



CIRCULAR ECONOMY PROGRAMME

The Driving Force for Ireland's Move to a Circular Economy



EXPLANATORY NOTE ON NATIONAL BY-PRODUCT CRITERIA FOR SITE-WON ASPHALT BY-PRODUCT.

CRITERIA REFERENCE NUMBER: BP-N001/2023

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ENVIRONMENTAL PROTECTION AGENCY
An Ghníomhaireacht um Chaomhnú Comhshaoil
PO Box 3000, Johnstown Castle Estate, Co Wexford, Ireland
Telephone: +353-53-9160600; Fax: +353-53-9160699
E-mail: info@epa.ie Website: www.epa.ie
Lo Call: 1890 335599

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Table of Contents

Introduction	4
Background	4
Purpose	4
Other information	5
Data protection	5
Explanatory Notes	5
Some important points to note	5
Section 1: Subject Matter	6
Section 2: Definitions	7
Section 3 and Annex 1: Criteria for site-won asphalt by-product	9
Section 4: End User’s Declaration	13
Annex II: End User’s Declaration Form	15
Section 5: Statement of Conformity	17
Annex III: By-Product Statement of Conformity Form	19
Section 6: Management System	20
Section 7: Registration	22
Section 8: Compliance	24
Section 9: Entry into effect	24
Annex I: Criteria for the site-won asphalt by-product	24

Reference Section 3 above for an explanation regarding the requirements of *Annex I*.... 24

Annex II: End User’s Declaration referred to in Section 4 24

Annex II regarding the End User’s Declaration *form* is explained above following Section 4
End User’s Declaration. 24

Annex III: End User’s Declaration referred to in Section 4 25

Annex III regarding the Statement of Conformity form is explained above following
Section 5 Statement of Conformity..... 25

Annex IV: Non-Conformance Report 25

Introduction

Background

By-products are *residues* from a production process which have been demonstrated as meeting the conditions of Regulation 27(1) of the European Union (Waste Directive) Regulations 2011-2020¹ (the Regulations/ Regulation 27). By-products *are not* classified as waste. Considering residues and their ability to attain by-product status is a method of *waste prevention* at a production process. The Environmental Protection Agency (the Agency) provides an online by-product notification system for *single case* by-product notifications.

The Agency has published these National By-Product Criteria for site-won asphalt by-product, being used as a raw material at Reclaimed Asphalt Pavement (RAP) plants, as *an alternative* more efficient system to the single case notification system. By-Product status can be automatically attained through demonstrated compliance with these *National* By-Product Criteria *without waiting* on a by-product determination from the Agency.

The National By-Product Criteria BP-N001/2023 (referred to as 'the criteria' from herein) specifically relate to *site-won asphalt by-product* generated and removed during pavement development for use in the manufacture of reclaimed asphalt and subsequently bituminous mixtures, at RAP plants, which meet the requirements of the harmonised and/or Irish standard series (I.S.) EN 13108 Bituminous Mixtures – Material Specifications.

Purpose

This note provides an explanation of the requirements of the National By-Product Criteria Reference Number BP-N001/2023. This note aims to assist all parties in their understanding and ability to comply with the requirements of the criteria, inclusive of:

- (i) producers of site-won asphalt at pavement developments,
- (ii) hauliers of site-won asphalt from pavement developments to RAP plants,
- (iii) end users of site-won asphalt at a RAP plant, and
- (iv) competent authorities overseeing various aspects of compliance with the requirements of the criteria.

This guidance is not exhaustive and does not preclude any natural or legal person from their statutory obligations. This document should be read in conjunction with the *National By-Product Criteria Reference Number: BP-N001/2023 establishing detailed criteria on the application of the conditions of Regulation 27(1)(a) – (d) when making the decision that site-won asphalt can be regarded as a by-product under Regulation 27 of the European Union (Waste Directive) Regulations 2011 – 2020.*

Revision

This document may be subject to change to ensure it remains reflective of current best practice, standards, and legislative requirements. Any such changes may be made without consultation or prior notice. Revisions shall be communicated via email alert to all producers registered as utilising the criteria, any associated end users, as well as local authority waste enforcement staff and the Office of Environmental Enforcement.

Please ensure you refer to the most recent version of this note, as published on the Agency's website [here](#).

¹ Source: [S.I. No. 323/2020 - European Union \(Waste Directive\) Regulations 2020 \(irishstatutebook.ie\)](#)

Other information

General guidance in relation to by-products is available [here](#).

Where this document does not provide sufficient explanation on specific requirements of a criterion, clarification may be sought from the By-Product Team via byproduct@epa.ie.

Data protection

The Agency has established and will maintain a live register of producers of site-won asphalt in accordance with National By-Product Criteria Reference Number BP-N001/2023.

The Agency intends to publish various details inclusive of: (i) the names of the users of the criteria (producers/holders/end users) and (ii) the addresses of the locations of the production process and the RAP plant. The basis for this is to provide traceability for site-won asphalt and enable compliance monitoring, surveillance and enforcement. This information may include personal data.

The EPA or another regulator (e.g. a local authority, National Building Control Office & Market Surveillance Office, HSA, etc.) may contact the primary data controllers (registered producer) to seek information in relation to the production of site-won asphalt in accordance with the national criteria.

This information may include personal data. The Agency or another competent authority may contact the primary data controllers (registered producer) to seek information in relation to the production, movement or use of site-won asphalt by-product in accordance with the National criteria.

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Explanatory Notes

The sections of the explanatory note are presented below in the order that appears in the criteria document, except where an Annex has been placed with/following the section that it relates to. For ease of reference the criteria are presented in *blue boxed italics*, under which the associated explanatory note is presented.

In the case where criteria are self-explanatory, explanation notes are not provided.

Some important points to note

- the criteria are *not intended* to provide for *all uses* of site-won asphalt, the criteria focuses on *specific* use scenarios *only* i.e. in situations where site-won asphalt is dispatched for use at a RAP plant as a raw material in the manufacture of reclaimed asphalt and subsequently bituminous mixtures, which meet the requirements of Irish Standards and/or Harmonised Standards.
If your use scenario is *outside the scope* of these criteria, you should contact the Agency via byproduct@epa.ie with any proposal you have for the creation of *separate* subsequent National By-Product Criteria.
- **Section 2 - Definitions** should be read in full *before you read* this document or the criteria, as the definitions used in these criteria may differ to your understanding of the term e.g. the term 'RAP plant' has a *greater scope* than may be presumed.
- These **National criteria** provide for the *same outcomes* as the current single case notification system which *is actively in use* for several years.

The main difference between the two systems is the National criteria *relies on the holders of by-product* to demonstrate that the by-product criteria have been satisfied; whereas the single case system *requires the Agency* to make a determination that by-product criteria have been satisfied. The National system has been created to enable more efficient by-product outcomes for the sector.

- These National criteria are required to satisfy the requirements of Regulation 27 of the European Union (Waste Directive) Regulations 2011 – 2020; however, there may be **additional requirements** the holder of by-product is required to meet outside the context of Regulation 27 and the satisfaction of these requirements is the responsibility of the holder (produce/haulier/end user) of the material in question.
- The document colour codes the terms 'producer,' 'holder' and 'end user'/'RAP plant' in the explanatory notes to provide for ease of reference.

Section 1: Subject Matter

Section 1: National By-Product Criteria Reference Number BP-N001/2023 establishes detailed criteria determining when site-won asphalt from a pavement development, destined for use as a raw material in a Reclaimed Asphalt Pavement plant for the manufacture of bituminous mixtures, is a by-product and not a waste.

This criteria document:

- (i) applies to **site-won asphalt**, where:
 - it is a *residue* of a pavement development; and
 - it is destined for use as a raw material at a **RAP plant** in the manufacture of reclaimed asphalt and subsequently bituminous mixtures which meet the requirements of a harmonised standard or an Irish standard in the standard series (I.S.) EN 13108 Bituminous Mixtures – Material Specifications.
- (ii) *does not cover* the use of site-won asphalt outside the context of a RAP plant, as defined in the National criteria.
- (iii) *is only suitable* for use where the end use of the site-won asphalt is at a RAP plant which manufactures bituminous mixtures that meet the standard series identified above.
- (iv) Notes that:
 - It is the end user's responsibility to ultimately ensure the by-product material sourced from the approved supplier is fit for the intended use.
 - Any production residue of a production process that is not in compliance with these criteria shall be classified *as waste*.
 - It is an offence to give false or misleading information to an authorised person, a relevant local authority, or the Agency.

Appendix 1, Figure 1 sets out the process flow of site-won asphalt by-product from the production process to the acceptance at a RAP plant as a raw material.

Appendix 1, Figure 2 sets out the process flow of site-won asphalt by-product from acceptance at the RAP plant as a raw material through to manufacture of intermediate and final products.

Appendix 1, Table 1 sets out the key documents required at each stage of the process.

Appendix 1, Table 2 sets out the requirements considered at each stage of the process.

