant. As part of the contract process *the RAP plant ensures* the producer can supply by-product road planings that *meet an agreed standard* e.g. incoming raw material specification. When the contract is put in place and *the RAP plant confirms* the producer can supply by-product road planings that meet

¹ Surface course: upper course of the pavement, which is in contact with the traffic (CC-SPW-00900 - Specification for Road Works Series 900 – Road Pavements – Bituminous Materials (TII Publications, June 2017).

² Pavement: Structure, composed of one or more courses, to assist the passage of traffic over terrain (CC-SPW-00900 - Specification for Road Works Series 900 – Road Pavements – Bituminous Materials (TII Publications, June 2017)).

the agreed incoming raw material specification; *the RAP plant makes the decision that the producer is an approved supplier* to their RAP plant. This approval process will form part of the RAP plant's management system.

1.5 What is an incoming raw material specification?

The producer must ensure that *only* by-product road planings that meet the National By-Product Criteria are dispatched from the site of generation to the RAP plant, for which they are an *approved supplier* of road planings. This is documented via the *producer* signing a *Statement of Conformity* for the road planings (Reference Attachment A for a sample Statement of Conformity). The Statement of Conformity will comprise a record of the key information in connection with the material's by-product status inclusive of detail relating to the producer, the material quality, the production process and the RAP plant. The producer *retains* the signed Statement of Conformity for their record and the producer will ensure *each load* of by-product material delivered to a RAP plant will be *accompanied by a copy* of this signed Statement of Conformity.

Note: The Statement of Conformity *does not* have to be completed for every load e.g. every 21-tonne load being dispatched to the RAP plant; alternatively, it can be completed for the estimated quantity of road planings to be yielded from the *entire production process/road development*. A copy of this overall Statement of Conformity for the production process will travel with *every load* being dispatched to the RAP plant as *evidence* that the load meets the National By-Product Criteria.

Under the *RAP plant's management system*, the RAP plant must *only* accept:

- by-product road planings from a producer they have confirmed to be an *approved supplier*; and
- road planing deliveries which are accompanied by a *signed Statement of Conformity* and have the required agreed documentation to demonstrate they meet *the RAP plant's incoming raw material specification*.

Both above checks ensure the RAP plant *only accepts* by-product road planings that meet National By-Product Criteria *and* their in-house criteria (the *incoming raw material specification*) *prior to* being permitted entry into the RAP plant.

1.6 What are RAP Plants?

A Reclaimed Asphalt Pavement (RAP) plant is a plant where road planings/site-won asphalt can be processed into reclaimed asphalt (RA).

1.7 What is 'reclaimed asphalt'?

Reclaimed asphalt is a product of a RAP plant which meets the requirements of European Standard I.S. EN 13108-8 (*Part 8: Reclaimed Asphalt*), the National Standards Authority of Ireland's (NSAI) Standard Recommendation No. S.R. 28 and Transport Infrastructure Ireland's (TII) Series 900 standard. This *reclaimed asphalt* is used by RAP plants as a *constituent material* for bituminous mixtures, where reclaimed asphalt is a *permitted constituent* in accordance with I.S. EN 13108 for *bituminous materials*. For example, a mixture of asphalt concrete can contain up to a maximum of 30% reclaimed asphalt in the base and binder layers of the asphalt concrete produced.

Note: The National By-Product Criteria being considered relate to by-product road planings which are used to produce reclaimed asphalt, to I.S. EN 13108-8 standard, which will be subsequently used in the production of other bituminous mixtures, where it is permitted to use reclaimed asphalt, in accordance with the harmonised standards for bituminous mixtures I.S. EN 13108.

2. LEGISLATIVE FRAMEWORK

2.1 [What are By-Products?](#)

By-products are substances/objects which *meet* the conditions of Regulation 27 of the European Union (Waste Directive) Regulations 2011-2020³.

