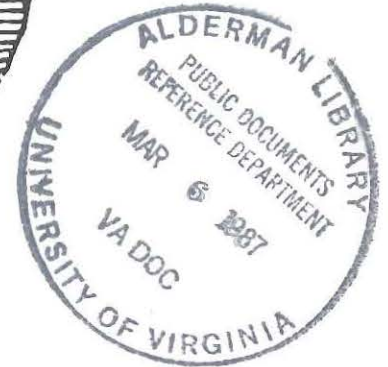
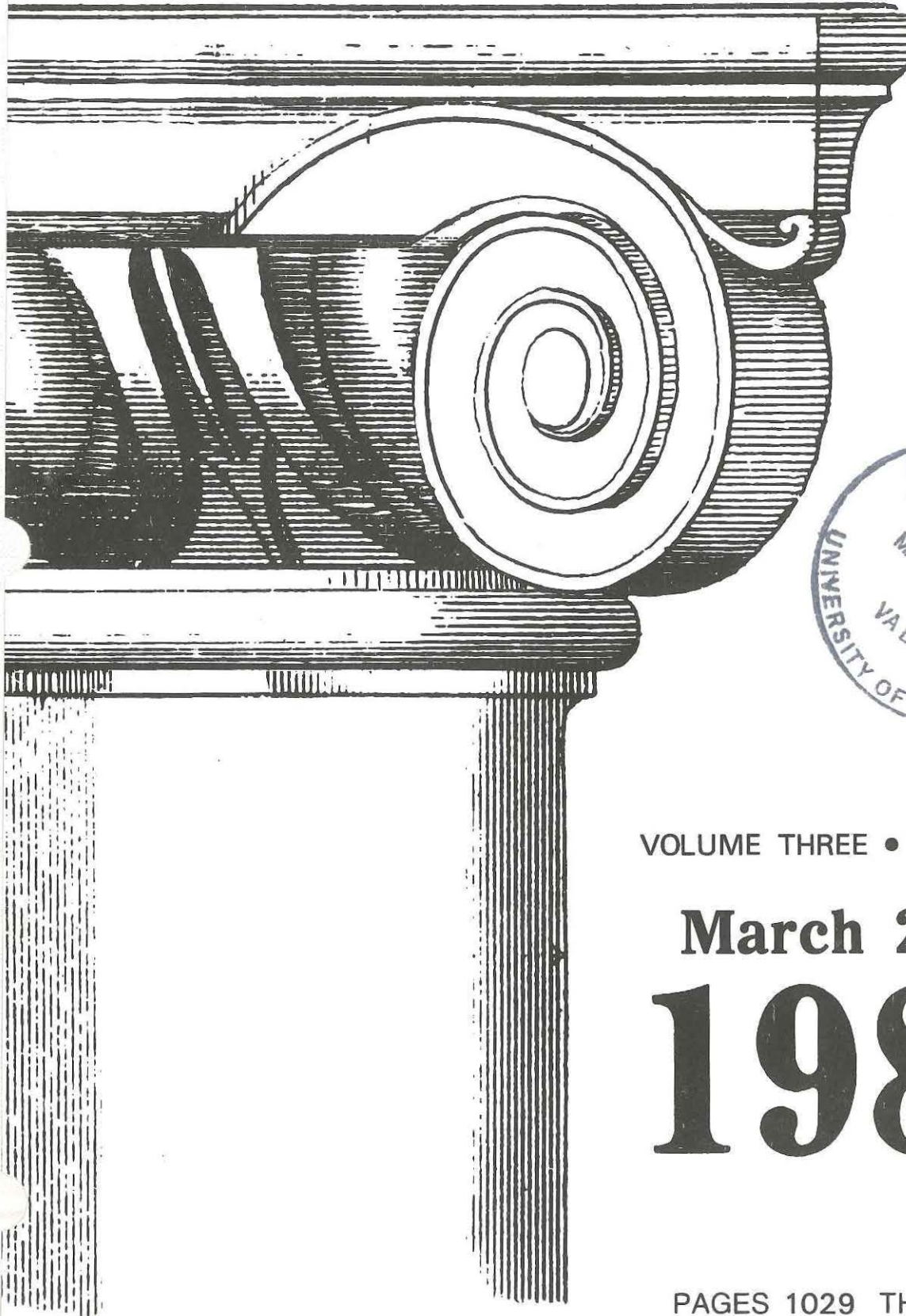


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# THE VIRGINIA REGISTER

OF REGULATIONS

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March 2, 1987

# 1987

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# INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

## VIRGINIA REGISTER

The *Virginia Register* is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative.

The *Virginia Register* has several functions. The full text of all regulations, both as proposed and as finally adopted or changed by amendment are required by law to be published in the *Virginia Register of Regulations*.

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the *Virginia Tax Bulletin* issued monthly by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations.

Under the provisions of the Administrative Process Act, the Registrar has the right to publish a summary, rather than the full text, of a regulation which is considered to be too lengthy. In such case, the full text of the regulation will be available for public inspection at the office of the Registrar and at the office of the promulgating agency.

Following publication of the proposal in the *Virginia Register*, sixty days must elapse before the agency may take action on the proposal.

During this time, the Governor and the General Assembly will review the proposed regulations. The Governor will transmit his comments on the regulations to the Registrar and the agency and such comments will be published in the *Virginia Register*.

Upon receipt of the Governor's comment on a proposed regulation, the agency (i) may adopt the proposed regulation, if the Governor has no objection to the regulation; (ii) may modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions, or (iii) may adopt the regulation without changes despite the Governor's recommendations for change.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the *Virginia Registrar* and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative Committee, and the Governor.

When final action is taken, the promulgating agency must again publish the text of the regulation, as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative

objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before final action is taken.

## EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited in time and cannot exceed a twelve-months duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

## CITATION TO THE VIRGINIA REGISTER

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**Staff of the Virginia Register:** Joan W. Smith, Registrar of Regulations; Ann M. Brown, Deputy Registrar of Regulations.

