

1 SUBTITLE V.

2 OTHER SOURCES OF ENERGY; ENERGY POLICY.

3 **Drafting note:** Proposed Subtitle V is created to logically organize provisions
4 relating to wind energy, solar energy, geothermal energy, nuclear energy, and other
5 sources of energy not related to coal, minerals, or gas and oil. Proposed Subtitle V
6 contains six chapters: Chapter 17, Other Sources of Energy Generally; Chapter 18,
7 Wind Energy; Chapter 19, Solar Energy; Chapter 20, Geothermal Energy; and Chapter
8 21, Nuclear Energy.

9 CHAPTER 17.

10 OTHER SOURCES OF ENERGY GENERALLY.

11 **Drafting note:** Proposed Chapter 17 is composed of a new Article 1 with chapter-
12 wide definitions and a portion of existing Chapter 26 (§ 45.1-390 et seq.) of Title 45.1,
13 Chapter 6.1 (§ 11-34.1 et seq.) of Title 11 as Article 2, and Chapters 1 (§ 67-100 et seq.),
14 2 (§ 67-200 et seq.), 6 (§ 67-600 et seq.), and 16 (§ 67-1600 et seq.) of Title 67 as Articles 3
15 through 6, respectively. The proposed articles are as follows: Article 1, General
16 Provisions; Article 2, Energy and Operational Efficiency Performance-Based
17 Contracting Act; Article 3, Energy Policy of the Commonwealth; Article 4, Virginia
18 Energy Plan; Article 5, Virginia Coastal Energy Research Consortium; and Article 6,
19 Southwest Virginia Energy Research and Development Authority.

20 Article 1.

21 General Provisions.

22 **Drafting note:** Proposed Article 1 is created to logically organize general
23 provisions applicable to proposed Chapter 17.

24 § ~~67-200~~ 45.2-xxx. Definitions.

25 As used in this ~~title~~ chapter, unless the context requires a different meaning:

26 "Consortium" means the Virginia Coastal Energy Research Consortium established
27 pursuant to Article 5 (§ 45.2-xxx [existing § 67-600] et seq.).

28 ~~"Department" means the Department of Mines, Minerals and Energy.~~

29 "Division" means the Division of Energy of the Department of Mines, Minerals and
30 Energy.

31 "Plan" means the Virginia Energy Plan prepared pursuant to ~~this chapter, including~~
32 ~~any updates thereto~~ [Article 4 \(§ 45.2-xxx \[existing § 67-200\] et seq.\)](#).

33 **Drafting note: Existing § 67-200 is relocated from Title 67 to consolidate**
34 **definitions in proposed Chapter 17. The definition of "Consortium" is added and the**
35 **definition of "Department" is stricken as unnecessary because it is defined for the title**
36 **in proposed § 45.2-xxx [first section in proposed Chapter 1]. In the definition of "Plan,"**
37 **a citation is added and the unnecessary phrase "including any updates thereto" is**
38 **stricken.**

39 ~~CHAPTER 26.~~

40 ~~ENERGY DIVISION, ETC.~~

41 **Drafting note: The first section of existing Chapter 26 is relocated to this**
42 **proposed article, while the remaining two sections of existing Chapter 26 are relocated**
43 **to proposed Chapter 19.**

44 ~~§ 45.1-390~~ [45.2-xxx](#). Division of Energy established; findings and policy; powers and
45 duties.

46 A. The General Assembly finds that because energy-related issues continually
47 confront the Commonwealth, and many separate agencies are involved in providing energy
48 programs and services, ~~there exists~~ a need exists for a state organization responsible for (i)
49 coordinating ~~Virginia's the Commonwealth's~~ energy programs and (ii) ensuring ~~Virginia's the~~
50 Commonwealth's commitment to the development of renewable and indigenous energy
51 sources, ~~as well as~~ and the efficient use of traditional energy resources. In accordance with
52 this need, the Division of Energy is ~~created~~ established in the Department ~~of Mines, Minerals~~
53 ~~and Energy~~. The Director ~~shall have~~ has the immediate authority to coordinate the
54 development and implementation of energy policy in ~~Virginia the Commonwealth~~.

55 B. The Division shall coordinate the energy-related activities of the various state
56 agencies and advise the Governor on energy issues that arise at the local, state, and national

57 levels. All state agencies and institutions shall cooperate fully with the Division to assist in
58 the proper execution of the duties assigned by this section.

59 C. In addition, the Division is authorized to make and enter into all contracts and
60 agreements necessary or incidental to the performance of its duties or the execution of its
61 powers, including the implementation of energy information and conservation plans and
62 programs.

63 D. The Division shall:

64 1. Consult with ~~any or all~~ state agencies and institutions concerning energy-related
65 activities or policies as needed for the proper execution of the duties assigned to the Division
66 by this section;

67 2. ~~Maintain~~ Serve as the Commonwealth's liaison with appropriate agencies of the
68 federal government ~~on~~ concerning the activities of the federal government related to energy
69 production, consumption, and transportation and energy resource management in general;

70 3. Provide services to encourage efforts by and among Virginia businesses, industries,
71 utilities, academic institutions, state and local governments, and private institutions to develop
72 energy resources and energy conservation programs ~~and energy resources~~;

73 4. In consultation with the State Corporation Commission, the Department of
74 Environmental Quality, and the Virginia Center for Coal and Energy Research, prepare the
75 Virginia Energy Plan pursuant to § ~~67-204~~ 45.2-xxx;

76 5. Observe the energy-related activities of state agencies and advise ~~these~~ such
77 agencies in order to encourage conformity with established energy policy; and

78 6. Serve, pursuant to § 58.1-3660, as the state certifying authority for solar energy
79 projects and for the production of coal, oil, and gas, including gas, natural gas, and coalbed
80 methane gas.

81 **Drafting note: Technical changes are made, including the addition of subsection
82 and clause designations, and language is updated for modern usage.**

83 ~~§ 45.1-390.1. Repealed.~~

84 **Drafting note: Repealed by Acts 1993, c. 274.**

85 ~~§ 45.1-392. Repealed.~~

86 **Drafting note:** Repealed by Acts 2011, cc. 815 and 864, cl. 2, effective July 1,
87 2013.

88 ~~§ 45.1-393. Repealed.~~

89 **Drafting note:** Repealed by Acts 2011, cc. 815 and 864, cl. 3, effective July 1,
90 2017.

91 ~~§ 45.1-394. Repealed.~~

92 **Drafting note:** Repealed by Acts 2011, cc. 815 and 864, cl. 3, effective July 1,
93 2017.

94 ~~CHAPTER 6.1.~~

95 ~~ENERGY AND OPERATIONAL EFFICIENCY PERFORMANCE-BASED~~
96 ~~CONTRACTING ACT.~~

97 Article 2.

98 Energy and Operational Efficiency Performance-Based Contracting Act.

99 **Drafting note:** Existing Chapter 6.1 of Title 11, comprising the Energy and
100 Operational Efficiency Performance-Based Contracting Act, is relocated as proposed
101 Article 2 of Chapter 17.

102 ~~§ 11-34.1. Legislative intent.~~

103 ~~The General Assembly finds that investment in energy conservation measures and~~
104 ~~facility technology infrastructure upgrades and modernization in facilities owned by state and~~
105 ~~local government can reduce the amount of energy consumed, reduce long-term operational~~
106 ~~costs and produce immediate and long-term savings. It is the policy of the Commonwealth to~~
107 ~~encourage public bodies to invest in energy conservation measures and facility technology~~
108 ~~infrastructure upgrades that reduce energy consumption, produce a cost savings, and improve~~
109 ~~the quality of indoor air in facilities, and when economically feasible, operate, maintain, or~~
110 ~~renovate facilities in such a manner so as to minimize energy consumption and reduce~~
111 ~~operational costs associated with facility technology infrastructure. Furthermore, state aid and~~
112 ~~other amounts appropriated for distribution to public bodies shall not be reduced as a result of~~

113 ~~energy and operational savings realized from a guaranteed savings contract or a lease~~
114 ~~purchase agreement for the purchase and installation of energy conservation and facility~~
115 ~~technology infrastructure upgrades and modernization.~~

116 **Drafting note: The statement of legislative intent for existing Chapter 6.1 of Title**
117 **11 is stricken in accordance with the Code Commission's policy that purpose statements**
118 **do not have general and permanent application and thus are not to be included in the**
119 **Code.**

120 § ~~11-34.2~~ 45.2-xxx. Definitions.

121 As used in this ~~chapter~~ article:

122 "Contracting entity" means any public body as defined in § 2.2-4301.

123 "Energy conservation measures ~~and facility technology infrastructure~~" means the use
124 of methods, and techniques, the application of knowledge, or the installation of devices,
125 including an alteration or betterment ~~to~~ of an existing facility, that ~~reduce~~ reduces energy
126 consumption or operating costs, and includes ~~but is not limited to~~:

127 1. Insulation of the facility structure and systems within the facility.

128 2. ~~Storm~~ Installation of storm windows and doors, caulking or weatherstripping,
129 multiglazed windows and doors, heat-absorbing, or heat-reflective, glazed and coated window
130 and door systems, or additional glazing, or reductions in glass area, ~~and or~~ or other window and
131 door system modifications that reduce energy consumption.

132 3. ~~Automatic~~ Installation of automatic energy control systems, including related
133 software. ~~Required;~~ required network communication wiring, computer devices, wiring, and
134 support services. ~~Additionally, designing; or the design~~ and ~~implementing~~ implementation of
135 major building technology infrastructure with operational improvements.

136 4. Heating Modification or replacement of heating, ventilating, or air-conditioning
137 ~~system modifications or replacements~~ systems.

138 5. Replacement or ~~modifications~~ modification of lighting fixtures to increase the
139 energy efficiency of the lighting system ~~which~~, Such replacement or modification shall, at a

Commented [MN1]: Added a comma

140 minimum, ~~shall~~ conform to the applicable provisions of the Uniform Statewide Building Code
141 (§ 36-97 et seq.).

142 6. ~~Energy~~ Installation of energy recovery systems.

143 7. ~~Cogeneration~~ Installation of cogeneration systems that produce, in addition to
144 electricity, steam or forms another form of energy, ~~as well as electricity~~, for use
145 primarily within a facility or complex of facilities.

146 8. ~~Energy~~ Installation of energy conservation measures that provide long-term
147 operating cost reductions and significantly reduce the BTUs consumed.

148 9. ~~Building~~ Installation of building technology infrastructure measures that provide
149 long-term operating cost reductions and reduce related operational costs.

150 10. ~~Renewable~~ Installation of an energy ~~systems~~ system, such as solar, biomass, ~~and or~~
151 wind.

152 11. ~~Devices~~ Installation of devices that reduce water consumption or sewer charges.

153 "Energy cost savings" means a measured reduction in fuel, energy, or operation and
154 maintenance costs created from the implementation of one or more energy conservation
155 measures when compared with an established baseline for previous fuel, energy, or operation
156 and maintenance costs. When calculating "energy cost savings" attributable to the services
157 performed or equipment installed pursuant to a performance-based efficiency contract,
158 maintenance savings shall be included.

159 "Energy performance-based contract" means a contract for the evaluation,
160 recommendation, and implementation of energy conservation measures ~~and facility~~
161 ~~technology infrastructure upgrades and modernization~~ that includes, at a minimum:

162 1. The design and installation of equipment to implement one or more ~~of~~ such
163 measures; and, if applicable, the operation and maintenance of such measures.

164 2. The amount of any actual annual savings. ~~This~~ Such amount ~~must~~ shall meet or
165 exceed the total annual contract payments made by the contracting entity for such contract.

166 3. ~~Financing~~ The financing charges to be incurred by the contracting entity for such
167 contract.

168 "Maintenance savings" means the operating expenses eliminated and future capital
169 replacement expenditures avoided as a result of new equipment installed or services
170 performed by the performance contractor.

171 "Performance guarantee bond" means ~~for each year of the energy program, the energy~~
172 ~~performance contractor shall provide a~~ the performance bond provided by the energy
173 performance contractor for each year of the energy program in an amount equal to, but no
174 greater than, the guaranteed measured and verifiable annual savings set forth in the program.

175 **Drafting note: The defined term "energy conservation measures and facility**
176 **technology infrastructure," also rendered inconsistently within existing Chapter 6.1 of**
177 **Title 11 as "energy conservation measures and facility technology infrastructure**
178 **measures," is shortened to "energy conservation measures" for clarity and consistency.**
179 **In the second definition, "but is not limited to" is removed following the term**
180 **"includes" on the basis of § 1-218, which states that throughout the Code "'Includes'**
181 **means includes, but not limited to." Changes are made pursuant to § 1-227, which states**
182 **that throughout the Code any word used in the singular includes the plural and vice**
183 **versa. Technical changes are made and language is updated for modern usage.**

184 ~~§ 11-34.3~~ 45.2-xxx. Energy Performance-Based Contract Procedures; required
185 contract provisions.

186 A. Any contracting entity may enter into an energy performance-based contract with
187 an energy performance contractor to significantly reduce (i) energy costs to a level established
188 by the public body or (ii) operating costs of a facility through one or more energy
189 conservation or operational efficiency measures. For the purposes of this ~~chapter~~ article,
190 energy conservation or operational efficiency measures shall not include roof replacement
191 projects.

192 B. The energy performance contractor shall be selected through competitive sealed
193 bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2. The evaluation
194 of the request for proposal shall analyze the estimates of all costs of installation, maintenance,
195 repairs, debt service, ~~post-installation~~ post-installation project monitoring, and reporting.

196 Notwithstanding any other provision of law, any contracting entity may purchase energy
197 conservation or operational efficiency measures under an energy performance-based contract
198 entered into by another contracting entity pursuant to this ~~chapter~~ article even if it did not
199 participate in the request for proposals if the request for proposals specified that the
200 procurement was being conducted on behalf of other contracting entities.

201 C. Before entering into a contract for energy conservation measures ~~and facility~~
202 ~~technology infrastructure upgrades and modernization measures~~, the contracting entity shall
203 require the performance contractor to provide a payment and performance bond relating to the
204 installation of energy conservation measures ~~and facility technology infrastructure upgrades~~
205 ~~and modernization measures~~ in ~~the~~ an amount the contracting entity finds reasonable and
206 necessary to protect its interests.

207 D. Prior to the design and installation of ~~the~~ any energy conservation ~~measure~~
208 measures, the contracting entity shall obtain from the energy performance contractor a report
209 disclosing all costs associated with ~~the~~ such energy conservation ~~measure~~ measures and
210 providing an estimate of the amount of the energy cost savings. After reviewing the report, the
211 contracting entity may enter into an energy performance-based contract if it finds (i) the
212 amount the entity would spend on the energy conservation measures ~~and facility and~~
213 ~~technology infrastructure upgrades and modernization measures~~ recommended in the report
214 will not exceed the amount to be saved in energy and operation costs more than 20 years from
215 the date of installation, based on life-cycle costing calculations, if the recommendations in the
216 report were followed and (ii) the energy performance contractor provides a written guarantee
217 that the energy and operating cost savings will meet or exceed the costs of the system. The
218 contract may provide for payments over a period ~~of time~~ not to exceed 20 years.

219 E. The term of any energy performance-based contract shall expire at the end of each
220 fiscal year but may be renewed annually up to 20 years, subject to the contracting entity
221 making sufficient annual appropriations based upon continued realized cost savings. Such
222 ~~contracts~~ contract shall stipulate that the agreement does not constitute a debt, liability, or
223 obligation of the contracting entity, or a pledge of the faith and credit of the contracting entity.

224 Such contract may also provide capital contributions for the purchase and installation of
225 energy conservation ~~and facility and technology infrastructure upgrades and modernization~~
226 measures that cannot be totally funded by the energy and operational savings.

227 F. An energy performance-based contract shall include the following provisions:

228 1. A guarantee by the energy performance contractor that annual energy and
229 operational cost savings will meet or exceed the amortized cost of energy conservation
230 measures. The guaranteed energy savings contract shall include a written guarantee of the
231 qualified provider that either the energy [savings](#) or operational cost savings, or both, will meet
232 or exceed within 20 years the costs of the energy and operational savings measures. The
233 qualified provider shall reimburse the contracting entity for any shortfall of guaranteed energy
234 savings projected in the contract.

235 2. A requirement that the energy performance contractor to whom the contract is
236 awarded provide a 100 percent performance guarantee bond to the contracting entity for the
237 installation and faithful performance of the installed energy savings measures as outlined in
238 the contract document.

239 3. A requirement that the energy performance contractor provide to the contracting
240 entity an annual reconciliation of the guaranteed energy cost savings. The energy performance
241 contractor shall be liable for any annual savings shortfall that may occur.

242 G. The Department ~~of Mines, Minerals and Energy (the Department)~~ shall make a
243 reasonable effort, as long as workload permits, to:

244 1. Provide general advice, upon request, to local governments ~~that wish to consider~~
245 [considering](#) pursuit of an energy performance-based contract pursuant to this section;

246 2. Annually compile a list of performance-based contracts entered into by local
247 governments of which the Department may become aware.

248 **Drafting note: Technical changes are made, including a change pursuant to § 1-**
249 **227, which states that throughout the Code any word used in the singular includes the**
250 **plural and vice versa. Language is updated for modern usage and clarity.**

251 § ~~11-34.4~~ [45.2-xxx](#). Application of ~~chapter~~ [article](#).

252 The provisions of this ~~chapter~~ article shall not apply to any new construction ~~projects~~
253 project undertaken by a public ~~bodies~~ body.

254 **Drafting note: Technical changes are made, including changes pursuant to § 1-**
255 **227, which states that throughout the Code any word used in the singular includes the**
256 **plural and vice versa.**

257 ~~CHAPTER 1.~~

258 ~~ENERGY POLICY OF THE COMMONWEALTH.~~

259 Article 3.

260 Energy Policy of the Commonwealth.

261 **Drafting note: Existing Chapter 1 of Title 67, relating to the energy policy of the**
262 **Commonwealth, is relocated as proposed Article 3 of Chapter 17.**

263 ~~§ 67-100~~ 45.2-xxx. Legislative findings.

264 The General Assembly hereby finds that:

265 1. Energy is essential to the health, safety, and welfare of the people of ~~this~~ the
266 Commonwealth and to the Commonwealth's economy;

267 2. The ~~state~~ government of the Commonwealth should facilitate the availability and
268 delivery of reliable and adequate supplies of energy to industrial, commercial, and residential
269 users at reasonable costs ~~such so~~ that ~~these~~ such users and the Commonwealth's economy are
270 able to be productive;

271 3. The Commonwealth would benefit from articulating clear objectives pertaining to
272 energy issues, adopting an energy policy that advances ~~these~~ such objectives, and establishing
273 a procedure for measuring the implementation of ~~these policies~~ such policy;

274 4. Climate change is an urgent and pressing challenge for ~~Virginia~~ the
275 Commonwealth. Swift decarbonization and a transition to clean energy are required to meet
276 the urgency of the challenge; and

277 5. The Commonwealth will benefit from being a leader in deploying a low-carbon
278 energy economy.

279 **Drafting note: Technical changes are made and language is updated for modern**
280 **usage.**

281 § ~~67-101~~ 45.2-xxx. Energy objectives.

282 A. The Commonwealth recognizes that each of the following objectives pertaining to
283 energy issues will advance the health, welfare, and safety of the residents of the
284 Commonwealth:

285 1. Ensuring an adequate energy supply and a ~~Virginia-based~~ Commonwealth-based
286 energy production capacity;

287 2. Minimizing the Commonwealth's long-term exposure to volatility and increases in
288 world energy prices through greater energy independence;

289 3. Ensuring the availability of reliable energy at costs that are reasonable and in
290 quantities that will support the Commonwealth's economy;

291 4. Managing the rate of consumption of existing energy resources in relation to
292 economic growth;

293 5. Establishing sufficient supply and delivery infrastructure to enable widespread
294 deployment of distributed energy resources and to maintain reliable energy availability in the
295 event of a disruption occurring ~~to~~ in a portion of the Commonwealth's energy matrix;

296 6. Maximizing energy efficiency programs, ~~which that~~ are the lowest-cost energy
297 option to reduce greenhouse gas emissions; in order to produce electricity cost savings and ~~to~~
298 create jobs and economic opportunity from the energy efficiency service sector;

299 7. Facilitating conservation;

300 8. Optimizing intrastate and interstate use of energy supply and delivery to maximize
301 energy availability, reliability, and price opportunities to the benefit of all user classes and the
302 Commonwealth's economy ~~as stated in~~ pursuant to subdivision 2 of § ~~67-100~~ 45.2-xxx;

303 9. Increasing ~~Virginia's~~ the Commonwealth's reliance on sources of energy that,
304 compared to traditional energy resources, ~~are~~ are less polluting of the Commonwealth's air and
305 waters;

306 10. Establishing greenhouse gas emissions reduction goals across ~~Virginia's~~ the
307 Commonwealth's economy sufficient to reach net-zero emissions by 2045, including in the
308 electric power, transportation, industrial, agricultural, building, and infrastructure sectors;

309 11. Requiring that pathways to net-zero greenhouse gas emissions be determined
310 based on technical, policy, and economic analysis to maximize their effectiveness, optimize
311 ~~Virginia's~~ the Commonwealth's economic development, and create quality jobs while
312 minimizing adverse impacts on public health, affected communities, and the environment;

313 12. Developing energy resources necessary to produce 30 percent of ~~Virginia's~~ the
314 Commonwealth's electricity from renewable energy sources by 2030 and 100 percent of
315 ~~Virginia's~~ the Commonwealth's electricity from carbon-free sources by 2040;

316 13. Enabling widespread integration of distributed energy resources into the grid,
317 including storage and carbon-free generation, such as rooftop solar installations as defined in
318 § 56-576;

319 14. Removing impediments to the use of carbon-free energy resources located within
320 and outside the Commonwealth, including distributed renewable energy generation resources,
321 nuclear power plants, and generation resources that employ carbon capture and sequestration;

322 15. Mitigating the negative impacts of climate change and the energy transition on
323 disadvantaged communities and prioritizing investment in ~~these~~ such communities;

324 16. Developing the carbon-free energy resources required to fully decarbonize the
325 electric power supply of the Commonwealth, including deployment of 30 percent ~~renewables~~
326 renewable energy sources by 2030 and realizing 100 percent carbon-free electric power by
327 2040;

328 17. Increasing ~~Virginia's~~ the Commonwealth's reliance on and production of
329 sustainably produced biofuels made from traditional agricultural crops and other feedstocks,
330 such as winter cover crops, warm season grasses, fast-growing trees, algae, or other suitable
331 feedstocks grown in the Commonwealth that will create jobs and income, produce clean-
332 burning fuels that will help to improve air quality, and provide the new markets for ~~Virginia's~~
333 the Commonwealth's silvicultural and agricultural products needed to preserve farm

334 employment, conserve farmland and forestland, and increase implementation of silvicultural
335 and agricultural best management practices to protect water quality; and

336 18. Ensuring that decision making is transparent and includes opportunities for full
337 participation by the public.

