

**AMENDMENT IN RESPONSE TO CHAPTER 235 OF THE 2024 VIRGINIA
ACTS OF ASSEMBLY**

REGULATORY ADVISORY PANEL (RAP) MEETING

**Virginia Department of Environmental Quality (DEQ)
Piedmont Regional Office – Training Room
4949-A Cox Road, Glen Allen, VA 23060**

February 6, 2025, 09:30 AM

FINAL MEETING MINUTES

RAP Members Present	
Cecil Webb – Virginia Department of Fire Programs, State Fire Marshal’s Office	John Miller – Virginia Department of Forestry
Katie Hellebush – Virginia Nursery and Landscape Association	Ben Thompson – JCH Environmental
Jake Tabor – Virginia Farm Bureau	

The following RAP members were absent from the meeting: Craig Coker – Coker Composting and Consulting, Hope Mothershead – Richmond County

No RAP member alternates attended the meeting.

DEQ Technical and Support Staff Present	
Michelle Callahan – Enforcement, Central Office (CO)	Priscilla Rohrer – Solid Waste Compliance (CO)
Brent Williams – Office of Financial Responsibility and Waste Programs (CO)	Jennifer Hottinger – Pollution Response and Emergency Preparedness (PREP), Valley Regional Office (VRO)
Jenny Poland – Solid Waste Permitting (CO)	Eric Deibel – Air Compliance (CO)
Rebecca Rathe – Land Division (CO)	

No interested parties or members of the public attended the meeting.

Meeting Minutes

The Regulatory Advisory Panel started at approximately 9:45am on Thursday, February 6, 2025.

Meeting Purpose:

This Regulatory Advisory Panel was established to assist DEQ in the development of a regulatory amendment in response to Chapter 235 of the 2024 Virginia Acts of Assembly, which directs the Virginia Waste Management Board to amend the Virginia Solid Waste Management Regulations (VSWMR, 9VAC20-81) “to allow for vegetative waste to be transported to another location for open burning if it is impractical or unsafe to destroy such waste on the premises of private property.” In working towards this goal, DEQ provided draft regulatory language to the RAP and requested feedback prior to presenting this language to the Virginia Waste Management Board.

Mr. Brent Williams, Director of the DEQ Office of Financial Responsibility and Waste Programs (OFRWP), welcomed members to the meeting of the Amendment in Response to Chapter 235 of the 2024 Virginia Acts of Assembly Regulatory Advisory Panel (RAP). He thanked everyone for attending and identified the available handouts for the meeting.

Handouts:

- Agenda
- A Guide to the Freedom of Information Act (FOIA) for Members of Boards, Councils, Commissions, and Other Deliberative Public Bodies
- Introductory/Overview PowerPoint
- Draft Regulatory Text

Mr. Williams went over some housekeeping items, including the location of facilities.

Meeting Agenda:

Mr. Williams went over the planned meeting agenda outline.

1. Welcome/Introductions
2. FOIA Requirements
3. PowerPoint Presentation
4. Group Discussion
5. Next Steps

Welcome and Introductions:

Mr. Williams welcomed all of the RAP members to the meeting, and requested the RAP members and DEQ technical staff introduce themselves.

FOIA Information:

Mr. Williams invited the RAP members to review the provided handouts and material, and Rebecca Rathe provided a summary of FOIA guidelines.

Presentations:

DEQ technical support staff provided PowerPoint presentations to cover background information relevant to the RAP discussion.

Presentation: Brent Williams, OFRWP “*Regulatory Advisory Panel*”

Brent Williams presented the following information:

- **Regulatory Advisory Panel:**
 - An overview of Chapter 235 of the 2024 Virginia Acts of Assembly
 - Intent of the Amendment

Presentation: Priscilla Rohrer, OFRWP “*Solid Waste Management Regulations*”
Jenny Poland, OFRWP “*Solid Waste Management Regulations*”

Priscilla Rohrer and Jenny Poland presented the following information:

- **Solid Waste Management Regulations:**
 - Priscilla Rohrer covered terms currently defined under the Virginia Solid Waste Management Regulations as well as the current allowances for open burning under the existing exemptions.
 - Jenny Poland presented the following information: Waste Management Hierarchy, additional vegetative waste management options such as use as mulch, landscaping, animal bedding, habitat management, wetlands restoration, or bulking agent at compost facility, composting of vegetative waste onsite, use for firewood, campfires, food preparation, and energy recovery, and the storage exemption for land-clearing debris piles.