VIRGINIA REGISTER OF REGULATIONS

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	Volume III - 1986-87	
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Dec. 31		Jan. 19
Jan. 14		Feb. 2
Jan. 28		Feb. 16
Feb. 11		Mar. 2
Feb. 25		Mar. 16
Index - 2nd Issue, Vol. III		
Mar. 11		Mar. 30
Mar. 25		Apr. 13
Apr. 8		Apr. 27
Apr. 22		May 11
May 6		May 25
May 20		June 8
June 3		June 22
Index - 3rd Issue, Vol. III		
June 17		July 6
July 1		July 20
July 15		Aug. 3
July 29		Aug. 17
Aug. 12		Aug. 31
Aug. 26		Sept. 14
Sept. 9		Sept. 28
Final Index - Vol. III		
	Volume IV - 1987-88	
Sept. 23		Oct. 12
Oct. 7		Oct. 26
Oct. 21		Nov. 9
Nov. 4		Nov. 23
Nov. 18		Dec. 7
Dec. 2		Dec. 21
Dec. 16		Jan. 4, 1988

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# PROPOSED REGULATIONS

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For information concerning Proposed Regulations, see information page.

## Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text. Language which has been stricken indicates proposed text for deletion.

## DEPARTMENT OF WASTE MANAGEMENT

### Title of Regulation: VR 672-20-1. Financial Assurance Regulations for Solid Waste Facilities.

Statutory Authority: § 10-266 of the Code of Virginia.

Public Hearing Date: March 31, 1987 - 10 a.m.  
(See Calendar of Events section for additional information)

### Summary:

These regulations establish the financial assurance requirements for privately owned or operated nonhazardous solid waste disposal facilities. The regulations specifically exempt facilities owned or operated by local, state, or federal agencies.

Alternate means to guarantee financial assurance for closure and post-closure of facilities are specified as a condition of permit application for new facilities. Existing facilities are required to comply with the requirements on the effective date.

The regulations require the maintenance of liability coverage for sudden or nonsudden incidents. Alternative means of providing coverage is included. Applying a financial test is authorized as an alternative to appropriate insurance coverage. Limited exemptions are included.

These regulations will supersede VR 672-20-1 Emergency Financial Assurance Regulations for Solid Waste Facilities presently in effect.

VR 672-20-1. Financial Assurance Regulations for Solid Waste Facilities.

### PART I. DEFINITIONS.

#### § 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the content clearly indicates otherwise:

"Abandoned facility" means any inactive solid waste management facility which no longer receives solid waste on a regular basis and which has not been properly closed in accordance with plans approved by the department.

"Ash" means waste material produced from an

incineration process or any combustion. Ash types include fly ash, bottom ash, and incinerator residue.

"Bottom ash" means ash or slag remaining in the combustion unit after combustion.

"Closed facility" means a solid waste management facility which has been properly terminated in accord with an approved facility closure plan on file with the Department of Waste Management and complying with all applicable regulations and requirements concerning its stabilization.

"Closure" means the act of securing and stabilizing a solid waste management facility pursuant to the requirements of these regulations.

"Commercial waste" means all solid waste generated by establishments engaged in business operations other than manufacturing. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants, shopping centers, and similar commercial facilities.

"Construction/demolition/debris landfill" means a solid waste disposal area used for the controlled disposal of construction wastes, demolition wastes, and debris wastes, wood wastes, including carboard, brush, and tree stumps, or nondecomposable inert solids which are insoluble in water.

"Construction waste" means the waste building material refuse and other largely inert solid waste resulting from construction, remodeling, and repair operations on houses, commercial buildings, pavements, and other structures. Construction waste includes lumber, wire, sheetrock, broken brick, shingles, glass, pipes, asphalt, concrete and other nonhazardous, nonsoluble unwanted or unused construction material. Paints, coatings, asbestos and any liquid, compressed gases, or semi-liquids are not construction wastes. A mixture of construction waste with any amount of other type of solid waste will cause it to be classified as other than construction waste.

"Corrective action" means all actions necessary to mitigate the public health or environmental threat from a release to the environment of pollutants from an operating or closed solid waste disposal facility and to restore the environmental conditions as required.

"Cover material" means soil or other approved material which is used to blanket solid waste in a landfill.

"Debris waste" means inert solid wastes such as brick

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or block, wood chips, tree stumps, or brush.

"Demolition waste" means solid waste which is largely inert, resulting from the demolition or raising of buildings, roads, and other man-made structures. Asbestos waste is not demolition waste.

"Disposal" means the intentional discharge, deposition, injection, dumping, spilling, leaking or placement of any solid waste into or on land or water so that such solid waste or any constituent thereof may enter the environment (i.e., air, soil, surface water or groundwater) or to otherwise discard.

"Facility" means a solid waste management processing or disposal site, or resource recovery site, including any and all contiguous land structures and other appurtenances and improvements thereon used for solid waste disposal and associated activities. Facility types include sanitary landfills, construction/demolition/debris landfills, inert waste landfills, industrial waste landfills, resource recovery systems, transfer stations, incinerators and composting operations. A facility may consist of more than one operational unit.

"Fly ash" means ash particulate collected from air pollution attenuation devices on combustion units, such as those that burn fossil fuels or incinerate solid waste.

"Groundwater" means any water, except capillary moisture beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir or other body of surface water within the boundaries of this state.

"Hazardous waste" means a "hazardous waste" as defined by the Virginia Waste Management Board.

"Incineration" means the controlled combustion of solid waste in an enclosed device.

"Incinerator" means a commercial furnace or other combustion unit which is an enclosed device using controlled flame combustion for solid waste with a design capacity for greater than 20 tons of solid waste per day and is not classified as a boiler or industrial furnace for other than solid waste.

"Incinerator residue" means the resulting ash product from the incineration of solid waste.

"Industrial solid waste" means all solid waste resulting from a manufacturing and industrial processes which are not suitable for discharge to a sanitary sewer or treatment in a publicly owned sewage treatment plant. Industrial solid wastes may include: mining wastes from the extraction, beneficiation, and processing of ores and minerals unless those materials are returned to the mine site; fly ash; bottom ash; slag; fire gas emission control wastes generated primarily from the combustion of coal or other fossil fuels; cement kiln dust; and asbestos.

"Industrial waste landfill" means a sanitary landfill facility for the disposal of a specific industrial waste or a waste which is a by-product of a production process.

"Infectious waste" means solid wastes which are generated by health care facilities, laboratories, and research facilities and are contaminated with pathogenic organisms and may cause infectious disease in exposed persons.

"Institutional waste" means all solid waste emanating from institutions such as, but not limited to, hospitals, nursing homes, orphanages, and either public or private schools. It can include infectious waste from health care facilities and research facilities that has not been classified as a hazardous waste by the Virginia Hazardous Waste Regulations (VR 355-22-2.1).