Section 2: Definitions	
<i>Approved supplier</i>	<p>An 'approved supplier' is a 'producer' that has been (i) approved by the RAP plant to supply them with by-product from a production process and (ii) who has received a signed End user's Declaration from the RAP plant as evidence of their approval.</p> <p><u>Note:</u></p> <ul style="list-style-type: none"> - A RAP plant may have multiple 'approved suppliers' as a single approved supplier only relates to one producer at one production process and the RAP plant may require multiple approved suppliers at multiple production processes. - If a producer attains approved supplier status from a RAP plant, this status is only relevant to the production process the RAP plant has listed in the signed End User's Declaration and this status <i>does not carry forward</i> with the producer to any other production process.
<i>Batch</i>	<p>A batch of by-product from a production process depends on how many RAP plants are destined to received by-product from that production process. If all the by-product produced is destined for one RAP plant, then there is only one batch of by-product from that production process and only one Statement of Conformity required to demonstrate that batch meets the requirements of the National Criteria.</p> <p>If the by-product produced is to be split for supply to 2 RAP plants, this will mean there are 2 batches each requiring a separate Statement of Conformity.</p> <p>The reason for this is because a Statement of Conformity is specific to one RAP plant.</p>
<i>Bituminous mixtures</i>	<p>Bituminous mixtures which meet the requirements set out in the harmonised and/or Irish Standard series (I.S.) EN 13108 and any tighter customer specification.</p> <p><u>Note:</u> Each part of the I.S. EN 13108 standard series relates to <i>different types</i> of bituminous mixtures e.g. asphalt concrete, hot rolled asphalt, stone mastic asphalt, mastic asphalt, porous asphalt and asphalt concrete with bituminous emulsion.</p>
<i>Competent person</i>	<p>The operator of the overall production process shall make a contact name available to the producer, to enable the producer to confirm with this contact the <i>absence</i> of certain hazardous constituents in the road material e.g. coal tar. The producer will record this contact name in the Statement of Conformity in order to provide traceability to the source of this confirmation.</p>
<i>End user</i>	<p>The end user of the site-won asphalt by-product is the RAP plant. 'End user' and 'RAP plant' can be used interchangeably and have the same meaning in the context of these National criteria.</p>
<i>Harmonised Standard</i>	<p>The Official Journal of the European Union (OJEU) identifies harmonised standards as EN 13108; however, in practice these harmonised standards may also be referenced as I.S. EN 13108 when used in Ireland.</p> <p>Not all Irish Standards adopted from the European Standard Series for Bituminous Mixtures, EN 13108, have been harmonised as this process varies depending on the part number of the standard series being considered. The OJEU should be referenced to determine the current part numbers in the series which have been harmonised.</p>
<i>Holder</i>	<p>This is the person/entity that is in possession of the by-product at any point in time.</p>

Section 2: Definitions	
	The holder changes throughout the process: <ul style="list-style-type: none"> - when the by-product is produced, the producer is the holder of the site-won asphalt at the road development; - when the by-product leaves the road site the haulier is the holder (if separate to the producer/end user); and - when accepted at the RAP plant, the RAP plant is the holder of the site-won asphalt.
<i>Non-Conformance Report</i>	When a holder of by-product first recognises that the by-product does not conform with the requirements of the National criteria that holder is required to initiate a Non-Conformance Report. The report template provided in Annex IV shows the minimum level of information required in a report. The initiator of the report needs to track the report until closure. <u>Note:</u> a competent body may initiate a Non-Conformance Report where a non-conformance is recognised but the by-product is in the possession of a producer, holder or end user.
<i>Pavement</i>	The description of the term 'pavement' was sourced from Irish Standard I.S. EN 13108-31. A road is an example of a pavement.
<i>Producer</i>	The producer of the site-won asphalt by-product is the holder of the site-won asphalt who generated it at the road development and first transfers the site-won asphalt as a by-product i.e. the producer is responsible for signing the Statement of Conformity which demonstrates the site-won asphalt can be moved as a by-product as it meets the requirements of the National Criteria. The producer may dispatch the by-product directly to the end user/RAP plant or to a haulier (intermediary holder of the by-product).
<i>Product, By-Product</i>	<i>A product</i> is the <u>final</u> product of a production process e.g. an upgraded or maintained roadway. <i>A by-product</i> is a production <i>residue</i> e.g. milled road planings and <u>not the final product</u> of a production process i.e. the upgraded/maintained road.
<i>Production Process</i>	The phrase 'production process' is sourced from Regulation 27. A 'pavement development' is a 'production process.' An example of a pavement development is the upgrading or maintenance of a road to produce a newly upgraded/maintained road. In that instance, the newly upgraded/maintained road would be <i>the product</i> and any site-won asphalt produced during the upgrading/maintenance process would be the <i>production residue</i> i.e. a by-product or a waste.
<i>Qualified staff</i>	The producer and/or RAP plant can train designated qualified staff to demonstrate the requirements of the National criteria; however, the producer and/or the RAP plant has the overall responsibility for any qualified staff they designate with responsibilities in accordance with the National criteria.
<i>RAP Plant</i>	This is a Reclaimed Asphalt Pavement (RAP) Plant that accepts site-won asphalt by-product as a <i>raw material</i> to produce <i>the intermediary material</i> reclaimed asphalt which is subsequently used to manufacture bituminous mixtures as <i>final products</i> . The RAP plant can be cold/warm/hot/enabled/mobile/stationary and can include satellite by-product storage locations <i>connected or associated with</i>

Section 2: Definitions	
	a RAP plant <u>and</u> <i>come under the control</i> of the RAP plant's accredited Management System.
<i>Reclaimed asphalt</i>	This meaning is <i>in part</i> from the meaning described in the standard series EN 13108. Reclaimed asphalt is made using site-won asphalt by-product (raw material). Reclaimed asphalt (intermediary product) is subsequently used to make bituminous mixtures (final products).
<i>Site-won asphalt</i>	The meaning of 'site-won asphalt' and 'asphalt' has been taken from the standard series I.S. EN 13108. Note: <ul style="list-style-type: none"> - the term 'site-won asphalt' provides for milled asphalt <u>and</u> slabs of asphalt pavements. - 'site-won asphalt' is sourced from 'asphalt' in a pavement. - 'site-won asphalt' is used to manufacture the intermediate product 'reclaimed asphalt' and this is in turn used to manufacture 'bituminous mixtures' the final product which meets the requirements of the specific standard series I.S. EN 13108 for bituminous mixtures which can include: asphalt concrete, hot rolled asphalt, stone mastic asphalt, mastic asphalt, porous asphalt and asphalt concrete with bituminous emulsion.

Section 3 and Annex 1: Criteria for site-won asphalt by-product	
<i>Section 3: Site-won asphalt shall be regarded as a by-product and not a waste where, upon transfer from the producer to another holder, all of the following conditions are demonstrated as fulfilled:</i> as described below in Section 3(1) – Section 3(9). Annex I - Criteria for the site-won asphalt by-product, is cross referenced throughout Section 3 and as such are explained together below for ease of reference.	
<i>Section 3(1):</i>	<i>The production process which generates the site-won asphalt by-product complies with the criteria set out in Part 1 of Annex I.</i>
<i>Annex I Part 1:</i>	<i>The production process (pavement development).</i>
Section 3(1) requires the production process (pavement development) which generates site-won asphalt as a residue of the production process to comply with the requirements set out in Part 1 of Annex 1. Part 1(a) –(c) of Annex I requires <i>the producer</i> to confirm that the site-won asphalt: <ul style="list-style-type: none"> - <i>is not a product</i> of the production process. The reason for this check is to ensure that products are not inadvertently regarded as by-products. Regulation 27(1) <i>does not provide for products</i>; it only provides for by-products. - <i>is a by-product</i> from the production process. Regulation 27(1) <i>does provide for by-products</i>. - <i>is suitable for direct use</i> as a raw material in the RAP plant without any further processing other than normal industrial practice e.g. size reduction. The reason for this check is to ensure compliance with Regulation 27(1)(b). 	
<i>Section 3(2):</i>	<i>The dispatch of site-won asphalt by-product from the production process complies with the criteria set out in Part 2 of Annex I.</i>
<i>Annex I Part 2:</i>	<i>Controlled dispatch of the site-won asphalt by-product.</i>

Section 3 and Annex 1: Criteria for site-won asphalt by-product

Section 3(2) requires the **transfer/movement** of site-won asphalt from production process to the RAP plant to comply with the requirements set out in **Part 2 of Annex 1**.

Part 2(a) –(d) of Annex I requires:

- that the RAP plant shall only accept site-won asphalt by-product where:
 - the RAP plant meets the requirements identified on the End user's Declaration form (Reference Annex II);
 - the RAP plant has approved the producer as an *approved supplier* of site-won asphalt by-product from the production process to their RAP plant and this approval has been demonstrated when the producer receives a signed End user's Declaration from the RAP plant.
 - the RAP plant and the producer have agreed the quality and quantity of site-won asphalt by-product required by the RAP plant *prior* to dispatch to the RAP plant.
- that site-won asphalt batches and/or consignments the subject of a Non-Conformance Report are not moved/used as a by-product until the Non-Conformance Report has been completed and signed off to provide for the site-won asphalt to be moved/used as a by-product.

