

CHAPTER 325

AN ACT concerning the use of recycled asphalt pavement, and supplementing P.L.1987, c.102 (C.13:1E-99.11 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.13:1E-99.28a Use of recycled asphalt pavement.

1. a. Notwithstanding the provisions of any law, or any rule or regulation adopted pursuant thereto, to the contrary, a person may use recycled asphalt pavement, subject to the limitations in this section as follows:

- (1) unbound in bedrock quarry reclamation;
- (2) unbound underneath a guardrail of a public road or highway;
- (3) unbound or mixed with other materials for use as a base or subbase material in accordance with applicable engineering designs;
- (4) unbound as a surface material for a parking lot, farm road, or pathway, or in any other location as authorized by the Department of Environmental Protection; or
- (5) in any other use authorized by the Department of Environmental Protection.

b. A person shall not use recycled asphalt pavement as authorized in subsection a. of this section in an environment in which the pH is less than or equal to four, unless the person demonstrates to the Department of Environmental Protection that the level of any contaminant in the material is at or below a concentration such that, if leaching occurs, the dissolved concentration of the contaminant in the leachate is:

- (1) at or below applicable drinking water quality standards established by the Department of Environmental Protection and the United States Environmental Protection Agency; and
- (2) at or below all applicable groundwater quality standards established by the Department of Environmental Protection.

c. If a person fails to demonstrate to the Department of Environmental Protection pursuant to subsection b. of this section that the dissolved concentration of any contaminant in the leachate of recycled asphalt pavement proposed for use in an environment in which the pH is less than or equal to four, is at or below the drinking water quality standards established by the Department of Environmental Protection and the United States Environmental Protection Agency and the applicable groundwater quality standards established by the Department of Environmental Protection, as a condition for the use of the recycled asphalt pavement, the department shall require the installation of a soil layer between the recycled asphalt pavement and the groundwater aquifer at a depth to be determined by the department.

d. The Department of Environmental Protection, in consultation with the Department of Transportation, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

2. This act shall take effect on the first day of the ninth month next following the date of enactment, except the Commissioner of Environmental Protection may take any anticipatory action in advance thereof as shall be necessary for the implementation of this act.

Approved January 16, 2018.