"Landfill" means a sanitary landfill, industrial waste landfill, construction/demolition/debris landfill, or an impoundment closed in-situ as an industrial waste landfill.

"Leachate" means water or other liquid that has percolated through or originated in solid waste and contained, dissolved, suspended, or miscible components extracted from the solid waste. Leachate and any material with which it is mixed is solid waste; except that leachate that is pumped from a collection containment facility for transportation to disposal in an off-site facility is septage, and leachate discharged into a wastewater collection system is industrial wastewater.

"Monitoring" means all procedures and techniques used to systematically analyze, inspect, and collect data on operational parameters of the facility or on the quality of air, groundwater, surface water, and soil.

"Monitoring wells" means a well point below the uppermost or regional groundwater table for the purpose of obtaining periodic water samples for qualitative analysis.

"Nonhazardous solid waste" means solid waste that is not classified as hazardous waste by the Virginia Hazardous Waste Management Regulations (VR 355-22-2.1).

"Operator" means the person responsible for the overall operation and site management of a solid waste management facility.

"Owner" means the person, corporation or other legal entity which legally possesses the land on which a solid waste management facility is located.

"Permit" means the written permission of the executive director to own, operate, or construct a solid waste management facility.

"Person" means an individual, trust, firm, joint stock company, corporation, partnership, association, state, municipality, commission, political subdivision of a state,

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or any interstate body, or federal government agency.

"Sanitary landfill" means a land disposal site employing an engineered, constructed and controlled burial method of disposal of solid waste to minimize environmental and health nuisances and hazards. The methods include spreading the solid waste in thin layers, compacting the solid waste to the smallest practical volume, confining the solid waste to the smallest practical area, and applying suitable cover material at the end of each operating day or at such more frequent intervals as may be necessary.

"Site" means the land area upon which a facility or activity is physically located or conducted.

"Solid waste" means any discarded material, garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including but not limited to solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigating return flow or industrial discharges which are point sources subject to permits under § 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear or by-product material as defined by The Atomic Energy Act of 1954, as amended (68 Stat. 923). Solid waste can include construction waste, commercial waste, debris waste, industrial waste, and institutional waste except where excluded as a hazardous waste.

"Solid waste disposal facility" means any sanitary landfill facility, construction/demolition/debris landfill facility, industrial waste landfill, resource recovery facility, incinerator and composting facility. A wastewater treatment plant is not a solid waste facility.

## PART II. GENERAL INFORMATION AND LEGISLATIVE AUTHORITY.

### § 2.1. Authority for regulations.

Section 10-273 of the Code of Virginia authorizes the Virginia Waste Management Board to exercise general supervision and control over solid waste management activities in this Commonwealth and promulgate regulations for financial responsibility by privately owned solid waste disposal facilities in the event of abandonment. Authority to adopt regulations is established under the Administrative Process Act (§ 9-6.14:4.1.(C)(5)) of the Code of Virginia.

### § 2.2. Purpose of regulations.

A. The purpose of these regulations is to assure that owners and operators of nonhazardous solid waste disposal facilities are financially responsible for the closure and post-closure of their facilities and can provide financial assurance for liability which may result from any sudden

or nonsudden accidental occurrences.

B. These regulations establish standards and procedures for the issuance and continuation of permits to construct or operate solid waste management facilities.

### § 2.3. Petition for regulation revisions.

The Department of Waste Management will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision of these regulations.

### § 2.4. Applicability of regulations.

A. These regulations apply to all persons who own, operate, or allow solid waste disposal facilities to be operated on their property in the Commonwealth except counties, cities, and towns or federal and state agencies.

B. Exemptions to these regulations include:

1. Composting of sewage sludge at the sewage treatment plant of generation and not involving other solid wastes.

2. Land application of wastes regulated under Virginia Sewerage Regulations or the State Water Control Board as a part of the National Pollution Discharge Elimination System (NPDES).

3. The disposal of household garbage disposed of on the site of its generation.

4. Solid waste generated in the normal operation of a farm and related to the production of crops, to the extent those solid wastes are managed on the site of their generation.

5. Management of hazardous waste as defined and controlled by the Commonwealth of Virginia, Virginia Waste Management Board, Hazardous Waste Management Regulations (VR 355-22-2.1).

C. Management of solid wastes which are exempted from the Virginia Hazardous Waste Management Regulations (VR 355-22-2.1) are subject to these regulations unless exempted herein.

### § 2.5. Enforcement and appeal procedures; offenses and penalties.

A. All administrative enforcement actions and appeals relative to these regulations shall be governed by the Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

B. Orders.

The executive director is authorized to issue orders to require any person to comply with these regulations as

stated or to require such steps he deems necessary to bring about compliance. Orders will be issued in written form through certified mail and will be issued in accord with provisions of the Administrative Process Act.

## § 2.6. Suspensions and revocations.

A. If the executive director believes that the public health or the environment is or may be threatened by a solid waste management facility and that the threat is imminent, he may suspend all or part of the operation of the facility for such time as he shall prescribe. The suspension shall be made by written notice to the operator. Such a suspension shall constitute an order. An administrative hearing on the suspension will be held at the request of the owner/operator. A request for a hearing may, at the request of the executive director, suspend operation of the suspension order.

B. The executive director may revoke or amend any permit for cause as set in § 10-272 of the Code of Virginia. Failure to provide or maintain adequate financial assurance in accordance with these regulations shall be a basis for revocation of such facility solid waste permit and site closure.

## PART III. CLOSURE AND POST-CLOSURE FINANCIAL RESPONSIBILITY AND LIABILITY COVERAGE.

### § 3.1. General purpose and scope.

A. Permits for nonhazardous solid waste disposal facilities shall require closure, and post-closure financial assurance and liability insurance plans as prescribed in this part for the purpose of assuring that owners and operators of these facilities are financially responsible for protection of public health and the environment.

B. This part contains general provisions governing closure and post-closure care for solid waste disposal facilities. These provisions may be supplemented by more specific closure and post-closure care requirements. Together with the cost estimate provisions, these provisions form the basis of the financial assurance requirements and liability insurance limits included in this part.