338 B. Except as provided in subsection D of § 56-585.1, nothing in this section shall be
339 deemed to abrogate or modify in any way the provisions of the Virginia Electric Utility
340 Regulation Act (§ 56-576 et seq.).

341 **Drafting note: The jargon term "renewables" in subdivision A 16 is replaced**
342 **with "renewable energy sources," the term used in subdivision A 1 of the following**
343 **section. Technical changes are made, including the addition of subsection designations**
344 **and the replacement of "Virginia" with "the Commonwealth" when appropriate, and**
345 **language is updated for modern usage.**

346 § ~~67-102~~ 45.2-xxx. Commonwealth Energy Policy.

347 A. To achieve the objectives enumerated in § ~~67-101~~ 45.2-xxx, it ~~shall be~~ is the policy
348 of the Commonwealth to:

349 1. Support research and development of, and promote the use of, renewable energy
350 sources;

351 2. Ensure that the combination of energy supplies and energy-saving systems ~~are~~ is
352 sufficient to support the demands of economic growth;

353 3. Promote cost-effective conservation of energy and fuel supplies;

354 4. Ensure the adequate supply of natural gas necessary to ensure the reliability of the
355 electricity supply and the needs of businesses during the transition to renewable energy;

356 5. Promote the generation of electricity through technologies that do not contribute to
357 greenhouse gases and global warming;

358 6. Promote the use of motor vehicles that utilize alternate fuels and are highly energy
359 efficient;

360 7. Support efforts to reduce the demand for imported petroleum by developing
361 alternative technologies, including ~~but not limited to~~ the production of synthetic and

362 hydrogen-based fuels, and the infrastructure required for the widespread implementation of
363 such technologies;

364 8. Ensure that development of new, or expansion of existing, energy resources or
365 facilities does not have a disproportionate adverse impact on economically disadvantaged or
366 minority communities;

367 9. Establish greenhouse gas emissions reduction standards across all sectors of
368 ~~Virginia's~~ the Commonwealth's economy that target net-zero carbon emissions~~-carbon~~ by
369 2045;

370 10. Enact mandatory clean energy standards and overall strategies for reaching net-
371 zero carbon in the electric power sector by 2040;

372 11. Equitably incorporate requirements for technical, policy, and economic analyses
373 and assessments that recognize the unique attributes of different energy resources and
374 delivery systems to identify pathways to net-zero carbon that maximize ~~Virginia's~~ the
375 Commonwealth's energy reliability and resilience, economic development, and jobs;

376 12. Minimize the negative impacts of climate change and the energy transition on
377 economically disadvantaged or minority communities and prioritize investment in ~~these~~ such
378 areas; and

379 13. Support the distributed generation of renewable electricity by:

380 a. Encouraging private sector investments in distributed renewable energy;

381 b. Increasing the security of the electricity grid by supporting distributed renewable
382 energy projects with the potential to supply electric energy to critical facilities during a
383 widespread power outage; and

384 c. Augmenting the exercise of private property rights by landowners desiring to
385 generate their own energy from renewable energy sources on their lands.

386 B. The elements of the policy set forth in subsection A shall be referred to collectively
387 in this title as the Commonwealth Energy Policy.

388 C. All agencies and political subdivisions of the Commonwealth, in taking
389 discretionary action with regard to energy issues, shall recognize the elements of the

390 Commonwealth Energy Policy and where appropriate, shall act in a manner consistent
391 therewith.

392 D. The Commonwealth Energy Policy is intended to provide guidance to the agencies
393 and political subdivisions of the Commonwealth in taking discretionary action with regard to
394 energy issues; and shall not be construed to amend, repeal, or override any contrary provision
395 of applicable law. ~~The~~ No failure or refusal of any person to recognize the elements of the
396 Commonwealth Energy Policy, to act in a manner consistent with the Commonwealth Energy
397 Policy, or to take any other action whatsoever, shall ~~not~~ create any right, action, or cause of
398 action or provide standing for any person to challenge the action of the Commonwealth or any
399 of its agencies or political subdivisions.

400 **Drafting note: In subdivision A 7, the phrase "but not limited to" is removed**
401 **pursuant to § 1-218, which states that throughout the Code "'Includes' means includes,**
402 **but not limited to." In subdivision A 9, the unconventional phrase "net-zero emissions**
403 **carbon" is changed to "net-zero carbon emissions" for clarity. Language is updated for**
404 **modern usage. The prohibitory language at the end of subsection D is recast in**
405 **affirmative form consistent with current drafting practice.**

406 § ~~67-103~~ 45.2-xxx. Role of local governments in achieving objectives of the
407 Commonwealth Energy Policy.

408 A. In the development of any local ordinance addressing the siting of renewable
409 energy facilities that generate electricity from wind or solar resources, ~~the~~ such ordinance
410 shall:

411 1. Be consistent with the provisions of the Commonwealth Energy Policy pursuant to
412 subsection C of § ~~67-102~~ 45.2-xxx;

413 2. Provide reasonable criteria to be addressed in the siting of any renewable energy
414 facility that generates electricity from wind ~~and or~~ or solar resources. ~~The~~ Such criteria shall
415 provide for the protection of the locality in a manner consistent with the goals of the
416 Commonwealth to promote the generation of energy from wind and solar resources; and

417 3. Include provisions establishing reasonable requirements upon the siting of any such
418 renewable energy facility, including provisions limiting noise, requiring buffer areas and
419 setbacks, and addressing generation facility decommissioning.

420 B. Any measures required by ~~the such~~ ordinance pursuant to subsection A shall be
421 consistent with the locality's existing ordinances.

422 **Drafting note: Technical changes are made, including the addition of subsection**
423 **designations, and language is updated for clarity.**

424 § ~~67-104~~ 45.2-xxx. Nuclear energy; considered a clean energy source.

425 For the purposes of the Commonwealth Energy Policy as set out in § ~~67-102~~ 45.2-xxx,
426 in any clean energy initiative or carbon-free energy initiative undertaken, overseen, regulated,
427 or permitted by the Department, nuclear energy shall be considered to be a clean energy
428 source.

429 **Drafting note: Technical change.**

430 ~~CHAPTER 2.~~

431 ~~VIRGINIA ENERGY PLAN.~~

432 Article 4.

433 Virginia Energy Plan.

434 **Drafting note: Existing Chapter 2 of Title 67, relating to the Virginia Energy**
435 **Plan, is relocated as proposed Article 4 of Chapter 17. Existing § 67-200 is relocated as**
436 **the definitions section at the beginning of the chapter.**

437 § ~~67-201~~ 45.2-xxx. Development of the Virginia Energy Plan.

438 A. The Division, in consultation with the State Corporation Commission, the
439 Department of Environmental Quality, the Clean Energy Advisory Board, solar, wind, and
440 energy efficiency sectors, and a stakeholder group that ~~shall include~~ includes representatives
441 of consumer, environmental, manufacturing, forestry, and agricultural organizations and
442 natural gas and electric utilities, shall prepare a comprehensive Virginia Energy Plan (the
443 Plan) that identifies actions over a 10-year period consistent with the goal of the
444 Commonwealth Energy Policy set forth in § ~~67-102~~ 45.2-xxx to achieve, no later than 2045, a

445 net-zero carbon energy economy for all sectors, including the electricity, transportation,
446 building, agricultural, and industrial sectors. The Plan shall propose actions, consistent with
447 the objectives enumerated in § ~~67-101~~ 45.2-xxx, that will implement the Commonwealth
448 Energy Policy set forth in § ~~67-102~~ 45.2-xxx.

449 B. In addition, the Plan shall include:

450 1. Projections of energy consumption in the Commonwealth, including the use of fuel
451 sources and costs of electricity, natural gas, gasoline, coal, renewable resources, and other
452 forms of non-greenhouse-gas-generating energy resources, such as nuclear power, used in the
453 Commonwealth;

454 2. An analysis of the adequacy of electricity generation, transmission, and distribution
455 resources in the Commonwealth for the natural gas and electric industries, and how
456 distributed energy resources and regional generation, transmission, and distribution resources
457 affect the Commonwealth;

458 3. An analysis of siting requirements for electric generation resources and natural gas
459 and electric transmission and distribution resources, including an assessment of state and local
460 impediments to expanded use of distributed resources and recommendations to reduce or
461 eliminate ~~these~~ such impediments;

462 4. An analysis of fuel diversity for electricity generation, recognizing the importance
463 of flexibility in meeting future capacity needs;

464 5. An analysis of the efficient use of energy resources and conservation initiatives;

465 6. An analysis of how ~~these~~ such Virginia-specific issues relate to regional initiatives
466 to ~~assure~~ ensure the adequacy of fuel production, generation, transmission, and distribution
467 assets;

468 7. An analysis of the siting of energy resource development, refining ~~or~~ and
469 transmission facilities to identify any disproportionate adverse impact of such activities on
470 economically disadvantaged or minority communities;

471 8. With regard to any regulations proposed or promulgated by the U.S. Environmental
472 Protection Agency to reduce carbon dioxide emissions from fossil fuel-fired electric

473 generating units under § 111(d) of the [federal](#) Clean Air Act, 42 U.S.C. § 7411 (d), an
474 analysis of (i) the costs to and benefits for energy producers and electric utility customers; (ii)
475 the effect on energy markets and reliability; and (iii) the commercial availability of
476 technology required to comply with such regulations;

477 9. An inventory of greenhouse gas emissions using a method determined by the
478 Department of Environmental Quality for the four years prior to the issuance of the Plan; and

479 10. Recommendations, based on the analyses completed under subdivisions 1 through
480 9, for legislative, regulatory, and other public and private actions to implement the elements
481 of the Commonwealth Energy Policy.

482 C. In preparing the Plan, the Division and other agencies involved in the planning
483 process shall utilize state geographic information systems, to the extent deemed practicable, to
484 assess how recommendations in the Plan may affect pristine natural areas and other
485 significant onshore natural resources. Effective October 1, 2024, interim updates on the Plan
486 shall also contain projections for greenhouse gas emissions that would result from
487 implementation of the Plan's recommendations.

488 D. In preparing the Plan, the Division and other agencies involved in the planning
489 process shall develop a system for ~~ascribing~~ [assigning](#) numerical scores to ~~parcels~~ [any parcel](#)
490 of real property based on the extent to which ~~the parcels are~~ [such parcel is](#) suitable for the
491 siting of a wind energy facility or solar energy facility. For [a](#) wind energy ~~facilities~~ [facility](#),
492 the scoring system shall address the wind velocity, sustained velocity, [and](#) turbulence,
493 ~~proximity to electric power transmission systems, potential impacts to natural and historic~~
494 ~~resources and to economically disadvantaged or minority communities, and compatibility~~
495 ~~with the local land use plan.~~ For [either a wind energy facility or a](#) solar energy ~~facilities~~
496 [facility](#), the scoring system shall address the parcel's proximity to electric power transmission
497 lines [or systems](#), potential impacts of such a facility to natural and historic resources and to
498 economically disadvantaged or minority communities, and compatibility with the local land
499 use plan. The system developed pursuant to this section shall allow the suitability of the
500 parcel for the siting of a wind energy ~~facility~~ or solar energy facility to be compared to the

501 suitability of other parcels so scored, and shall be based on a scale that allows the suitability
502 of the parcel for the siting of ~~a such an energy~~ a facility to be measured against the
503 hypothetical score of an ideal location for such a facility.

504 E. ~~After July 1, 2007, upon~~ Upon receipt by the Division of a recommendation from
505 the Department of General Services, a local governing body, or the parcel's owner that a
506 parcel of real property is a potentially suitable location for a wind energy facility or solar
507 energy facility, the Division shall analyze the suitability of the parcel for the location of such
508 a facility. In conducting its analysis, the Division shall ascribe a numerical score to the parcel
509 using the scoring system developed pursuant to subsection D.

510 **Drafting note: Technical changes are made, including changes pursuant to § 1-**
511 **227, which states that throughout the Code any word used in the singular includes the**
512 **plural and vice versa. Duplicative language is removed from subsection D. An apparent**
513 **error is corrected by removing the surplus "a" from the last sentence in subsection D.**
514 **The obsolete 2007 date is stricken from subsection E.**

515 § ~~67-202~~ 45.2-xxx. Schedule for the Plan.

516 A. The Division shall complete the Plan ~~by July 1, 2007~~.

517 B. Prior to the completion of the Plan and ~~updates~~ each update thereof, the Division
518 shall present drafts to, and consult with, the Virginia Coal and Energy Commission
519 established pursuant to Chapter 25 (§ 30-188 et seq.) of Title 30 and the Commission on
520 Electric Utility Regulation established pursuant to Chapter 31 (§ 30-201 et seq.) of Title 30.

521 C. The Plan shall be updated by the Division and submitted as provided in § ~~67-203~~
522 45.2-xxx by ~~July 1, 2010~~, October 1, 2014, and every fourth October 1 thereafter. In addition,
523 the Division shall provide interim updates on the Plan by October 1 of the third year of each
524 Governor's administration. Updated reports shall reassess goals for energy conservation based
525 on progress to date in meeting the goals in the previous ~~plan~~ Plan and lessons learned from
526 attempts to meet such goals.

527 D. Beginning with the Plan update in 2014, the Division shall include a section ~~to set~~
528 setting forth energy policy positions relevant to any potential regulations proposed or

529 promulgated by the State Air Pollution Control Board to reduce carbon dioxide emissions
530 from fossil fuel-fired electric generating units under § 111(d) of the [federal](#) Clean Air Act, 42
531 U.S.C. § 7411(d). In ~~this~~ [such](#) section of the Plan, the Division shall address policy options
532 for establishing separate standards of performance pursuant to § 111(d) of the [federal](#) Clean
533 Air Act, 42 U.S.C. § 7411(d), for carbon dioxide emissions from existing fossil fuel-fired
534 electric generating units to promote the Plan's overall goal of fuel diversity as follows:

535 1. The Plan shall address policy options for establishing the standards of performance
536 for existing coal-fired electric generating units, including ~~but not limited to~~ the following
537 factors:

538 a. The most suitable system of emission reduction that (i) takes into consideration (a)
539 the cost and benefit of achieving such reduction, (b) any non-air quality health and
540 environmental impacts, and (c) the energy requirements of the Commonwealth and (ii) has
541 been adequately demonstrated for coal-fired electric generating units that are subject to the
542 standard of performance;

543 b. Reductions in emissions of carbon dioxide that can be achieved through measures
544 reasonably undertaken at each coal-fired electric generating unit; and

545 c. Increased efficiencies and other measures that can be implemented at each coal-
546 fired electric generating unit to reduce carbon dioxide emissions from the unit without
547 converting from coal to other fuels, co-firing other fuels with coal, or limiting the utilization
548 of the unit.

549 2. The Plan shall also address policy options for establishing the standards of
550 performance for existing gas-fired electric generating units, including ~~but not limited to~~ the
551 following factors:

552 a. The application of the criteria specified in subdivisions 1 a and b to natural gas-fired
553 electric generating units; instead of to coal-fired electric generating units; and

554 b. Increased efficiencies and other measures that can be reasonably implemented at the
555 unit to reduce carbon dioxide emissions from the unit without switching from natural gas to
556 other lower-carbon fuels or limiting the utilization of the unit.

557 3. The Plan shall examine policy options for state regulatory action to adopt less
558 stringent standards or longer compliance schedules than those provided for in applicable
559 federal rules or guidelines based on analysis of the following:

560 a. Consumer impacts, including any disproportionate impacts of energy price increases
561 on lower-income populations;

562 b. Unreasonable cost of reducing emissions resulting from plant age, location, or basic
563 process design;

564 c. Physical difficulties with or impossibility of implementing emission reduction
565 measures;

566 d. The absolute cost of applying the performance standard to the unit;

567 e. The expected remaining useful life of the unit;

568 f. The economic impacts of closing the unit, including expected job losses, if the unit
569 is unable to comply with the performance standard; and

570 g. Any other factors specific to the unit that make application of a less stringent
571 standard or longer compliance schedule more reasonable.

572 4. The Plan shall identify options, to the maximum extent permissible, for any
573 federally required regulation of carbon dioxide emissions from existing fossil fuel-fired
574 electric generating units; ~~and~~ regulatory mechanisms that provide flexibility in complying
575 with such standards, including the averaging of emissions, emissions trading, or other
576 alternative implementation measures that are determined to further the interests of the
577 Commonwealth and its citizens.

578 **Drafting note: References to Code sections establishing the Virginia Coal and**
579 **Energy Commission and the Commission on Electric Utility Regulation are added.**
580 **Obsolete date references are deleted in subsections A and B. In subdivision D 2, "but not**
581 **limited to" is removed following the term "including" on the basis of § 1-218, which**
582 **states that throughout the Code "'Includes' means includes, but not limited to." Other**
583 **technical changes are made, including changes pursuant to § 1-227, which states that**

584 throughout the Code any word used in the singular includes the plural and vice versa.
585 Language is updated for clarity.

586 § ~~67-202.1~~ [45.2-xxx](#). Annual reporting by investor-owned public utilities.

587 Each investor-owned public utility providing electric service in the Commonwealth
588 shall prepare an annual report disclosing its efforts to conserve energy, including ~~but not~~
589 ~~limited to~~ (i) its implementation of customer demand-side management programs and (ii)
590 efforts by the utility to improve efficiency and conserve energy in its internal operations
591 pursuant to § 56-235.1. The utility shall submit each annual report to the Division ~~of Energy~~
592 ~~of the Department of Mines, Minerals and Energy~~ by November 1 of each year, and the
593 Division shall compile the reports of the utilities and submit the compilation to the Governor
594 and the General Assembly as provided in the procedures of the Division of Legislative
595 Automated Systems for the processing of legislative documents.

596 **Drafting note: The phrase "but not limited to" is removed following the term**
597 **"including" on the basis of § 1-218, which states that throughout the Code "'Includes'**
598 **means includes, but not limited to." The reference to the Division of Energy is shortened**
599 **pursuant to the definitions section for the chapter.**

600 § ~~67-203~~ [45.2-xxx](#). Submission of [the](#) Plan.

601 Upon completion, the Division shall submit the Plan, including periodic updates
602 thereto, to the Governor, the Commissioners of the State Corporation Commission, and the
603 General Assembly. The Plan shall be submitted as provided in the procedures of the Division
604 of Legislative Automated Systems for the processing of legislative documents. The Plan's
605 executive summary shall be posted on the General Assembly's website.

606 **Drafting note: Technical change.**

607 ~~CHAPTER 6.~~

608 ~~VIRGINIA COASTAL ENERGY RESEARCH CONSORTIUM.~~

609 [Article 5.](#)

610 [Virginia Coastal Energy Research Consortium.](#)

611 **Drafting note: Existing Chapter 6 of Title 67, relating to the Virginia Coastal**
612 **Energy Research Consortium, is relocated as proposed Article 5 of Chapter 17.**

613 § ~~67-600~~ 45.2-xxx. Virginia Coastal Energy Research Consortium established; board
614 of directors.

615 A. The Virginia Coastal Energy Research Consortium, ~~hereinafter referred to as the~~
616 ~~Consortium~~, is hereby ~~created~~ established to include Old Dominion University, the Virginia
617 Institute of Marine Science of The College of William and Mary in Virginia, the Advanced
618 Research Institute of Virginia Polytechnic Institute and State University, James Madison
619 University, Norfolk State University, Virginia Commonwealth University, Hampton
620 University, George Mason University, and the University of Virginia and is to be located at
621 Old Dominion University.