These conditions are set out in Regulation 27(1) as follows:

“27. (1) the Agency shall take appropriate measures to ensure that a substance or object resulting from a production process the primary aim of which is not the production of that substance or object is considered not to be waste, but to be a by-product if the following conditions are met:

- (a) further use of the substance or object is certain;*
- (b) the substance or object can be used directly without any further processing other than normal industrial practice;*
- (c) the substance or object is produced as an integral part of a production process; and*
- (d) further use is lawful in that the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.”*

Regulation 27(2)(a) requires the holder of a by-product to *notify* the Agency and *seek a determination* on the matter from the Agency.

2.2 [What are National By-Product Criteria?](#)

Regulation 27(7) states that *“Where criteria have not been set at Union level, the Agency may establish detailed criteria on the application of the conditions laid down in paragraph 1 to specific substances or objects. The Agency shall notify the Commission of those detailed criteria in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council where so required by that Directive.”*⁴

Regulation 27(7) provides a mechanism which the Agency can use to produce *National By-Product Criteria* that could be applied to by-product road planings being used in RAP plants. These National By-Product Criteria would potentially:

- eliminate the requirement for by-product road planings to be notified to the Agency on a *case-by-case* basis;
- eliminate the requirement for the Agency to make *case-by-case* determinations on multiple by-product notifications relating to road planings being used in RAP plants;
- eliminate the requirement for the Agency to make a determination on the by-product decision made by the holder of the by-product in accordance with the National By-Product Criteria;

³ Link: <https://www.irishstatutebook.ie/eli/2020/si/323/made/en/print?q=waste+directive>

⁴ Directive (EU) 2015/1535 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification) <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L1535&from=EN>

- provide a *standardised set of criteria* that could be applied to all by-product road planings being routed to RAP plants;
- provide a *register* open to *public view*, hosted on the EPA website or equivalent, for the *notifier* to enter/upload data regarding: identity and contact details of the notifier, identity of the producer, source of the material, type of material, quantity of material, Statement of Conformity, confirmation of approved supplier status, identity of the end user, location of the end use and the notifier’s overall declaration that the material is compliant with the National By-Product Criteria;
- provide for a system whereby the producer and end user of the by-product maintain evidence of compliance with these National By-Product Criteria on record for inspection as required;
- provide for periodic audits of notifiers, producers or RAP plants recorded on the register to ensure their management system effectively controls e.g. the generation of a signed Statement of Conformity, the approval of suppliers, inspection of incoming material, retention of records, quarantine of non-conforming material, tracking of non-conformances, tracking of corrective and preventative actions and the pausing/revocation of a supplier’s approved status where a trend of non-conformances is detected;
- provide a system where producers, which after inspection by the RAP plant are found to be *repeatedly in non-compliance* with the National By-Product Criteria, would have their approved supplier status *paused/revoked*. This will restrict their ability to supply the RAP plant with by-product material under the National By-Product Criteria until preventative measures are put in place to ensure compliance with the criteria is achieved, demonstrated and their approved supplier status restored; and
- provide a system where if a RAP plant was audited and found to be accepting *non-conforming* road planings for use in the production of reclaimed asphalt or found to be accepting by-products from a supplier which has *not been approved*. In this scenario a RAP plant will be required to cease the acceptance of incoming by-product material until preventative measures are put in place to ensure compliance with the criteria is achieved, demonstrated to the satisfaction of the auditing body.

3. PROPOSED NATIONAL BY-PRODUCT CRITERIA

The proposed national by-product criteria relates to:

Production process	Development in which the <i>cold milling</i> of the surface course of a road and the subsequent production of a road planings by-product is an <i>integral part</i> of the production process. Requirement: An overall need to cold mill the surface course of a road.
Notified material	Road planings, generated from the cold milling of roads. Requirement: Road planings which are <i>not</i> hazardous.
End use	Road planings being dispatched to a RAP plant as a raw material in the production of reclaimed asphalt, to I.S. EN 13108-8 standard, which it subsequently used as a constituent, where permitted, in bituminous mixtures that meet I.S. EN 13108 standards. Requirement: A RAP plant which has appropriate planning permission, an Air Pollution Act (APA) Licence and a certified quality management system and which are NSAI certification to use reclaimed asphalt which meets European Standard I.S. EN 13108-8

	in the production of bituminous mixtures to harmonised European Standard I.S. EN 13108.
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The criteria being proposed by the Agency to form part of the National Decision can be broken down in the sections of Regulation 27(1)(a) – (d) as follows:

