

VIRGINIA CODE COMMISSION

Tuesday, October 6, 2020 - 10:00 a.m.

Electronic Meeting

Meeting Minutes

Approved 11-16-2020

Members Present: John S. Edwards; Marcus B. Simon; Ward L. Armstrong; Nicole S. Cheuk; Rita Davis; Leslie L. Lilley; Jennifer L. McClellan; Christopher R. Nolen; Don L. Scott, Jr.; Charles S. Sharp; Samuel T. Towell; Malfourd W. Trumbo

Members Absent: None

Staff Present: Amigo Wade, Scott Meacham, Anne Bloomsburg, Nikki Clemons, Stephanie Kerns, Karen Perrine, Division of Legislative Services (DLS); Glenn Robertson and Maryann Horch, Senate Technology

Others Present: Brian Kennedy, LexisNexis; Michael Skiffington, Director of Policy and Planning, Department of Mines, Minerals and Energy

Call to order: Senator Edwards, chair, called the meeting to order at 10:05 a.m. Pursuant to Item 4-0.01 of Chapter 1289 of the 2020 Acts of Assembly and due to the COVID-19 pandemic state of emergency, the meeting was held electronically over Zoom. Senator Edwards explained the procedures for voting for the meeting.

Approval of minutes: The minutes of the August 3, 2020, meeting of the Commission, as distributed to the members, were approved without objection.

2021 Code of Virginia pricing and replacement volumes proposal: Brian Kennedy, Lexis Nexis, presented the annual report from LexisNexis regarding the proposal for pricing and replacement volumes and supplements for 2021. The proposed volumes for replacement are 1B (Titles 4.1 Alcoholic Beverages - 6.2 Financial Institutions), 3 (Title 11 Contracts to 13.1 Corporations), 4 (Title 18.2 Crimes), 5 (22.1 Education - 23.1 Institutions of Higher Education), and 6B (Titles 40.1 Labor and Employment to 45.1 Mines). LexisNexis uses the consumer price index to guide its price increase, and from September 2019 to September 2020 the index increase was 8.4%. Lexis proposes a price increase of 5.0%, rounded up or down to the nearest quarter, based on five replacement volumes, as follows:

2021 Prices with Five Replacement Volumes

	State Government	Private
Supplement	\$231.50	\$301.25
Index	\$112.00	\$118.50
Volumes (each)	\$60.25	\$75.00
Volume 11	\$45.75	\$60.25
Volume 11 supplement	\$15.50	\$15.50
Advance Code Service	N/A	\$91.00
Total	\$706.00	\$961.50

On motion of Mr. Armstrong, seconded by Mr. Towell, the Commission approved the replacement volumes and pricing for 2020 as proposed by LexisNexis. Mr. Nolen abstained from the vote because

his firm represents the parent company of LexisNexis, although he does not do any work for the parent company.

Recodification of Title 45.1, Mines and Mining: Scott Meacham presented changes to proposed Chapters 20 (Geothermal Energy) and 21 (Nuclear Energy) of Subtitle V of proposed Title 45.2.

Mr. Meacham stated that for Chapter 20 (§§ 45.2-2000 through 45.2-2008), Geothermal Energy, existing Chapter 15.1 (§§ 45.1-179.1 through § 45.1-179.1-11) of Title 45.1 has been retained. The recommended changes are technical in nature or update language, titles, or citations.

Mr. Meacham explained that proposed Chapter 21 (§§ 45.2-2100 through 2119), Nuclear Energy, consists of existing chapters from other titles of the Code of Virginia in addition to sections from Title 45.1, as follows:

Proposed Article 1, General Provisions, consists of § 67-1400 combined with existing § 67-1700.

Proposed Article 2, Virginia Nuclear Energy Consortium Authority, consists of §§ 67-1401 through 67-1405, which are all of the sections of Chapter 14 of Title 67.

Proposed Article 3, Exploration for Uranium Ore, consists of existing Chapter 21 (§§ 45.1-273 through 45.1-285). Section 45.1-272 was the first section of Chapter 21, but is not binding law, was not set out in the Code of Virginia, and is recommended for repeal. Existing Article 2 (§§ 45.1-285.1 through 45.1-285.10) of Chapter 21 of Title 45.1 is not currently set out in the Code and is recommended for repeal as obsolete because the Uranium Administrative Group is no longer in existence.