### § 3.2. Closure and post-closure care requirements.

#### A. Notification.

1. An owner or operator intending to close a solid waste disposal facility shall notify the department of the intention to do so at least 180 days prior to the anticipated date for initiating closure. Simultaneous notice shall be made to the governing body of each host locality and adjacent property owners.

2. The owner or operator shall post one sign notifying all persons of the closing and prohibition against further receipt of waste materials. Further, suitable

barriers shall be installed at former accesses to prevent new waste from being deposited.

#### B. Closure and post-closure standards.

1. Closure and post-closure care shall occur in accord with approved plans. A closure plan and a post-closure plan shall be submitted with the permit application. The holder of the permit shall submit a proposed modified closure plan or post-closure plan to the department for review and approval as such modifications become necessary during the life of the facility.

2. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance; and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the groundwater, surface water, or to the atmosphere. The post-closure period shall continue for 10 years after the date of completing closure of the solid waste disposal facility or as the department decides is sufficient to protect human health and the environment.

#### C. Inspection.

1. The department shall inspect all solid waste management facilities that have been closed to determine if the closing is complete and adequate in accordance with the approved plan not more than 30 days after being notified by the owner or operator that closure has been completed. The department shall notify the owner of a closed facility in writing not more than 30 days after the inspection of its findings.

a. If the closure is not satisfactory, it shall order necessary construction or such other steps as may be appropriate to bring unsatisfactory sites into compliance with the closure requirements.

b. If the closure is satisfactory, the owner shall be advised in writing.

2. Notification by the department that the closure is satisfactory does not relieve the operator of responsibility for corrective action in accordance with regulations of the department to prevent or abate problems caused by the facility.

### § 3.3. Financial responsibility.

#### A. General.

1. In order to assure that the costs associated with protecting the public health and safety from the consequences of an abandonment or a failure to properly execute closure or post-closure care of a nonhazardous solid waste disposal facility are to be



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recovered from the owner or operator, the owner or operator of such a facility shall obtain one, or a combination of the financial responsibility instruments described in this section. Evidence of financial responsibility shall be in one or a combination of the following forms: a surety bond; a trust fund maintained for the benefit of the Department of Waste Management; a letter of credit; a deposit of acceptable collateral with the executive director; with the financial test and corporate guarantee or such other mechanisms as the board may deem appropriate. Financial responsibility instruments for site closure shall be in the amount calculated as the cost estimate for facility closure using the procedures set forth in §§ 3.4. and 3.5 of these regulations. The selected financial responsibility instrument or instruments shall be filed with the Department of Waste Management as part of the permit application procedures and prior to the issuance of an operating permit. The director may reject the proposed evidence of financial responsibility if the mechanism(s) submitted does not adequately assure that funds will be available for closure and post-closure care. The owner shall be notified in writing within 45 days of receipt of the financial assurance mechanism(s) of the decision to accept or reject the proposed evidence.

2. To further protect the public health and safety, owners or operators of nonhazardous solid waste disposal facilities shall obtain liability coverage for sudden and nonsudden accidental occurrences using the procedures set forth in § 3.6. of these regulations.

## B. Applicability.

1. The requirements for appropriate financial responsibility for solid nonhazardous waste disposal facilities as contained in these regulations shall apply to all private owners or operators of such existing and future facilities throughout the Commonwealth of Virginia; no state, local or other governmental agency is required to comply with these provisions on financial responsibility.

2. Any funds forfeited to the state pursuant to a financial responsibility plan required by these regulations shall be paid over to the county, city, or town in which the abandoned facility is located if such funds are expended by the county, city, or town only as necessary to restore and maintain such facility in a safe condition.

## § 3.4. Cost estimates.

### A. Cost estimate for facility closure.

1. In submitting a closure plan as required by these regulations, the owner or operator of a solid nonhazardous waste disposal facility shall include therein a written estimate of the cost of closing the facility. The estimated closing cost shall be jointly

agreed upon by the Department of Waste Management and the owner or operator filing the permit application but in no case shall the estimated closing cost be less than:

a. One thousand dollars for each acre of a landfill ultimately to be utilized at the site for actual waste disposal purposes.

b. Five thousand dollars for each acre used for composting of solid waste and for on site storage.

c. Ten thousand dollars for each acre or fraction thereof used at an incinerator for the collection and storage of solid waste and for incinerator residue.

2. If no mutually agreed to estimate is arrived at, the estimate will be determined by the department.

3. The estimated closing cost shall be based on the work required for a third party contractor to effect proper closure at the most expensive point in the life of the facility. Those factors to be considered in estimating the closing cost shall include:

a. The size and topography of the site.

b. The daily and weekly tonnage of waste to be received at the site.

c. Availability of cover and fill material needed for site grading.

d. The type of waste to be received at the site.

e. Landfill method and sequential landfill plan.

f. The location of the site and the character of the surrounding area.

g. Requirements for surface drainage.

h. Leachate collection and treatment system.

i. Environmental quality monitoring systems.

j. Structures and other improvements to be dismantled and removed.

k. Site storage capacity for solid waste, incinerator residue, and compost material.

l. Off-site disposal requirements.

m. An appropriate forecasted average rate of inflation over the period of the life of the site.

n. Vector control requirements.

3. If the executive director has reason to believe that a previously submitted closure cost estimate is no

longer adequate, he may require that the operator submit a revised estimate. The operator shall submit the revised estimate within 90 days following the receipt of a notice of the requirement by the executive director. When the revised estimates are approved, the owner/operator shall submit revised financial assurance for the revised closure costs.

## B. Cost estimate for facility post-closure.

1. In submitting a closure plan as required by these regulations, the owner or operator of a nonhazardous solid waste disposal facility shall include therein a written estimate of the cost of post-closure care, monitoring, maintenance, and corrective action for a privately owned or operated facility located in the Commonwealth of Virginia. Unless on site disposal is planned or required, an incinerator, resource recovery facility, and compost facility will not be required to include a post-closure cost estimate in its closure plan. The estimated post-closure cost shall be jointly agreed upon by the Department of Waste Management and the owner or operator filing the permit application.

2. Those factors to be considered in estimating post-closure care costs shall include:

- a. The size and topography of the site.
- b. The type and quantity of waste received.
- c. Landfill method and sequential landfill plan.
- d. The potential for significant leachate production and the possibility of contaminating water supplies.
- e. Environmental quality monitoring systems.
- f. Soil conditions.
- g. An appropriate forecasted coverage rate of inflation over the period of the life of the site.
- h. The location of the site and the character of the surrounding area.