622 § ~~67-602. Control and supervision.~~

623 B. The Consortium shall be governed by a board of directors (the Board), which shall
624 consist of 16 voting members as follows: ~~(i)~~ the Director ~~of the Department of Mines,~~
625 ~~Minerals and Energy~~ or his designee; ~~(ii)~~ the Commissioner of ~~the Virginia~~ Marine
626 Resources ~~Commission~~ or his designee; ~~(iii)~~ the President of the Virginia Manufacturers
627 Association or his appointed member of the maritime manufacturing industry; ~~(iv)~~ the
628 President of the Virginia Maritime Association or his appointed member of the maritime
629 industry; ~~(v)~~ the Director of the Advanced Research Institute of Virginia Polytechnic Institute
630 and State University or his designee; ~~(vi)~~ the President of Old Dominion University or his
631 designee; ~~(vii)~~ the Director of the Virginia Institute of Marine Science of The College of
632 William and Mary in Virginia or his designee; ~~(viii)~~ the President of Norfolk State University
633 or his designee; ~~(ix)~~ the President of James Madison University or his designee; ~~(x)~~ the
634 President of Virginia Commonwealth University or his designee; ~~(xi)~~ the President of the
635 University of Virginia or his designee; ~~(xii)~~ the President of Hampton University or his
636 designee; ~~(xiii)~~ the President of George Mason University or his designee; ~~(xiv)~~ the
637 chairman of the Hampton Roads Technology Council or his appointed member of the
638 technology community; ~~(xv)~~ the Director of the Hampton Roads Clean Cities Coalition or his

639 appointed member of the renewable energy industry; ~~and (xvi)~~ the Director of the
640 Department of Environmental Quality or his designee as the lead agency for the Virginia
641 Coastal Zone Management Program.

642 In addition, a representative of the National Aeronautics and Space Administration's
643 Langley Research Center, to be selected by the ~~director~~ Director of the Research Center, shall
644 serve as a nonvoting ex officio member of the ~~Consortium's board of directors~~ Board.

645 **Drafting note: Existing §§ 67-600 and 67-602 are combined and designated as**
646 **subsections A and B. The definition of "Consortium" is added to the chapter-wide**
647 **definitions section so the shortened version is used in this section. Other technical**
648 **amendments are made.**

649 § ~~67-601~~ 45.2-xxx. Functions, powers, and duties of the Consortium.

650 The Consortium shall serve as an interdisciplinary study, research, and information
651 resource for the Commonwealth on coastal energy issues. As used in this ~~chapter~~ article,
652 "coastal energy" includes wave or tidal action, currents, offshore winds, thermal differences,
653 and methane hydrates. The Consortium shall (i) consult with the General Assembly, federal,
654 state, and local agencies, nonprofit organizations, private industry, and other potential users of
655 coastal energy research; (ii) establish and administer agreements with other baccalaureate
656 institutions of higher education in the Commonwealth to carry out research projects relating to
657 the feasibility of increasing the Commonwealth's reliance on all domestic forms of coastal
658 energy; (iii) disseminate new information and research results; (iv) apply for grants made
659 available pursuant to federal legislation, including ~~but not limited to~~ the federal Methane
660 Hydrate Research and Development Act of 2000, P.L. 106-193, and from other sources; and
661 (v) facilitate the application and transfer of new coastal energy technologies.

662 **Drafting note: Technical changes are made and the phrase "but not limited to"**
663 **following "including" is removed pursuant to § 1-218, which states that throughout the**
664 **Code "'Includes' means includes, but not limited to."**

665 § ~~67-603~~ 45.2-xxx. Appointment of a director; powers and duties.

666 [A.](#) The ~~board of the Consortium~~ [Board](#) shall appoint an executive director to serve as
667 the principal administrative officer of the Consortium. The executive director shall report to
668 the ~~board of the Consortium~~ [Board](#) and be under its supervision.

669 ~~§ 67-604. Powers and duties of the director.~~

670 [B.](#) The executive director shall exercise all powers imposed upon him by law, carry
671 out the specific duties imposed ~~on~~ [upon](#) him by the ~~board of the Consortium~~ [Board](#), and
672 develop appropriate policies and procedures for (i) identifying priority coastal energy research
673 projects; (ii) cooperating with the General Assembly, federal, state, and local governmental
674 agencies, nonprofit organizations, and private industry in formulating its research projects;
675 (iii) selecting research projects to be funded; and (iv) disseminating information and
676 transferring technology related to coastal energy within the Commonwealth. The executive
677 director shall employ such personnel and secure such services as may be required to carry out
678 the purposes of the Consortium, expend appropriated funds, and accept moneys from federal
679 or private sources for cost-sharing on coastal energy projects.

680 **Drafting note: Existing §§ 67-603 and 67-604 are combined and designated as**
681 **subsections A and B.**

682 ~~CHAPTER 16.~~

683 ~~SOUTHWEST VIRGINIA ENERGY RESEARCH AND DEVELOPMENT AUTHORITY.~~

684 [Article 6.](#)

685 [Southwest Virginia Energy Research and Development Authority.](#)

686 **Drafting note: Existing Chapter 16 of Title 67, relating to the Southwest Virginia**
687 **Energy Research and Development Authority, is relocated as proposed Article 6 of**
688 **Chapter 17.**

689 ~~§ 67-1600~~ [45.2-xxx](#). (Expires July 1, 2029) Definitions.

690 As used in this ~~chapter~~ [article](#), unless the context requires a different meaning:

691 "Authority" means the Southwest Virginia Energy Research and Development
692 Authority ~~created~~ [established](#) pursuant to this ~~chapter~~ [article](#).

693 "Developer" means any private developer of an energy development project ~~in~~
694 ~~Southwest Virginia.~~

695 "Energy development project" means an electric generation facility located within
696 Southwest Virginia and includes interests in land, improvements, and ancillary facilities.

697 "Southwest Virginia" means the region of the Commonwealth designated as
698 Southwest Virginia in § 22.1-350.

699 **Drafting note: Technical changes.**

700 § ~~67-1601~~ 45.2-xxx. (Expires July 1, 2029) Southwest Virginia Energy Research and
701 Development Authority ~~created~~ established; purpose.

702 The Southwest Virginia Energy Research and Development Authority is ~~created~~
703 established as a ~~body corporate and a~~ political subdivision of the Commonwealth ~~and as such~~
704 ~~shall have, and is vested with, all of the politic and corporate powers as are set forth in this~~
705 ~~chapter~~. The ~~Authority is established for the~~ purposes of ~~promoting~~ the Authority are to
706 promote opportunities for energy development in Southwest Virginia, ~~to~~ create jobs and
707 economic activity in Southwest Virginia consistent with the Virginia Energy Plan prepared
708 pursuant to ~~Chapter 2 Article 4~~ (§ ~~67-200~~ 45.2-xxx et seq.), and ~~to~~ position Southwest
709 Virginia and the Commonwealth as a leader in energy workforce and energy technology
710 research and development. The Authority may also consult with research institutions,
711 businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate. The
712 Authority shall have only those powers enumerated in this ~~chapter~~ article.

713 **Drafting note: The corporate language for the Southwest Virginia Energy**
714 **Research and Development Authority is updated to reflect current language for political**
715 **subdivisions in the Code. A redundant reference to the powers of the Authority in the**
716 **first sentence is removed. Technical changes are made.**

717 § ~~67-1602~~ 45.2-xxx. (Expires July 1, 2029) Membership; terms; vacancies; expenses.

718 A. The Authority shall ~~be composed~~ have a total membership of 11 nonlegislative
719 citizen members appointed as follows: ~~Four~~ four members ~~shall to~~ be appointed by the
720 Governor, four members ~~shall to~~ be appointed by the Speaker of the House of Delegates, and

721 three members ~~shall~~ to be appointed by the Senate Committee on Rules. All members of the
722 Authority shall ~~reside in~~ be citizens of the Commonwealth.

723 B. Except as otherwise provided ~~herein~~ in this article, all appointments shall be for
724 terms of four years each. No member shall be eligible to serve more than two successive four-
725 year terms. After expiration of an initial term of three years or less, two additional four-year
726 terms may be served by such member if appointed thereto. Appointments to fill vacancies,
727 other than by expiration of a term, shall be made for the unexpired terms. Any appointment to
728 fill a vacancy shall be made in the same manner as the original appointment. The remainder of
729 any term to which a member is appointed to fill a vacancy shall not constitute a term in
730 determining the member's eligibility for reappointment.

731 C. The Authority shall appoint from its membership a chairman and a vice-chairman,
732 ~~both~~ each of whom shall serve in such ~~capacities~~ capacity at the pleasure of the Authority.
733 The chairman, or in his absence the vice-chairman, shall preside at ~~all meetings~~ each meeting
734 of the Authority. The meetings of the Authority shall be held on the call of the chairman or
735 whenever a majority of the members so request. A majority of members of the Authority
736 serving at any one time shall constitute a quorum for the transaction of business.

737 D. Members shall serve without compensation. However, all members may be
738 reimbursed for all reasonable and necessary expenses incurred in the performance of their
739 duties as provided in §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from such funds
740 as may be appropriated to the Authority by the General Assembly.

741 E. Members of the Authority shall be subject to the standards of conduct set forth in
742 the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be
743 removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or
744 misconduct in the manner set forth therein.

745 F. Except as otherwise provided in this ~~chapter~~ article, members of the Authority shall
746 be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

747 **Drafting note: The corporate language for the Southwest Virginia Energy**
748 **Research and Development Authority is updated to reflect current language for political**

749 subdivisions in the Code. Technical changes are made, including changes made pursuant
750 to § 1-227, which states that throughout the Code any word used in the singular includes
751 the plural and vice versa.

752 § ~~67-1603~~ 45.2-xxx. (Expires July 1, 2029) Powers and duties of the Authority.

753 In addition to ~~such~~ the other powers and duties established under this ~~chapter~~ article,
754 the Authority ~~shall have~~ has the power and duty to:

755 1. Adopt, use, and alter at will an official seal;

756 2. Make bylaws for the management and regulation of its affairs;

757 3. Maintain an office at ~~such~~ any place ~~or places~~ within the Commonwealth ~~as it may~~
758 ~~designate~~ designates;

759 4. Accept, hold, and administer moneys, grants, securities, or other property
760 transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source,
761 public or private, for the purposes for which the Authority is ~~created~~ established;

762 5. Make and execute contracts and all other instruments and agreements necessary or
763 convenient for the exercise of its powers and functions;

764 6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants,
765 financial experts, investment bankers, superintendents, managers, and ~~such~~ any other
766 employees and agents ~~as may be~~ necessary and fix their compensation to be payable from
767 funds made available to the Authority;

768 7. Invest its funds as permitted by applicable law;

769 8. Receive and accept from any federal or private agency, foundation, corporation,
770 association, or person grants, donations of money, or real or personal property for the benefit
771 of the Authority, and receive and accept from the Commonwealth or any other state, ~~and~~ from
772 any municipality, county, or other political subdivision thereof ~~and, or from~~ any other source,
773 aid or contributions of either money, property, or other things of value, to be held, used, and
774 applied for the purposes for which such grants and contributions may be made;

775 9. Enter into agreements with any department, agency, or instrumentality of the United
776 States or of the Commonwealth and with lenders and enter into loans with contracting parties

777 for the purpose of planning, regulating, and providing for the financing or assisting in the
778 financing of any project;

779 10. Do any lawful act necessary or appropriate to carry out the powers ~~herein~~ granted
780 or reasonably implied [in this article](#);

781 11. Leverage the strength in energy workforce and energy technology research and
782 development of ~~Virginia's~~ [the Commonwealth's](#) public and private institutions of higher
783 education;

784 12. Support the development of pump storage hydropower in Southwest Virginia and
785 energy storage generally;

786 13. Promote the development of renewable energy generation facilities on brownfield
787 sites, including abandoned mine sites;

788 14. Promote energy workforce development;

789 15. Assist energy technology research and development by, among other actions,
790 promoting the development of a Southwest Virginia Energy Park; and

791 16. Identify and work with the Commonwealth's industries and nonprofit partners in
792 advancing efforts related to energy development in Southwest Virginia.

793 **Drafting note: Technical changes are made and language is updated for modern**
794 **usage.**

795 § ~~67-1604~~ [45.2-xxx](#). (Expires July 1, 2029) Annual report.

796 On or before October 15 of each year, beginning in 2020, the Authority shall submit
797 an annual summary of its activities and recommendations to the Governor and the Chairmen
798 of the House [Committee on](#) Appropriations ~~Committee~~, the Senate [Committee on](#) Finance
799 ~~Committee~~, and [Appropriations](#), the House [Committee on Labor and Commerce](#), and ~~the~~
800 Senate [Committee on](#) Commerce and Labor ~~Committees~~.

801 **Drafting note: Technical changes are made, including updating House and**
802 **Senate committee names changed in the 2020 Session.**

803 § ~~67-1605~~ [45.2-xxx](#). (Expires July 1, 2029) Confidentiality of information.

804 A. The Authority shall hold in confidence the personal and financial information
805 supplied to it, or maintained by it, concerning the siting and development of energy projects.

806 B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing
807 any information that has been transformed into a statistical or aggregate form that does not
808 allow the identification of the person who supplied particular information.

809 C. Information supplied by or maintained on ~~persons~~ any person or ~~entities~~ entity
810 applying for or receiving ~~allocations~~ an allocation of any federal loan ~~guarantees~~ guarantee, as
811 well as specific information relating to the amount ~~and of, or the~~ identity of ~~recipients~~ the
812 recipient of, such ~~distributions~~ distribution, shall be subject to disclosure in accordance with
813 the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

814 **Drafting note: Technical changes are made, including changes pursuant to § 1-**
815 **227, which states that throughout the Code any word used in the singular includes the**
816 **plural and vice versa.**

817 § ~~67-1606~~ 45.2-xxx. (Expires July 1, 2029) Declaration of public purpose; exemption
818 from taxation.

819 A. The exercise of the powers granted by this ~~chapter~~ article shall be in all respects for
820 the benefit of the citizens of the Commonwealth and for the promotion of their welfare,
821 convenience, and prosperity.

822 B. The Authority shall be deemed to be performing an essential governmental function
823 in the exercise of the powers conferred upon it by this ~~chapter~~ article, and the property of the
824 Authority and its income and operations shall be exempt from taxation or assessments upon
825 any property acquired or used by the Authority under the provisions of this ~~chapter~~ article.

826 **Drafting note: Technical changes are made and language is updated for modern**
827 **usage.**

828 § ~~67-1607~~ 45.2-xxx. (Expires July 1, 2029) Sunset.

829 The provisions of this ~~chapter~~ article shall expire on July 1, 2029.

830 **Drafting note: Technical changes.**

831 [CHAPTER 18.](#)

832 WIND ENERGY.

833 **Drafting note:** Existing Chapters 3 (§ 67-300) and 12 (§ 67.1200 et seq.) of Title
834 67, relating to wind energy, are relocated and combined with a related section in Title
835 45.1 to create proposed Chapter 18, Wind Energy. The proposed articles are as follows:
836 Article 1, General Provisions, and Article 2, Virginia Offshore Wind Development
837 Authority.

838 Article 1.

839 General Provisions.

840 **Drafting note:** Proposed Article 1 is created to logically organize general
841 provisions applicable to proposed Chapter 18.

842 § 45.2-xxx. Definitions.

843 As used in this chapter, unless the context requires a different meaning:

844 "Authority" means the Virginia Offshore Wind Development Authority established
845 pursuant to Article 2 (§ 45.2-xxx [existing § 67-1200] et. seq.).

846 "Division" means the Division of Offshore Wind in the Department as established
847 pursuant to § 45.2-xxx [existing § 45.1-161.5:1].

848 **Drafting note:** This section is created to consolidate definitions for proposed
849 Chapter 18, Wind Energy.

850 ~~CHAPTER 3.~~

851 ~~OFFSHORE WIND ENERGY RESOURCES.~~

852 **Drafting note:** Existing Chapter 3 of Title 67, relating to offshore wind energy
853 resources, is relocated as part of proposed Article 1 of Chapter 18.

854 ~~§ 67-300~~ 45.2-xxx. Offshore wind energy resources; policy.

855 It is the policy of the Commonwealth to support federal efforts to examine the
856 feasibility of offshore wind energy being utilized in an environmentally responsible fashion.

857 **Drafting note:** No change.

858 ~~§ 67-301. Repealed.~~

859 **Drafting note:** Repealed by Acts 2020, cc. 451 and 452, cl. 2.

860 § ~~45.1-161.5-1~~ 45.2-xxx. Division of Offshore Wind; established.

861 A. The Director shall establish the Division of Offshore Wind ~~(Division)~~ in the
862 Department and shall appoint persons to direct, support, and execute the powers and duties of
863 the Division.

864 B. The powers and duties of the Division ~~shall~~ include:

865 1. Identifying specific measures that will facilitate the establishment of the Hampton
866 Roads region as a wind industry hub for offshore wind generation projects in state and federal
867 waters off the United States coast;

868 2. Coordinating state agencies' activities related to offshore wind, including
869 development of programs that prepare ~~Virginia's~~ the Commonwealth's workforce to work in
870 the offshore wind industry, create employment opportunities for Virginians within such
871 industry, create opportunities for ~~Virginia-based~~ Commonwealth-based businesses to
872 participate in the offshore wind industry supply chain, and attract out-of-state offshore wind-
873 related businesses to locate within the Commonwealth;

874 3. Developing and implementing a stakeholder engagement strategy that identifies key
875 groups, sets forth outreach objectives, and outlines a timeline for outreach and engagement;

876 4. Identifying regulatory and other barriers to the deployment of offshore wind and
877 attraction of offshore wind supply chain businesses; and

878 5. Providing staff support for the ~~Virginia Offshore Wind Development~~ Authority and
879 facilitating fulfillment of the Authority's purpose and duties set forth in ~~Chapter 12 (§ 67-1200~~
880 ~~et seq.) of Title 67 Article 2 (§ 45.2-xxx et seq.)~~.

881 C. On or before October 15 of each year, the Division shall submit an annual summary
882 of its activities, the ways in which those ~~activates~~ activities have furthered the functions and
883 programs of the Division, and the benefits of the efforts of the Division to the Commonwealth
884 and its economy to the Governor and the ~~Chairs~~ Chairmen of the House Committee on
885 Appropriations, the Senate Committee on Finance and Appropriations, the House Committee
886 on Labor and Commerce, and the Senate Committee on Commerce and Labor. The Division

887 may include its submission with the report of the ~~Virginia Offshore Wind Development~~
888 Authority required by § ~~67-1209~~ [45.2-xxx](#).

889 **Drafting note: Technical changes are made and an apparent spelling error is**
890 **corrected in subsection C.**

891 ~~CHAPTER 12.~~

892 ~~VIRGINIA OFFSHORE WIND DEVELOPMENT AUTHORITY.~~

893 Article 2.

894 Virginia Offshore Wind Development Authority.

895 **Drafting note: Existing Chapter 12 of Title 67, relating to the Virginia Offshore**
896 **Wind Development Authority, is relocated as proposed Article 2 of Chapter 18.**

897 § ~~67-1200~~ [45.2-xxx](#). Definitions.

898 As used in this ~~chapter~~ [article](#), unless the context requires ~~another~~ [a different](#) meaning:

899 ~~"Authority" means the Virginia Offshore Wind Development Authority created~~
900 ~~pursuant to this chapter.~~

901 "Developer" means any private developer of offshore wind energy projects.

902 "Offshore wind energy project" means a wind-powered electric energy facility,
903 including tower, turbine, and associated equipment, located off the coast of the
904 Commonwealth beyond the Commonwealth's three-mile jurisdictional limit, and includes
905 interests in land, improvements, and ancillary facilities.

906 "Transmission study" means a study to determine the potential interconnection options
907 to accommodate multiple offshore wind energy projects in the Hampton Roads region [as](#)
908 [defined in § 22.1-356](#).

909 **Drafting note: The definition of the Virginia Offshore Wind Development**
910 **Authority is relocated to the chapter-wide definitions section. Technical changes are**
911 **made, including adding a cross-reference to define the Hampton Roads region.**

912 § ~~67-1201-~~ [45.2-xxx](#). [Virginia Offshore Wind Development](#) Authority ~~created~~
913 [established](#); purpose.

914 A. The Virginia Offshore Wind Development Authority is ~~created~~ established as a
915 ~~body corporate and a~~ political subdivision of the Commonwealth ~~and as such shall have, and~~
916 ~~is vested with, all of the politic and corporate powers as are set forth in this chapter.~~

917 B. The Authority is established for the purposes of facilitating, coordinating, and
918 supporting the development, either by the Authority or by other qualified entities, of the
919 offshore wind energy industry, offshore wind energy projects, and associated supply chain
920 vendors by (i) collecting relevant metocean and environmental data, ~~by:~~ (ii) identifying
921 existing state and regulatory or administrative barriers to the development of the offshore
922 wind energy industry, ~~by:~~ (iii) working in cooperation with relevant local, state, and federal
923 agencies to upgrade port and other logistical facilities and sites to accommodate the
924 manufacturing and assembly of offshore wind energy project components and vessels; ~~and by~~
925 (iv) ensuring that the development of such projects is compatible with other ocean uses and
926 avian and marine resources, including both the possible interference with and positive effects
927 on naval facilities and operations, NASA-Wallops Flight Facility operations, shipping lanes,
928 recreational and commercial fisheries, and avian and marine species and habitats.