<i>Section 3(3):</i>	<i>The quality of the site-won asphalt by-product from the production process complies with the criteria set out in Part 3 of Annex I.</i>
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<i>Annex I Part 3:</i>	<i>Quality of site-won asphalt by-product from the production process.</i>
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Section 3(3) requires the **quality of site-won asphalt** generated from the production process to comply with the requirements set out in **Part 3 of Annex 1**.

Part 3(a) –(d) of Annex I requires:

- the *producer* to verify that the site-won asphalt to be generated at the production process is free from certain hazardous constituents. In order to carry out this verification, the producer is required to contact the *person(s)/entity responsible for the production process* and ask them to nominate a *competent person* that can verify that the site-won asphalt is free from these hazardous constituents. The producer shall contact this competent person and *record their name and feedback* on the Statement of Conformity form with regard to the presence/absence of these hazardous constituents.
- the *producer* to confirm that the site-won asphalt by-product from the production process meets the quality requirements agreed with the RAP plant in Annex I, Part 2 above.
- the *producer* to initiate, track and complete a Non-Conformance Report if non-conforming material prior to moving the site-won asphalt off the site of the production process.
- the *producer* to complete and sign a *Statement of Conformity* for each batch of site-won asphalt produced at the production process *prior to* any consignment from a batch being dispatched to the RAP plant. The quantity of site-won asphalt by-product being produced at a production process is divided into batches which will depend on the number of RAP plants that the producer is supplying e.g. 1 RAP plant equates to 1 batch from the production process, 2 RAP plants equates to 2 batches from the production process and so on. Batches are divided in this way as the producer makes agreements which are specific to meet an RAP plant's needs.
- the *producer* to transmit a copy of the signed Statement of Conformity to the next holder i.e. haulier and/or RAP plant of the site-won asphalt by-product.

Section 3 and Annex 1: Criteria for site-won asphalt by-product	
<ul style="list-style-type: none"> - the <i>haulier</i> to transmit a copy of the signed Statement of Conformity received from the producer to the RAP plant unless the producer has carried out this step on their behalf. <p>Note: a document can be transmitted in hard copy or electronic form.</p>	
<i>Section 3(4):</i>	<i>The acceptance of site-won asphalt by-product at the RAP plant complies with the criteria set out in Part 4 of Annex I.</i>
<i>Annex I Part 4:</i>	<i>Acceptance of the site-won asphalt by-product at the RAP plant.</i>
<p>Section 3(4) requires the acceptance of site-won asphalt at the RAP plant to comply with the requirements set out in Part 4 of Annex 1.</p> <p>Part 4(a) –(g) of Annex I requires the RAP plant:</p> <ul style="list-style-type: none"> - to only accept consignments of site-won asphalt by-product at their RAP plant from an <i>approved supplier</i>, for consignments that the RAP plant holds the relevant <i>signed Statement of Conformity</i>, where the producer and batch of by-product has been <i>registered</i> on the Agency's <i>public register</i> and where the consignment meets the <i>procedural by-product acceptance requirements</i> at the RAP plant; - to initiate a <i>Non-Conformance Report</i> for consignments of site-won asphalt that have failed the RAP plant's <i>initial inspection</i> and have been denied entry to the RAP plant. The RAP plant shall track this Non-Conformance Report until closure. - to ensure that site-won asphalt by-product consignments <i>approved for entry</i> into the RAP plant are <i>weight recorded</i> and this record is maintained at the RAP plant to provide full by-product batch and consignment traceability regarding the quantity of any by-product batches received from approved supplies. - to ensure that site-won asphalt by-product approved for entry into the RAP plant is <i>unloaded and inspected</i> in accordance with the RAP plant's by-product inspection procedure. - to ensure a <i>Non-Conformance Report</i> is initiated for any <i>unloaded consignments</i> that have failed the RAP plant's inspection. The RAP plant shall track this Non-Conformance Report until closure. - To ensure the RAP plant <i>assesses Non-Conformance Reports initiated for an approved supplier</i> and associated batches and/or consignments of site-won-asphalt and considers whether the producer's approved supplier status shall be <i>maintained, paused or revoked</i>. Where the approved supplier status is revoked, a <i>new</i> End user's Declaration will be required by the producer in order to reinstate their approved supplier status with any specific RAP plant. 	
<i>Section 3(5):</i>	<i>The further use of the site-won asphalt by-product in the manufacture of reclaimed asphalt complies with the criteria set out in Part 5 of Annex I.</i>
<i>Annex I Part 5:</i>	<i>Further use of the site-won asphalt by-product in the manufacture of reclaimed asphalt at the RAP plant.</i>
<p>Section 3(5) requires the use of the site-won asphalt in the manufacture of reclaimed asphalt at the RAP plant to comply with the requirements set out in Part 5 of Annex 1.</p> <p>Part 5(a) and (b) of Annex I requires the RAP plant:</p> <ul style="list-style-type: none"> - to only use normal industrial practice e.g. size reduction, when processing site-won asphalt by-product accepted from the approved supplier. The reason for this check is to ensure compliance with Regulation 27(1)(b). 	

Section 3 and Annex 1: Criteria for site-won asphalt by-product	
<ul style="list-style-type: none"> - to ensure procedures and systems maintained at the RAP plant prevent the risk of site-won asphalt being used as a raw material where it is (i) associated with an <i>open</i> Non-Conformance Report, or (ii) a <i>closed</i> Non-Conformance Report that has confirmed the site-won asphalt is <i>not suitable for use</i> as a raw material at the RAP plant. 	
<i>Section 3(6):</i>	<i>The quality of the reclaimed asphalt (intermediate product), produced using site-won asphalt by-product, complies with the criteria set out in Part 6 of Annex I.</i>
<i>Annex I Part 6:</i>	<i>Quality of the reclaimed asphalt (intermediate product) produced using site-won asphalt (by-product) at the RAP plant.</i>
<p>Section 3(6) requires the quality of the reclaimed asphalt produced at the RAP plant from site-won asphalt to comply with the requirements set out in Part 6 of Annex 1.</p> <p>Part 6(a) and (b) of Annex I requires the RAP plant:</p> <ul style="list-style-type: none"> - to ensure the reclaimed asphalt manufactured using site-won asphalt by-product meets the requirements of the relevant part of the harmonised and/or Irish Standard from the standard series (I.S.) EN 13108, which specifies the requirements for reclaimed asphalt. - To ensure reclaimed asphalt produced as described above is used, where permitted under the relevant part of the harmonised and/or Irish Standard from the standard series (I.S.) EN 13108, to manufacture bituminous mixtures that meet the material specifications set out in the relevant part of the harmonised and/or Irish Standard from the standard series (I.S.) EN 13108. 	
<i>Section 3(7):</i>	<i>The quality of the bituminous mixtures (final products), produced using reclaimed asphalt (intermediate product), complies with the criteria set out in Part 7 of Annex I.</i>
<i>Annex I Part 7:</i>	<i>Quality of the bituminous mixtures (final product) produced using reclaimed asphalt (intermediate product) at the RAP plant.</i>
<p>Section 3(7) requires the quality of the bituminous mixtures produced at the RAP plant from reclaimed asphalt to comply with the requirements set out in Part 7 of Annex 1.</p> <p>Part 7(a) - (c) of Annex I requires the RAP plant to demonstrate:</p> <ul style="list-style-type: none"> - <i>the processes</i> associated with the use of site-won asphalt by-product in the production of reclaimed asphalt and subsequently bituminous mixtures meet the relevant requirements of Factory Production Control in accordance with I.S. EN 13108-21. - the minimum performance levels as set out in the Standard Recommendation No. 28 for the use and implementation of the I.S. EN 13108 standard series are satisfied, where relevant. Note: This standard only applies to specific part numbers of the overall standard series I.S. EN 13108. - the RAP plant is certified <i>to produce specific bituminous mixtures</i> using reclaimed asphalt in accordance with the relevant part number of the harmonised and/or Irish Standard from the standard series (I.S.) EN 13108. 	
<i>Section 3(8):</i>	<i>The submission of information in a form and format as may be prescribed by the Agency through relevant explanatory note(s), guidance, a register, or by other means in order to establish that the criteria in the above paragraphs are met.</i>