3. Estimated costs of post-closure activities shall be determined on a case-by-case basis. If during a disposal site's active waste collection life a substantial change occurs in the operations of the facility or in the nature and development of the surrounding area, the executive director may order the filing of a revised estimate of post-closure costs by the owner or operator, which shall be submitted within 90 days following the receipt of notice of the requirement by the executive director. When the revised estimates are approved, the owner/operator shall submit revised financial assurance for the revised post-closure costs.

§ 3.5. Financial assurance for facility closure and post-closure.

## A. General.

For each nonhazardous solid waste facility for which a permit is applied, a separate financial assurance mechanism shall be provided for closure and post-closure activities. Determination of the financial responsibility requirements for post-closure care shall be made by the department when the complete closure plan, closure financial responsibility mechanisms, and the permit application are evaluated.

## B. Financial mechanisms.

Financial responsibility may be demonstrated by one or a combination of the following financial instruments executed in the amount calculated as the estimated closing cost in accordance with § 3.4. of these regulations. Financial instruments shall substantially comply with the language shown in the cited appendices.

1. A closure trust fund maintained by the owner or operator of a disposal site for the benefit of the Department of Waste Management (see Appendices 3.1 and 3.2).

2. A surety bond guaranteeing performance of closure, with the disposal site owner or operator as the principal and the Commonwealth of Virginia as the obligee, issued for the life of the disposal site or until closure is completed, written with a penal sum equal to the estimated closure cost amount (see Appendices 3.3 and 3.4).

3. A letter of credit from a bank or other financial institution regulated by an agency of the Commonwealth of Virginia written in the amount of the estimated closure cost (see Appendices 3.5 and 3.6).

4. A deposit of acceptable collateral, as determined by the executive director, with the Commonwealth of Virginia with market value at least equal to the amount of the estimated closure cost (see Appendix 3.7).

5. A financial test and corporate guarantee as determined appropriate by the executive director in accordance with Appendices 3.8, 3.9, and 3.10.

6. Other individual or group mechanisms that the department may deem appropriate.

## C. Multiple financial mechanisms.

1. An owner or operator may satisfy the requirements of this section by establishing more than one financial mechanism. These mechanisms are limited to trust funds, performance bonds, letters of credit, and deposits of acceptable collateral. The mechanisms must be as specified in Appendices 3.1 through 3.7 except that it is the combination of mechanisms rather

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than each single mechanism, which must provide financial assurance for an amount at least equal to the closure cost estimate.

2. The executive director may invoke use of any or all of the mechanisms, in accordance with the requirements of Appendices 3.1 through 3.7.

D. Release of the owner or operator from the requirements of this section.

Within 60 days after receiving certification from the owner or operator that closure has been accomplished in accordance with the closure plan and the provisions of these regulations, the executive director shall verify that proper closure has occurred. Unless the executive director has reason to believe that closure has not been in accordance with the closure plan, he shall notify the owner or operator in writing that he is no longer required to maintain financial assurance for closure of the particular facility. Such notice shall release the owner or operator only from the requirements for financial assurance for closure of the facility; it does not release him from legal responsibility for meeting the closure or post-closure standards or from liability for any sudden or nonsudden accidents occurring either before, during, or after closure of the site. If no written notice of termination of financial assurance requirements or failure to properly perform closure is received by the owner or operator within 60 days after certifying proper closure, the owner or operator may petition the executive director for an immediate decision, in which case the executive director shall respond within 10 days after receipt of such petition.

E. Incapacity of institution issuing financial responsibility instruments.

An owner or operator who fulfills the requirements of § 3.5. by obtaining a letter of credit, a surety bond, or by depositing negotiable collateral will be deemed to be without the required financial assurance in the event of bankruptcy, insolvency, or a suspension or revocation of the license or charter of the issuing institution. The owner or operator shall establish other financial assurance within 60 days of such event.

## § 3.6. Liability insurance requirements.

A. Each owner and operator of a solid waste disposal facility shall secure and maintain liability coverage for claims arising from injuries to other parties, including bodily injury or damage to property of others. This coverage shall be in the form of a financial test for liability coverage (see Appendix 3.8) an insurance policy, or other financial instrument(s) as authorized in subsection G of § 3.6. These forms of coverage shall be of the types and in not less than the amounts listed in subsections D and E below. Each person securing a permit shall file evidence of satisfactory insurance coverage when the department issues the permit and before any site

development work begins.

B. The liability insurance shall be issued by an insurance company authorized to do business in the Commonwealth of Virginia. The liability insurance shall be subject to the insurer's policy provisions filed with and approved by the executive director.

C. A certificate or memorandum of insurance shall be furnished to the department for its approval showing specifically the coverage and limits, together with the name of the insurance company and the insurance agent. If any of the coverages set forth on these certificates or memoranda of insurance are reduced, cancelled, terminated, or nonrenewed, the permittee or, insurance company shall, not less than 30 days before the effective date of the action, furnish the department with appropriate notices of that action. Timely proof of periodic renewal shall be furnished to the department by submittal of a certificate or memorandum of insurance before the expiration date of the policy.

D. Each owner or operator of a solid waste disposal facility shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility. The minimum liability limits for sudden accidental occurrences shall be for the annual aggregate of \$100,000 for all landfills, incinerators, resource recovery facilities and compost facilities.

E. If the executive director determines at any time that an owner's or operator's required liability limits are not consistent with the degree and duration of present or potential risks associated with the disposal facility, the executive director may increase the operator's limit as may be necessary to protect human health and the environment. An insurance policy shall have not more than a \$5,000 deductible for each occurrence. The executive director may authorize an increase in the deductible based on the owner/operator's financial ability to pay a higher deductible. The minimum coverage shall include the following expenses:

1. Coverage of premises and operations, including operations of independent contractors; and
2. Coverage for contamination or pollution.

F. An owner or operator of a solid waste disposal facility shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the disposal facility. The owner or operator shall have and maintain liability coverage for nonsudden accidental occurrences for an annual aggregate sum exclusive of legal defense cost as follows:

1. Five hundred thousand dollars for sanitary landfills and industrial landfills without a liner and leachate collection system;

2. Two hundred fifty thousand dollars for sanitary and industrial landfills with a liner and leachate collection system; and

3. One hundred thousand dollars for construction/demolition/debris landfills.

G. Any applicant may request that the department evaluate the hazard(s) involved in an accidental occurrence and may request a variance from the specific insurance coverage amounts prescribed under this regulation or requirements for liability insurance where the applicant is able to demonstrate other financial responsibility satisfactory to the executive director.

