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October 13, 2026

Albemarle County Planning Commission
401 McIntire Road, North Wing
Charlottesville, VA 22902

Re: CORRECTION to ACFB Comments on Proposed Clean Fill Earth Ordinances

Dear Albemarle County Planning Commission:

Below you will find a correction to the comments that were submitted by the Albemarle County Farm Bureau. On pages 6 and 8, proposed language for the agricultural exemption was included that cites to Va. Code § 3.2-6400 for the definition of an agricultural entity. In fact, the code section that should be cited is Va. Code § 3.2-300 which includes a definition for agricultural operation as defined by the Right to Farm Act. ACFB's proposed language for Sec. 5.1.28(c) is amended to the following:

c. Exemptions. The following are exempt from section 5.1.28:

...

3. Importing lime and fertilizer to amend the soil as part of an agricultural operation, any other bona fide agricultural activity as defined by Va. Code § 3.2-300 that is not otherwise subject to regulation by Va. Code § 10.1-1400, or the storage, use and disposal of clean earth fill, or inert waste fill generated on or for use in connection with an agricultural entity, ~~the farm,~~ as defined by Va. Code § 3.2-300;

Sincerely,

Mark W. Botkin

Mark W. Botkin

From: Robert McGinnis <rmcginnis@pecva.org>

Sent: Tuesday, October 13, 2026 2:59 PM

To: Planning Commission <PlanningCommission@albemarle.org>

Cc: Board of Supervisors members <bos@albemarle.org>; Michael Barnes <mbarnes2@albemarle.org>

Subject: PEC comments 2026 10 13 ZTA 202600001 Fill Regulations

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Dear Chair Carrazana and Planning Commissioners,

On behalf of The Piedmont Environmental Council (PEC), I am providing the following comments on the draft ZTA 202600001 Fill Regulations.

My comments focus on section 3.1 Definitions:

“Inert materials. "Inert materials" means solid materials that are physically, chemically and biologically stable from further degradation and considered to be nonreactive. Inert materials including rock, rubble, concrete, bricks, broken bricks and blocks, asphalt pavement, crushed glass, porcelain, and similar non-biodegradable construction materials.”

PEC has strong concerns regarding classifying asphalt as inert fill.

The Staff report notes that “the Board of Supervisors directed staff to remove asphalt as a type of permitted fill material. The Virginia Administrative Code permits the disposal of asphalt pavement and road pavement (9VAC20-81-95) provided that they do not create an open dump, hazard, or public nuisance. Staff’s opinion is that the Board may restrict the use of asphalt if it creates an open dump, hazard, or public nuisance.”

Based on PEC's research of available information, PEC's position is that there are conflicting research findings regarding whether asphalt fill presents a public health hazard. Some research findings indicate that contaminants may leach from asphalt paving and contaminate soil and groundwater.

A 2024 research paper

(<https://www.sciencedirect.com/science/article/pii/S0048969724051179>) indicates (my emphasis):

*"It is worth noting that the **long-term accumulation of contaminants leaching from asphalt could still pose risks to ecosystems** even though they meet safety thresholds for human consumption as per drinking water standards."*

*"Despite the potential presence of various contaminants in road construction materials, limited attention has been given to a more comprehensive analysis that includes broader subsets of leaching compounds. This narrow focus on analyzing the contaminants potentially leaching from asphalt limits the understanding of the overall potential environmental impacts. Thus, **an expanded analytical study of contaminant leaching from asphalt is recommended in future studies.**"*

As further evidence that contaminants harmful to public health may leach from asphalt, some states prohibit or restrict the use of asphalt millings as fill material.

Given that the Board of Supervisors previously directed staff to remove asphalt as permitted fill material, **PEC strongly urges the Planning Commission members to request clarification from staff regarding whether the County can prohibit asphalt from being used as fill material. And the Planning Commission should request that staff provide compelling information that asphalt paving used as fill will not harm the health of the public and ecosystems.** Though the Commonwealth permits asphalt paving as fill, that regulation may not be based on the most recent research on the leaching of asphalt pavement fill.

Thank you for the opportunity to provide my comments.

Respectfully submitted,

Rob McGinnis PLA FASLA

Senior Land Use Field Representative

Albemarle County & Greene County

The Piedmont Environmental Council (PEC)

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From: Trenton Clark <tclark@vaasphalt.com>
Sent: Friday, October 23, 2026 12:38 PM
To: Bill Fritz <BFRTIZ@albemarle.org>
Subject: RAP and Asphalt As a Fill Material...