Section 3 and Annex 1: Criteria for site-won asphalt by-product	
<i>Annex I</i>	<i>Not cross linked with Annex I.</i>
<p>Section 3(8) provides the Agency with the ability to communicate the information required and the means by which that information is supplied in order to demonstrate that the requirements of the National criteria have been fulfilled. The modes by which the Agency may require information to be submitted may vary over time as the system develops.</p>	
<i>Section 3(9):</i>	<i>The producer <u>and</u> end user shall maintain documentary evidence, for assessment by the relevant competent authority which demonstrates compliance, where appropriate, with the provisions of the National criteria, CLP Regulation, REACH Regulation, Construction Products Regulations (as required), I.S. EN 13108 series of standards and any other legislation or guidance relevant to site-won asphalt by-product, reclaimed asphalt and bituminous mixtures.</i>
<i>Annex I</i>	<i>Not cross linked with Annex I.</i>
<p>Section 3(9) requires the producer and RAP plant to maintain their records and make them available for inspection in order to demonstrate that all the requirements for a specific batch of by-product (site-won asphalt), intermediate product (reclaimed asphalt) and/or final product (bituminous mixtures) have been satisfied in accordance with the requirements of the National criteria.</p> <p>It is the producer's and RAP plant's responsibility to ensure they are aware of all the requirements a material/substance/object needs to meet prior to making it available for use or placing it on the market. It may be the case that records will be audited or inspections may be conducted by multiple competent bodies e.g. the EPA, the local authority and/or the Health and Safety Authority.</p>	
<i>Section 3(10):</i>	<i>The producer has satisfied requirements set out in Section 7 (Registration).</i>
<i>Annex I Part 2(c)</i>	<i>Site-won asphalt by-product shall only be dispatched to a RAP plant where: ... the producer has registered the batch of by-product, to be dispatched from the production process, on the Agency's register.</i>
<p>Section 3(10) requires the producer to satisfy the registration requirements of Section 7. Reference notes on Section 7 below.</p> <p>Annex I Part 2(c) requires the producer to fulfil the requirements of Section 7 (Registration) <i>prior to</i> the by-product batch is dispatched from a production process.</p>	
<i>Section 3(11):</i>	<i>The producer, holder and end user shall comply with the requirements set out in Section 8 (Compliance).</i>
<i>Annex I</i>	<i>Not cross linked with Annex I.</i>
<p>Section 3(11) requires the producer, the holder and the RAP plant shall comply with the compliance requirements set out in Section 8 (Compliance). Reference notes on Section 8 below.</p>	

Section 4: End User's Declaration	
<i>Section 4(1):</i>	<i>The end user shall approve the producer as an approved supplier of site-won asphalt by-product from that production process to their RAP plant for</i>

Section 4: End User's Declaration	
	<i>use in the production of reclaimed asphalt and subsequently in bituminous mixtures. The end user shall complete and sign the end user's declaration described in point 2 as evidence that they have approved the producer as an approved supplier.</i>
<p>Section 4(1) requires the RAP plant:</p> <ul style="list-style-type: none"> - to approve their supply of site-won asphalt by-product, which is a raw material used in their production process, in accordance with their management system. - to ensure a supply of the <i>required quality</i> of site-won asphalt by-product by approving the producer of this material as an "<i>approved supplier</i>." - to meet the producer as part of the approval process to ensure the RAP plant's requirements are communicated to the producer and the producer can determine whether these requirements can be met. - To provide the producer which they recognise as an approved supplier of site-won asphalt by-product to the RAP plant with a <i>signed copy</i> of an <i>End user's Declaration</i> (Reference the declaration in Annex II). This provides the producer with evidence of their approved supplier status. 	
<i>Section 4(2):</i>	<i>The end user shall issue, for the site-won asphalt by-product to be yielded from a production process, an end user's declaration conforming to the format set out in Annex II.</i>
<p>Section 4(2) requires the RAP plant:</p> <ul style="list-style-type: none"> - To use the End user's Declaration form which has been specified in Annex II of the criteria. <p>The End User's Declaration once signed off by the RAP plant indicates that:</p> <ul style="list-style-type: none"> - the RAP plant meets the requirements to accept site-won asphalt by-product. - the RAP plant has approved a specific producer of site-won asphalt by-product. - the RAP plant has approved the supply of site-won asphalt by-product batch from a specific production process. 	
<i>Section 4(3):</i>	<i>The end user shall transmit a copy of the original signed end user's declaration to the producer of the site-won asphalt by-product. The end user shall retain the original end user's declaration for at least 3 years, or as otherwise directed by relevant Regulation, after its date of signing and shall make it available to competent authorities or a relevant producer(s) upon request.</i>
<p>Section 4(3) requires the RAP plant:</p> <ul style="list-style-type: none"> - to transmit (send) a copy of the signed End User's Declaration to the producer. - to maintain the original signed End User's Declaration as part of their records for a minimum of <i>3 years</i>, unless an alternative period is directed via Regulation, and make this record available to competent authorities on request. <p>Note: a document can be transmitted in hard copy or electronic form.</p>	
<i>Section 4(4):</i>	<i>The producer shall attach a copy of the completed and signed end user's declaration received from the end user to the original statement of conformity (Reference Section 5).</i>
Section 4(4) requires the producer:	

Section 4: End User's Declaration	
<ul style="list-style-type: none"> - to attach a copy of the signed End User's Declaration to the relevant Statement of Conformity (Reference the Statement in Annex III) for <i>the batch</i> of by-product, that is destined for that particular RAP plant. - To check the relevant tick box on the Statement of Conformity on attachment of the End User's Declaration to the Statement of Conformity. 	
<i>Section 4(5):</i>	<i>The end user's declaration may be in electronic form.</i>
Section 4(5) of the criteria document provides the scope for the RAP plant to utilise a hard copy form <u>or</u> an electronic form.	

Annex II: End User's Declaration Form	
<i>Header</i>	<ul style="list-style-type: none"> - Declaration No.: Each RAP plant shall assign a 'Declaration No.' for each declaration issued. This is to ensure declarations provided to producers/approved suppliers are traceable back to the RAP plant's documentation control system. - Page No.: Each declaration has more than one page, this page number should identify the total number of pages to ensure that all pages are accounted for in a declaration. This is especially helpful in a hard copy system.
<i>Part 1</i>	This part identifies the RAP plant, sets out the RAP plant's details responsible for signing off on the declaration and the details of any delegated qualified staff.
<i>Part 2</i>	<p>This part identifies the producer, and their details, whom the RAP plant has approved as an approved supplier of by-product to their RAP plant.</p> <p>This part also describes the production process generating the site-won asphalt by-product and the location of the production process.</p>
<i>Part 3</i>	This part demonstrates that the RAP plant is satisfied that the production process will yield by-product that <i>will meet</i> their requirements and the requirements of the National criteria.
<i>Part 4</i>	Demonstrates that the RAP plant has approved the producer as an approved supplier of site-won asphalt by-product from a specific production process.
<i>Part 5</i>	This part demonstrates that the RAP plant intends <i>to accept</i> by-product for use at their RAP plant as a raw material in the production of reclaimed asphalt (intermediary product).
<i>Part 6</i>	This part demonstrates that the RAP plant intends <i>to use</i> by-product as a raw material in the production of reclaimed asphalt (intermediary product) which meets the requirements of Section 3 and Annex I of the National criteria.
<i>Part 7</i>	This part provides the evidence required by Regulation 27 that the further use of the site-won asphalt 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.
<i>Part 7(a)</i>	This part provides evidence that the development has satisfied the requirements of the planning authority.

Annex II: End User's Declaration Form	
	<p>Part 8 planning is applicable for a local authority development e.g. a mobile RAP plant at a site-won asphalt depot.</p> <p>Note: The RAP plant shall only use site-won asphalt <i>by-product</i> that has been stored specifically for use as a raw material in the RAP plant to produce product which is planned for use. This is to ensure the Regulation 27 condition regarding the further use being <i>certain</i> is satisfied.</p>
<i>Part 7(b)</i>	<p>This part provides evidence that an Air Pollution Act Licence is in place, where required.</p> <p>Example: a hot mix plant may require a licence, whereas a cold mix plant may not.</p> <p>It is the <i>RAP plant's responsibility</i> to ensure they meet the requirements of the Air Pollution Act.</p>
<i>Part 7(c)</i>	<p>This part provides evidence that the RAP plant, inclusive of any associated satellite by-product storage site(s), has been certified as having an appropriate management system.</p>
<i>Part 7(d) Option 1</i>	<p>This part sections out the requirements for RAP plants that produce bituminous mixtures that meet the requirements of a <i>harmonised standard</i> in the standard series (I.S.) EN 13108. For further information on Irish and Harmonised Standards, reference the note in Part 7(d) Option 2 below.</p> <p>Part 7(d)(ii) requires the RAP plant to record the <i>part numbers</i> of the standard that the RAP plant produces product in accordance with e.g. (I.S.) EN 13108-01.</p> <p>Part 7(d)(iii) requires evidence of the RAP plant's factory product control and product certifications.</p>
<i>Part 7(d) Option 2</i>	<p>This part sections out the requirements for RAP plants that produce bituminous mixtures that meet the requirements of an <i>Irish Standard</i> in the standard series I.S. EN 13108. For further information on Irish and Harmonised Standards, reference the note below.</p> <p>Part 7(d)(ii) requires the RAP plant to record the <i>part numbers</i> of the standard that the RAP plant produces product in accordance with e.g. (I.S.) EN 13108-31.</p> <p>Part 7(d)(iii) requires evidence of the RAP plant's factory product control and product certifications.</p> <p>Note: on the date of issuance of this explanatory note a Production Certification Scheme <i>was not in place</i> or proposed. The reasons the scheme has been written into the criteria are as follows:</p> <ul style="list-style-type: none"> - The scope of the National criteria was originally <i>limited</i> to the production of bituminous mixtures in accordance with the <i>harmonised</i> standard series (I.S.) EN 13108. However, during the Agency's consultation process it was identified that bituminous mixtures produced in accordance with Irish Standards also needed to avail of the National criteria. - <i>Option 1</i> requirements relate to products which are made to <i>harmonised</i> standards only. <i>Option 2</i> provides an equivalent mechanism for products made to <i>Irish Standards</i> which are not harmonised.