3.1 Regulation 27(1)

“the Agency shall take appropriate measures to ensure that a substance or object resulting from a production process the primary aim of which is not the production of that substance or object is considered not to be waste, but to be a by-product if the following conditions are met”.

Proposed criteria include:

- The road planings *must be* generated from a production process e.g. road maintenance.
- The road planings yielded from the production process *cannot* be the primary aim of the production process, the primary aim would be e.g. the production of a newly surfaced road. The road planings should be a *production residue* of this production process.
- The producer will be required to *declare* the road planings to be a by-product from a production process via the sign-off of a *Statement of Conformity*.

3.2 Regulation 27(1)(a)

“further use of the substance or object is certain”.

Proposed criteria include:

- There is *written evidence* on file that the use of the road planings is *guaranteed* by the *end user* e.g. correspondence from the end user that confirms the requirement for that quantity of road planings or a contract confirming that the end user requires road planings from the production process.
- This evidence may be required to be presented during an inspection/audit of the producer and/or the RAP plant.

3.3 Regulation 27(1)(b)

“the substance or object can be used directly without any further processing other than normal industrial practice”.

Proposed criteria include:

- The road planings must be suitable for direct use as an input into a RAP plant for the manufacture of reclaimed asphalt, without any further processing other than normal industrial practice.
- Modification of size or shape by mechanical treatment may be considered as normal industrial practice and as such does not prevent the road planings from being regarded as a by-product.
- Stockpiling at the site of generation in preparation of collection and transport to the end user may also be regarded as normal industry practice.
- Any treatment techniques that address waste-related characteristics of the road planings, such as its contamination with components which are hazardous or not useful, would *prevent* classification as a non-waste⁵ e.g. sorting or treatments involving the removal of batches of road planings suspected of containing (i) coal tar and tarred

⁵ Source Section 1.2.4 of the Guidelines on the interpretation of key provisions of Directive 2008/98/EC on waste (EC, June 2012).

products (List of Waste Code 17 03 03*) or bituminous mixtures containing coal tar (List of Waste Code 17 03 01*)⁶.

The *RAP plant* will be required, as part of their Quality Management System and procedure for the approval of a supplier, to assess the producers ability to supply road planings which are *not contaminated* with the above hazardous waste codes and ensure the producer *is capable of* segregating by-product road planings to prevent *any cross contamination* with waste road planings or other waste material generated at the producers site.

3.4 Regulation 27(1)(c)

“the substance or object is produced as an integral part of a production process”.

Proposed criteria include:

- The road planings are required to be *produced* as an *integral* part of a production process.
 - The road planings are required to be *made ready*⁷ for further use through an integral part of a production process.
 - The road planings shall be site-won from the production process during road resurfacing via the physical removal of the surface course of the road using a cold milling machine.
- If the road planings leave the site of generation in order to undergo further processing, this processing needs to be demonstrated as an integral part of the production process *and* to meet the requirements of Regulation 27(1)(b).

3.5 Regulation 27(1)(d)

“further use is lawful in that the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.”.

Proposed criteria include:

- The road planings should be free of:
 - bituminous mixtures containing coal tar (List of Waste code⁸ 17 03 01*); and
 - coal tar and tarred products (List of Waste code 17 03 03*).

Qualified staff shall be required to carry out an investigation (inclusive of sampling and testing where required) and ensure the road being milled as part of the production process does not contain these constituents.

The *RAP plant will ensure* that they *are satisfied* that the producers investigation/testing systems are supportive of the producer receiving approved supplier status from the RAP plant for the supply of road planings that meet National By-Product Criteria.