Changes in proposed Articles 1, 2, and 3 are for clarification or of a technical in nature; remove obsolete language; or update language, titles, or citations. For example, references to the "Chief of the Division of Mines" are changed to "Director of the Department of Mines, Minerals and Energy" to reflect who has the authority or responsibility currently.

Mr. Meacham noted that in proposed § 45.2-2118 B, the recommended changes clarify the renewal period and process for retention of certain confidential information by the Director of the Department of Mines, Minerals and Energy (DMME).

Mr. Meacham discussed the new provision in § 45.2-2119 that requires all civil penalties be deposited into the Minerals Reclamation Fund. This directive regarding the funds is added as the existing provision in § 45.1-282 did not address where the monies would be deposited.

Mr. Meacham stated that at the Commission's meeting in November, the entire codification report will be presented. The Commission has previously reviewed all Code of Virginia chapters except for Chapter 12 of Title 45.2 and a few remaining chapters from Title 67. Ultimately, all sections of Title 67 will be moved to other titles, as shown in the meeting materials and as follows:

Existing Chapter 4 (§ 67-400 et seq.), Clean Coal Projects, is relocated as proposed Article 5 of Chapter 13 of Title 10.1, comprising of §§ 10.1-1332 and 10.1-1333.

The sections in existing Chapter 8 (§§ 67-800 and 67-801), Motor Vehicle Fuel Efficiency Standards, are combined and relocated to the end of Chapter 1 of Title 33.2 as § 33.2-120.

The sections in existing Chapter 5 (§ 67-500 et seq.), Biodiesel Fuel, are combined and relocated to the end of Article 2 of Chapter 2 of Title 33.2 as § 33.2-221.1.

Existing Chapter 7 (§§ 67-700 and 67-701), Covenants Restricting Solar Energy Collection Devices, applies to a property owners' association under the Property Owners' Association Act, a unit owners' association under the Virginia Condominium Act, and a proprietary lessees' association under the Virginia Real Estate Cooperative Act, which are in separate chapters in Title 55.1. Therefore, existing Chapter 7 of Title 67 is relocated to Chapters 18 (§ 55.1-1800 et seq.), 19 (§ 55.1-1900 et seq.), and 21 (§ 55.1-2100 et seq.) in Title 55.1 as appropriate.

Under § 30-152 of the Code of Virginia, the Commission is charged with recommending the repeal of any section or provision relating to a recodified title that has not been implemented during any of the previous five years because sufficient funds were not appropriated by the General Assembly. Mr. Meacham stated that the Renewable Electricity Production Grant Program, Chapter 9 (§ 67-900 et seq.) of Title 67, has not been funded for 13 years. Therefore, the program is recommended for repeal as obsolete.

Existing Chapter 11 (§ 67-1100 et seq.), Renewable Energy Co-location of Distribution Facilities, of Title 67 is relocated as proposed Chapter 29 (§ 56-614 et seq.) of Title 56, Public Service Companies.

Next, Mr. Meacham reviewed the preface to the recodification report, a draft of which is in the meeting materials. Mr. Meacham directed the Commission to the substantial changes list and stated that the change shown in bullet four regarding proposed § 45.2-509 will not be made, and that item will be removed from the substantial changes list. He reviewed the proposed enactment clauses, some of which are specific to this recodification while others are standard for a recodification bill.

Other business: Ms. Perrine requested that the Commission approve an amendment to the minutes of the July 7, 2020, meeting to reflect the Commission's decision at that meeting to update the Code of Virginia with the revised names for several House and Senate standing committees. On motion of Delegate Simon, seconded by Senator McClellan, the amendment to the minutes was approved.

Public comment, adjournment: Senator Edwards opened the floor for public comment. As there was no public comment and no further business to discuss, the meeting adjourned at 10:52 a.m.

Next meeting: November 16, 2020, at 10:00 a.m. by electronic means.