Annex II: End User's Declaration Form	
	<p><u>Example:</u> the local authority have carried out a <i>pilot project</i> whereby a mobile RAP plant was set-up at a local authority site-won asphalt storage depot to produce bituminous mixtures in accordance with the Irish Standard I.S. EN 13108-31. The local authority used this bituminous mixture (final product) to construct, the relevant part, of a road. This pilot project is under consideration and has the potential for National roll-out.</p> <p>For projects such as the above to be able to avail of the National by-product criteria Option 2 needed to be created and future proofed with the potential to gain certification using a Product Certification Scheme.</p> <ul style="list-style-type: none"> - There is currently <i>no</i> Product Certification Scheme to fit this purpose; however, there <i>is precedence</i> for its development as the NSAI have created a Product Certification Scheme for Ready Mix Concrete². - Option 2 has been woven into the National criteria to future proof the criteria and ensure its scope is not limited to products that meet the requirements of harmonised standards only. - Creation of a Production Certification Scheme is outside the Agency's scope. Industry will need to work with e.g. the NSAI to develop an appropriate scheme.
<i>Part 8</i>	<p>This part provides a declaration that the RAP plant will communicate with the approved supplier if they no longer require by-product to be supplied or choose to pause or permanently revoke their approved supplier status under this declaration.</p> <p>This part also provides for the updating of the Agency's register, as may be required. This may be required should the RAP plant wish to deregister the producer's approved supplier status, on the Agency's register, on foot of an inspection, occurrence, NCR, another event or series of events.</p> <p>The last approval ensures the end user has given their permission for the declaration to be made available to the public.</p>
<i>Sign-off</i>	This final section of the form provides for the sign-off of the RAP plant regarding the contents of the declaration.

Section 5: Statement of Conformity	
<i>Section 5(1):</i>	<i>The producer shall issue, for each batch of site-won asphalt by-product, a statement of conformity to the format set out in Annex III (including an attached End User's Declaration as described in Section 4 above).</i>
<p>Section 5(1) requires the producer to:</p> <ul style="list-style-type: none"> - complete and sign off a Statement of Conformity using the statement provided in Annex III of the criteria document. - complete and sign off a Statement of Conformity for <i>each batch</i> of site-won-asphalt by-product they are dispatching to a specific RAP plant. - attach a copy of the signed End User's Declaration received from the RAP plant which indicates they are an approved supplier for that RAP plant. 	

² Source: [Ready Mix Concrete | NSAI](#)

Section 5: Statement of Conformity		
<p>Note: the <i>number of batches</i> of by-product that are generated from a production process <i>depends on</i> the number of RAP plants that the producer intends to supply as shown in the table below.</p>		
No. of RAP plants to supply:	No. of Batches produced:	No. of Statements of Conformity required per RAP plant:
1	1	1
2	2	2
3	3	3
<i>Section 5(2):</i>	<p><i>The producer shall transmit a copy of the original signed statement of conformity to the next holder(s) of the site-won asphalt by-product consignment <u>and</u> to the end user. The producer shall retain the original signed statement of conformity for at least 3 years, or as otherwise directed by relevant Regulation, after its date of issue and shall make it available to competent authorities and a relevant end user upon request.</i></p>	
<p>Section 5(2) requires the producer:</p> <ul style="list-style-type: none"> - to transmit (send) a copy of the signed Statement of Conformity to the next holder of the site-won asphalt by-product consignment e.g. a haulier, where the haulier is not the RAP plant, <u>and</u> the RAP plant. The plural term "next holder(s)" has been used to ensure the producer transmits a copy of the statement to <i>each holder</i> that is responsible for the transport of the by-product to the RAP plant. This provides for scenarios where there are more than one holder of the by-product in the chain of transport to the RAP plant. - to maintain the original signed Statement of Conformity as part of their records for a minimum of <i>3 years</i>, unless an alternative period is directed via Regulation, and make this record available to competent authorities on request. <p>Note: a document can be transmitted in hard copy or electronic form.</p>		
<i>Section 5(3):</i>	<p><i>The RAP plant shall retain the copy of the original signed statement of conformity for at least 3 years, or as otherwise directed by relevant Regulation, after its date of issue and shall make it available to competent authorities and a relevant end user upon request.</i></p>	
<p>Section 5(3) requires the RAP plant to maintain a copy of the original signed Statement of Conformity as part of their records for a minimum of <i>3 years</i>, unless an alternative period is directed via Regulation, and make this record available to competent authorities on request.</p>		
<i>Section 5(4):</i>	<p><i>The statement of conformity may be in electronic form.</i></p>	
<p>Section 5(4) of the criteria document provides the scope for the producer to utilise a hard copy form <u>or</u> an electronic form.</p>		

Annex III: By-Product Statement of Conformity Form	
<i>Header</i>	<ul style="list-style-type: none"> - Statement No.: Each producer shall assign a 'Statement No.' for each statement issued. This is to ensure statements provided to other subsequent holders e.g. hauliers and RAP plants are traceable back to the producer's documentation control system. - Page No.: Each statement has more than one page, this page number should identify the total number of pages to ensure that all pages are accounted for in a statement. This is especially helpful in a hard copy system.
<i>Part 1</i>	This part identifies the producer, sets out the producer's details responsible for signing off on the statement and the details of any delegated qualified staff.
<i>Part 2</i>	These parts require the input/attachment of data or certain confirmations that is required in accordance with the single case notification system.
<i>Part 3</i>	<p>This data assists in satisfying the requirements of Regulation 27.</p> <p>The quantity data entry requirements are <i>estimations</i> as it may not be the case that a weigh bridge is available at the production site. These quantities assist in accounting for the <i>approximate</i> quantity of by-product generated in each batch at a production process. These quantity estimations may assist in indicating how much production residue <i>the producer prevented</i> from becoming <i>a waste</i>.</p> <p>For greater clarification on Part 3(c) reference the explanation in Section 2 above for the term 'competent person'.</p> <p>Part 3(d) provides for the mechanical reduction of size of the by-product e.g. the crushing of site-won asphalt slabs.</p> <p>Part 3(e) requires the by-product to meet the requirements of the National criteria and any additional customer requirements agreed with the RAP plant.</p>
<i>Part 4</i>	<p>This part provides for the attachment of the relevant signed End User's Declaration for this batch of by-product.</p> <p>The Statement of Conformity <i>is specific to a batch of by-product</i> being generated at a production process and each batch is linked to a specific RAP plant (Reference Section 2 definition of 'batch').</p> <p><u>Note:</u> where the producer has attained approved supplier status from multiple RAP plants, the copy of the statement sent with the consignment to that RAP plant need only attach the End User's Declaration relevant to that specific RAP plant.</p>
<i>Part 5(a)</i>	Part 5(a) requires each consignment (load) of a batch of by-product being dispatched from a production process to meet the requirements of the National criteria. The Producer ticks this box to validate the batch meets the National criteria.
<i>Part 5(b)</i>	<p>Part 5(b) requires the producer to confirm compliance with the REACH Regulation with respect to the site-won asphalt by-product.</p> <p>The HSA's website confirms³:</p> <p><i>The Health and Safety Authority (HSA) is the lead Competent and Enforcement Authority for REACH in Ireland. The Authority has a helpdesk</i></p>

³ Source: [REACH - Health and Safety Authority \(hsa.ie\)](https://www.hsa.ie)

Annex III: By-Product Statement of Conformity Form	
	<p><i>that assists industry in fulfilling its obligations under REACH. Companies can contact the helpdesk by calling 0818 289 389 or by emailing chemicals@hsa.ie</i></p> <p><i>The European Chemicals Agency (ECHA) is the body responsible for the administration of REACH in the EU. It manages the submission of data in the form of dossiers from industry and provides guidance and assistance to industry through its website, guidance and helpdesk. Further information on the Agency is available on its website at www.echa.eu</i></p> <p>The producer ticks the check box to <i>confirm compliance with the REACH Regulation.</i></p>
<i>Part 5(c)</i>	This part provides the producer with the opportunity to demonstrate that the by-product meets all other requirements applicable to this material type being placed on the market and/or used as a raw material at a RAP plant.
<i>Part 5(d)</i>	This part ensures the producer checks that any required details have been recorded on the Agency's public register in order to comply with Section 3 and 7, and Annex I Part 2(c) of the National criteria.
<i>Part 5(e)</i>	<p>This part ensures that the producer (i) maintains a copy of the original signed Statement of Conformity as part of their record management system and (ii) that the producer transmits (sends) a copy of this signed statement to the next holder of the batch of by-product e.g. a haulier and to the end user of this batch of by-product, the RAP plant.</p> <p>A haulier and the RAP plant shall maintain this copy of the statement as part of their documentation management system.</p> <p>All signed Statement of Conformities held on record by any party shall be made available for inspection upon request.</p> <p>Note: a document can be transmitted in hard copy or electronic form.</p>
<i>Part 6</i>	This last section provides for the sign-off of the producer regarding the contents of the Statement of Conformity.