- The RAP plant must be an *authorised development* which provides for the acceptance of road planings in the production of reclaimed asphalt in accordance with the applicable national standard, standard recommendation, and relevant specification series. The authorisation shall be to the satisfaction of the planning authority.

⁶ Source: Chapter 17 <https://www.epa.ie/publications/monitoring--assessment/waste/2019--FULL-template.pdf>

⁷ Reference Section 1.2.5 of the Guidelines on the interpretation of key provisions of Directive 2008/98/EC on waste (EC, June 2012).

⁸ List of waste codes are sourced from Waste Classification - List of Waste & Determining if Waste is Hazardous or Non-Hazardous (EPA, 2018).

- The RAP plant must have an *Air Pollution Act Licence* which is in force for the controlling of the emissions to air from the production of reclaimed asphalt at the RAP plant.
- The *RAP plant must approve* the producer as an *approved supplier* of road planings. Once a RAP plant makes a producer an approved supplier this is confirmation that *the RAP plant is satisfied* the producer can supply by-product road planings which meet the National By-Product Criteria *and* their incoming raw materials specification. This ensures the RAP plant can produce reclaimed asphalt that *meets* the required standard.
- Each delivery of road planings to a RAP plant must be accompanied by a *signed Statement of Conformity* which demonstrates the by-product road planings meet the pre-agreed *incoming raw material specification* for the RAP plant;
- The *register* must show evidence that the by-product material, from a specific source, being dispatched to a specific RAP plant has been registered as *compliant* with National By-Product Criteria by the *notifier*;
- The RAP plant must be certified by the NSAI to produce bituminous mixtures in accordance with the harmonised standards I.S. EN 13108.
- The RAP plant must use the by-product road planings in the production of reclaimed asphalt that meets the European Standard I.S. EN 13108-8 and subsequently to use the reclaimed asphalt as a constituent, where permitted, in bituminous mixtures that meets the harmonised European I.S. EN 13108 standards.

Other requirements that should be considered include:

3.6 Management System

Proposed criteria include:

- The producer of the road planings must have standard operating procedures that meet the satisfaction of *the RAP plant* as part of the RAP plant's approval of the producer as an *approved supplier* of road planings that meet National By-Product Criteria;
- The RAP plant operator must implement a *management system* suitable to demonstrate compliance with the national criteria. The quality management system in the RAP plant shall be certified by an appropriately accredited management system certification body.
- The management system shall include a set of documented procedures concerning:
 - The maintenance of contracts between the producer of the road planings and the RAP plant operator. This contract should document the RAP plant's requirements for the producer to supply by-product road planings that meet the National Criteria *and* the RAP plant's incoming raw material specification.
 - The process by which a RAP plant approves a producer as an *approved supplier*.
 - Monitoring the quality of the road planings resulting from the production process (including any sampling and analysis).
 - Acceptance control of the road planings used as an input for the RAP plant.
 - Monitoring of treatment processes and techniques in the RAP plant.
 - Feedback from the RAP plant operator concerning compliance with National By-Product Criteria, incoming raw material specification and/or the requirements of the statement of conformity.
 - Monitoring of loads accepted from producers which are found to be repeatedly in non-compliance with the National By-Product Criteria. Preventative action requirements where the producer may lose their approved supplier status and would be restricted from using these National Criteria until preventative measures have

been put in place to ensure compliance with the criteria can be achieved and demonstrated.

- Review and improvement of the management system.
- Training of staff.
- A *statement of conformity* signed by the producer shall accompany each load of by-product road planings being dispatched from the site of generation.
- The producer of the road planings *and* the RAP plant operator shall give competent authorities access to the management system on request.
- The RAP plant shall ensure:

Road planings:

- Only by-product road planings are accepted from *approved suppliers*.
- Only by-product road planings are accepted that have a signed *Statement of Conformity* and the evidence required to demonstrate they meet the *incoming raw material specification*.