Presentation: Eric Deibel, Office of Air Compliance; “*Air Regulations Applicable to the Open Burning of Vegetative Waste*”

Eric Deibel presented the following information:

- **Air Regulations Applicable to the Open Burning of Vegetative Waste:**
 - Volatile Organic Compound (VOC) Emission Control Area Restrictions
 - Open Burning Allowances for Vegetative Waste
 - Additional Open Burning Allowances
 - Open Burning Prohibitions
 - Model Air Open Burning Ordinance for Localities

Presentation: Jennifer Hottinger, PREP – Valley Regional Office; “*DEQ Open Burning Complaints*”

Jennifer Hottinger presented the following information:

- **Open Burning Complaints:**
 - Vegetative waste complaints from 2023 – 2024
 - Factors to consider for complaint response
 - Common issues with complaints: piles too close to neighboring property, smoke, etc.

Questions from RAP members:

- What was the background of this legislation? Did you all [DEQ] ask for this? *No, it was constituent based. DEQ did not request this.*
- Is this something permanent landfills will be subject to, or is this meant for land-clearing and construction companies? *Permitted landfills are already allowed to open burn vegetative waste under existing regulations. This exemption would not apply to landfills. This is in lieu of bringing it to a landfill or open burning on the site where it was generated.*

Group Discussion:

Mr. Williams invited the RAP members to review the draft regulatory language handout provided. The discussion focused on applicability of the exemption, how this exemption would interact with the Virginia State Fire Code and other Virginia DEQ regulations, and concerns regarding potential confusion or misunderstandings that could come from this exemption.

The group discussed, in greater detail, the wording of the draft regulatory text as provided in the handout and provided significant feedback for word choice and style in an effort to make the regulation clearer and easier to follow for the regulated community.

Particular focus was given to the term “unsafe and impractical” as it related to both the site of vegetative waste generation and the potential location of vegetative waste open burning.

The group also discussed Chapter 235 of the 2024 Virginia Acts of Assembly (SB 342) which directs the Virginia Waste Management Board to amend the Virginia Solid Waste Management Regulations (VSWMR, 9VAC20-81). The document was provided to the RAP members for review through a projected image. Following this, a discussion regarding the delineation and overlap of public, private, and commercial property was held.

A break for lunch occurred at approximately 11:45 am.
The RAP returned from lunch at approximately 1:00 pm.

The group discussed existing definitions and gave several suggestions for how best to indicate within the regulations the difference between the property where the waste would originate and where it would be burned. Additional suggestions were given to make the structure of the regulation easier to follow while clearly indicating the requirements being listed.

The group focused on draft language requiring notification to the local or state fire marshal prior to burn activity, what was understood to be covered under the requirement “must comply with all state and local ordinances,” and discussed potential specific restrictions.

A RAP member inquired regarding potential enforcement penalties for failing to meet these requirements and was informed by DEQ that it is determined by the DEQ Enforcement Office on a case-by-case basis.

The group discussed contiguous property, limits to the frequency of burns that could occur on the same property and the same generator, and language was suggested to make the intent clearer.

No concerns were raised with the updated language DEQ drafted during the meeting and, by consensus, the group agreed with the updated language, with the understanding that it will need to be cleaned up and organized and was subject to change upon DEQ review.

By consensus, the group agreed that no further meetings of the RAP were necessary.

Mr. Williams stated the minutes will be provided on the Virginia Regulatory Town Hall website. He thanked the participants and noted that a second meeting will not be needed.

Next Panel Meeting:

The goal of the Regulatory Advisory Panel was satisfied with the meeting, and it was determined that a second meeting was unnecessary and would not occur.

Adjournment:

Mr. Williams noted that all relevant material from meetings, including the meeting agenda and minutes would be posted on the Virginia Regulatory Town Hall website. Mr. Williams thanked all the members of the RAP and closed the meeting. The meeting was adjourned at approximately 1:45 pm.