Section 6: Management System	
<i>Section 6(1):</i>	<i>The producer and end user shall both establish, maintain, and implement a management system suitable to demonstrate compliance with the criteria referred to in Section 3.</i>
Section 6(1) requires the producer and the RAP plant to establish, maintain and implement a management system that fulfils the requirements of Section 3 (Criteria for site-won asphalt by-product) and Section 6 (Management System).	
<i>Section 6(2):</i>	<i>The producer and end user shall make these management systems available for inspection.</i>
Section 6(2) requires the producer and the RAP plant to make all aspects of their management systems available for inspection on request.	

Section 6: Management System	
<p>The RAP plant may require an inspection of the producer's management system as part of their approval of suppliers of by-product.</p> <p>A competent body may require access to either of the producer's or RAP plant's management system to determine compliance with the National criteria or any associated requirements.</p>	
<i>Section 6(3):</i>	<i>The producer's management system shall include a set of documented procedures concerning each of the following aspects: (a)-(l).</i>
<p>Section 6(3) requires the producer to ensure their management system includes <i>documented procedures</i> that as a minimum covers the requirements set out in sub sections (a) – (l) of Section 6(3).</p> <p>Procedures shall be reviewed periodically to ensure they reflect current requirements.</p> <p>The producer shall be able to provide evidence which demonstrates that relevant staff have been trained on the requirements of these procedures.</p>	
<i>Section 6(4):</i>	<i>The end user's management system shall include a set of documented procedures concerning each of the following aspects: (a)-(q).</i>
<p>Section 6(4) requires the RAP plant to ensure their management system includes <i>documented procedures</i> that as a minimum cover the requirements set out in sub sections (a) – (q) of Section 6(4).</p> <p>Procedures shall be reviewed periodically to ensure they reflect current requirements.</p> <p>The RAP plant shall be able to provide evidence which demonstrates that relevant staff have been trained on the requirements of these procedures.</p>	
<i>Section 6(5):</i>	<i>The end user shall ensure the approved supplier of by-product implements a management system which complies with the requirements of this Section.</i>
<p>Section 6(5) requires the RAP plant to ensure the producer's management system meets the requirements of Section 6 prior to issuing that producer with an End User's Declaration which indicates their approved supplier status.</p>	
<i>Section 6(6):</i>	<i>The end user's management system shall be certified by a Management System Certification Body accredited by the Irish National Accreditation Board. This certification shall verify that the management system complies with the requirements of this Section. The verification shall be carried out every 3 years.</i>
<p>Section 6(6) requires the RAP plant to be certified by a Management System Certification Body, every 3 years, as evidence that the RAP plant's management system complies with the requirements of Section 6.</p> <p>The RAP plant shall enter the details of this certification into their End User's Declarations to demonstrate to the producer that they meet the requirements of Section 6 of the National criteria.</p>	

Section 7: Registration

1. *Prior to dispatch from a production process, a producer of site-won asphalt in accordance with these criteria shall register the material on the Agency's public register, or as otherwise prescribed by the Agency. An individual registration shall be made for each batch of site-won asphalt produced from a specific production process which is destined for dispatch to one specific end user.*
2. *The producer shall submit registration information in a form and format as may be prescribed by the Agency.*

The national criteria negate the need to make a by-product notification to the EPA for determination. Production of site-won asphalt by-product that complies with the national criteria is instead required to be registered. Registration details will be displayed on the publicly available register published on the Agency website.

The register includes the following details:

- The name of the producer;
- The producer's organisational email address and/or contact number;
- The location address and Eircode of the production process;
- Grid reference with linked map for the location of the production process;
- The name of the local authority with remit over the location of the production process;
- The name of the local authority with remit over the location of the RAP plant;
- The name of the RAP plant/end user and address;
- The National By-Product Criteria Reference Number being utilised (in this case: BP-N001/2023); and
- The quantity (m³) of by-product that is the subject of the registration;
- The nature of the by-product material being produced (in this case: site-won asphalt).

This register will list producers of site-won asphalt by-product. The register will be publicly available on the Agency's website so that RAP plants can check that the production of by-product, from a specific producer and production process, is registered and to provide for competent authorities in undertaking compliance, monitoring and/or surveillance checks.

Where a batch of site-won asphalt produced under the National criteria is dispatched from the production process without being fully registered, this is in breach of the National criteria and if the substance or object, as the case may be, is discarded or otherwise dealt with as if it were *waste*, the substance or object, as the case may be, shall be *presumed to be waste* until the contrary is proved.

A producer of site-won asphalt by-product must register an entry for each batch of by-product site-won asphalt they produce i.e., the quantity of site-won asphalt by-product generated from a specific production process which is destined for dispatch to one specific RAP plant. The producer is required to register each batch of by-product produced at a production process *prior* to the batch of by-product being dispatched to a RAP plant.

The register includes the following details:

- The name of the producer;
- The producer's organisational email address and/or contact number;
- The location address and Eircode of the production process;
- Grid reference with linked map for the location of the production process;
- The name of the local authority with remit over the location of the production process;
- The name of the local authority with remit over the location of the RAP plant;

Section 7: Registration

- The name of the RAP plant/end user;
- The National By-Product Criteria Reference Number being utilised (in this case: BP-N001/2023); and
- The quantity (m³) of by-product that is the subject of the registration;
- The nature of the by-product material being produced (in this case: site-won asphalt).

The register will be managed and overseen by the Agency.

How to Register

Registrations are made through the EPA EDEN portal via the "By-product Module"

To register the production of site-won asphalt by-product in accordance with the national criteria (BP-N001/2023) the producer needs to complete the registration form by clicking on the "Create By-product Registration". This will generate an automated registration form

The national criteria (BP-N001/2023) will be available to select within the registration form.

RAP plant will be available to select from a drop down field on the registration form. If the RAP plant you wish to dispatch the site-won asphalt is not listed, contact byproduct@epa.ie to add the RAP plant to the system.

Details of the producer, production process location and quantities of material are also required to be entered on the registration form. Once the form is fully completed this is then submitted through the automated system by clicking "Submit".

Post Registration

When a registration form is submitted to the EPA, the registration will be assigned a registration reference number and details of the registration will be entered on the [By-Product Register](#). The register will include filter and download functionality.

The producer will receive an email with a copy of the registration form for their records, including the registration reference number.

The relevant local authority(s) shall receive an automatic alert, including a copy of the registration form when a by-product within their remit has been added to the register. The local authority may decide to undertake site visits or request records.

Once registered, the producer may move/ use site-won asphalt by-product that is in accordance with the National By-Product Criteria for site-won asphalt (BP-N001/2023).

The register will be managed and overseen by the Agency.

If a producer no longer intends to move/use material under a registration or if it has been determined by a local authority that the material does not comply with the national criteria, then the producer may request that the registration is deregistered. A deregistration request should be sent to byproduct@epa.ie quoting the registration reference no. and the reason for deregistration.

Section 7: Registration

Section 8: Compliance

1. *The producer, holder or end user shall comply with any request made by a competent authority and/or authorised person in relation to the provision of evidence of compliance with these criteria or any requirements associated with these criteria e.g. product, or health and safety requirements.*
2. *Any person who gives either to an authorised person, a relevant local authority or the Agency, information which to that person's knowledge is false or misleading in a material respect, shall be guilty of an offence.*

The producer, the holder and/or the RAP plant is required to comply with any request made by a competent authority or authorised person in order to ensure evidence is provided, when requested, to demonstrate compliance with these criteria or any requirements associated with the criteria.

Any person who provides false or misleading information in the context of the National criteria shall b

Section 9: Entry into effect

National By-Product Criteria Reference Number BP-N001/2023 shall be available for use following publication on the Agency's website.

The National criteria will be available for use from the date the finalised version is published on the Agency's website.

In order to utilise the criteria, a producer of site-won asphalt in accordance with these criteria shall register each batch of by-product on the Agency's public register. Refer to Section 7 above.

Annex I: Criteria for the site-won asphalt by-product

Reference Section 3 above for an explanation regarding the requirements of *Annex I*.

Annex II: End User's Declaration referred to in Section 4

Annex II regarding the End User's Declaration *form* is explained above following Section 4 End User's Declaration.

Annex III: End User's Declaration referred to in Section 4

Annex III regarding the Statement of Conformity form is explained above following Section 5 Statement of Conformity.