929 C. The Authority shall, in cooperation with the relevant state and federal agencies as
930 necessary, recommend ways to encourage and expedite the development of the offshore wind
931 energy industry. The Authority shall also consult with research institutions, businesses,
932 nonprofit organizations, and stakeholders as the Authority deems appropriate.

933 D. The Authority shall have only those powers enumerated in this ~~chapter~~ article.

934 **Drafting note: The corporate language for the Virginia Offshore Wind**
935 **Development Authority is updated to reflect current language for political subdivisions**
936 **in the Code. Subsection designations are added and a redundant reference to the**
937 **Authority's powers in the first sentence is removed. Technical changes are made.**

938 § ~~67-1202~~ 45.2-xxx. Membership; terms; vacancies; expenses.

939 A. The Authority shall be composed of nine nonlegislative citizen members appointed
940 by the Governor, one of whom shall be a representative of the Virginia Commercial Space
941 Flight Authority as established in § 2.2-2202. In addition, one ex officio member without

942 voting privileges shall be selected by the Governor after consideration of the persons
943 nominated by the U.S. Secretary of the Navy. With the exception of the representative of the
944 Virginia Commercial Space Flight Authority, all members of the Authority shall ~~reside in~~ be
945 citizens of the Commonwealth.

946 B. Except as otherwise provided ~~herein~~ in this article, all appointments shall be for
947 terms of four years each. No member shall be eligible to serve more than two successive four-
948 year terms. After expiration of an initial term of three years or less, two additional four-year
949 terms may be served by such member if appointed thereto. Appointments to fill vacancies,
950 other than by expiration of a term, shall be made for the unexpired terms. Any appointment to
951 fill a vacancy shall be made in the same manner as the original appointment. The remainder of
952 any term to which a member is appointed to fill a vacancy shall not constitute a term in
953 determining the member's eligibility for reappointment.

954 C. ~~The initial appointments of members shall be as follows: three members shall be~~
955 ~~appointed for terms of four years; three members shall be appointed for terms of three years;~~
956 ~~and three members shall be appointed for terms of two years. Thereafter all appointments~~
957 ~~shall be for terms of four years.~~

958 D. The Authority shall appoint from its membership a chairman and a vice-chairman,
959 ~~both~~ each of whom shall serve in such ~~capacities~~ capacity at the pleasure of the Authority.
960 The chairman, or in his absence the vice-chairman, shall preside at ~~all meetings~~ each meeting
961 of the Authority. The meetings of the Authority shall be held on the call of the chairman or
962 whenever a majority of the members so request. A majority of members of the Authority
963 serving at any one time shall constitute a quorum for the transaction of business.

964 E. ~~D.~~ Members shall serve without compensation. However, all members may be
965 reimbursed for all reasonable and necessary expenses incurred in the performance of their
966 duties as provided in §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from such funds
967 as may be appropriated to the Authority by the General Assembly.

968 F. ~~E.~~ Members of the Authority shall be subject to the standards of conduct set forth in
969 the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be

970 removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or
971 misconduct in the manner set forth therein.

972 ~~G. E.~~ Except as otherwise provided in this ~~chapter~~ [article](#), members of the Authority
973 shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et
974 seq.).

975 **Drafting note: The corporate language for the Virginia Offshore Wind**
976 **Development Authority is updated to reflect current language for political subdivisions**
977 **in the Code. Language in existing subsection C related to the staggering of initial terms**
978 **is stricken as obsolete and succeeding subsections are redesignated. Technical changes**
979 **are made, including changes pursuant to § 1-227, which states that throughout the Code**
980 **any word used in the singular includes the plural and vice versa.**

981 ~~§ 67-1206. Transmission of power from offshore wind energy projects.~~

982 ~~A. The incumbent, investor-owned utility for the onshore service territory adjacent to~~
983 ~~any offshore wind generation project shall, at the request of the Department of Mines,~~
984 ~~Minerals and Energy, initiate a transmission study. Such utility shall initiate the transmission~~
985 ~~study no more than 30 days following the request of the Department of Mines, Minerals and~~
986 ~~Energy, and shall report to the Department of Mines, Minerals and Energy within 180 days of~~
987 ~~the request. The Department of Mines, Minerals and Energy shall report the results of the~~
988 ~~study to the Authority. The Department of Mines, Minerals and Energy shall request the study~~
989 ~~no later than July 31, 2010.~~

990 ~~B. Upon receipt of the study, but no later than May 31, 2011, the Authority shall~~
991 ~~recommend such actions as it deems appropriate to facilitate transmission of power from~~
992 ~~offshore wind energy projects.~~

993 **Drafting note: This section is proposed for deletion as obsolete.**

994 ~~§ 67-1207~~ [45.2-xxx](#). Powers and duties of the Authority.

995 In addition to ~~such~~ [the](#) other powers and duties established under this ~~chapter~~ [article](#),
996 the Authority ~~shall have~~ [has](#) the power and duty to:

997 1. Adopt, use, and alter at will an official seal;

- 998 2. Make bylaws for the management and regulation of its affairs;
- 999 3. Maintain an office at ~~such any~~ place ~~or places~~ within the Commonwealth ~~as it may~~
1000 ~~designate~~ designates;
- 1001 4. Accept, hold, and administer moneys, grants, securities, or other property
1002 transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source,
1003 public or private, for the purposes for which the Authority is ~~created~~ established;
- 1004 5. Make and execute contracts and all other instruments and agreements necessary or
1005 convenient for the exercise of its powers and functions;
- 1006 6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants,
1007 financial experts, investment bankers, superintendents, managers, and ~~such any~~ other
1008 employees and agents ~~as may be~~ necessary, and fix their compensation to be payable from
1009 funds made available to the Authority;
- 1010 7. Invest its funds as permitted by applicable law;
- 1011 8. Receive and accept from any federal or private agency, foundation, corporation,
1012 association, or person grants, donations of money, or real or personal property for the benefit
1013 of the Authority, and receive and accept from the Commonwealth or any other state, ~~and~~ from
1014 any municipality, county, or other political subdivision thereof ~~and, or from~~ any other source,
1015 aid or contributions of either money, property, or other things of value, to be held, used, and
1016 applied for the purposes for which such grants and contributions may be made;
- 1017 9. Enter into agreements with any department, agency, or instrumentality of the United
1018 States or of the Commonwealth and with lenders and enter into loans with contracting parties
1019 for the purpose of planning, regulating, and providing for the financing or assisting in the
1020 financing of any project;
- 1021 10. Do any lawful act necessary or appropriate to carry out the powers ~~herein~~ granted
1022 or reasonably implied in this article;
- 1023 11. Identify and take steps to mitigate existing state and regulatory or administrative
1024 barriers to the development of the offshore wind energy industry, including facilitating any
1025 permitting processes; and

1026 12. Enter into interstate partnerships to develop the offshore wind energy industry and
1027 offshore wind energy projects.

1028 **Drafting note: Technical changes are made, including changes pursuant to § 1-**
1029 **227, which states that throughout the Code any word used in the singular includes the**
1030 **plural and vice versa. Language is updated for modern usage.**

1031 § ~~67-1208~~ [45.2-xxx](#). Director; staff; counsel to the Authority.

1032 A. The Director ~~of the Department of Mines, Minerals and Energy~~ shall serve as
1033 Director of the Authority and shall administer the affairs and business of the Authority in
1034 accordance with the provisions of this ~~chapter~~ [article](#) and subject to the policies, control, and
1035 direction of the Authority. The Director shall maintain; and ~~be~~ [is](#) custodian of; all books,
1036 documents, and papers of or filed with the Authority. The Director may cause copies to be
1037 made of all minutes and other records and documents of the Authority and may give
1038 certificates under seal of the Authority to the effect that such copies are true copies, and all
1039 persons dealing with the Authority may rely on such certificates. The Director also shall
1040 perform such other duties as prescribed by the Authority in carrying out the purposes of this
1041 ~~chapter~~ [article](#).

1042 B. The Division ~~of Offshore Wind within the Department of Mines, Minerals and~~
1043 ~~Energy~~ shall serve as staff to the Authority.

1044 C. The Office of the Attorney General shall provide counsel to the Authority.

1045 **Drafting note: Technical changes are made. A reference to the Division of**
1046 **Offshore Wind is shortened pursuant to the chapter-wide definitions in proposed § 45.2-**
1047 **xxx [first section in proposed Chapter 18] and two unnecessary uses of the full name of**
1048 **the Department of Mines, Minerals and Energy are removed pursuant to the title-wide**
1049 **definitions in proposed § 45.2-xxx [first section in proposed Chapter 1].**

1050 § ~~67-1209~~ [45.2-xxx](#). Annual report.

1051 On or before October 15 of each year, the Authority shall submit an annual summary
1052 of its activities and recommendations to the Governor and the ~~Chairs~~ [Chairmen](#) of the House
1053 Committee on Appropriations, the Senate Committee on Finance and Appropriations, the

1054 House Committee on Labor and Commerce, and the Senate Committee on Commerce and
1055 Labor. Such report may include the submission of the Division ~~of Offshore Wind within the~~
1056 ~~Department of Mines, Minerals and Energy~~ required by § ~~45.1-161.5:1~~ [45.2-xxx](#).

1057 **Drafting note: A reference to the Division of Offshore Wind is shortened**
1058 **pursuant to the chapter-wide definitions in § 45.2-xxx [first section in proposed Chapter**
1059 **18] and an unnecessary use of the full name of the Department of Mines, Minerals and**
1060 **Energy is removed.**

1061 § ~~67-1210~~ [45.2-xxx](#). Confidentiality of information.

1062 A. The Authority shall hold in confidence the personal and financial information
1063 supplied to it, or maintained by it, concerning the siting and development of offshore wind
1064 energy projects.

1065 B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing
1066 any information that has been transformed into a statistical or aggregate form that does not
1067 allow the identification of the person who supplied particular information.

1068 C. Information supplied by or maintained on ~~persons~~ [any person](#) or ~~entities~~ [entity](#)
1069 applying for or receiving ~~allocations~~ [an allocation](#) of [any](#) federal loan ~~guarantees~~ [guarantee](#), as
1070 well as specific information relating to the amount ~~and of, or the~~ identity of ~~recipients~~ [the](#)
1071 [recipient](#) of, such ~~distributions~~ [distribution](#), shall be subject to disclosure in accordance with
1072 the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

1073 **Drafting note: Technical changes are made, including changes pursuant to § 1-**
1074 **227, which states that throughout the Code any word used in the singular includes the**
1075 **plural and vice versa.**

1076 § ~~67-1211~~ [45.2-xxx](#). Declaration of public purpose; exemption from taxation.

1077 A. The exercise of the powers granted by this ~~chapter~~ [article](#) shall be in all respects for
1078 the benefit of the citizens of the Commonwealth and for the promotion of their welfare,
1079 convenience, and prosperity.

1080 B. The Authority shall be [deemed to be](#) performing an essential governmental function
1081 in the exercise of the powers conferred upon it by this ~~chapter~~ [article](#), and the property of the

1082 Authority and its income and operations shall be exempt from taxation or assessments upon
1083 any property acquired or used by the Authority under the provisions of this ~~chapter~~ [article](#).

1084 **Drafting note: Technical changes are made and language is updated for modern**
1085 **usage.**

1086 ~~§ 67-1203 45.2-xxx. Data collection~~ [Operation](#).

1087 ~~A.~~ The Authority shall, through moneys derived from sources other than state funds,
1088 to the extent such moneys are available, operate in cooperation with the National Oceanic and
1089 Atmospheric Administration to upgrade wind resource and other metocean assessment
1090 equipment at Chesapeake Light Tower and other structures.

1091 [§ 45.2-xxx. Public-private partnerships](#).

1092 ~~B.-A.~~ The Authority may establish public-private partnerships with ~~a developer~~
1093 [developers](#) pursuant to the Public-Private ~~Educational~~ [Education](#) Facilities and Infrastructure
1094 Act of 2002 (§ 56-575.1 et seq.) for [purposes set forth in this section](#).

1095 [B. The Authority may establish such a partnership for](#) the installation and operation of
1096 wind resource and other metocean equipment, including light detection and ranging
1097 equipment, meteorological measurement towers, and data collection platforms. Any
1098 partnership established pursuant to this subsection shall stipulate that:

1099 1. The Authority and the ~~developers~~ [developer](#) shall share the costs of the upgrade;

1100 2. The developer, in coordination with the Authority and relevant state and federal
1101 agencies, shall operate any meteorological measurement towers and data collection platforms;
1102 and

1103 3. The developer shall make all collected data available to the Authority.

1104 C. The Authority may establish ~~public-private partnerships with a developer pursuant~~
1105 ~~to the Public-Private Educational Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.)~~

1106 [such a partnership](#) for the collection of avian and marine environmental data. Any partnership
1107 established pursuant to this subsection shall stipulate that:

1108 1. The Authority and the developer shall share the costs of data collection;

1109 2. The developer, in coordination with the Authority and relevant state and federal
1110 agencies, shall manage the environmental data collection process; and

1111 3. The developer shall make all collected data available to the Authority.

1112 D. The Authority may make any data collected pursuant to ~~this section~~ [subsection B or](#)
1113 [C](#) available to the public.

1114 ~~§ 67-1204. Port facilities upgrades.~~

1115 [E.](#) The Authority may establish ~~public private partnerships with entities pursuant to~~
1116 ~~the Public Private Educational Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.)~~
1117 [such a partnership](#) for the upgrade of port facilities and other logistical equipment and sites to
1118 accommodate the manufacturing and assembly of offshore wind energy project components
1119 and vessels that will support the construction and operations of offshore wind energy projects.
1120 Any partnership established pursuant to this subsection shall stipulate that the Authority and
1121 the entities shall share the costs of the upgrade.

1122 **Drafting note: Existing § 67-1203 is divided into two sections, the first of which is**
1123 **composed only of existing subsection A, relating to operation, and the section catchline is**
1124 **changed accordingly. The final three subsections of existing § 67-1203 are combined**
1125 **with the succeeding section, § 67-1204, and the subsections are redesignated. Redundant**
1126 **Code references are removed.**

1127 ~~§ 67-1205 45.2-xxx.~~ Federal loan guarantees.

1128 A. The Authority, on behalf of the Commonwealth, may apply to the U.S. Department
1129 of Energy for federal loan guarantees authorized or made available pursuant to Title XVII of
1130 the [federal](#) Energy Policy Act of 2005, ~~42 U.S.C. § 16511 et seq.~~, [P.L. 109-58](#); the [federal](#)
1131 American Recovery and Reinvestment Act of 2009, P.L. 111-5; ~~or~~ other similar federal
1132 legislation; to facilitate the development of offshore wind energy projects.

1133 B. Upon obtaining [a](#) federal loan ~~guarantees~~ [guarantee](#) for [an](#) offshore wind energy
1134 ~~projects~~ [project](#) pursuant to subsection A, the Authority, subject to any restrictions imposed
1135 by federal law, may allocate or assign all or ~~portions~~ [any portion](#) thereof to [a](#) qualified third
1136 ~~parties,~~ [party](#) on ~~such~~ terms and conditions ~~as~~ the Authority finds ~~are~~ appropriate. ~~Actions~~

1137 [Any action](#) of the Authority relating to the allocation and assignment of such loan ~~guarantees~~
1138 [guarantee](#) shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000
1139 et seq.) pursuant to subdivision B 4 of § 2.2-4002. ~~Decisions~~ [Any decision](#) of the Authority
1140 [pursuant to this section](#) shall be final and not subject to review or appeal.

1141 **Drafting note: The section, which deals with a specific power of the Authority, is**
1142 **moved to the end of the chapter so that it follows the sections addressing basic corporate**
1143 **powers. An erroneous citation for the federal Energy Policy Act of 2005 is replaced and**
1144 **technical changes are made, including changes pursuant to § 1-227, which states that**
1145 **throughout the Code any word used in the singular includes the plural and vice versa.**
1146 **Language is updated for modern usage.**

1147 [CHAPTER 19.](#)

1148 [SOLAR ENERGY.](#)

1149 **Drafting note: Proposed Chapter 19 is composed of general provisions as Article**
1150 **1, existing § 45.1-391 as Article 2, existing Chapter 15 (§ 67-1500 et seq.) of Title 67 as**
1151 **Article 3, and existing Chapter 27 (§ 45.1-395) of Title 45.1 as Article 4. The proposed**
1152 **articles are as follows: Article 1, General Provisions; Article 2, Virginia Solar Energy**
1153 **Center; Article 3, Virginia Solar Energy Development and Energy Storage Authority;**
1154 **and Article 4, Clean Energy Advisory Board.**

1155 [Article 1.](#)

1156 [General Provisions.](#)

1157 **Drafting note: Proposed Article 1 is created to logically organize general**
1158 **provisions applicable to proposed Chapter 19.**

1159 [§ 45.2-xxx. Definitions.](#)

1160 [As used in this chapter, unless the context requires a different meaning:](#)

1161 ["Center" means the Virginia Solar Energy Center established in § 45.2-xxx \[§ 45.1-](#)
1162 [391\].](#)

1163 **Drafting note: Proposed § 45.2-xxx [first section in proposed Chapter 19] is**
1164 **created to consolidate definitions in proposed Chapter 19. The definition of "Center" is**
1165 **added.**

1166 [Article 2.](#)

1167 [Virginia Solar Energy Center.](#)

1168 **Drafting note: Proposed Article 2 is created to logically organize existing § 45.1-**
1169 **391, relating to the Virginia Solar Energy Center.**

1170 ~~§ 45.1-391~~ [45.2-xxx](#). [Virginia](#) Solar Energy Center; purposes.

1171 [A.](#) The Virginia Solar Energy Center is ~~continued~~ [established](#) as ~~a~~ part of the
1172 Department. The purposes of the Center are [to](#) (i) ~~to~~ serve the people of the Commonwealth as
1173 a clearinghouse to gather, maintain, and disseminate general and technical information on
1174 solar energy and its utilization; (ii) ~~to~~ coordinate programs for solar energy data-gathering in
1175 ~~Virginia~~ [the Commonwealth](#); (iii) ~~to~~ coordinate efforts and programs on solar energy with
1176 other state agencies and institutions, other states, and federal agencies; (iv) ~~to~~ promote
1177 cooperation among and between Virginia business, industry, [and](#) agriculture and the public
1178 related to the use of solar energy; (v) ~~to~~ develop public education programs on solar energy
1179 for use in schools and by the public; and (vi) ~~to~~ provide assistance in formulating policies on
1180 the utilization of solar energy that would be in the best interest of the Commonwealth.

1181 [B.](#) The intent of the General Assembly is to provide an organization for the purposes
1182 set out in this section to receive nonstate funds for such purposes.

1183 **Drafting note: Technical changes are made, including the addition of subsection**
1184 **designations, and language is updated for modern usage.**

1185 ~~CHAPTER 15.~~

1186 ~~VIRGINIA SOLAR ENERGY DEVELOPMENT AND ENERGY STORAGE~~

1187 ~~AUTHORITY.~~

1188 [Article 3.](#)

1189 [Virginia Solar Energy Development and Energy Storage Authority.](#)

1190 **Drafting note: Existing Chapter 15 (§ 67-1500 et seq.) of Title 67, relating to the**
1191 **Virginia Solar Energy Development and Energy Storage Authority, is relocated as**
1192 **proposed Article 3 of Chapter 19.**

1193 § ~~67-1500~~ [45.2-xxx](#). (Expires July 1, 2025) Definitions.

1194 As used in this ~~chapter~~ [article](#), unless the context requires a different meaning:

1195 "Authority" means the Virginia Solar Energy Development and Energy Storage
1196 Authority ~~created~~ [established](#) pursuant to this ~~chapter~~ [article](#).

1197 "Developer" means any private developer of a solar energy project or an energy
1198 storage project.

1199 "Energy storage project" means an energy storage facility located within the
1200 Commonwealth and includes interests in land, improvements, and ancillary facilities.

1201 "Solar energy project" means an electric generation facility located within the
1202 Commonwealth and includes interests in land, improvements, and ancillary facilities.

1203 **Drafting note: Technical changes.**

1204 § ~~67-1501~~ [45.2-xxx](#). (Expires July 1, 2025) [Virginia Solar Energy Development and](#)
1205 [Energy Storage](#) Authority ~~created~~ [established](#); purpose.

1206 The Virginia Solar Energy Development Authority is continued as the Virginia Solar
1207 Energy Development and Energy Storage Authority. The Authority constitutes a ~~body~~
1208 ~~corporate and a~~ political subdivision of the Commonwealth ~~and as such shall have, and is~~
1209 ~~vested with, all of the politic and corporate powers as are set forth in this chapter~~. The
1210 Authority is established for the purposes of (i) facilitating, coordinating, and supporting the
1211 development, either by the Authority or by other qualified entities, of the solar energy and
1212 energy storage industries and solar energy and energy storage projects by developing
1213 programs that increase the availability of financing for solar energy projects and energy
1214 storage projects; (ii) facilitating the increase of solar energy generation systems and energy
1215 storage projects on public and private sector facilities in the Commonwealth; (iii) promoting
1216 the growth of the ~~Virginia Commonwealth's~~ [solar and energy storage](#) industries; (iv)
1217 providing a hub for collaboration between entities, both public and private, to partner on solar

1218 energy projects and energy storage projects; and (v) positioning the Commonwealth as a
1219 leader in research, development, commercialization, manufacturing, and deployment of
1220 energy storage technology. The Authority may also consult with research institutions,
1221 businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate. The
1222 Authority shall have only those powers enumerated in this ~~chapter~~ [article](#).