Reclaimed asphalt:

- *Testing* of all site-won asphalt as part of the manufacture of reclaimed asphalt for use in bituminous mixtures will be undertaken in accordance with the standards and specification in particular the requirements of the TII Series 900 requirements for reclaimed asphalt.
- An *assessment and verification* of constancy of performance (AVCP) system will be in place for the reclaimed asphalt. In this system 2+ will apply which will mandate responsibilities for the manufacturer and the notified body⁹.
- *Quality assurance and control* for the reclaimed asphalt requires the demonstration of conformity in accordance with IS EN 13108-20 Type Testing and IS EN 13108-21 Factory Production Control.
- Provision of a *Declaration of Performance, CE mark and type test report* for the reclaimed asphalt.
- The reclaimed asphalt must comply with the requirements of the *Construction Product Regulations (CPR)* including the harmonised standard which also applies to the virgin material.
- The reclaimed asphalt shall fulfil the technical requirements (all relevant specifications, standards and legislation) applicable to products relevant to the specific use through reference to National Standards Authority of Ireland's I.S. EN 13108-8 and NSAI's S.R.28, and TII's Series 900 standard.
- The reclaimed asphalt shall be used to make *bituminous mixtures*, where permitted, in accordance with the relevant harmonised European I.S. EN 13108 standard.

Bituminous mixtures:

- The reclaimed asphalt must meet the technical requirements for use as *feedstock* material in bituminous mixtures where reclaimed asphalt is a *permitted* constituent, and therefore will comply with the requirements outlined in the harmonised European standards, NSAI standards and TII specification for reclaimed asphalt to ensure that the material fulfils the same specification as other bituminous mixtures products on the market.
- The reclaimed asphalt will be used in bituminous mixtures in accordance with the relevant harmonised European I.S. EN 13108 standard.

⁹ For details on these roles reference TII Publication Road Pavements – Bituminous Materials CC-SPW-00900 September 2017 <https://www.tiipublications.ie/library/CC-SPW-00900-09.pdf>

- The reclaimed asphalt and bituminous mixtures shall comply, where required, with the relevant provisions of the Construction Product Regulations and the REACH Regulations.

4. EXAMPLES OF THE NATIONAL BY-PRODUCT CRITERIA IN PRACTICE¹⁰

4.1 Development of the N** National Roadway – successful outcome.

➤ Production process:

- 2km of the N** needs to be resurfaced as part of a preventative maintenance *plan*.
- As part of this plan it is required to resurface *X* area of road to *Y* depth using a *cold milling machine*.
- This production process *will yield Z volume of road planings/site-won asphalt*.
- These road planings have been inspected and have been found to be uncontaminated and *non-hazardous*. The planings *do not require* further treatment after the milling process.
- *A contract is in place* between the material producer and a RAP plant in the area to accept these road planings as a raw material in the production of reclaimed asphalt.
- The producer is an *approved supplier* of this material to the RAP plant as they have demonstrated they can meet the RAP plant's required *incoming road planings specification (which includes compliance with the National By-Product Criteria)*.
- The *management system* in place at the roadway enables the road planings to be *managed, notified* and dispatched with an approved and signed Statement of Conformity by *trained personnel prior to* dispatch from the site of generation.
- This *Statement of Conformity* provides the load of road planings with a *unique identifier* and a *signed declaration* confirming it meets the RAP plants required incoming road planing specification and the national by-product criteria. The *register* has been completed.

➤ RAP plant/End use:

- The RAP plant holds:
 - *planning permission* for the processing of road planings in the production of reclaimed asphalt.
 - *An Air Pollution Act Licence* for the emissions to air from the treatment process.
 - *NSAI Certification* to use road planings to produce reclaimed asphalt to IS EN 13108-8 in order to produce bituminous mixtures to the standard I.S. EN 13108-1/2/4/5/6/7 (harmonised standard).
- The RAP plant receives a communication *to expect a delivery of Z volume* of road planings from their *approved supplier* working on a production process on the N**. The RAP plant *confirms they require* this load of by-product material.
- The RAP plant has an *agreed* incoming road planing specification with this approved supplier setting out the requirements inclusive of meeting the national road planing criteria.
- This approved supplier has *not previously* supplied any loads which did not meet the agreed incoming road planing specification.
- The approved supplier arrives at the RAP plant and this initiates actions under the plant's quality *management system*.