Annex IV: Non-Conformance Report

<i>NCR Number:</i>	- NCR No.: each NCR issued by a producer, RAP plant or individual competent bodies shall be assigned a <i>unique</i> identifier (NCR No.) which <i>is traceable</i> within their document management system.
<i>Date NCR Issued:</i>	- The date on which the NCR is initiated is recorded in this section.
<i>Issued by:</i>	<ul style="list-style-type: none"> - The person/entity issuing the NCR shall identify if they are issuing the NCR as the producer of the material the subject of the non-conformance, the end user of the material or another party connected to the material e.g. if a competent authority needed to raise an NCR as part of an inspection/audit. - It should be noted that this NCR form <i>is a template</i>, and another NCR format can be used; however, the data in this template should be recorded as a minimum as part of any NCR form used. - A print sign off is required to ensure the sign-off is legible to provide for traceability. <p><u>Note:</u></p> <ul style="list-style-type: none"> - There is no requirement for a producer, holder or RAP plant to notify a competent authority of any NCR initiated. A competent authority may review an NCR during any site/record inspection as part of the duties of that competent authority. - A competent authority may initiate an NCR if a non-compliance with National criteria is observed whilst carrying out their duties; however, the authority could also request the holder of the material to initiate the NCR.
<i>Description of the non-conformance:</i>	<ul style="list-style-type: none"> - The reason the material has been determined to be non-conforming to the National Criteria shall be recorded in this section, for example: <ul style="list-style-type: none"> (i) By-Product material is approved for supply from a secondary road (production process) to a RAP plant. Cold milling took place on an adjacent local road suspected of containing coal tar and this material was added to the batch of by-product coming from the secondary road. A Non-Conformance Report should be raised by the producer here as (i) material has been added to the by-product batch from outside the agreed production process and (ii) it is not certain if the material from the road does/doesn't contain coal tar. (ii) A by-product consignment has been unloaded by the approved supplier at the RAP plant and the load is physically contaminated with concrete, wood and plastic. A Non-Conformance Report should be raised by the RAP plant here as the consignment is contaminated with other material other than the agreed material approved for supply to the RAP plant, site-won asphalt.

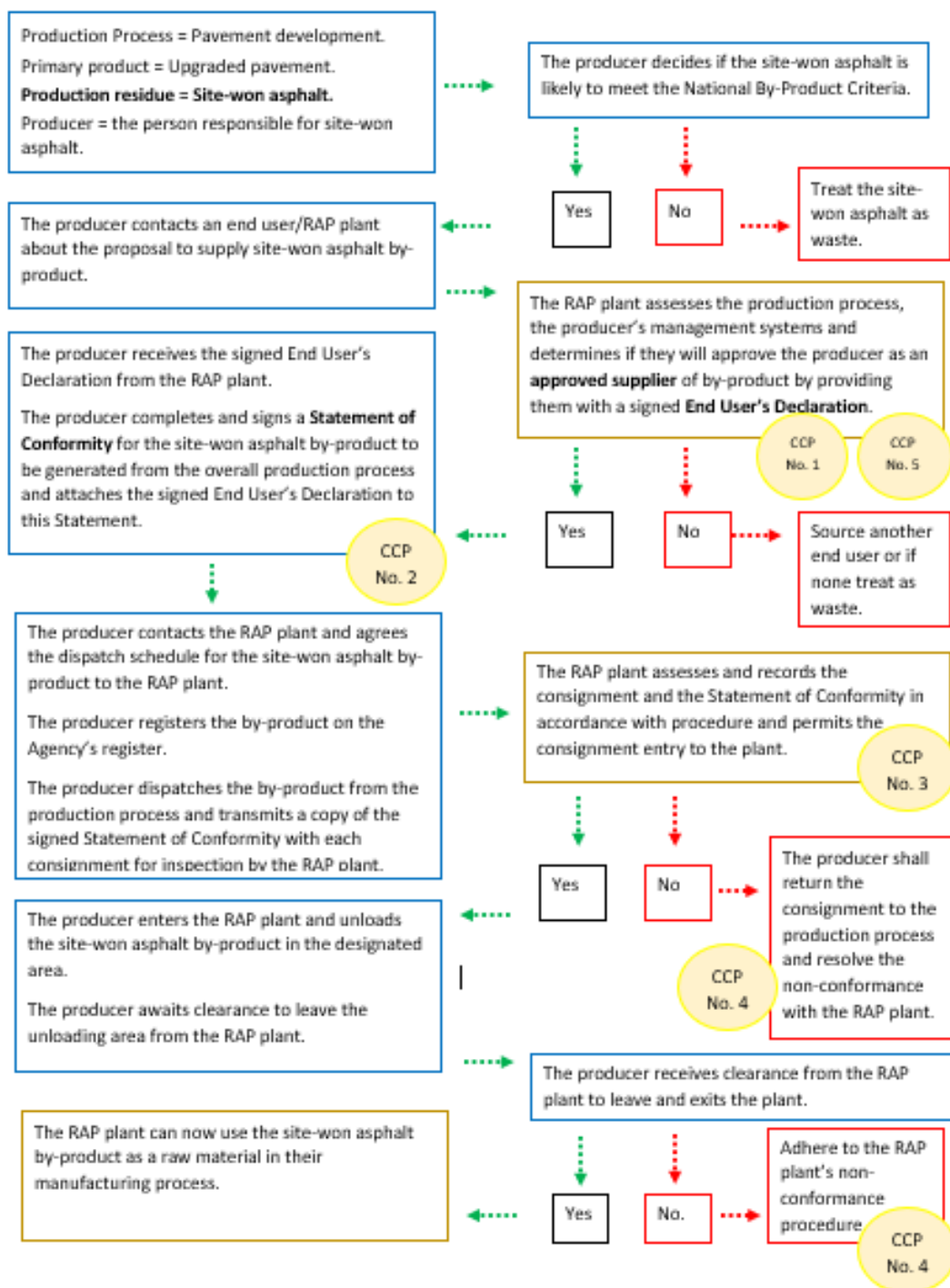
Annex IV: Non-Conformance Report	
<i>Statement of Conformity No.:</i>	- The issuer shall record the Statement of Conformity No. associated with the non-conforming materials to provide for traceability.
<i>Initial Instruction:</i>	- The issuer shall record their initial instruction with regard to any requirement for the material to be segregated and quarantined. - The issuer of this instruction shall sign and date this instruction in order to demonstrate the initiation of the action timeline.
<i>Corrective action(s) taken:</i>	- The corrective action(s) taken shall be recorded in this section. - Corrective actions seek to eliminate the causes of non-conformities. Note: the actions completed cannot exceed the requirement that the by-product needs to be suitable for direct use without any further processing other than normal industrial practice (Regulation 27(1)(b)). These actions should not include treatment techniques that address typical waste-related characteristics of the production residue, such as its contamination with components which are hazardous or not useful. These actions can include modification of size or shape by mechanical treatment ⁴ .
<i>Preventative action(s) taken:</i>	- The preventative action(s) taken shall be recorded in this section. - Preventative actions seek to prevent the reoccurrence of such non-conformities. Note: Reference note in row above.
<i>Final Decision</i>	<u>This section is split into two:</u> - The first section indicates <i>the decision the issuer has made</i> , after the above actions have been completed, regarding whether the material the subject of the NCR <i>remains unsuitable</i> for dispatch/acceptance/use as a by-product <u>or</u> <i>is now suitable</i> for dispatch/acceptance/use as a by-product. - The second section relates to the producer's approved supplier status and whether <i>the RAP plant has communicated</i> if this status is to (i) remain, (ii) be paused temporarily, or (iii) be revoked. This will depend on the scenario being described i.e. whether the NCR was issued by the producer, the RAP plant or other. - The issuer is required to sign and date their final decisions. Note: - the issuer of the NCR is required to track the NCR until closure. The closure of an NCR is not the responsibility of a competent body where the competent body did not initiate the NCR. - If one RAP plant revokes a producer's approved supplier status this does not impact the producer's approved supplier's status granted by any other RAP plant. - A RAP plant may review the number of NCRs issued to an approved supplier, the reasons why the NCRs were issued and whether corrective and preventative actions have been successful in

⁴ Source: Section 1.2.4 EC Guidance on the interpretation of key provisions of Directive 2008/98/EC on waste (June 2012) [Table of Contents \(europa.eu\)](#).

Annex IV: Non-Conformance Report	
	<p>preventing a trend of NCRs being issued, in their assessment/review of a producer's approved supplier's status.</p> <ul style="list-style-type: none"> - A producer's approved supplier's status may be paused/temporarily frozen if required where e.g. it is not certain that by-product conforming to the National criteria can be supplied to the RAP plant and an investigation/assessment is required to take place to determine if the producer can remain the approved supplier to a RAP plant for by-product being dispatched from a specific production process. - The approved supplier's status can be reinstated after it has been revoked by the RAP plant providing the producer with a newly signed End User's Declaration. - Section 6 requires the RAP plant to have a procedure for the assessment of producer's as approved suppliers.
<i>Final communicated issued:</i>	This section demonstrates that the final decision has been communicated from the issuer to the holder responsible for the by-product on a specific date.
<i>NCR sign-off as complete:</i>	This is the location at which the issuer of the NCR signs-off that they have verified the data contained in the NCR and that the NCR has been fully completed on the date signed.