1223 **Drafting note: The corporate language for the Virginia Solar Energy**
1224 **Development and Energy Storage Authority is updated to reflect current language for**
1225 **political subdivisions in the Code. A redundant reference to the powers of the Authority**
1226 **in the first sentence is removed. Technical changes are made.**

1227 § ~~67-1502~~ [45.2-xxx](#). (Expires July 1, 2025) Membership; terms; vacancies; expenses.

1228 A. The Authority shall ~~be composed~~ [have a total membership](#) of 15 nonlegislative
1229 citizen members appointed as follows: ~~Eight~~ [eight](#) members ~~shall to~~ be appointed by the
1230 Governor; four members ~~shall to~~ be appointed by the Speaker of the House of Delegates; and
1231 three members ~~shall to~~ be appointed by the Senate Committee on Rules. All members of the
1232 Authority shall ~~reside in~~ [be citizens of](#) the Commonwealth. Members may include
1233 representatives of solar businesses, solar customers, renewable energy financiers, state and
1234 local government solar customers, institutions of higher education who have expertise in
1235 energy technology, and solar research academics.

1236 B. Except as otherwise provided ~~herein~~ [in this article](#), all appointments shall be for
1237 terms of four years each. No member shall be eligible to serve more than two successive four-
1238 year terms. After expiration of an initial term of three years or less, two additional four-year
1239 terms may be served by such member if appointed thereto. Appointments to fill vacancies,
1240 other than by expiration of a term, shall be made for the unexpired terms. Any appointment to
1241 fill a vacancy shall be made in the same manner as the original appointment. The remainder of
1242 any term to which a member is appointed to fill a vacancy shall not constitute a term in
1243 determining the member's eligibility for reappointment.

1244 C. ~~The initial appointments of members by the Governor made pursuant to Chapters~~
1245 ~~90 and 398 of the Acts of Assembly of 2015 shall be as follows: two members shall be~~

1246 ~~appointed for terms of four years, two members shall be appointed for terms of three years,~~
1247 ~~and two members shall be appointed for terms of two years. The initial appointments of~~
1248 ~~members by the Speaker of the House of Delegates made pursuant to Chapters 90 and 398 of~~
1249 ~~the Acts of Assembly of 2015 shall be as follows: one member shall be appointed for a term~~
1250 ~~of four years, one member shall be appointed for a term of three years, and one member shall~~
1251 ~~be appointed for a term of two years. The initial appointments of members by the Senate~~
1252 ~~Committee on Rules made pursuant to Chapters 90 and 398 of the Acts of Assembly of 2015~~
1253 ~~shall be as follows: one member shall be appointed for a term of four years, and one member~~
1254 ~~shall be appointed for a term of three years. Thereafter all appointments shall be for terms of~~
1255 ~~four years.~~

1256 ~~D.~~ The Authority shall appoint from its membership a chairman and a vice-chairman,
1257 ~~both~~ each of whom shall serve in such ~~capacities~~ capacity at the pleasure of the Authority.
1258 The chairman, or in his absence the vice-chairman, shall preside at ~~all meetings~~ each meeting
1259 of the Authority. The meetings of the Authority shall be held on the call of the chairman or
1260 whenever a majority of the members so request. A majority of members of the Authority
1261 serving at any one time shall constitute a quorum for the transaction of business.

1262 ~~E.~~ D. Members shall serve without compensation. However, all members may be
1263 reimbursed for all reasonable and necessary expenses incurred in the performance of their
1264 duties as provided in §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from such funds
1265 as may be appropriated to the Authority by the General Assembly.

1266 ~~F.~~ E. Members of the Authority shall be subject to the standards of conduct set forth in
1267 the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be
1268 removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or
1269 misconduct in the manner set forth therein.

1270 ~~G.~~ F. Except as otherwise provided in this ~~chapter~~ article, members of the Authority
1271 shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et
1272 seq.).

1273 **Drafting note: The corporate language for the Virginia Solar Energy**
1274 **Development and Energy Storage Authority is updated to reflect current language for**
1275 **political subdivisions in the Code. Language in existing subsection C related to the**
1276 **staggering of initial terms of members is stricken as obsolete and succeeding subsections**
1277 **are redesignated. Technical changes are made, including changes pursuant to § 1-227,**
1278 **which states that throughout the Code any word used in the singular includes the plural**
1279 **and vice versa.**

1280 § ~~67-1503~~ [45.2-xxx](#). (Expires July 1, 2025) Partnerships.

1281 A. The Authority may establish public-private partnerships with entities pursuant to
1282 the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) to
1283 increase the number of solar energy generation systems on or located adjacent to public and
1284 private facilities in the Commonwealth. Any partnership established pursuant to this section
1285 shall stipulate that the Authority and the developers shall share the costs of the installation and
1286 operation of solar energy facilities and equipment.

1287 B. The Authority may provide a central hub for appropriate entities, both public and
1288 private, to enter into partnerships that result in solar energy generation projects being
1289 developed in the Commonwealth. The Authority may act as a good faith broker in these
1290 matters to facilitate appropriate partnerships, including public-private partnerships.

1291 **Drafting note: No change.**

1292 § ~~67-1504~~ [45.2-xxx](#). (Expires July 1, 2025) Federal loan guarantees.

1293 A. The Authority, on behalf of the Commonwealth, may apply to the U.S. Department
1294 of Energy for federal loan guarantees authorized or made available pursuant to Title XVII of
1295 the [federal](#) Energy Policy Act of 2005, ~~42 U.S.C. § 16511 et seq.~~, [P.L. 109-58](#); the [federal](#)
1296 American Recovery and Reinvestment Act of 2009, [P.L. 111-5](#); or other similar federal
1297 legislation, to facilitate the development of solar energy projects.

1298 B. Upon obtaining [a](#) federal loan ~~guarantees~~ [guarantee](#) for [a](#) solar energy ~~projects~~
1299 [project](#) pursuant to subsection A, the Authority, subject to any restrictions imposed by federal
1300 law, may allocate or assign all or ~~portions~~ [any portion](#) thereof to [a](#) qualified third ~~parties~~, [party](#)

1301 on ~~such~~ terms and conditions ~~as~~ the Authority finds ~~are~~ appropriate. ~~Actions~~ Any action of the
1302 Authority relating to the allocation and assignment of such loan ~~guarantees~~ guarantee shall be
1303 exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to
1304 subdivision B 4 of § 2.2-4002. ~~Decisions~~ Any decision of the Authority pursuant to this
1305 section shall be final and not subject to review or appeal.

1306 **Drafting note: An erroneous citation for the federal Energy Policy Act of 2005 is**
1307 **replaced and technical changes are made, including changes pursuant to § 1-227, which**
1308 **states that throughout the Code any word used in the singular includes the plural and**
1309 **vice versa. Language is updated for modern usage.**

1310 § ~~67-1505~~ 45.2-xxx. (Expires July 1, 2025) Powers and duties of the Authority.

1311 In addition to ~~such~~ other powers and duties established under this ~~chapter~~ article, the
1312 Authority ~~shall have~~ has the power and duty to:

- 1313 1. Adopt, use, and alter at will an official seal;
- 1314 2. Make bylaws for the management and regulation of its affairs;
- 1315 3. Maintain an office at ~~such~~ any place ~~or places~~ within the Commonwealth ~~as it may~~
1316 ~~designate~~ designates;
- 1317 4. Accept, hold, and administer moneys, grants, securities, or other property
1318 transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source,
1319 public or private, for the purposes for which the Authority is ~~created~~ established;
- 1320 5. Make and execute contracts and all other instruments and agreements necessary or
1321 convenient for the exercise of its powers and functions;
- 1322 6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants,
1323 financial experts, investment bankers, superintendents, managers, and ~~such~~ any other
1324 employees and agents ~~as may be~~ necessary and fix their compensation to be payable from
1325 funds made available to the Authority;
- 1326 7. Invest its funds as permitted by applicable law;
- 1327 8. Receive and accept from any federal or private agency, foundation, corporation,
1328 association, or person grants, donations of money, or real or personal property for the benefit

1329 of the Authority, and receive and accept from the Commonwealth or any [other](#) state, ~~and~~ from
1330 any municipality, county, or other political subdivision thereof ~~and~~, [or from](#) any other source,
1331 aid or contributions of either money, property, or other things of value, to be held, used, and
1332 applied for the purposes for which such grants and contributions may be made;

1333 9. Enter into agreements with any department, agency, or instrumentality of the United
1334 States or of the Commonwealth and with lenders and enter into loans with contracting parties
1335 for the purpose of planning, regulating, and providing for the financing or assisting in the
1336 financing of any project;

1337 10. Do any lawful act necessary or appropriate to carry out the powers ~~herein~~ granted
1338 or reasonably implied [in this article](#);

1339 11. Identify and take steps to mitigate existing state and regulatory or administrative
1340 barriers to the development of the solar energy and energy storage industries, including
1341 facilitating any permitting processes;

1342 12. Enter into interstate partnerships to develop the solar energy industry, solar energy
1343 projects, and energy storage projects;

1344 13. Collaborate with entities, including institutions of higher education, to increase the
1345 training and development of the workforce needed by the solar and energy storage industries
1346 in the Commonwealth, including industry-recognized credentials and certifications;

1347 14. Conduct any other activities as may seem appropriate to increase solar energy
1348 generation in the Commonwealth and the associated jobs and economic development and
1349 competitiveness benefits, including assisting investor-owned utilities in the planned
1350 deployment of at least 400 megawatts of solar energy projects in the Commonwealth by 2020
1351 through entering into agreements in its discretion in any manner provided by law for the
1352 purpose of planning and providing for the financing or assisting in the financing of the
1353 construction or purchase of such solar energy projects authorized pursuant to § 56-585.1;

1354 15. Promote collaborative efforts among ~~Virginia's~~ [the Commonwealth's](#) public and
1355 private institutions of higher education in research, development, and commercialization
1356 efforts related to energy storage;

1357 16. Monitor relevant developments in energy storage technology and deployment
1358 nationally and globally and disseminate relevant information and research results; and

1359 17. Identify and work with the Commonwealth's industries and nonprofit partners in
1360 advancing efforts related to the development and commercialization of energy storage.

1361 **Drafting note: Technical changes are made, including changes pursuant to § 1-**
1362 **227, which states that throughout the Code any word used in the singular includes the**
1363 **plural and vice versa. Language is updated for modern usage.**

1364 § ~~67-1506~~ [45.2-xxx](#). (Expires July 1, 2025) Director; staff; counsel to the Authority.

1365 A. The Director ~~of the Department of Mines, Minerals and Energy~~ shall serve as
1366 Director of the Authority and shall administer the affairs and business of the Authority in
1367 accordance with the provisions of this ~~chapter~~ [article](#) and subject to the policies, control, and
1368 direction of the Authority. The Director may obtain non-state-funded support to carry out any
1369 duties assigned to the Director. Funding for this support may be provided by any source,
1370 public or private, for the purposes for which the Authority is ~~created~~ [established](#). The Director
1371 shall maintain, and ~~be~~ [is](#) custodian of, all books, documents, and papers of or filed with the
1372 Authority. The Director may cause copies to be made of all minutes and other records and
1373 documents of the Authority and may give certificates under seal of the Authority to the effect
1374 that such copies are true copies, and all persons dealing with the Authority may rely on such
1375 certificates. The Director also shall perform such other duties as prescribed by the Authority
1376 in carrying out the purposes of this ~~chapter~~ [article](#).

1377 B. The Department ~~of Mines, Minerals and Energy~~ shall serve as staff to the
1378 Authority.

1379 C. The Office of the Attorney General shall provide counsel to the Authority.

1380 **Drafting note: Technical changes are made. Unnecessary uses of the full name of**
1381 **the Department of Mines, Minerals and Energy are removed pursuant to the title-wide**
1382 **definitions in proposed § 45.2-xxx [first section in proposed Chapter 1].**

1383 § ~~67-1507~~ [45.2-xxx](#). (Expires July 1, 2025) Annual report.

1384 On or before October 15 of each year, ~~beginning in 2016~~, the Authority shall submit
1385 an annual summary of its activities and recommendations to the Governor and the Chairmen
1386 of the House Committee on Appropriations ~~Committee~~, the Senate Committee on Finance
1387 ~~Committee~~, and Appropriations, the House Committee on Labor and Commerce, and the
1388 Senate Committee on Commerce and Labor ~~Committees~~.

1389 **Drafting note: The obsolete 2016 date is stricken and language is updated for**
1390 **modern usage, including updating House and Senate committee names changed in the**
1391 **2020 Session.**

1392 § ~~67-1508~~ 45.2-xxx. (Expires July 1, 2025) Confidentiality of information.

1393 A. The Authority shall hold in confidence the personal and financial information
1394 supplied to it, or maintained by it, concerning the siting and development of solar energy
1395 projects and energy storage projects.

1396 B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing
1397 any information that has been transformed into a statistical or aggregate form that does not
1398 allow the identification of the person who supplied particular information.

1399 C. Information supplied by or maintained on ~~persons~~ any person or ~~entities~~ entity
1400 applying for or receiving ~~allocations~~ an allocation of any federal loan ~~guarantees~~ guarantee, as
1401 well as specific information relating to the amount ~~and of, or the~~ identity of ~~recipients~~ the
1402 recipient of, such ~~distributions~~ distribution, shall be subject to disclosure in accordance with
1403 the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

1404 **Drafting note: Technical changes are made, including changes pursuant to § 1-**
1405 **227, which states that throughout the Code any word used in the singular includes the**
1406 **plural and vice versa.**

1407 § ~~67-1509~~ 45.2-xxx. (Expires July 1, 2025) Declaration of public purpose; exemption
1408 from taxation.

1409 A. The exercise of the powers granted by this ~~chapter~~ article shall be in all respects for
1410 the benefit of the citizens of the Commonwealth and for the promotion of their welfare,
1411 convenience, and prosperity.

1412 B. The Authority shall be [deemed to be](#) performing an essential governmental function
1413 in the exercise of the powers conferred upon it by this chapter, and the property of the
1414 Authority and its income and operations shall be exempt from taxation or assessments upon
1415 any property acquired or used by the Authority under the provisions of this ~~chapter~~ [article](#).

1416 **Drafting note: Language is updated for modern usage.**

1417 [§ 45.2-xxx. Sunset.](#)

1418 [The provisions of this article shall expire on July 1, 2025.](#)

1419 **Drafting note: The second enactment of Acts 2015, cc. 90 and 398, which provides**
1420 **a sunset date for proposed Article 3, is proposed for codification.**

1421 ~~CHAPTER 27.~~

1422 ~~CLEAN ENERGY ADVISORY BOARD.~~

1423 [Article 4.](#)

1424 [Clean Energy Advisory Board.](#)

1425 **Drafting note: Existing Chapter 27, concerning the Clean Energy Advisory**
1426 **Board, is relocated to proposed Article 4.**

1427 [§ 45.2-xxx. Definitions.](#)

1428 [As used in this article, unless the context requires a different meaning:](#)

1429 ["Board" means the Clean Energy Advisory Board created pursuant to § 45.2-xxx](#)
1430 [\[45.1-395\].](#)

1431 ["Fund" means the Low-to-Moderate Income Solar Loan and Rebate Fund created](#)
1432 [pursuant to § 45.2-xxx \[45.1-398\].](#)

1433 ["Program" means the Low-to-Moderate Income Solar Loan and Rebate Pilot Program](#)
1434 [created pursuant to § 45.2-xxx \[45.1-399\].](#)

1435 **Drafting note: Article-wide definitions section added.**

1436 ~~§ 45.1-395~~ [45.2-xxx](#). Clean Energy Advisory Board; purpose.

1437 The Clean Energy Advisory Board ~~(the Board)~~ is established as an advisory board in
1438 the executive branch of state government. The purpose of the Board is to establish a pilot

1439 program for disbursing loans or rebates for the installation of solar energy infrastructure in
1440 low-income and moderate-income households.

1441 **Drafting note: Technical change.**

1442 § ~~45.1-396~~ [45.2-xxx](#). Membership; terms; quorum; meetings.

1443 A. The Board shall have a total membership of 17 members that shall consist of 16
1444 nonlegislative citizen members and one ex officio member. Members may reside within or
1445 without the Commonwealth. Nonlegislative citizen members shall be appointed as follows:

1446 1. Six nonlegislative citizen members to be appointed by the Speaker of the House of
1447 Delegates upon consideration of the recommendations of the Board of Directors of the
1448 Maryland-DC-Delaware-Virginia Solar Energy Industries Association (the MDV-SEIA
1449 Board) and the Governor's Advisory Council on Environmental Justice (the Council), one of
1450 whom shall be a designee of the Virginia Housing Development Authority, created pursuant
1451 to the provisions of Chapter 1.2 (§ 36-55.24 et seq.) of Title 36; one of whom shall be a
1452 rooftop solar energy professional or employer or representative of rooftop solar energy
1453 professionals; one of whom shall be a current or former member of the Council; one of whom
1454 shall be a member or representative of the Virginia, Maryland and Delaware Association of
1455 Electric Cooperatives (VMDAEC); one of whom shall be an expert with experience
1456 developing low-income or moderate-income incentive and loan programs for distributed
1457 renewable energy resources; and one of whom shall be an attorney who is licensed to practice
1458 in the Commonwealth and maintains a legal practice dedicated to rural development, rural
1459 electrification, and energy policy;

1460 2. Three nonlegislative citizen members to be appointed by the Senate Committee on
1461 Rules upon consideration of the recommendations of the MDV-SEIA Board, one of whom
1462 shall be a solar energy professional or employer or representative of solar energy
1463 professionals, one of whom shall work for or with a ~~Virginia-based~~ [Commonwealth-based](#)
1464 investor-owned electric utility company, and one of whom shall be a member or
1465 representative of VMDAEC; and

1466 3. Seven nonlegislative citizen members to be appointed by the Governor upon
1467 consideration of the recommendations of the MDV-SEIA Board and the Council and subject
1468 to confirmation by the General Assembly, one of whom shall be an attorney who is licensed
1469 to practice in the Commonwealth and maintains a legal practice in renewable energy law and
1470 transactions, one of whom shall be an attorney who is licensed to practice in the
1471 Commonwealth and specializes in tax law and energy transactions, one of whom shall be an
1472 attorney with the Division of Consumer Counsel created pursuant to the provisions of § 2.2-
1473 517, one of whom shall be an employee of a community development financial institution
1474 who specializes in impact investing, one of whom shall be a member of a Virginia
1475 environmental organization, and two of whom shall be designees of the Department of
1476 Housing and Community Development, created pursuant to the provisions of Chapter 8 (§ 36-
1477 131 et seq.) of Title 36.

1478 B. The Director or his designee shall serve ex officio with voting privileges and shall
1479 assist in convening the meetings of the Board.

1480 C. Nonlegislative citizen members of the Board shall be citizens of the
1481 Commonwealth. The ex officio member of the Board shall serve a term coincident with his
1482 term of office. Nonlegislative citizen members shall be appointed for a term of three years.
1483 Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired
1484 terms. Vacancies shall be filled in the same manner as the original appointments. All
1485 members may be reappointed.

1486 D. The Board shall elect a chairman and vice-chairman from among its membership.
1487 A majority of the members shall constitute a quorum. The meetings of the Board shall be held
1488 at the call of the chairman or whenever the majority of the members so request.

1489 **Drafting note: Technical changes.**

1490 § ~~45.1-397~~ 45.2-xxx. Powers and duties of the Board; report.

1491 The Board ~~shall have~~ has the ~~following~~ powers and duties to:

1492 1. ~~To advise~~ Advise the Director on the management of the ~~Low to Moderate Income~~
1493 ~~Solar Loan and Rebate Fund (the Fund)~~ pursuant to the provisions of § ~~45.1-398~~ 45.2-xxx;

1494 2. ~~To develop~~ Develop, establish, and operate, with the approval of the Director, ~~a~~
1495 ~~Low-to-Moderate Income Solar Loan and Rebate Pilot~~ the Program ~~(the Program)~~ pursuant to
1496 the provisions of § ~~45.1-399~~ 45.2-xxx;

1497 3. ~~To advise~~ Advise the Director on the possibility of working with a community
1498 development financial institution or other financial institutions to further the purposes of the
1499 Program;

1500 4. ~~To advise~~ Advise the Director on the distribution of moneys in the Fund in the form
1501 of loans or rebates pursuant to the provisions of § ~~45.1-399~~ 45.2-xxx; and

1502 5. ~~To submit~~ Submit to the Governor and the General Assembly an annual report for
1503 publication as a report document as provided in the procedures of the Division of Legislative
1504 Automated Systems for the processing of legislative documents and reports. The chairman
1505 shall submit to the Governor and the General Assembly an annual executive summary of the
1506 interim activity and work of the Board no later than the first day of each regular session of the
1507 General Assembly. The executive summary shall be submitted for publication as a report
1508 document as provided in the procedures of the Division of Legislative Automated Systems for
1509 the processing of legislative documents and reports and shall be posted on the General
1510 Assembly's website.

1511 **Drafting note: Language is updated for modern usage and technical changes are**
1512 **made.**

1513 § ~~45.1-398~~ 45.2-xxx. Low-to-Moderate Income Solar Loan and Rebate Fund.