¹⁰ These examples are hypothetical scenarios for the purposes of demonstrating successful and unsuccessful outcomes based on the National By-Product Criteria being considered by the Agency.

- The *Statement of Conformity* and register is inspected by *trained* personnel and it is confirmed the load meets the incoming raw material specification and is *permitted entry* to the plant's unloading area.
- The road planings are used in the *production of reclaimed asphalt* that meets the *I.S. EN 13108-8* standard and TII Series 900.
- These road planings are subsequently used to produce *bituminous mixtures* in accordance with I.S. EN 13108 harmonised standard and TII Series 900.
- The bituminous mixtures are supplied to the market as there is a current *certain demand* for this material.

4.2 Development of the L12345 Local roadway– *unsuccessful outcome.*

➤ Production process:

- 0.5km of the L12345 roadway needs to be *redeveloped* after a portion of the road was swept away in a flood.
- As part of this plan it is required to resurface *X* area of road to *Y* depth using a *cold milling machine*.
- This production process *will yield Z volume of road planings/site-won asphalt*.
- The planings *do not require further treatment* after the milling process.
- The material needs to be moved away from the site quickly for the road redevelopment to be completed.
- The material is brought to a nearby RAP plant with the intention of being reclaimed. The load of material *did not have* a Statement of Conformity and it has not been registered as a by-product that meets the National criteria.

➤ RAP plant/End use:

- The RAP plant holds:
 - *planning permission* for the processing of road planings in the production of reclaimed asphalt.
 - An *Air Pollution Act Licence* for the emissions to air from the treatment process.
 - *NSAI Certification* to use road planings to produce reclaimed asphalt to IS EN 13108-8 in order to produce bituminous mixtures to the standard I.S. EN 13108-1/2/4/5/6/7 (harmonised standard).
- The *new weighbridge* operator at the RAP plant is alerted to the incoming load of road planings. The load is logged and weighed and permitted entry into the unloading area for further inspection.
- The haulier leaves the RAP plant site.
- The load is inspected by staff at the RAP plant and is found to be *contaminated with coal tar, tarred products and pieces of concrete*. It is also noted that the material *has not been confirmed as compliant* with the National By-Product Criteria and as such may be presumed to be a *waste*. The entire load is moved into the *quarantine location* at the plant as it is not suitable for the production of reclaimed asphalt in accordance with the relevant standard.
- The RAP plant contacts the producer to collect the load in quarantine as it is *not suitable for use* in the production of reclaimed asphalt *in accordance with* the relevant standard.

5. SUBMISSION OF YOUR OBSERVATIONS/SUGGESTIONS:

In order to get the most out of your feedback it would be helpful for your feedback to be submitted under specific categories (1 – 8) as set out below:

Category No.	Submission Category Description:	
1.	Notified material	Road planings
2.	Production process	Roadway developments
3.	End use	Raw material at a RAP plant
4.	End use and lawfulness	Planning permission; Air Pollution Act Licence; Quality Management System Certification; and NSAI Product Certification.
5.	Output	Reclaimed asphalt that meets the I.S. EN 13108-8 standard which is used to produce Bituminous mixtures that meet the relevant National Standards Authority of Ireland's I.S. EN 13108 (harmonised standard) where reclaimed asphalt is a permitted constituent.
6.	Management System	
7.	Standards, Regulations, Certification.	
8.	Other	

Please email your observations/suggestions which will work towards the production of national by-product criteria that will provide a mechanism for road planings to be used at RAP plants *whilst* demonstrating compliance with Regulation 27(1)(a)-(d).

Email: ByProduct@epa.ie

Email title: National By-Product Criteria – Road Planings.

Feedback: Break your feedback into categories 1- 8 above.