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Good afternoon Mr. Fritz,

My name is Trenton Clark; I am President of the Virginia Asphalt Association (VAA). VAA is the non-profit trade association for Virginia's asphalt industry. After watching the October 13 Planning Commission Meeting for Albemarle County, we would like to address several of the concerns and comments raised by Commissioners regarding RAP/Asphalt as a fill material, asphalt recycling, and liquid asphalt. Please see my attached letter and white paper. I believe it will answer many of the questions discussed in the meeting. Feel free to share these documents. I would be more than happy to discuss these topics with you, the Commissioners, and the Supervisors.

We appreciate your time and hope you have a nice weekend.

Trenton

Trenton M. Clark, P.E.

President

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Who is wise and understanding among you? By his good conduct let him show his works in the meekness of wisdom – James 3:13

Upcoming VAA Events

Mid-Atlantic Asphalt Expo and Safety Summit: December 8 – 10, Greater Richmond Convention Center

VIRGINIA ASPHALT ASSOCIATION, INC.

7814 CAROUSEL LANE, SUITE 310
RICHMOND, VA 23294 | 804.288.3169

TRENTON M. CLARK, P.E.
PRESIDENT

DAVID BRANSCOME, JR.
CHAIRMAN 2026-2027

October 26, 2026

Mr. Bill Fritz
Development Process Manager
Community Development
Albemarle County
Charlottesville, VA

Subject: **Proposed Changes to County Ordinance Regarding Asphalt as Inert Material**

Dear Mr. Fritz,

On October 13, 2026, the Albemarle County Planning Commission discussed proposed changes to an ordinance dealing with construction and development, including the use certain types of fill material, including asphalt and recycle asphalt pavement (RAP). While the proposed changes ultimately adopted by the Commission for presentation to the County Board of Supervisors retained the use of asphalt as fill material, several questions were raised regarding its use and potential environmental impacts. I am writing to provide additional information about the beneficial use of asphalt as fill material, as well as studies that support its use for this purpose.

During Commissioner comment time, several members asked about the toxicity of RAP/millings (referred to as RAP in the remainder of this letter) when used as fill material. Concerns were raised about heavy metals and other substances leaching into groundwater and surface water supplies. As a registered professional engineer in the Commonwealth of Virginia and President of the Virginia Asphalt Association, I/we share those concerns and have researched this topic. Various institutions and agencies have concluded that RAP is inert. I have attached a white paper for you to share with Board and Commission members. Please note the references and citations in the document: the US EPA, the New Jersey Department of Transportation, and the University of Florida. In addition, the Virginia Transportation Research Council conducted research and reached the same conclusion: RAP poses little to no threat of leaching and water contamination. The most recent research was VTRC report 15-R6.

A second discussion point in the meeting regarded asphalt recycling processes. First, asphalt is the most recycled material in Virginia and in the United States. Over 90% of the asphalt reclaimed from existing pavements is recycled into new asphalt mixes. The remaining material is stockpiled or used as fill in numerous applications. VDOT allows 30% to 35% recycled asphalt in new asphalt mixes. VDOT has used RAP as both fill and road base material. In Albemarle County, S.L. Williamson Co., Inc. has two asphalt plants, one at Red Hill and one at Shadwell. At each location, the company



recycles old asphalt pavement for use in new asphalt mixes. The company does not truck RAP outside the County, but uses this sustainable process to reduce demand for virgin aggregates and asphalt binder. In speaking with the company President, Ms. Blair Williamson, S.L. Williamson would be happy to host a site visit for Board and Commission members to see the process. Many of the County supervisors have visited her plants in the past.

Lastly, a statement was made regarding the toxicity of applying asphalt liquid to gravel roads. For clarity, asphalt liquid is not toxic. For decades, VDOT has used a combination of asphalt liquid and aggregate to create a hard-surfaced road. This is commonly referred to as chip seals or surface treatments. One material that resembles asphalt liquid is coal tar sealant. With the signing of HB985 in 2024, many coal tar sealant materials are no longer permitted. This material is separate and distinct from asphalt liquid.

I hope this letter clarifies RAP as an inert material, the recycling of old asphalt pavements, and asphalt toxicity. **As an industry, we want to be good stewards of the environment and to our communities.** We also want to provide accurate information regarding our operations and materials. Please share this letter and attached report with the Commissioners and Supervisors. I would be happy to address the Planning Commission and Board of Supervisors at an upcoming meeting to answer any questions they may have.