1514 There is hereby ~~created~~ established in the state treasury a special nonreverting fund to
1515 be known as the Low-to-Moderate Income Solar Loan and Rebate Fund ~~(the Fund)~~. The Fund
1516 shall be established on the books of the Comptroller. All funds appropriated for such purpose
1517 and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid
1518 into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall
1519 remain in the Fund and be credited to it. Any moneys remaining in the Fund, including
1520 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall
1521 remain in the Fund. Moneys in the Fund shall be used solely for the purposes of extending

1522 loans or paying rebates to electric customers who complete solar installations or energy
1523 efficiency improvements pursuant to the provisions of § ~~45.1-399~~ 45.2-xxx. Expenditures and
1524 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the
1525 Comptroller upon written request signed by the Director.

1526 **Drafting note: Language is updated for modern usage and technical changes are**
1527 **made.**

1528 § ~~45.1-399~~ 45.2-xxx. Low-to-Moderate Income Solar Loan and Rebate Pilot Program.

1529 A. The Board, with the approval of the Director, shall develop and establish a Low-to-
1530 Moderate Income Solar Loan and Rebate Pilot Program ~~(the Program)~~ and rules for the loan
1531 or rebate application process. The Program shall be open to any Virginia resident whose
1532 household income is at or below 80 percent of the state median income or regional median
1533 income, whichever is greater. The Program shall allow only one loan per residence,
1534 irrespective of the ownership of the solar energy system that is installed. Such loan shall be
1535 available only for a solar installation or energy efficiency improvements pursuant to the
1536 provisions of Chapter 1.2 (§ 36-55.24 et seq.) of Title 36.

1537 B. The Board shall accept an application only from the installer of the solar
1538 installation or the agent of the customer.

1539 Each application shall include (i) 12 months of the customer's utility bills prior to
1540 installation of the solar energy system and an agreement to provide 12 months of utility bills
1541 to the Board following the installation; (ii) the customer's permission for the Director to (a)
1542 create a customer profile for the customer if he becomes an eligible loan or rebate customer,
1543 (b) aggregate the data provided by such eligible loan or rebate customers, and (c) use such
1544 aggregate data for the purpose of lowering energy costs and implementing effective programs;
1545 (iii) evidence of the completion of a home performance audit, conducted by a qualified local
1546 weatherization service provider, before and after installation of energy efficiency services
1547 such as lighting or insulation improvements, attic tents, weatherization, air sealing of
1548 openings in the building envelope, sealing of ducts, or thermostat upgrades, to demonstrate
1549 that such energy efficiency services were completed and resulted in a reduction in

1550 consumption of at least 12 percent; and (iv) an affidavit attesting to the receipt of a public
1551 benefit at the time the solar energy system is to be installed.

1552 C. The Board shall review each application submitted to it on a first-come, first-served
1553 basis and shall recommend to the Director the approval or denial of each such application
1554 within 30 days of receipt. If the Director approves an application, he shall hold a reservation
1555 of funds for as long as 180 days for final loan or rebate claim and disbursement.

1556 D. A customer whose application is approved may install an energy system that is
1557 interconnected pursuant to the provisions of § 56-594 or any section in Title 56 that addresses
1558 net energy metering provisions for electric cooperative service territories.

1559 E. All of the work of installing the energy system shall be completed by a licensed
1560 contractor that (i) possesses an Alternative Energy System (AES) Contracting specialty as
1561 defined by the Board for Contractors pursuant to the provisions of Chapter 11 (§ 54.1-1100 et
1562 seq.) of Title 54.1; (ii) possesses certification for solar installation from the North American
1563 Board of Certified Energy Practitioners, Solar Energy International, Roof Integrated Solar
1564 Energy, or a similar installer certification program; (iii) possesses a rating of "A" or higher
1565 from the local Better Business Bureau; and (iv) has installed a minimum of 150 net-metered
1566 residential solar systems in ~~Virginia~~ [the Commonwealth](#). If the work of installing the solar
1567 energy system requires electrical work, it shall be completed by an electrical contractor
1568 licensed by the Virginia Department of Professional and Occupational Regulation. All
1569 photovoltaic panels, inverters, and other electrical apparatus used in the solar energy system
1570 shall be tested and certified by a federal Occupational Safety and Health Administration
1571 Nationally Recognized Testing Laboratory such as UL LLC and installed in compliance with
1572 manufacturer specifications and all applicable building and electrical codes.

1573 F. The customer or the installer, acting on behalf of the customer, shall submit any
1574 loan or rebate claim within 90 days of completion of the installation of the solar energy
1575 system, with completion deemed to have occurred once the solar energy system's bi-
1576 directional meter or net meter, or the respective utility's revenue grade meter, has been
1577 installed and the system has been electrified. Each rebate claim shall include, at a minimum, a

1578 date of system electrification and a time-stamped and date-stamped verification of (i) bi-
1579 directional net meter delivery or (ii) the operation of a compatible programmed smart meter
1580 capable of tracking net metering activity.

1581 G. The Director shall review and approve or deny a loan or rebate claim within 60
1582 days of receipt and shall provide a written explanation of each denial to the respective
1583 claimant. The Director shall disburse from the ~~Low to Moderate Income Solar Loan and~~
1584 ~~Rebate~~ Fund created pursuant to § ~~45.1-398~~ [45.2-xxx](#) the loan or rebate for each approved
1585 claim within 60 days of its receipt of the claim and according to the order in which its
1586 respective application was approved. Any rebate or grant shall be in the amount of no more
1587 than \$2 per DC watt for up to six kilowatts of solar capacity installed. The customer may use
1588 a rebate in addition to any federal tax credits or state incentives or enhancements earned for
1589 the same solar installation.

1590 **Drafting note: Technical changes.**

1591 ~~§ 45.1-400. Repealed.~~

1592 **Drafting note: Repealed by Acts 2020, c. 803, cl. 2.**

1593 CHAPTER ~~15.1~~ [20](#).

1594 GEOTHERMAL ENERGY.

1595 **Drafting note: Existing Chapter 15.1, concerning geothermal energy, is retained as**
1596 **proposed Chapter 20.**

1597 Article 1.

1598 General Provisions.

1599 **Drafting note: Existing Article 1, concerning general provisions, is retained as**
1600 **proposed Article 1.**

1601 ~~§ 45.1-179.1. Short title; purpose.~~

1602 ~~This chapter may be cited as the Virginia Geothermal Resource Conservation Act. It is~~
1603 ~~the policy of the Commonwealth of Virginia and the purpose of this law to: (i) foster the~~
1604 ~~development, production, and utilization of geothermal resources, (ii) prevent waste of~~
1605 ~~geothermal resources, (iii) protect correlative rights to the resource, (iv) protect existing high~~

1606 ~~quality state waters, and safeguard potable waters from pollution, (v) safeguard the natural~~
1607 ~~environment, (vi) promote geothermal and water resource conservation and management, and~~
1608 ~~(vii) safeguard the health, safety, and welfare of the citizens of the Commonwealth.~~

1609 **Drafting note: The first sentence of this section is deleted as unnecessary pursuant**
1610 **to § 1-244, which states that throughout the Code the caption of a subtitle, chapter, or**
1611 **article serves as a short title citation. The remainder of this section is deleted as**
1612 **unnecessary because it constitutes a policy statement lacking legal effect.**

1613 § ~~45.1-179.2~~ 45.2-xxx. Definitions.

1614 ~~The following terms~~ As used in this chapter ~~have the meanings respectively ascribed~~
1615 ~~thereto,~~ unless the context ~~clearly~~ requires ~~otherwise~~ a different meaning:

1616 "Board" means the State Water Control Board.

1617 "Correlative ~~rights~~" right" means the right of each geothermal owner in a geothermal
1618 system to produce without waste his just and equitable share of the geothermal resources in the
1619 geothermal system;.

1620 "Geothermal energy" means the usable energy that is produced or ~~which that~~ can be
1621 produced from a geothermal ~~resources;~~ resource.

1622 "Geothermal resource" means the natural heat of the earth and the energy, in whatever
1623 form, that is present in, associated with, or created by, or ~~which that~~ may be extracted from, that
1624 natural heat, as determined by the ~~rules and~~ regulations of the Department;.

1625 "Geothermal system" means any aquifer, pool, reservoir, or other geologic formation
1626 containing geothermal resources; ~~and~~.

1627 **Drafting note: The term "Board" is moved into alphabetical order and technical**
1628 **changes are made, including changes pursuant to § 1-227, which states that throughout the**
1629 **Code any word used in the singular includes the plural and vice versa. Language is**
1630 **updated for modern usage.**

1631 § ~~45.1-179.3~~ 45.2-xxx. Application.

1632 The provisions of this chapter regarding (i) permitting, well regulations, reservoir
1633 management, and allocation apply to geothermal resources at temperatures above the minimum
1634 temperature set forth by the Department pursuant to § ~~45.1-179.7, 45.2-xxx~~ and (ii) leasing
1635 requirements, royalties, or severance taxes apply to geothermal resource applications producing
1636 more than the volumetric rate set forth by the Department pursuant to § ~~45.1-179.7, 45.2-xxx~~.

1637 **Drafting note: Technical changes.**

1638 § ~~45.1-179.4, 45.2-xxx~~. Ownership.

1639 Ownership rights to a geothermal ~~resources shall be~~ resource are in the owner of the
1640 surface property underlain by the geothermal ~~resources,~~ resource unless such rights have been
1641 otherwise explicitly reserved or conveyed. Nothing in this section shall divest the people or the
1642 Commonwealth of any rights, title, or interest they may have in any geothermal ~~resources~~
1643 resource.

1644 **Drafting note: Technical changes are made, including changes pursuant to § 1-227,**
1645 **which states that throughout the Code any word used in the singular includes the plural**
1646 **and vice versa.**

1647 § ~~45.1-179.5, 45.2-xxx~~. Findings; clarification of nature of the resource.

1648 Geothermal resources are found and hereby declared to be sui generis, being neither ~~a~~
1649 mineral ~~resource~~ resources nor ~~a~~ water ~~resource.~~ resources. No mineral estate
1650 shall ~~not~~ be construed to include geothermal resources unless such inclusion is explicit in the
1651 terms of the deed or other instrument of conveyance.

1652 **Drafting note: Changes are made pursuant to § 1-227, which states that throughout**
1653 **the Code any word used in the singular includes the plural and vice versa. The prohibitory**
1654 **language at the end of this section is recast in affirmative form consistent with current**
1655 **drafting practice.**

1656 Article 2.

1657 Resource Regulation.

1658 **Drafting note: Existing Article 2, concerning resource regulation, is retained as**
1659 **proposed Article 2.**

1660 § ~~45.1-179.6~~ 45.2-xxx. ~~Duties Powers~~ and ~~responsibilities~~ duties of the Department.

1661 A. The Department ~~shall have and is hereby given~~ has jurisdiction and authority over all
1662 persons and property, public and private, necessary to enforce the provisions of this chapter and
1663 ~~shall have~~ has the power and authority to make and enforce ~~rules~~, regulations, and orders and do
1664 whatever ~~may is~~ is reasonably ~~be~~ necessary to carry out the provisions of this chapter. Any ~~such~~
1665 ~~rules and~~ regulations adopted by the Department pursuant to the provisions of this chapter shall
1666 be ~~promulgated~~ adopted in compliance with ~~the provisions of~~ the Administrative Process Act
1667 (~~Chapter 40 of Title 2.2~~, § 2.2-4000 et seq.).

1668 § ~~45.1-179.7~~. ~~Additional powers of Department.~~

1669 B. The Department shall:

1670 1. Consult with the Board in carrying out ~~all of its~~ powers and ~~duties and responsibilities~~
1671 pursuant to the provisions of this chapter;

1672 2. Develop a comprehensive geothermal permitting system for the Commonwealth,
1673 ~~which shall provide~~ that provides for the exploration and development of geothermal resources;

1674 3. ~~Promulgate such rules and~~ Adopt regulations ~~as may be~~ necessary to provide for
1675 geothermal drilling and the exploration for and development of geothermal resources in the
1676 Commonwealth; ~~such rules and~~ Such regulations shall be based on a system of correlative
1677 rights;

1678 4. Establish minimum temperature levels and volumetric rates in order to determine
1679 Department jurisdiction over geothermal resource development. In establishing such
1680 temperature levels ~~(i)~~, the Department shall set (i) minimum temperature levels for permitting,
1681 well regulations, reservoir management, and allocation of ~~the geothermal resource~~ resources;
1682 and (ii) ~~the Department shall set~~ minimum volumetric rates for geothermal leasing, royalties,
1683 and severance taxes, as necessary. The Department shall ~~also be responsible for reviewing the~~
1684 review established temperature level and volumetric rate requirements biennially and ~~revising~~

1685 [revise](#) the figures as necessary. Revision of temperature levels or volumetric rate requirements
1686 shall not occur more often than every two years, and such revision shall not operate
1687 retroactively; and

1688 5. Consult with the State Department of Health, as necessary, to protect potable waters
1689 of the Commonwealth and ~~in carrying to carry out its the powers and~~ duties ~~and responsibilities~~
1690 [of the Department](#) pursuant to the provisions of this chapter.

1691 **Drafting note: Existing §§ 45.1-179.6 and 45.1-179.7 are combined. The term**
1692 **"promulgate regulations" is changed to "adopt regulations" in keeping with recent title**
1693 **revisions because "adopt" is more widely used and includes the promulgation process.**
1694 **Technical changes are made and language is updated for modern usage.**

1695 ~~§ 45.1-179.8~~ [45.2-xxx](#). Reinjection policy.

1696 The Department, the Board, and [the](#) Department of Health shall jointly develop, and
1697 revise as necessary, a policy on reinjection of spent geothermal fluids. Such policy shall refer to
1698 the reinjection into the ground of waters extracted from the earth in the process of geothermal
1699 development, production, or utilization.

1700 **Drafting note: Technical change.**

1701 ~~§ 45.1-179.9~~ [45.2-xxx](#). Cancellation or suspension of permit.

1702 ~~Whenever,~~ [If the Department determines,](#) after a public hearing held in conjunction with
1703 the Board, ~~the Department determines~~ that a holder of a permit issued pursuant to the provisions
1704 of this chapter ~~is has~~ willfully ~~violating~~ [violated](#) any provision of such permit or any provision
1705 of this chapter, the Department may cancel or suspend such permit for cause or impose
1706 limitations on the future use thereof in order to prevent future violations.

1707 **Drafting note: Language is updated for modern usage.**

1708 ~~§ 45.1-179.10~~ [45.2-xxx](#). Penalties; injunctions.

1709 [A.](#) Any person who ~~shall be adjudged to have violated~~ [violates](#) any ~~provisions~~ [provision](#)
1710 of this chapter ~~shall be is~~ guilty of a misdemeanor ~~and shall be liable to,~~ [punishable by a civil](#)
1711 penalty of not less than \$10 ~~nor or~~ more than \$250 for each violation.

1712 B. In addition, upon violation of any ~~of the provisions~~ provision of this chapter, ~~or the~~
1713 ~~regulations~~ regulation of the Department ~~hereunder~~ adopted pursuant to this chapter, the
1714 Department may, either before or after the institution of proceedings ~~for the collection of the~~
1715 ~~penalty imposed by this section for such violation~~ pursuant to subsection A, institute a civil
1716 action in the circuit court ~~wherein~~ where the well is located for injunctive relief to restrain the
1717 violation and for ~~such~~ any other or further relief ~~in the premises as said~~ that the court ~~shall deem~~
1718 deems proper.

1719 **Drafting note: Technical changes are made, including changes pursuant to § 1-227,**
1720 **which states that throughout the Code any word used in the singular includes the plural**
1721 **and vice versa. Language is updated for modern usage.**

1722 ~~§ 45.1-179.11~~ 45.2-xxx. Judicial review.

1723 Any person aggrieved by a final decision of the Department pursuant to the provisions of
1724 ~~§ 45.1-179.9~~ 45.2-xxx is entitled to judicial review ~~thereof~~ of such final decision in accordance
1725 with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

1726 **Drafting note: Technical changes are made and language is updated for modern**
1727 **usage.**

1728 CHAPTER ~~14~~ 21.

1729 ~~VIRGINIA~~-NUCLEAR ENERGY-~~CONSORTIUM~~.

1730 **Drafting note: Existing Chapter 14 of Title 67, concerning the Virginia Nuclear**
1731 **Energy Consortium, is retained as proposed Chapter 21.**

1732 Article 1.

1733 General Provisions.

1734 **Drafting note: Existing § 67-1400 is combined with existing § 67-1700 to form**
1735 **proposed Article 1 of Chapter 21, concerning general provisions.**

1736 ~~§ 67-1400~~ 45.2-xxx. Definitions.

1737 As used in this chapter, unless the context requires a different meaning:

1738 "Authority" or "VNECA" means the Virginia Nuclear Energy Consortium Authority
1739 established pursuant to this chapter.

1740 "Board" means the board of directors of the Authority.

1741 "Consortium" means the ~~nonstock, nonprofit corporation~~ Virginia Nuclear Energy
1742 Consortium established by the Authority pursuant to § ~~67-1404~~ 45.2-xxx.

1743 "Member" means a member of the Consortium.

1744 **Drafting note: Technical changes.**

1745 § ~~67-1700~~ 45.2-xxx. Nuclear energy; strategic plan.

1746 A. The Department and the Secretaries of Commerce and Trade and Education shall
1747 work in coordination with ~~the Virginia Nuclear Energy Consortium Authority (VNECA)~~
1748 VNECA, established pursuant to ~~Chapter 14 (§ 67-1400 et seq.)~~ Article 2 (§ 45.2-xxx), and
1749 the Virginia Economic Development Partnership Authority, established pursuant to Article 4
1750 (§ 2.2-2234 et seq.) of Chapter 22 of Title 2.2, to develop a strategic plan for nuclear energy
1751 as part of the Commonwealth's overall goal of carbon-free energy.

1752 B. Such plan may include (i) the promotion of new technologies and opportunities for
1753 innovation, including advanced manufacturing; (ii) the establishment of a collaborative
1754 research center and university nuclear leadership program to promote education in fields that
1755 meet the workforce demands of Virginia's nuclear industry; and (iii) recognition of the role of
1756 nuclear energy in the Commonwealth's goal of employing 100 percent carbon-free sources of
1757 energy by 2050.

1758 C. Such plan shall be completed by October 1, 2020, shall be updated every four years
1759 thereafter, and shall be published on the Internet by VNECA.

1760 **Drafting note: This section is relocated from existing Chapter 17 of Title 67.**
1761 **Technical changes are made.**

1762 Article 2.
1763 Virginia Nuclear Energy Consortium Authority.

1764 **Drafting note: Existing Chapter 14 of Title 67, except for § 67-1400, is retained as**
1765 **proposed Article 2, concerning the Virginia Nuclear Energy Consortium Authority.**

1766 § ~~67-1401~~ 45.2-xxx. Virginia Nuclear Energy Consortium Authority established.

1767 There is hereby ~~created and constituted~~ established a political subdivision of the
1768 Commonwealth ~~to be~~ known as the Virginia Nuclear Energy Consortium Authority ~~(the~~
1769 ~~Authority)~~. The Authority's exercise of powers conferred by this ~~chapter~~ article shall be
1770 deemed to be the performance of an essential governmental function and matters of public
1771 necessity for which public moneys may be spent and private property acquired.

1772 **Drafting note: Technical changes.**

1773 § ~~67-1402~~ 45.2-xxx. Purposes; powers of Authority.

1774 A. The Authority is established for the purposes of making the Commonwealth a
1775 national and global leader in nuclear energy and serving as an interdisciplinary study,
1776 research, and information resource for the Commonwealth on nuclear energy issues.

1777 B. The Authority is granted all powers necessary or convenient for the carrying out of
1778 its statutory purposes, including ~~but not limited to~~, the following rights, powers, and duties
1779 to:

1780 1. Adopt, use, and alter at will a corporate seal;

1781 2. Acquire, purchase, hold, use, lease, or otherwise dispose of property, real, personal,
1782 or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out
1783 the purposes of the Authority;

1784 3. Adopt bylaws for the management and regulation of its affairs;

1785 4. Develop and adopt a strategic plan for carrying out the purposes set out in this
1786 ~~chapter~~ article;

1787 5. Make and enter into ~~all contracts and agreements~~ any contract or agreement
1788 necessary or incidental to the performance of its duties, the furtherance of its purposes, and
1789 the execution of its powers under this ~~chapter~~ article, including ~~agreements~~ an agreement with
1790 any person or federal agency;

- 1791 6. Consult with the General Assembly; federal, state, and local agencies; nonprofit
1792 organizations; private industry; and other potential developers and users of nuclear energy;
- 1793 7. Promote and facilitate agreements among public and private institutions of higher
1794 education in the Commonwealth and other research entities to carry out research projects
1795 relating to nuclear energy;
- 1796 8. Disseminate information and research results;
- 1797 9. Identify and support, in cooperation with Virginia's nuclear entities and the public
1798 and private sectors, the development of education programs related to Virginia's nuclear
1799 industry;
- 1800 10. Provide for the establishment of the Consortium by the Board as provided in § ~~67-~~
1801 ~~404~~ [45.2-xxx](#);
- 1802 11. Develop a policy regarding any interest in intellectual property ~~that may be~~
1803 acquired or developed by the Consortium;
- 1804 12. In order to fund and support the activities of the Authority and the Consortium,
1805 apply for, solicit, and accept from any source, including any agency of the federal
1806 government, the Commonwealth, or any other state; ~~any municipality, county, locality~~ or
1807 other political subdivision ~~thereof~~; ~~any member~~; or any private corporation or other entity,
1808 (i) grants, including grants made available pursuant to federal legislation; (ii) aid; or (iii)
1809 contributions of money, property, or other things of value, which shall be held, used, and
1810 applied for the purposes set out by this chapter;
- 1811 13. Facilitate the collaboration of members toward ~~the attainment of~~ [obtaining](#) grants
1812 and ~~the expenditure of~~ [expending](#) funds in accomplishing the purposes set out by this chapter;
- 1813 14. Encourage, facilitate, and support the application, commercialization, and transfer
1814 of new nuclear energy technologies;
- 1815 15. Provide public information and communication about nuclear energy and related
1816 educational and job opportunities;

1817 16. Provide advice, assistance, and services to institutions of higher education and to
1818 other persons providing services or facilities for nuclear research or graduate education;

1819 17. Foster innovative partnerships and relationships among the Commonwealth, the
1820 Commonwealth's public institutions of higher education, private companies, federal
1821 laboratories, and not-for-profit organizations to accomplish the purposes set out by this
1822 chapter; and

1823 18. Do all acts and things necessary or convenient to carry out the powers granted to it
1824 by law.