Appendix 1

Figure 1: Process flow of site-won asphalt by-product from the production process to the acceptance at a RAP plant as a raw material⁵.



⁵ CCP: Critical Control Point – Reference Section 5.4 of this report for further detail.

Key code: Blue line = producer control, Yellow line = end user control, red arrow = not covered by the National criteria, green arrow = positive flow meeting the National criteria.

Figure 2: Process flow of site-won asphalt by-product from acceptance at the RAP plant as a raw material through to manufacture of intermediate and final products.

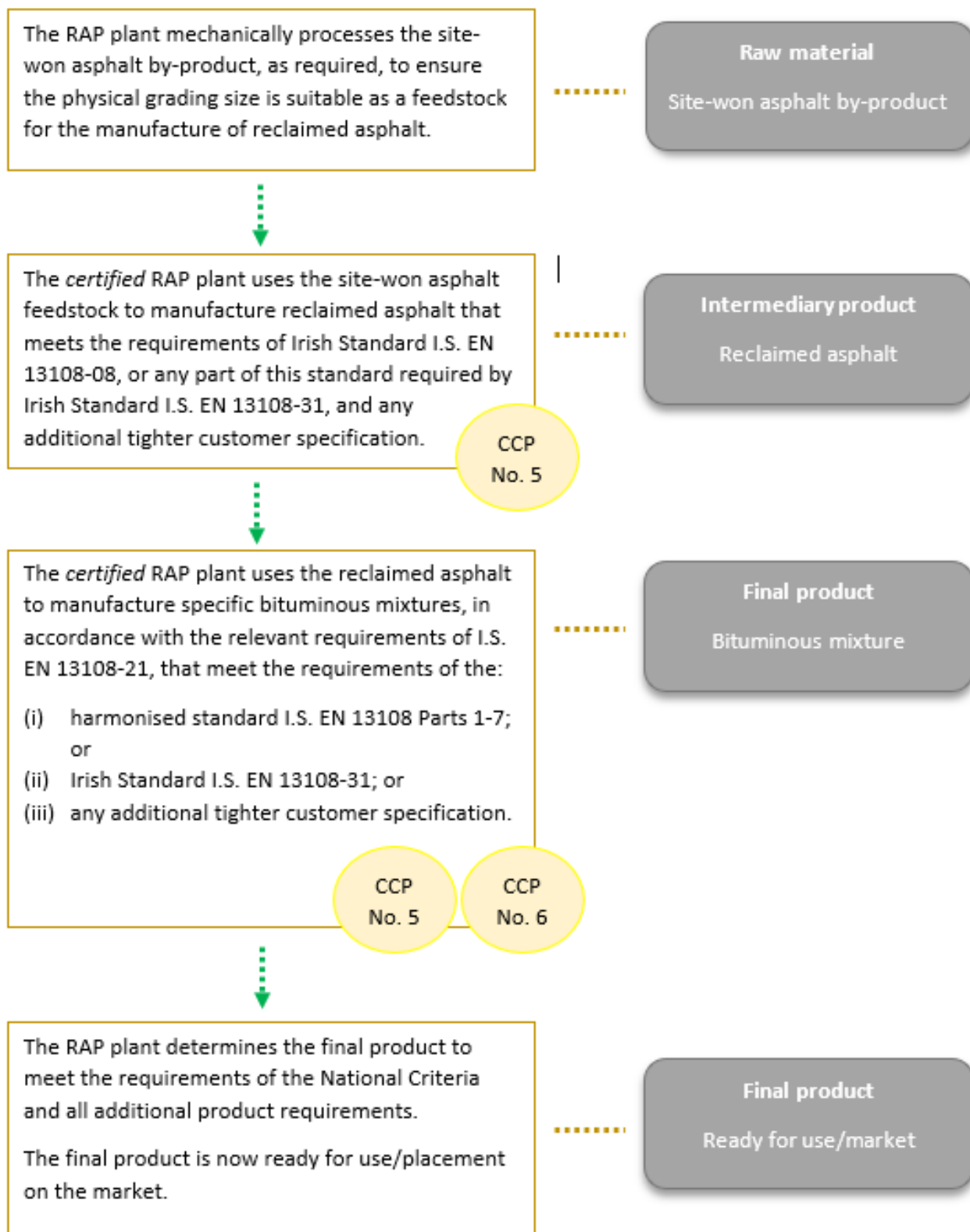


Table 1: Key documents required at each stage of the process.

Stage in the process			
	By-Product at Source	By-Product in Transit	By-Product at End Use
	Pavement development e.g. a road	Collection and Transport, from producer to RAP plant	RAP plant
Record Management			
Document Type	Producer's records include:	Holder (in transit) records include:	RAP plant's records include:
Statement of Conformity	<input type="checkbox"/> An original Statement of Conformity signed by the producer; <input type="checkbox"/> For <i>each batch</i> of by-product produced.	<input type="checkbox"/> A copy of the Statement of Conformity signed by the producer; <input type="checkbox"/> For <i>the consignment</i> in transit.	<input type="checkbox"/> A copy of the Statement of Conformity signed by the producer; <input type="checkbox"/> For <i>each batch</i> of by-product accepted at the plant.
End User's Declaration	<input type="checkbox"/> A copy of the End User's Declaration signed by the RAP plant; <input type="checkbox"/> For each RAP plant that has approved the producer as an "approved supplier".	<input type="checkbox"/> A copy of the End User's Declaration signed by the RAP plant; <input type="checkbox"/> Relating to the destination RAP plant.	<input type="checkbox"/> An original End User's Declaration signed by the RAP plant; <input type="checkbox"/> For each Producer approved as an "approved supplier."
Non-Conformance Report	<input type="checkbox"/> Any Non-Conformance Report (NCR) raised.	<input type="checkbox"/> Any NCR raised in transit.	<input type="checkbox"/> Any NCR raised.

Table 2: Requirements to be considered at each stage of the process.

	Stage in the process		
	By-Product at Source	By-Product in Transit	By-Product at End Use
	Pavement development e.g. a road	Collection and Transport, from producer to RAP plant	RAP plant
Requirements of the National Criteria include:			
Adherence to National Criteria	<input type="checkbox"/> Required	<input type="checkbox"/> Required	<input type="checkbox"/> Required
EPA Registration	<input type="checkbox"/> Required	<input type="checkbox"/> As required	<input type="checkbox"/> As required
Inspection ^{Note 1}	<input type="checkbox"/> As required	<input type="checkbox"/> As required	<input type="checkbox"/> As required
Satisfaction of the requirements of the competent authority responsible for:			
Planning permission	<input type="checkbox"/> N/A to this process	<input type="checkbox"/> N/A to this process	<input type="checkbox"/> Required
Air Pollutant Act Licence	<input type="checkbox"/> N/A to this process	<input type="checkbox"/> N/A to this process	<input type="checkbox"/> As required
Inspection/site visit/audit in accordance with Waste legislation.	<input type="checkbox"/> As required	<input type="checkbox"/> As required	<input type="checkbox"/> As required
REACH Regulations	<input type="checkbox"/> As required	<input type="checkbox"/> As required	<input type="checkbox"/> As required
CLP Regulations	<input type="checkbox"/> As required	<input type="checkbox"/> As required	<input type="checkbox"/> As required
Construction Products Regulations	<input type="checkbox"/> As required	<input type="checkbox"/> As required	<input type="checkbox"/> As required
Inspection ^{Note 2}	<input type="checkbox"/> As required	<input type="checkbox"/> As required	<input type="checkbox"/> As required
Satisfy the requirements of a notified body responsible for:			
Verification of the Management System	<input type="checkbox"/> N/A to this process	<input type="checkbox"/> N/A to this process	<input type="checkbox"/> Required
Issuing Notified Factory Production Control Certification	<input type="checkbox"/> N/A to this process	<input type="checkbox"/> N/A to this process	<input type="checkbox"/> As Required
Issuing Notified Product Certification	<input type="checkbox"/> N/A to this process	<input type="checkbox"/> N/A to this process	<input type="checkbox"/> As Required
Issuing a certificate under a Production Certification Scheme	<input type="checkbox"/> N/A to this process	<input type="checkbox"/> N/A to this process	<input type="checkbox"/> As Required
Inspection ^{Note 2}	<input type="checkbox"/> As required	<input type="checkbox"/> As required	<input type="checkbox"/> As required

Note 1: Inspection, site visit or audit to confirm e.g., registered data or compliance with the National criteria or suitability for approved supplier status.

Note 2: Inspection, site visit or audit by a competent body to confirm e.g., the requirements of the competent body have been satisfied, where relevant.

Note 3: Inspection, site visit or audit by a notified body to confirm e.g., the requirements of the notified body have been satisfied, where relevant.