1. Solid waste disposal facilities accepting construction/demolition/debris waste shall not be required to obtain liability insurance if the applicant can demonstrate that:

a. No wastes other than construction, demolition or debris wastes have been or will be accepted into the site;

b. Reasonably secure access control, either natural or man-made, eliminate the risk that unauthorized wastes will enter the site; and

c. The location and design of the site is sufficient to prevent adverse effects associated with the disposal of construction/demolition/debris wastes.

2. Any applicant may request a waiver of the requirement for liability insurance. In evaluating the request for a waiver, the director shall consider:

a. The nature of the wastes accepted in the site.

b. The security of access control.

c. The ownership of the land on which the disposal is occurring.

d. The existence of a groundwater monitoring program.

e. The compliance record of the applicant.

3. If the director finds that commercial insurance cannot be obtained in the voluntary market due to circumstances beyond the control of the permit holder or applicant or such insurance is not economically feasible to obtain, the director may allow the use of personal bonds or other mechanisms in lieu of commercial insurance.

## Appendix 3.1.

### GUIDELINES FOR TRUST FUND.

A. The owner or operator of a nonhazardous solid waste

disposal facility may satisfy the requirements of this section by establishing a closure trust fund which satisfies the requirements of this appendix and by attaching an originally signed duplicate of the trust agreement to the facility closure or post-closure plan submitted with the permit application. The trustee for the trust fund must be a bank or financial institution which has the authority to act as a trustee and whose trust operations are regulated and examined by the Commonwealth of Virginia.

B. The trust agreement shall be executed in the form provided for such purposes by the Executive Director. The trust agreement must contain a formal certification of the acknowledgement as indicated in Appendix 3.2.

C. Payments to the trust fund must be made annually by the owner or operator over the term of the state permit issued for such facility or over the disposal life of the facility if such facility life is shorter than the term of the state permit. Payments must be made as follows:

1. The first payment shall be made when the trust is established and shall be at least equal to the cost estimate (as determined under § 3.4.), divided by the number of years in the term of the permit or life of the facility, whichever is the shorter.

2. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment shall be the cost estimate minus the current value of the trust fund, divided by the number of years remaining in the term of the permit, or the remaining number of years in the life of the site, whichever is the shorter.

D. The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the cost estimate at the time the fund is established. However, the value of the fund must be maintained at no less than the value would have been if annual payments were made as specified in paragraphs A and C of this Appendix.

E. If the owner or operator establishes a trust fund after having initially used one or more alternative mechanisms specified in this section, his first payment must be at least the amount that the fund would have contained if the trust fund were established and annual payments were made as specified in paragraphs A and C of this Appendix.

F. Whenever the cost estimate changes after the pay-in period is completed, the owner or operator shall compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new cost estimate, the owner or operator must, within 60 days of the change in the cost estimate, deposit a sufficient amount into the fund so that its value after payment at least equals the amount of the new estimate, or obtain other financial assurance as specified in this section to cover the difference. If the

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value of the trust fund is greater than the total amount of the cost estimate, the owner or operator may submit a written request to the Executive Director for release of the amount which is in excess of the closure cost estimate.

G. If the owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, he may submit a written request to the Executive Director for release of the amount which is greater than the amount required as a result of the substitution.

H. Within 60 days after receiving a request from the owner or operator for release of funds specified in paragraphs F and G of this Appendix, the Executive Director will instruct the trustee to release to the owner or operator such funds as the Executive Director specifies in writing.

I. After beginning final closure or during the period of post-closure care, an owner or operator or any other person authorized to conduct closure, may request reimbursement for closure or post-closure expenditures respectfully by submitting itemized bills to the Executive Director. Within 60 days after receiving bills for closure activities, the Executive Director shall instruct the trustee to make reimbursements in those amounts as the Executive Director determines that the expenditures are in accordance with the closure or post-closure plan or are otherwise justified.

J. The Executive Director shall agree to terminate the trust when:

1. The owner or operator substitutes alternate financial assurance as specified in this section; or
2. The Executive Director notifies the owner or operator that he is no longer required by this section to maintain financial assurance for the closure or post-closure of the facility.

## Appendix 3.2.

### WORDING OF TRUST AGREEMENT FOR A TRUST FUND.

A trust agreement for a trust fund as specified in § 3.5. B.1 of these regulations, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

#### TRUST AGREEMENT

Trust agreement, the "Agreement", entered into as of (date) by and between (name of the owner or operator), a (State) (corporation, partnership, association, proprietorship), the "Grantor", and (name of corporate trustee), a (State corporation) (national bank), the "Trustee".

Whereas, the Waste Management Board, Commonwealth of Virginia, has established certain regulations applicable to the Grantor, requiring that the owner or operator of a nonhazardous waste disposal facility must provide assurance that funds will be available when needed for closure or post-closure of the facility,

Whereas, the Grantor has elected to establish a trust to provide such financial assurance for the facility identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, therefore, the Grantor and the Trustee agree as follows:

#### Section 1. Definitions. As used in this Agreement:

A. The term "fiduciary" means any person who exercises any power of control, management, or disposition or renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of this trust fund, or has any authority or responsibility to do so, or who has any authority or responsibility in the administration of this trust fund.

B. The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

C. The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facility and Cost Estimates. This Agreement pertains to (insert the facility number, if any, name, address, and the closure cost estimate, or portion thereof, for which financial assurance is demonstrated by this Agreement).

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund", for the benefit of the Department of Waste Management, Commonwealth of Virginia. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule A attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund will be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee undertakes no responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments to discharge any liabilities of the Grantor established by the Commonwealth of Virginia's Department of Waste

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## Management.

**Section 4. Payment for Closure.** The Trustee will make such payments from the Fund as the Department of Waste Management, Commonwealth of Virginia will direct, in writing, to provide for the payment of the costs of closure or post-closure of the facility covered by this Agreement. The Trustee will reimburse the Grantor or other persons as specified by the Department of Waste Management, Commonwealth of Virginia, from the Fund for closure or post-closure expenditures in such amounts as the Department of Waste Management will direct, in writing. In addition, the Trustee will refund to the Grantor such amounts as the Department of Waste Management specifies in writing. Upon refund, such funds will no longer constitute part of the Fund as defined herein.