1825 **Drafting note: In subsection B, "but not limited to" is removed following the**
1826 **term "including" on the basis of § 1-218, which states that throughout the Code**
1827 **"'Includes' means includes, but not limited to." Technical changes are made for clarity.**

1828 §~~67-1403~~ 45.2-xxx. Board of the Authority.

1829 A. The Authority shall be governed by a board of directors consisting of 17 members
1830 appointed as follows:

1831 1. The Director ~~of the Department of Mines, Minerals and Energy~~ or his designee;

1832 2. The President and Chief Executive Officer of the Virginia Economic Development
1833 Partnership or his designee;

1834 3. The Chancellor of the Virginia Community College System or his designee;

1835 4. The President of Virginia Commonwealth University or his designee;

1836 5. The President of the University of Virginia or his designee;

1837 6. The President of Virginia Polytechnic Institute and State University or his designee;

1838 7. The President of George Mason University or his designee;

1839 8. Two individuals, each to represent ~~an~~ a single institution of higher education in the
1840 Commonwealth that is not already represented on the Board, ~~at~~ At least one of ~~which the~~
1841 institutions shall be a private institution of higher education;

1842 9. Six individuals, each to represent a single business entity located in the
1843 Commonwealth that is engaged in activities directly related to the nuclear energy industry;

1844 10. One individual to represent a nuclear energy-related nonprofit organization; and

1845 11. One individual to represent a Virginia-based federal research laboratory.

1846 B. The members of the Board described in subdivisions A 1 through ~~A 7~~ shall serve
1847 terms coincident with their terms of office.

1848 C. The 10 members of the Board described in subdivisions A 8 through ~~A 11~~ shall be
1849 appointed by the Governor. ~~The original terms of five of such members shall end on June 30,~~
1850 ~~2015, and the original term of the five other such members shall end on June 30, 2017, all as~~
1851 ~~designated by the Governor.~~ After the initial staggering of terms, such members shall be
1852 appointed for terms of four years. Vacancies in the membership of the Board shall be filled in
1853 the same manner as the original appointments for the unexpired portion of the term. Members
1854 of the Board described in subdivisions A 8 through ~~A 11~~ may serve two successive terms on
1855 the Board.

1856 D. Any appointment to fill a vacancy on the Board shall be made for the unexpired
1857 term of the member whose death, resignation, or removal created the vacancy.

1858 E. Meetings of the Board shall be held at the call of the chairman or of any seven
1859 members. Nine members of the Board ~~shall~~ constitute a quorum for the transaction of the
1860 business of the Authority. An act of the majority of the members of the Board present at any
1861 regular or special meeting at which a quorum is present ~~shall be~~ is an act of the Board.

1862 F. Immediately after appointment, the members of the Board shall enter upon the
1863 performance of their duties.

1864 G. The Board shall annually elect from among its members a chairman, a vice-
1865 chairman, and a treasurer. The Board shall also elect annually a secretary, who need not be a
1866 member of the Board, and may also elect such other subordinate officers, who need not be
1867 members of the Board, as it deems proper. The chairman, or in his absence, the vice-
1868 chairman, shall preside at ~~all meetings~~ each meeting of the Board. In the absence of both the
1869 chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall
1870 preside at such ~~meetings~~ meeting.

1871 H. Notwithstanding the provisions of any other law, no officer or employee of the
1872 Commonwealth shall be deemed to have forfeited or shall ~~have forfeited~~ forfeit his ~~or her~~
1873 office or employment by reason of acceptance of membership on the Board or by providing
1874 service to the Authority or to the Consortium.

1875 I. On or before November 15 of each year, the Authority shall submit its updated
1876 strategic plan, an annual summary of its activities, and recommendations for the support and
1877 expansion of the nuclear energy industry in Virginia to the Governor and the Chairmen of the
1878 House ~~Appropriations~~ Committee on Appropriations, the Senate ~~Finance~~ Committee on
1879 Finance and Appropriations, the House Committee on Labor and Commerce, and the ~~House~~
1880 ~~and Senate~~ Committee on Commerce and Labor ~~Committees~~.

1881 **Drafting note: A change is made in subsection H pursuant to § 1-216, which**
1882 **states that a word used in the masculine includes the feminine and neuter. Technical**
1883 **changes are made, including changes pursuant to § 1-227, which states that throughout**
1884 **the Code any word used in the singular includes the plural and vice versa, and updating**
1885 **House and Senate committee names changed in the 2020 Session. Language in**
1886 **subsection C related to the staggering of initial terms is stricken as obsolete.**

1887 § ~~67-1404~~ 45.2-xxx. Establishment of the Consortium.

1888 A. The Board shall provide for the formation, by January 1, 2014, of a nonstock
1889 corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1, not organized for profit,
1890 ~~which corporation that~~ shall include in its name the words "Virginia Nuclear Energy
1891 Consortium," or some variation thereof that is approved by the Board.

1892 B. The Consortium shall be established for the purpose of conducting activities useful
1893 in (i) making the Commonwealth a leader in nuclear energy; (ii) serving as an
1894 interdisciplinary study, research, and information resource for the Commonwealth on nuclear
1895 energy issues; and (iii) carrying out the provisions of this ~~chapter~~ article, including raising
1896 money on behalf of the Authority in the corporate and nonprofit community and from other
1897 nonstate sources.

1898 C. The membership of the Consortium shall be open to:

- 1899 1. Public or private institutions of higher education in the Commonwealth;
- 1900 2. Virginia-based federal research laboratories;
- 1901 3. Nuclear energy-related nonprofit organizations;
- 1902 4. Business entities with operating facilities located in the Commonwealth that are
- 1903 engaged in activities directly related to the nuclear energy industry; and
- 1904 5. Other individuals or entities whose membership is approved by the board of
- 1905 directors of the Consortium through a process established by the bylaws of the Consortium.

1906 D. The board of directors of the Consortium shall consist of members selected and

1907 approved by the Consortium pursuant to a process established by its bylaws.

1908 E. The board of directors of the Consortium shall appoint an executive director to

1909 serve as the principal administrative officer of the Consortium. The executive director shall

1910 carry out the specific duties assigned to him by the board of directors, and develop

1911 appropriate policies and procedures for the operation of the Consortium; employ such persons

1912 and secure such services as may be required to carry out the purposes of the Consortium;

1913 expend funds as authorized by the Authority; and accept moneys from federal or private

1914 sources on behalf of the Authority, including moneys contributed by Consortium members to

1915 the Authority, for cost-sharing on nuclear energy research or projects. The executive director

1916 and any other employee of the Consortium (i) shall be compensated in the manner provided

1917 by the board of directors of the Authority, (ii) shall not be subject to the provisions of the

1918 Virginia Personnel Act (§ 2.2-2900 et seq.), and (iii) shall not be deemed to be an officer or

1919 employee for purposes of the State and Local Government Conflict of Interests Act (§ 2.2-

1920 3100 et seq.).

1921 F. The articles of incorporation of the Consortium shall provide that upon dissolution

1922 the net assets of the Consortium shall be transferred to the Authority.

1923 G. The Consortium shall not be deemed to be a state or governmental agency,

1924 advisory agency, public body, or agency or instrumentality for purposes of ~~Chapters~~ Chapter

1925 8 (§ 2.2-800 et seq.), 18 (§ 2.2-1800 et seq.), 24 (§ 2.2-2400 et seq.), 29 (§ 2.2-2900 et seq.),
1926 31 (§ 2.2-3100 et seq.), 37 (§ 2.2-3700 et seq.), 38 (§ 2.2-3800 et seq.), 43 (§ 2.2-4300 et
1927 seq.), 44 (§ 2.2-4400 et seq.), 45 (§ 2.2-4500 et seq.), 46 (§ 2.2-4600 et seq.), ~~and or~~ 47 (§ 2.2-
1928 4700 et seq.) of Title 2.2, Chapter 14 (§ 30-130 et seq.) of Title 30, or Chapter 1 (§ 51.1-124.1
1929 et seq.) of Title 51.1.

1930 H. The board of directors of the Consortium shall adopt, alter, and repeal bylaws
1931 governing the manner in which its business shall be transacted and the manner in which the
1932 activities of the Consortium shall be conducted.

1933 I. The Consortium shall report on all of its non-proprietary activities at least twice a
1934 year to the Authority.

1935 **Drafting note: Technical changes.**

1936 § ~~67-1405~~ [45.2-xxx](#). Moneys of Authority.

1937 All moneys of the Authority, from whatever source derived, shall be paid to the
1938 treasurer of the Authority. Such moneys shall be deposited in the first instance by the
1939 treasurer in one or more banks or trust companies, in one or more special accounts. All banks
1940 and trust companies are authorized to give such security for such deposits, if required by the
1941 Authority. The moneys in such accounts shall be paid out on the warrant or other orders of
1942 such persons as the Authority may authorize to execute such warrants or orders.

1943 **Drafting note: No change.**

1944 § ~~67-1406~~ [45.2-xxx](#). Audits; external reviews.

1945 A. The Auditor of Public Accounts, or his legally authorized representatives, shall
1946 annually audit the financial accounts of the Authority. The audit report and any
1947 nonproprietary information provided to the auditor in connection with the audit shall be made
1948 available to the public, upon request, in accordance with the provisions of the [Virginia](#)
1949 Freedom of Information Act (§ 2.2-3700 et seq.).

1950 B. The Authority, if it receives state funds, shall be subject to periodic external review
1951 either (i) under the provisions of the Legislative Program Review and Evaluation Act (§ 30-64
1952 et seq.) or (ii) by an entity appointed for that purpose by the Governor.

1953 **Drafting note: Technical change.**

1954 ~~CHAPTER 21.~~

1955 ~~EXPLORATION FOR URANIUM ORE.~~

1956 Article 3.

1957 Exploration for Uranium Ore.

1958 **Drafting note: Existing Chapter 21, concerning exploration for uranium ore, is**
1959 **retained as proposed Article 3. Throughout the article, references to the Chief of the**
1960 **Division of Mines, which predate the formation of the Department in 1985, are changed**
1961 **to refer to the Director of the Department.**

1962 ~~§ 45.1-272. Legislative findings; declaration of policy.~~

1963 ~~The mining of uranium within the Commonwealth has the potential to provide its~~
1964 ~~citizens with employment opportunities and other economic benefits.~~

1965 ~~It also offers the Commonwealth and the nation the possibility of developing valuable~~
1966 ~~resources that can be used to produce energy in a clean, efficient manner and lessen this~~
1967 ~~country's dependence on foreign energy supplies.~~

1968 ~~At the same time, the General Assembly finds that the improper and unregulated~~
1969 ~~exploration for uranium can adversely affect the health, safety, and general welfare of the~~
1970 ~~citizens of this Commonwealth.~~

1971 ~~The General Assembly also finds that the adoption of additional statutes during the~~
1972 ~~1983 Session of the General Assembly may be necessary in order to assure that any uranium~~
1973 ~~mining and milling which may occur in the Commonwealth will not adversely affect the~~
1974 ~~environment or the public health and safety.~~

1975 ~~The purposes of this chapter are to encourage and promote the safe and efficient~~
1976 ~~exploration for uranium resources within the Commonwealth, and to assure, pursuant to §~~

1977 ~~45.1-284 of this Code, that uranium mining and milling will be subject to statutes and~~
1978 ~~regulations which protect the environment and the health and safety of the public.~~

1979 **Drafting note: This section, enacted by Acts 1982, c. 269, is currently not set out.**
1980 **The section is deleted as unnecessary because it constitutes a policy statement lacking**
1981 **legal effect.**

1982 § ~~45.1-273~~ [45.2-xxx](#). Definitions.

1983 ~~The following words shall have the meanings respectively ascribed thereto:~~ [As used in](#)
1984 [this chapter, unless the context requires a different meaning:](#)

1985 "Exploration activity" means and ~~shall be~~ [is](#) limited to the drilling of test holes or
1986 stratigraphic or core holes of a depth in excess of ~~fifty~~ [50](#) feet for the purpose of determining
1987 the location, quantity, or quality of uranium ore.

1988 "Person" ~~shall mean~~ [means](#) any individual, firm, corporation, partnership, association,
1989 or other legal entity.

1990 -"Usable quality water" ~~is defined as ground water~~ [means groundwater](#) that is used or
1991 can be used for a beneficial purpose, including, ~~but not limited to,~~ [a](#) domestic, livestock, or
1992 irrigation ~~uses~~ [use](#).

1993 **Drafting note: The definition of "usable quality water" is relocated from existing**
1994 **§ 45.1-277 and "but not limited to" is removed from that definition following the term**
1995 **"including" on the basis of § 1-218, which states that throughout the Code "'Includes'**
1996 **means includes, but not limited to." Technical changes are made, including changes**
1997 **pursuant to § 1-227, which states that throughout the Code any word used in the**
1998 **singular includes the plural and vice versa. Language is updated for modern usage.**

1999 § ~~45.1-279. Rules and regulations~~ [45.2-xxx. Regulations](#).

2000 The Director shall ~~promulgate such rules and~~ [in accordance with the Administrative](#)
2001 [Process Act \(§ 2.2-4000 et seq.\)](#), [adopt](#) regulations as may be necessary and proper to carry
2002 out the provisions of this ~~chapter~~ [article](#).

2003 **Drafting note:** This section, which provides for the adoption of regulations, is
2004 relocated nearer to the beginning of the article. The term "promulgate regulations" is
2005 changed to "adopt regulations" in keeping with recent title revisions because "adopt" is
2006 more widely used and includes the promulgation process. A reference to the
2007 Administrative Process Act is added from existing § 45.1-281.

2008 § ~~45.1-274~~ 45.2-xxx. Permit for exploration activity required; fee.

2009 A. It ~~shall be~~ is unlawful for any person to commence any exploration activity ~~as~~
2010 ~~defined herein~~ without first obtaining a permit to do so from the ~~Chief~~ Director. The
2011 application for the permit shall be in ~~such a~~ form ~~as~~ the ~~Chief may prescribe~~ Director
2012 prescribes and shall be accompanied by a fee of \$250 and ~~such any~~ other information ~~as may~~
2013 ~~be~~ required by this ~~chapter~~ article.

2014 B. The application for a permit to carry out any exploration activity shall be
2015 accompanied by a bond, payable to the Commonwealth, with surety acceptable to the ~~Chief~~
2016 Director. The bond shall ensure compliance with the provisions of this ~~chapter~~ article and any
2017 regulations ~~promulgated~~ adopted hereunder relating to the drilling, redrilling, plugging ~~and or~~
2018 abandoning of any exploration activity. The bond shall be set by the ~~Chief~~ Director in ~~such an~~
2019 amount ~~as may be~~ deemed reasonable and necessary.

2020 C. An initial permit shall be valid for a period of one year; and may be renewed ~~for a~~
2021 ~~like period of time~~ annually.

2022 **Drafting note:** Technical changes are made and language is updated for modern
2023 usage. The term "regulations promulgated" is changed to "regulations adopted" in
2024 keeping with recent title revisions because "adopt" is more widely used and includes the
2025 promulgation process.

2026 § ~~45.1-275~~ 45.2-xxx. Maps or plats of proposed exploration activity area.

2027 Before undertaking any exploration activity on any tract of land, the person proposing
2028 the exploration activity shall prepare or have prepared and file with the ~~Chief~~ Director,
2029 together with the application required by § ~~45.1-274~~ 45.2-xxx, an accurate map, on a scale ~~to~~

2030 ~~be~~ stated thereon, showing the location of the proposed exploration activity; the courses and
2031 distances of such activity from two permanent points or landmarks on the tract; the
2032 approximate location areas in which test holes or core or stratigraphic holes may be drilled;
2033 the name of the owner; and boundaries and acreage of the tract on which the exploration
2034 activity is to take place.

2035 **Drafting note: A technical change is made and language is updated for modern**
2036 **usage.**

2037 § ~~45.1-276~~ 45.2-xxx. Abandoning exploration hole; affidavits required.

2038 Within ~~forty five~~ 45 days after the abandonment of any exploration hole, the permittee
2039 shall notify the ~~Chief~~ Director that such exploration hole has been plugged and abandoned,
2040 giving the location of such hole. The permittee shall submit an affidavit, ~~in triplicate, which~~
2041 ~~shall set~~ setting forth the time and manner in which the hole was plugged and filled. One copy
2042 of ~~this~~ the affidavit shall be retained by the permittee, one sent to the State Geologist, and the
2043 third shall be mailed to the ~~Chief~~ Director.

2044 **Drafting note: A technical change is made and language is updated for modern**
2045 **usage. The outdated requirement that the affidavit be submitted in triplicate is omitted.**

2046 § ~~45.1-277~~ 45.2-xxx. Plugging.

2047 The plugging of an exploration ~~holes~~ hole shall be as follows:

2048 1. ~~All~~ Each exploration ~~holes~~ hole shall be adequately plugged with cement from the
2049 bottom of the hole upward to a point three feet below plow depth. The remainder of the hole
2050 between the top of the plug and the surface shall be filled with cuttings or nontoxic material.

2051 2. If multiple aquifers alternating usable quality water and salt water zones, or other
2052 conditions determined by the ~~Chief~~ Director to be potentially deleterious to surface water or
2053 ~~ground-water~~ groundwater are encountered, the conditions ~~must~~ shall be isolated immediately
2054 by cement plugs. Each hole shall be plugged with cement to prevent water from flowing into
2055 or out of the hole or mixing within the hole. The length of the plug shall be determined by the
2056 ~~Chief~~ Director based on available data on the specific site.

2057 3. Each exploration hole shall be plugged as soon as reasonably practical after drilling,
2058 unless multiple aquifers are encountered.

2059 4. Alternative plugging procedures and materials may be utilized when the applicant
2060 has demonstrated to the ~~Chief's~~ Director's satisfaction that the alternatives will protect ~~ground~~
2061 ~~waters~~ groundwater and comply with the provisions of this ~~chapter~~ article. In the event that a
2062 hole is more suitably plugged with a nonporous material other than cement, the material shall
2063 have characteristics at least equal to cement.

2064 5. In the event that an exploration hole is to remain unplugged pursuant to the
2065 provisions of § ~~45.1-278~~ 45.2-xxx, the procedure contained in subdivision 2, if applicable,
2066 shall be applied and the exploration hole shall be plugged to the extent required by that
2067 ~~paragraph~~ subdivision.

2068 **Drafting note: The second sentence of subdivision 2, which contains a definition**
2069 **of "usable quality water," is relocated to existing § 45.1-272. Changes are made**
2070 **pursuant to § 1-227, which states that throughout the Code any word used in the**
2071 **singular includes the plural and vice versa. Technical changes are made and language is**
2072 **updated for modern usage.**

2073 § ~~45.1-278~~ 45.2-xxx. Developing an exploration hole as water well.

2074 If any exploration hole drilled for the purpose of determining the location, quantity, or
2075 quality of uranium ore indicates a stratum or source of potable fresh water ~~which~~ that could be
2076 developed pursuant to established EPA safe drinking water standards for a community water
2077 system, upon the request of the owner of the property on which the exploration hole is located
2078 and ~~on~~ following application to and approval by the ~~Chief~~ Director, who shall secure
2079 concurrence from the Department of Health, the well, in lieu of being plugged and abandoned,
2080 may be developed and completed as a water well. The development and completion of an
2081 exploration hole as a water well shall be performed in accordance with applicable state water
2082 control ~~law~~ laws and ~~regulation~~ regulations.

2083 **Drafting note: Language is updated for modern usage.**

2084 § ~~45.1-280~~ 45.2-xxx. Right of inspection by ~~Chief~~ Director.

2085 For the purposes of carrying out the provisions of this ~~chapter~~ article, the ~~Chief~~
2086 Director is hereby vested with authority to inspect at reasonable times and in a reasonable
2087 manner any area ~~or areas~~ for which he has received an application for a permit, or has granted
2088 a permit, for exploration activity.