Sincerely,



Trenton M. Clark, P.E.
President

Asphalt as Fill Material: Beneficial Reuse with Minimal Risk

This report provides a comprehensive overview of the benefits and minimal risks resulting from the storage and reuse of Reclaimed Asphalt Pavement (RAP) as well as asphalt millings for fill material. This information is based on research from the U.S. Environmental Protection Agency (EPA), the University of Florida, the New Jersey Department of Transportation (NJDOT), and the National Asphalt Pavement Association (NAPA).

1. Executive Summary

Reclaimed Asphalt Pavement (RAP) is the most recycled material in Virginia and in the United States. Within Virginia, approximately 3 to 4 million tons are reused in new asphalt mixes each year. In addition to new asphalt mixes, asphalt millings are used for a variety of purposes such as low-volume private roads, parking lots, and fill material. Research consistently indicates that when managed according to standard engineering practices at asphalt plants and storage facilities, RAP poses minimal environmental risk. While RAP/millings contain polycyclic aromatic hydrocarbons (PAHs) and trace heavy metals, empirical leaching studies show these constituents are largely immobilized within the asphalt matrix. In most field scenarios where millings are used, millings do not produce detectable or harmful levels of contaminants in groundwater or surface water, often performing similarly to natural aggregates.

2. Institutional Research Findings

2.1 U.S. Environmental Protection Agency (EPA)

EPA-supported research has focused on rigorous leaching tests for RAP. Studies demonstrate that levels of regulated metals—including Arsenic, Barium, and Uranium—in RAP leachate remain below established EPA drinking water Maximum Contaminant Levels (MCLs). Standardized Toxicity Characteristic Leachate Procedure (TCLP) testing has repeatedly categorized RAP as a non-hazardous, inert material, supporting its use as "clean fill" in infrastructure projects.

2.2 University of Florida

Extensive research conducted by the University of Florida highlights that little to no leaching of materials occurs from RAP. Their work emphasizes the importance of *attenuation*—the process by which natural soil layers adsorb and degrade minor levels of contaminants before they reach sensitive aquifers. These studies clarify that aggressive laboratory batch extractions often overstate leaching potential compared to real-world field conditions.

2.3 New Jersey Department of Transportation (NJDOT)

NJDOT has commissioned studies to investigate the reuse of RAP in unbound applications. While regulatory policies have historically been stringent, NJDOT-supported research indicates that the release of metal and PAH contaminants is low to negligible. These findings have been pivotal in informing policy discussions regarding the safe, expanded use of recycled materials in New Jersey's transportation infrastructure.

2.4 National Asphalt Pavement Association (NAPA)

NAPA classifies RAP as an inert material. Their research highlights two key environmental safety factors:

- **Fugitive Dust:** The asphalt binder acts as a natural suppressant, coating fine particles and preventing them from becoming airborne. RAP is often used to *reduce* dust on unpaved roads.
- **Leachate Stability:** Industry-wide studies show no harmful components are leached even under stringent waste definition extraction conditions.

3. Environmental Impact Analysis

The primary environmental safeguard of RAP/milling is the asphalt binder itself. This binder acts as a sealant, encapsulating the aggregate and limiting the exposure of internal components to infiltrating water. As a result, 50% of tested samples show no detectable levels of targeted PAHs, and those with detections remain well below drinking water limits.

4. Conclusion

The synthesis of research from the EPA, University of Florida, NJDOT, and NAPA confirms that Reclaimed Asphalt Pavement is an environmentally benign material. Continued use of RAP is a critical strategy for sustainable road construction and environmental stewardship.

References

- **Brantley, A. S. et al.** "Leaching of Pollutants from Reclaimed Asphalt Pavement." U.S. Environmental Protection Agency.
- **Harrison, J., & Moody, J. (1996).** *Dust Control in the Paving Industry*. Infrastructure Environmental Review.
- **Kriech, A. J., et al. (2002).** *Evaluation of PAHs in Asphalt Paving Samples Using EPA Standard Methods*. Heritage Research Group.
- **New Jersey Department of Transportation (NJDOT).** "Environmental Impacts of Reclaimed Asphalt Pavement (FHWA-NJ-2017-008)."
- **Townsend, T. G., & Brantley, A. (1998).** *Leaching Characteristics of Reclaimed Asphalt Pavement*. Florida Center for Solid and Hazardous Waste Management / University of Florida.
- **Yang, Q. et al. (2020).** "Environmental impacts of reclaimed asphalt pavement on leaching of metals into groundwater." *Transportation Research Part D: Transport and Environment*.
- **National Asphalt Pavement Association (NAPA).** "Stockpile Emissions and Leachate Research Summary."