**Section 5. Payments Comprising the Fund.** Payments made to the Trustee for the fund will consist of cash or securities acceptable to the Trustee.

**Section 6. Trustee Management.** The Trustee will invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with investment guidelines and objectives communicated in writing to the Trustee from time to time by the Grantor, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling and managing the Fund, the Trustee or any other fiduciary will discharge his duties with respect to the trust fund solely in the interest of the participants and beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of any enterprise of a like character and with like aims; except that:

A. Securities or other obligations of the Grantor, or any other owner or operator of the facility, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 USC § 80a-2(a), will not be acquired or held, unless they are securities or other obligations of the federal or a state government;

B. The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

C. The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

**Section 7. Commingling and Investment.** The Trustee is expressly authorized in its discretion:

A. To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate subject to all of the provisions thereof, to be commingled with the assets of

other trusts participating herein. To the extent of the equitable share of the Fund in any such commingled trust, such commingled trust will be part of the Fund;

B. To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 USC § 80a-1 et seq., of one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustees may vote such shares in its discretion.

**Section 8. Express Powers of Trustee.** Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

A. To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by private contract or at public auction. No person dealing with the Trustee will be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other dispositions;

B. To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

C. To register any securities held in the fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States government, or any agency or instrumentality thereof with a Federal Reserve Bank, but the books and records of the Trustee will at all times show that all such securities are part of the Fund;

D. To deposit any cash in the fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

E. To compromise or otherwise adjust all claims in favor of or against the Fund.

**Section 9. Taxes and Expenses.** All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund will be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the

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Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee will be paid from the Fund.

**Section 10. Annual Valuation.** The Trustee will annually, at the end of the month coincident with or preceding the anniversary date of establishment of the Fund, furnish the Grantor and to the Executive Director of the Department of Waste Management, Commonwealth of Virginia, a statement confirming the value of the Trust. Any securities in the Fund will be valued at market value as of no more than 30 days prior to the date of the statement. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the Executive Director of the Department of Waste Management, Commonwealth of Virginia will constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

**Section 11. Advice of Counsel.** The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee will be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

**Section 12. Trustee Compensation.** The Trustee will be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

**Section 13. Successor Trustee.** Upon the written agreement of Grantor, the Trustee, and the Executive Director of the Department of Waste Management, Commonwealth of Virginia, the Trustee may resign or the Grantor may replace the Trustee. In either event, the Grantor will appoint a successor Trustee who will have the same powers and duties as those conferred upon the Trustee hereunder. Upon acceptance of the appointment by the successor trustee, the Trustee will assign, transfer and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee and the date on which he assumes administration of the trust will be specified in writing and sent to the Grantor, the Executive Director of the Department of Waste Management, Commonwealth of Virginia, and the present and successor trustees by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this section will be paid as provided in Part IX.

**Section 14. Instructions to the Trustee.** All orders, requests and instructions by the Grantor to the Trustee will be in

writing, signed by the grantor, trustee, a Notary Public and any person the Grantor may designate. The Trustee will be fully protected in acting without inquiry in accordance with the Grantor's orders, requests and instructions. All orders, requests, and instructions by the Executive Director of the Department of Waste Management, Commonwealth of Virginia, to the Trustee will be in writing, signed by the Executive Director and the Trustee will act and will be fully protected in acting in accordance with such orders, requests and instructions. The Trustee will have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Commonwealth of Virginia's Department of Waste Management hereunder has occurred. The Trustee will have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or the Commonwealth of Virginia's Department of Waste Management, except as provided for herein.

**Section 15. Notice of Nonpayment.** The Trustee will notify the Grantor and the Executive Director of the Department of Waste Management, Commonwealth of Virginia, by certified mail within 10 days following the expiration of the 30 day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee is not required to send a notice of nonpayment.

**Section 16. Amendment of Agreement.** This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Executive Director of the Department of Waste Management, Commonwealth of Virginia, or by the Trustee and the Executive Director of the Department of Waste Management, Commonwealth of Virginia, if the Grantor ceases to exist.

**Section 17. Irrevocability and Termination.** Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust will be irrevocable and will continue until terminated at the written agreement of the Grantor, the Trustee, and the Executive Director of the Department of Waste Management, Commonwealth of Virginia, or by the Trustee and the Executive Director if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, will be delivered to the Grantor.

**Section 18. Immunity and Indemnification.** The Trustee will not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Executive Director of the Department of Waste Management, Commonwealth of Virginia, issued in accordance with this Agreement. The Trustee will be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official

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capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement will be administered, construed and enforced according to the laws of the Commonwealth of Virginia.

Section 20. Interpretation. As used in the Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement will not affect the interpretation of the legal efficacy of this Agreement.

In witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in the relevant regulations of the Department of Waste Management, Commonwealth of Virginia.

(Signature of Grantor)

By: ..... (Title)

Attest:  
(Title)  
(Seal)

(Signature of Trustee)

By  
Attest:  
(Title)  
(Seal)

Certification of Acknowledgement:

## COMMONWEALTH OF VIRGINIA

STATE OF .....

CITY/COUNTY OF .....

On this [date], before me personally came [owner or operator] to me known, who being by me duly sworn, did dispose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

[Expiration Date]

Appendix 3.3.

## GUIDELINES FOR SURETY BOND GUARANTEEING PERFORMANCE OF CLOSURE OR POST-CLOSURE.

A. An owner or operator may satisfy the requirements of this section by obtaining a surety bond which satisfies the requirements of this appendix and by submitting the original copy of the bond with the facility closure plan along with the permit application. Only bonds issued by surety companies licensed to operate as sureties in the Commonwealth of Virginia and approved by the Executive Director will satisfy the requirements of this section.

B. The surety bond form supplied by the Executive Director shall be used by the owner or operator and the surety.

C. The surety bond must name the disposal site operator or owner as the principal and name the Commonwealth of Virginia as the obligee.

D. The term of the bond shall be for the life of the disposal facility for which a permit is applied by the owner or operator through the closure period. A bond used for post-closure assurance shall extend through the post-closure period.

