

# VIRGINIA CODE COMMISSION

*Tuesday, July 7, 2020 - 10:00 a.m.*

*Electronic Meeting*

## Meeting Minutes

Approved 8-3-2020

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

**Members Absent:** Nicole S. Cheuk

**Staff Present:** Maryann Horch, Senate Technology; David Barry, Scott Meacham, Amigo Wade, Nikki Clemons, Stephanie Kerns, Karen Perrine, Division of Legislative Services (DLS)

**Others Present:** 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 10:13 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.

Senator Edwards welcomed Senator Jennifer L. McClellan and former Delegate Ward Armstrong as new members of the Commission.

**Approval of minutes:** The minutes of the June 16, 2020, meeting of the Commission, as printed and distributed to the members, were approved without objection.

**Recodification of Title 45.1, Mines and Mining:** Scott Meacham shared that the recodification workgroup was nearly done reviewing chapters for Title 45.1 and would be able to give a final report to the Commission this interim. Mr. Meacham began with reviewing questions from the last Commission meeting regarding boiler plate language used in the Code of Virginia to address the existence of nonreverting funds. Mr. Meacham stated that because the nonreverting fund in Chapter 10 of Title 45.1 currently exists and has already been used for several years by the Department of Mines, Minerals and Energy, the suggested amendment for recodification merely formalizes and recognizes the existing fund. Mr. Meacham found 130 different sections in the Code that contain similar boiler plate language for existing funds and said the amendment was one regularly made during recodification. Mr. Meacham indicated the change was nonsubstantive and editorial. Judge Lilley, who raised a question regarding the change at the last meeting, stated that he appreciated Mr. Meacham's thorough and informative explanation. Further, he was convinced the change was editorial. The Commission agreed with the proposed change regarding the nonreverting fund.

Chapters 1 through 4 of Title 45.1 - Mr. Meacham stated that Chapters 1 through 4 of Title 45.1 contain two interstate compacts, the Interstate Mining Compact and the Interstate Compact to Conserve Oil and Gas. Both compacts had been adopted by the General Assembly, and the changes suggested are nonsubstantive. Examples are changes in spelling, capitalization, and the phrasing or use of short titles or names.

Chapter 11 of Title 45.1 - Mr. Meacham discussed a number of nonsubstantive changes for Chapter 11, as shown in the meeting materials for Chapter 11, including changing the phrase "against caution"

to "against caution or warning sign or barricade" on line 261 of page 10; clarifying language regarding the use of the term "where last employed" on line 326 on page 12; striking the word "site" on line 328 on page 12; and changing the phrase "shall make or cause to be made a map of the mine" to address situations in which a mine owner needs to submit a map of the owner's mine to the Department of Mines, Minerals and Energy. When discussing use of the word "site" on lines 326 through 328 on page 12, Ms. Davis made a motion to strike the word "site" on line 328. Mr. Towell seconded the motion, and the motion passed unanimously.

Chapter 13 of Title 45.1 - Mr. Meacham said this chapter is a combination of existing Chapter 18.1 regarding retaining dams and existing Chapter 14.7:1 regarding the rights of owners of land adjacent to mineral mines. All changes made to this chapter are straightforward and technical in nature.

At the next Commission meeting, Mr. Meacham will propose " Mines, Minerals, and Energy" as the new name for the title to reflect the contents resulting from recodification. This name also relates to the current name of the department, which is the Department of Mines, Minerals and Energy. Mr. Meacham stated that the only potential source of controversy is that the department's name does not have a comma after "Minerals" but the proposal for the title is to use a comma after "Minerals." The reason is that the Code of Virginia uses the serial comma.

**Work plan for 2020 review and approval:** Karen Perrine presented the proposed work plan for 2020. The first item on the work plan was the recodification of Title 45.1, which was currently being addressed by the Commission. Ms. Perrine stated the Commission previously approved Title 32.1, Health, for recodification with the idea that the recodification would begin sometime during the current interim and conclude in time for the 2022 legislative session. Ms. Perrine said that staff anticipates that the Title 32.1 recodification could still be done before the 2022 legislative session, but the Commission would not begin working on the title in 2020 as staff attorneys would be unavailable due to special session and additional work related to COVID-19. Previously, the Commission decided that Title 24.2, Elections, would be recodified beginning in 2022, based on a request from the General Registrars and the Department of Elections.

Ms. Perrine said that the restructuring of § 54.1-3408 was started in 2019, and would continue into 2020. DLS is working with the Board of Pharmacy and the assembled workgroups. The changes would be nonsubstantive and focus on restructuring the section.

The remaining items on the work plan were reviewed briefly.

Delegate Scott moved to approve the 2020 work plan. Mr. Nolen seconded, and the motion passed unanimously.

**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 11:06 a.m.

**Next meeting:** Next meeting is August 3, 2020, at 1:30 p.m. by electronic means.