2089 **Drafting note: Technical changes are made, including a change pursuant to § 1-**
2090 **227, which states that throughout the Code any word used in the singular includes the**
2091 **plural and vice versa. Language is updated for modern usage.**

2092 § ~~45.1-281~~. ~~Administrative Process Act applicable.~~

2093 ~~The provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall be~~
2094 ~~applicable to the provisions of this chapter.~~

2095 **Drafting note: This section, which refers to the Administrative Process Act, is**
2096 **deleted as unnecessary and a reference to the Administrative Process Act is added to §**
2097 **45.2-xxx [existing § 45.1-279].**

2098 § ~~45.1-283~~ 45.2-xxx. Uranium mining permit applications; ~~when accepted; uranium~~
2099 mining deemed to have significant effect on surface.

2100 Notwithstanding any other provision of law, ~~permit applications~~ no application for a
2101 uranium mining permit shall ~~not~~ be accepted by any agency of the Commonwealth ~~prior to~~
2102 ~~July 1, 1984, and~~ until a program for permitting uranium mining is established by statute. For
2103 the purpose of construing § ~~45.1-180 (a)~~ 45.2-xxx, uranium mining ~~shall be~~ is deemed to have
2104 a significant effect on the surface.

2105 **Drafting note: The prohibitory language of this section is recast in affirmative**
2106 **form consistent with current drafting practice and the obsolete 1984 date is stricken.**
2107 **Technical changes are made, including changes pursuant to § 1-227, which states that**
2108 **throughout the Code any word used in the singular includes the plural and vice versa.**
2109 **Language is updated for modern usage.**

2110 § ~~45.1-284~~ 45.2-xxx. State and local authority.

2111 Nothing ~~contained~~ in this ~~chapter~~ article shall be construed to alter the authority of any
2112 state or local governing body, including ~~the authorities~~ any authority conferred under Chapter
2113 22 (§ 15.2-2200 et seq.) of Title 15.2, ~~relative~~ relating to ~~matters which are~~ any matter that is
2114 the subject of this ~~chapter~~ article.

2115 **Drafting note: Technical changes are made, including changes pursuant to § 1-**
2116 **227, which states that throughout the Code any word used in the singular includes the**
2117 **plural and vice versa. Language is updated for modern usage and clarity.**

2118 § ~~45.1-285~~ 45.2-xxx. Confidentiality of logs, surveys, and reports.

2119 A. The ~~Chief~~ Director shall hold confidential all logs, surveys, plats, and reports filed
2120 under this ~~chapter~~ article by those engaged in the exploration for uranium for a period of two
2121 years after the completion of the exploratory activities.

2122 ~~Further, upon~~ B. Upon written request by any person engaged in the exploration for
2123 uranium, the ~~Chief~~ Director shall hold confidential all logs, surveys, plats, and reports filed
2124 under this chapter for ~~all an~~ additional two-year ~~periods. Such request shall be granted by the~~
2125 ~~Chief~~ period. The Director shall grant such request if the requesting party certifies that he
2126 considers all such information to be of a proprietary nature relating to his competitive rights.
2127 The requesting party may renew his request every two years.

2128 C. Nothing in this section shall be construed to deny ~~to~~ the State Geologist ~~the~~ access
2129 to ~~all logs, surveys, plats and reports~~ any log, survey, plat, or report filed under this ~~chapter~~
2130 ~~article.~~ However, the State Geologist, ~~however,~~ shall ~~be bound to~~ hold ~~this such~~
2131 information confidential to the same extent as the ~~Chief is bound~~ Director.

2132 **Drafting note: The ambiguous reference to confidentiality "for all additional two-**
2133 **year periods" is stricken and a two-year renewal provision is added. Technical changes**
2134 **are made, including changes pursuant to § 1-227, which states that throughout the Code**
2135 **any word used in the singular includes the plural and vice versa. Language is updated**
2136 **for modern usage and subsection designations are added for clarity.**

2137 § ~~45.1-282. Penalties~~ 45.2-xxx. Civil penalty.

2138 A. Any person who violates any provision of this ~~chapter~~ article, or who fails,
2139 neglects, or refuses to comply with any ~~rule or~~ regulation ~~issued~~ adopted by the Director, or
2140 final order of a court lawfully issued, shall be subject to a civil penalty, not to exceed \$10,000,
2141 for each violation. Each day of violation shall constitute a separate offense. All civil penalties
2142 shall be paid into the state treasury and deposited by the State Treasurer into the Minerals
2143 Reclamation Fund pursuant to § 45.2-xxx [existing § 45.1-197.8].

2144 B. The ~~Chief shall have~~ Director has the authority to restrain violations of this ~~chapter~~
2145 article in accordance with the provisions of § ~~45.1-358~~ 45.2-xxx.

2146 **Drafting note: This section, which provides for civil penalties, is relocated to the**
2147 **end of the article. The term "regulation issued" is changed to "regulation adopted" in**
2148 **keeping with recent title revisions because "adopt" is more widely used and includes**
2149 **issuance. A provision is added directing civil penalties to an appropriate nonreverting**
2150 **fund consistent with current drafting practice. Technical changes are made and**
2151 **language is updated for modern usage.**

2152 ~~Article 2.~~

2153 ~~Uranium Administrative Group; Functions.~~

2154 ~~§ 45.1-285.1. Findings; declaration of policy.~~

2155 ~~The General Assembly finds: (i) that while uranium mining and milling activity can~~
2156 ~~generate substantial benefits, it also raises a wide range of environmental and other local~~
2157 ~~concerns; and (ii) that a preliminary study, identifying many potential environmental and~~
2158 ~~other effects of uranium development and describing procedures and responsibilities that the~~
2159 ~~Commonwealth and a proponent would be obligated to accept if development were to~~
2160 ~~proceed, has not identified any environmental or public health concern that could preclude~~
2161 ~~uranium development in Virginia.~~

2162 ~~The General Assembly further finds, however, that a possibility exists that certain~~
2163 ~~impacts of uranium development activity may reduce or potentially limit certain uses of~~
2164 ~~Virginia environment and resources, and that therefore additional evaluation of the costs and~~

2165 ~~benefits of such activity is necessary before a final decision can be made regarding its~~
2166 ~~acceptability in the Commonwealth. The General Assembly encourages private industry to~~
2167 ~~participate in further studies and analyses of the costs and benefits of uranium mining and~~
2168 ~~milling activity in the Commonwealth. Evaluation of these costs and benefits will be~~
2169 ~~enhanced by further studies pertaining to Pittsylvania County where preliminary study has~~
2170 ~~focused and where uranium development activity is currently contemplated by proponents.~~

2171 ~~The General Assembly emphasizes that uranium mining and milling activity presents~~
2172 ~~issues of great concern to the public. It therefore encourages public participation in the~~
2173 ~~deliberations concerning these issues.~~

2174 ~~§ 45.1-285.2. Definitions.~~

2175 ~~The following words shall have the meanings respectively ascribed thereto:~~

2176 ~~"Commission" shall mean the Virginia Coal and Energy Commission.~~

2177 ~~"Decommissioning" shall mean the process by which mining, milling and tailings~~
2178 ~~management operations are terminated and the associated facilities removed or rendered~~
2179 ~~inactive.~~

2180 ~~"Group" shall mean the Uranium Administrative Group established in § 45.1-285.3 of~~
2181 ~~this Code.~~

2182 ~~"Milling" shall mean the operation by which uranium ore is processed or treated to~~
2183 ~~extract uranium.~~

2184 ~~"Mining" shall mean any activity meeting the definition of mining in § 45.1-180(a) of~~
2185 ~~Chapter 16 of this title. For the purpose of construing § 45.1-180(a) of Chapter 16 of this title,~~
2186 ~~uranium mining shall be construed to have a significant effect on the surface.~~

2187 ~~"Person" shall mean any individual, firm, corporation, partnership, association or other~~
2188 ~~legal entity.~~

2189 ~~"Reclamation" shall mean any activity meeting the definition of reclamation in § 45.1-~~
2190 ~~180(k) of Chapter 16 of this title.~~

2191 ~~"Tailings" shall mean the residue remaining after extraction of uranium from uranium~~
2192 ~~ore whether or not the residue is left in piles, but shall not include ore bodies or ore stock~~
2193 ~~piles. "Tailings management" means the methods by which tailings are handled, stored or~~
2194 ~~disposed of.~~

2195 ~~§ 45.1-285.3. Uranium Administrative Group.~~

2196 ~~In order to effectuate the provisions of this Chapter, there is created a Uranium~~
2197 ~~Administrative Group which shall be composed of the following: the Chairman of the~~
2198 ~~Commission or his designee who shall also serve as Chairman of the Group; the~~
2199 ~~Administrator of the Council on the Environment or her designee; the Executive Director of~~
2200 ~~the State Water Control Board; the Executive Director of the State Air Pollution Control~~
2201 ~~Board; the Commissioner of the State Board of Health; the Director of the Department of~~
2202 ~~Conservation and Economic Development; the Commissioner of the Department of~~
2203 ~~Agriculture and Consumer Services; the Director of the Division of Industrial Development;~~
2204 ~~one member to be designated by the local governing body of Pittsylvania County; one~~
2205 ~~member to be designated by the local governing body of Halifax County; two members to be~~
2206 ~~designated by the Chairman of the Commission from the State at large and two members to be~~
2207 ~~designated by the Governor from the State at large.~~

2208 ~~§ 45.1-285.4. Employment of consultants; other support.~~

2209 ~~In performing the duties established in this article, the Group shall have the authority~~
2210 ~~to employ consultants and each state agency representative shall designate one or more~~
2211 ~~individuals from the respective agencies to assist in the administrative functions necessitated~~
2212 ~~by the duties established in this chapter. For purposes of the performance of these duties, the~~
2213 ~~individuals shall be directly responsible to the Chairman of the Group.~~

2214 ~~§ 45.1-285.5. Duties of the Group.~~

2215 ~~The Group shall perform the following duties:~~

2216 ~~A. Review, comment on and approve any proposals submitted by persons for studying~~
2217 ~~the effects of uranium development activity at specific sites in Pittsylvania County to~~

2218 ~~determine whether such study proposals address each of the statutory criteria established by §~~
2219 ~~45.1-285.6 of this article.~~

2220 ~~B. Evaluate, in light of the statutory criteria established by § 45.1-285.6 of this Code~~
2221 ~~and with the aid of independent consultants, and participation by the public, if appropriate,~~
2222 ~~any study submitted by private parties which analyzes the effects of uranium development~~
2223 ~~activity at specific sites in Pittsylvania County.~~

2224 ~~C. Based on studies that analyze each of the statutory criteria established by § 45.1-~~
2225 ~~285.6 of this Code submitted pursuant to a study plan filed in accordance with § 45.1-285.9,~~
2226 ~~present a report to the Commission by December 1, 1983. The report shall:~~

2227 ~~1. Explain with respect to each specific site in Pittsylvania County that has been~~
2228 ~~subject to a study meeting the criteria of this chapter: the costs and benefits of permitting~~
2229 ~~uranium development at the specific site, including any beneficial or adverse effects that~~
2230 ~~cannot be quantified and a description of the persons or classes of persons likely to receive the~~
2231 ~~benefits or bear the costs; the reasonable alternatives for achieving the identified benefits of~~
2232 ~~the uranium development activity, including an alternative siting analysis; and~~

2233 ~~2. In light of the results of site specific studies under this chapter, discuss the~~
2234 ~~advantages and disadvantages of enacting legislation under which permits could be issued for~~
2235 ~~uranium mining and milling in Pittsylvania County or at specified locations therein; and~~

2236 ~~3. Include draft legislation for consideration of the Commission, if appropriate,~~
2237 ~~regulating the mining and milling of uranium in Pittsylvania County and reasonably assuring~~
2238 ~~that appropriate planning, design, operating, decommissioning and post-closure procedures~~
2239 ~~are followed to minimize adequately any adverse environmental or human health~~
2240 ~~consequences; and~~

2241 ~~4. Discuss the advantages and disadvantages of seeking agreement with the federal~~
2242 ~~government providing for discontinuance of the federal government's responsibility for~~
2243 ~~regulating uranium milling and tailings management. In making this recommendation the~~

2244 ~~Group shall assess the adequacy of existing federal and state health, safety and environmental~~
2245 ~~standards pertaining to uranium development activity; and~~

2246 ~~5. Discuss the Group's consultation with federal and state agencies, including the~~
2247 ~~United States Nuclear Regulatory Commission, having expertise relevant to regulating~~
2248 ~~uranium development activity; and~~

2249 ~~6. The report of the Group to the Commission may include specific recommendations~~
2250 ~~if they are deemed appropriate, or~~

2251 ~~7. Advise the Commission that additional studies or a continuation of existing studies~~
2252 ~~are necessary in order to adequately report under paragraphs 1-6 of this section.~~

2253 ~~§ 45.1-285.6. Study criteria.~~

2254 ~~The Group shall base its analysis of the costs and benefits of permitting uranium~~
2255 ~~development at specific sites in Pittsylvania County on the criteria set out in this section. Any~~
2256 ~~study submitted to the Group pursuant to this chapter shall address each of these criteria. The~~
2257 ~~Group shall ensure that it shall receive information, from whatever sources, adequate to~~
2258 ~~analyze each of the criteria:~~

2259 ~~A. Site suitability including geological, hydrological, hydrogeological, seismological,~~
2260 ~~biological and meteorological characteristics, demography, and current uses of the land in the~~
2261 ~~vicinity of the site.~~

2262 ~~B. Analysis of all pathways by which radionuclides and other contaminants may enter~~
2263 ~~or affect ground waters, receiving surface waters, and the air~~

2264 ~~and the biota and be transmitted to critical receptors as a result of mining, milling and~~
2265 ~~tailings management at the specific site; the estimated cumulative dose to such critical~~
2266 ~~receptors; and available data on the baseline radioactive, chemical and physical characteristics~~
2267 ~~of the ground waters, receiving surface waters, air and the biota identified in the pathway~~
2268 ~~analysis as potentially subject to increased levels of contamination.~~

2269 ~~C. Plans for monitoring changes from the baseline radioactive and chemical~~
2270 ~~characteristics of the ground water, receiving surface waters, air and the biota identified in the~~
2271 ~~pathway analysis as potentially subject to increased levels of contamination.~~

2272 ~~D. The qualifications of the potential applicant or applicants to conduct uranium~~
2273 ~~development activity at the specific site, including technical and financial qualifications and~~
2274 ~~past operating experience and practices.~~

2275 ~~E. The specific nature of the proposed mining, milling and tailings management~~
2276 ~~activity, including:~~

2277 ~~1. With respect to mining activity, the type of mining operation and the equipment to~~
2278 ~~be used; the anticipated duration of the mining operation and the number of acres to be~~
2279 ~~affected; a detailed map of the site; the result of test borings or core samplings from the site;~~
2280 ~~the amount of soil and waste rock to be stockpiled; plans for surface water and ground water~~
2281 ~~drainage and diversion facilities; plans for domestic and mine water and waste handling~~
2282 ~~systems; the quantity and quality of atmospheric releases and the methods for controlling such~~
2283 ~~releases; and plans for protecting the occupational health and safety of employees working in~~
2284 ~~the mines.~~

2285 ~~2. With respect to milling activity, the capacity of the mill; the processes to be used in~~
2286 ~~milling and ore extraction; the reagents and processing materials to be used; flow diagrams~~
2287 ~~and materials balance for raw materials, reagents, processing materials, finished products and~~
2288 ~~by products for the various process units; the quantity of water to be used and the water~~
2289 ~~balance in the plant; the quantity and quality of liquid and solid wastes to be produced; the~~
2290 ~~quantity and quality of atmospheric releases and the methods for controlling such releases; the~~
2291 ~~methods for monitoring emissions from the processing facilities; the method for conveying~~
2292 ~~tailings and wastewater from the mill; and plans for protecting the occupational health and~~
2293 ~~safety of employees working in the mill.~~

2294 ~~3. With respect to tailings management, the quantity and characteristics of the tailings;~~
2295 ~~the method of disposal; the size of the tailings disposal area; the method of liquid effluent~~

2296 ~~treatment; the hydrology, hydrogeology, and surficial and bedrock geology of the disposal~~
2297 ~~area; stability analysis for all embankments; seepage management techniques; seepage and~~
2298 ~~ground water monitoring facilities; treatment systems for the removal of solids, radionuclides,~~
2299 ~~heavy metals and other substances from wastewaters; systems for diversion of fresh water~~
2300 ~~away from the tailings management area; and the quantity and quality of atmospheric releases~~
2301 ~~and the methods for controlling such releases.~~

2302 ~~F. Plans, during active operations, transition and post closure phases, for~~
2303 ~~decommissioning, reclamation and securing of the mining, milling and tailings management~~
2304 ~~facilities, including any research required to demonstrate the effectiveness of such plans.~~

2305 ~~G. Analysis of potential accidents in connection with the proposed mining, milling,~~
2306 ~~tailings management, decommissioning and post closure activity and contingency plans for~~
2307 ~~responding to such accidents.~~

2308 ~~H. The extent of radiological, or nonradiological impacts resulting from mining,~~
2309 ~~milling, tailings management, decommissioning and post closure activities with particular~~
2310 ~~attention to the following possible effects:~~

2311 ~~1. The contamination of local ground water and surface water by discharges from~~
2312 ~~mining, milling and tailings management, and the loss of such waters as suitable water supply~~
2313 ~~sources, including the extent to which applicable regulatory standards may be exceeded.~~

2314 ~~2. The reduction or loss of yields from wells due to mine dewatering, or other mining,~~
2315 ~~milling or tailings management activities, and the subsequent drawdown of the surrounding~~
2316 ~~water table.~~

2317 ~~3. The loss of use of local ground water and surface water sources resulting from the~~
2318 ~~migration of radionuclides and other contaminants from the former mining or tailings area~~
2319 ~~after decommissioning, including the extent to which applicable regulatory standards may be~~
2320 ~~exceeded.~~

2321 ~~4. The need to avoid full-time human residency within a certain radius of the property~~
2322 ~~during operations due to emission of radon, other radionuclides, or dust from mining, milling~~
2323 ~~and tailings management.~~

2324 ~~5. The permanent preclusion of the tailings management area after decommissioning~~
2325 ~~from certain land use activities.~~

2326 ~~6. Any other effects that would impair use of the local environment during operations~~
2327 ~~or after decommissioning.~~

2328 ~~I. The socioeconomic effects of the uranium development activity at the specific site~~
2329 ~~and its associated regulation on the local community and the Commonwealth.~~

2330 ~~J. A description of the costs and benefits of allowing the proposed uranium~~
2331 ~~development activity to proceed at the specific site, including any beneficial or adverse effects~~
2332 ~~that cannot be quantified and a description of the persons or groups of persons likely to~~
2333 ~~receive the benefits or bear the costs; a description of reasonable alternatives for achieving the~~
2334 ~~identified benefits of the uranium development activity, including an alternative siting~~
2335 ~~analysis; and an explanation of how, if at all, the benefits of uranium development activity at~~
2336 ~~the specific site are likely to justify the costs and adverse effects and an explanation of why~~
2337 ~~conducting uranium development activity at that site is preferable to conducting it at~~
2338 ~~alternative sites.~~

2339 ~~§ 45.1-285.7. Additional factors.~~

2340 ~~The Group is authorized to specify criteria in addition to those enumerated in~~
2341 ~~paragraphs A through J of § 45.1-285.6 of this Code as it deems necessary to formulate its~~
2342 ~~report to the Commission.~~

2343 ~~§ 45.1-285.8. Recommendations to the General Assembly.~~

2344 ~~Upon the receipt of the report of the Group, the Commission shall hold one or more~~
2345 ~~public hearings in Pittsylvania County, Halifax County and the City of Richmond and shall~~
2346 ~~thereafter report to the General Assembly with specific recommendations concerning the~~

2347 ~~subject matter of the report, together with specific draft legislation implementing those~~
2348 ~~recommendations, if appropriate.~~

2349 ~~§ 45.1-285.9. Study filing procedure.~~

2350 ~~Any person who intends to file a study plan with the Group pursuant to this chapter~~
2351 ~~must submit, as a condition of filing such a study, the following items to the Group within~~
2352 ~~thirty days of the enactment of this act or at such later time: (i) notice of intent to file a study~~
2353 ~~and (ii) a schedule for completing and filing the study.~~

2354 ~~§ 45.1-285.10. Applicability of studies under this chapter to any future licensing~~
2355 ~~proceedings.~~

2356 ~~In the event that a procedure for licensing uranium development activity in~~
2357 ~~Pittsylvania County is established by statute or regulation, the information in any study~~
2358 ~~submitted to the Group pursuant to this chapter may be used in part or in full to meet any~~
2359 ~~requirement of the licensing procedure which such information, in the judgment of any~~
2360 ~~agency responsible for interpreting such requirement, is sufficient to fulfill. However, no~~
2361 ~~finding or conclusion of any such study shall be binding on any agency with respect to any~~
2362 ~~issue in any future licensing proceeding.~~

2363 **Drafting note: Existing §§ 45.1-285.1 through 45.1-285.10, enacted by Acts 1983,**
2364 **c. 3, are currently not set out. The sections are deleted as unnecessary because the**
2365 **Uranium Administrative Group created by the article was required by § 45.1-285.5 to**
2366 **submit its report by December 1, 1983.**

2367 #