Deadline: **3 weeks from issue.**

Attachment A

Sample Statement of Conformity

1.	<p><i>Producer of the road planings:</i> Producer name: Address: Contact person: Tel. E-mail:</p>
2.	<p><i>Production process:</i> (a) Description of the production process i.e. pavement development: (b) Grid co-ordinates that relate to the location of the production process: - Starting point: N _____ E _____ - End point: N _____ E _____ (c) A map of the production process, which indicates the site boundary from which the road planings have been milled, has been attached to this Statement: Tick to confirm map attachment <input type="checkbox"/> (d) The road planings resulted from the cold milling of the pavement surface course, an integral part of the production process. Tick to confirm the above statement <input type="checkbox"/> (e) The producer of road planings is a RAP plant <i>approved supplier</i> and applies a management system which is to the satisfaction of the RAP plant. Tick to confirm the above statement <input type="checkbox"/></p>
3.	<p><i>Road planings:</i> (a) The substance or object being declared as by-product is road planings; Tick to confirm the above statement <input type="checkbox"/> (b) The road planings are a by-product production residue from the above production process and <i>not</i> the primary aim(s) of the production process. Tick to confirm the above statement <input type="checkbox"/> (c) The quantity of the road planings consignment in tonnes: _____tonnes. <u>Note:</u> - This quantity relates to the maximum quantity of road planings that is <i>estimated</i> to be generated as a by-product of the <i>overall</i> road development project. - This quantity shall <i>match</i> the quantity recorded on the register. - Should it be the case that the production process yields in <i>excess</i> of this figure, <i>another</i> Statement of Conformity shall be completed along with <i>another</i> entry on the register. (d) The road planings do <i>not</i> contain: - bituminous mixtures containing coal tar (List of Waste Code 17 03 01*); and - coal tar and tarred products (List of Waste Code 17 03 03*). Tick to confirm the above statement <input type="checkbox"/> (e) The road planings consignment are suitable for <i>direct use</i> at the end destination Recycled Asphalt Pavement plant <i>without</i> any further processing. Tick to confirm the above statement <input type="checkbox"/> (f) The road planings consignment meets the National By-Product Criteria and the RAP plant's incoming raw material specification for this material type. Tick to confirm the above statement <input type="checkbox"/></p>
4.	<p><i>End Destination Recycled Asphalt Pavement Plant:</i> (a) The RAP plant: - Name: - Address: - Contact person:</p>

	<ul style="list-style-type: none"> - Tel. - E-mail: <p>(b) The producer is an <i>approved</i> supplier of road planings to the RAP plant. Tick to confirm the above statement <input type="checkbox"/></p> <p>(c) The RAP plant will use these by-product road planings to produce reclaimed asphalt and subsequently bituminous mixtures in accordance with IS EN 13108 and TII Series 900. Tick to confirm the above statement <input type="checkbox"/></p> <p>(d) The producer has a <i>contract</i> with the RAP plant to deliver the quantity and quality of road planings in the consignment. Tick to confirm the above statement <input type="checkbox"/></p> <p>(e) The producer has <i>agreed</i>¹¹ acceptance criteria for the road planings to be supplied to the RAP plant with the RAP plant operator and this consignment meets the agreed acceptance criteria (incoming raw material specification). Tick to confirm the above statement <input type="checkbox"/></p> <p>(f) The following planning permission reference number for the RAP plant provides for the acceptance of road planings for the manufacture of Reclaimed Asphalt.</p> <ul style="list-style-type: none"> - Planning permission reference no. _____ - Planning permission expiry: _____ <p>(g) The following Air Pollution Act (APA) Licence is in force at the RAP plant for the manufacture of reclaimed asphalt.</p> <ul style="list-style-type: none"> - APA Licence No. _____ - APA Licence Expiry: _____ <p>(h) The RAP plant operates a <i>certified</i> Quality Management System. Tick to confirm the above statement <input type="checkbox"/></p>
7.	<p>The road planings consignment meets the requirements referred to in paragraphs 1 to X of Section X of National By-Product Criteria No. 001/2022. Tick to confirm the above statement <input type="checkbox"/></p>
8.	<p>Producer Declaration: I certify that the above information is complete and correct to the best of my knowledge:</p> <p>Name: _____</p> <p>Organisation: _____</p> <p>Date: _____</p> <p>Signature: _____</p> <div style="border: 1px solid black; width: 200px; height: 60px; margin-left: auto; margin-top: 10px; display: flex; align-items: center; justify-content: center;"> <p>Company Seal:</p> </div>

¹¹ Acceptance criteria to be agreed by the RAP plant operator to ensure conformance with the requirements of IS EN 13108 and TII Series 900.

Acronyms used in this document:

APA Licence	Air Pollution Act Licence.
AVCP	Assessment and verification of constancy of performance system.
CE	CE marking. Article 8 of Regulation (EU) No. 305/2011 laying down harmonised conditions for the marketing of construction products: <i>“By affixing or having affixed the CE marking, manufacturers indicate that they take responsibility for the conformity of the construction product with the declared performance as well as the compliance with all applicable requirements laid down in this Regulation and in other relevant Union harmonisation legislation providing for its affixing.”</i>
CPR	Construction Product Regulations.
EN	European Standards.
EPA	Environmental Protection Agency (the Agency).
IS	Irish Standards.
NSAI	National Standards Authority of Ireland.
RA	Reclaimed Asphalt.
RAP	Reclaimed Asphalt Pavement.
REACH	Registration, Evaluation, Authorisation and Restriction of Chemicals.
Regulation 27	Regulation 27 – By-Products of the European Union (Waste Directive) Regulations 2011 – 2020.
S.R.	Standard Recommendation
TII	Transport Infrastructure Ireland

Standards/Regulations references in this document:

Air Pollution Act	Act No. 6/1987 - Air Pollution Act, 1987. https://www.irishstatutebook.ie/eli/1987/act/6/enacted/en/print#sched1
CPR	Construction Product Regulations. <u>European:</u> REGULATION (EU) No 305/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC. https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:088:0005:0043:EN:PDF <u>Irish:</u> S.I. No. 225/2013 - European Union (Construction Products) Regulations 2013. https://www.irishstatutebook.ie/eli/2013/si/225/made/en/print
I.S. EN 13108 series	Bituminous mixtures - material specifications.
I.S. EN 13108-8	Harmonised Standard. Bituminous Mixtures - Material Specifications – Part 8: Reclaimed Asphalt. https://shop.standards.ie/en-ie/standards/i-s-en-13108-8-2016-872311_saig_nsai_nsai_2074075/
IS EN 13108-20	Harmonised Standard. Bituminous Mixtures - Material Specifications – Part 20: Type Testing. https://shop.standards.ie/en-ie/standards/i-s-en-13108-20-2016-881376_saig_nsai_nsai_2093654/
IS EN 13108-21	Harmonised Standard. Bituminous Mixtures - Material Specifications – Part 21: Factory Production Control. https://shop.standards.ie/en-ie/standards/i-s-en-13108-21-2016-881379_saig_nsai_nsai_2093661/
REACH	Registration, Evaluation, Authorisation and Restriction of Chemicals. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006R1907&from=EN
Regulation 27	Regulation 27 – By-Products of the European Union (Waste Directive) Regulations 2011 – 2020. https://www.irishstatutebook.ie/eli/2020/si/323/made/en/print?q=waste+directive
Series 900	TII Publication Title: Road Pavements – Bituminous Materials. Publication No. - CC-SPW-00900. Historical reference: Series 900. Document Set: Standards. https://www.tiipublications.ie/library/CC-SPW-00900-09.pdf
S.R. 28	NSAI Publication - Recommendation for the use and implementation of the I.S. EN 13108 series bituminous mixtures - material specifications. https://shop.standards.ie/en-ie/standards/s-r-28-2018-1133953_saig_nsai_nsai_2678036/