E. The bond must guarantee that the owner or operator will:

1. Perform final closure or post-closure in accordance with the closure or post-closure plan and other requirements in the permit for the facility; or
2. Perform final closure or post-closure following an order to begin closure or post-closure issued by the Executive Director or by a court, or following issuance of a notice of termination of the permit.

F. Provide alternate financial assurance as specified in this section within 60 days after receipt by the Executive Director of a notice of cancellation of the bond from the surety.

G. The surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

H. The penal sum of the bond must be in an amount at least equal to the amount of the closure or post-closure cost estimate. (See § 3.4. of these regulations.)

I. If upon renewal of the permit, the cost estimate increases to an amount greater than the amount of the penal sum of the bond, the owner or operator shall, within 60 days after the increase, cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance, as specified in this section, to cover the increase. Whenever the cost estimate decreases, the penal sum may be reduced to the amount of the cost estimate following



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written approval by the Executive Director. Notice of an increase or decrease in the penal sum must be sent to the Executive Director by certified mail within 60 days after the change.

J. The bond shall remain in force for its term unless the surety sends written notice of cancellation by certified mail to the owner or operator and to the Executive Director. Cancellation cannot occur, however:

1. During the 120 days beginning on the date of receipt of the notice of cancellation by the Executive Director as shown on the signed return receipt; or
2. While a compliance procedure is pending.

K. Following a determination that the owner or operator has failed to perform final closure or post-closure in accordance with the approved plan and other permit requirements when required to do so, the surety shall perform final closure in accordance with the terms of the bond, approved plan and other permit requirements or closure order. As an alternative to performing final closure or post-closure, the surety may forfeit the full amount of the penal sum to the Commonwealth.

L. The owner or operator may cancel the bond if the Executive Director has given prior written consent based on receipt of evidence of alternative financial assurance as specified in this section.

M. The Executive Director will notify the surety if the owner or operator provides alternate financial assurance as specified in this section.

N. The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the owner or operator has been notified by the Executive Director that the owner or operator is no longer required by this section to maintain financial assurance for closure of the facility.

O. In regard to closure or post-closure performed either by the owner or operator or the surety, proper final closure of a nonhazardous solid waste disposal site shall be deemed to have occurred when the Executive Director determines that final closure or post-closure has been completed. Such final closure shall be deemed to have been completed when the provisions of the site's approved plan have been executed and at the minimum, an acceptable final cover has been applied to all excavated trenches, pits, basins, and wastes; backfills have been returned to reasonably acceptable grades for the areas; leachate and erosion potential has been eliminated or minimized; and adequate revegetation of excavated and disturbed grounds and areas has been completed.

## Appendix 3.4.

### WORDING OF SURETY BOND GUARANTEEING PERFORMANCE OF CLOSURE OR

## POST-CLOSURE.

A surety bond guaranteeing performance of closure, as specified in § 3.5.B.2 of these Regulations, must be worded as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

## PERFORMANCE BOND FOR CLOSURE

Date bond executed: .....

Effective date: .....

Principal: (legal name and business address)

Type of organization: (insert "individual", "joint venture", "partnership", or "corporation")

State of incorporation: .....

Surety: (name and business address)

Name, address, identification number, if any, and closure cost estimate for the facility: .....

Penal sum of bond: \$....

Know all men by these present, That we, the Principal and Surety hereto are firmly bound to the Department of Waste Management, Commonwealth of Virginia, in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

Whereas, said Principal is required to have a permit from the Department of Waste Management, Commonwealth of Virginia, in order to own or operate the nonhazardous solid waste disposal facility identified above, and

Whereas, said Principal is required to provide financial assurance for closure of the facility as a condition of the permit,

Now, therefore the conditions of this obligation are such that if the Principal shall faithfully perform closure or post-closure of the facility identified above in accordance with the closure or post-closure plan submitted to receive said permit and other requirements of said permit as such plan and permit may be amended or renewed pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

Or, if the Principal shall faithfully perform closure or post-closure following an order to begin closure or post-closure issued by the Commonwealth of Virginia's Department of Waste Management or by a court, or following a notice of termination of the permit,

Or, if the Principal shall provide alternate financial assurance as specified in the Department's regulations within 90 days of the date notice of cancellation is received by the Executive Director of the Department of Waste Management, then this obligation will be null and void, otherwise it is to remain in full force and effect for the life of the disposal facility identified above.

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The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the Executive Director of the Department of Waste Management, Commonwealth of Virginia, that the Principal has been found in violation of the requirements of the Department's regulations, the Surety must either perform closure or post-closure in accordance with the approved plan and other permit requirements or forfeit the amount of the cost estimate to the Commonwealth of Virginia.

Upon notification by the Executive Director of the Department of Waste Management, Commonwealth of Virginia, that the Principal has been found in violation of an order to begin closure or post-closure, the Surety must either perform closure or post-closure in accordance with the closure order or forfeit the amount of the closure cost estimates to the Commonwealth of Virginia.

The Surety hereby agrees that amendments to the closure or post-closure plan, permit, applicable laws, statutes, rules and regulations shall in no way alleviate its obligation on this bond.

For purposes of this bond, final closure or post-closure shall be deemed to have been completed when the Executive Director of the Department of Waste Management, Commonwealth of Virginia, determines that the conditions of the approved plan have been met and, at the minimum, an acceptable final cover has been applied to all excavated trenches, pits, basins, and exposed wastes; backfills have been returned to reasonable grades for the area; leachate and erosion potential has been eliminated or minimized; and adequate revegetation of excavated and disturbed grounds and areas has been completed.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of said penal sum.

The Surety may cancel the bond by sending written notice of cancellation to the owner or operator and to the Executive Director of the Department of Waste Management, Commonwealth of Virginia, provided, however, that cancellation cannot occur (1) during the 120 days beginning on the date of receipt of the notice of cancellation by the Executive Director as shown on the signed return receipt; or (2) while a compliance procedure is pending.

The Principal may terminate this bond by sending written notice to the Surety, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the Executive Director of the Department of Waste Management, Commonwealth of Virginia.

In witness whereof, the Principal and Surety have

executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety and that the wording of this surety bond is identical to the wording specified in the relevant regulations of the Commonwealth of Virginia, Department of Waste Management.

## Principal

Signature(s): .....  
Name(s) and Title(s) (typed) .....

## Corporate Surety

Name and Address: .....  
State of Incorporation: .....  
Liability Limit: \$.....  
Signature(s): .....  
Name(s) and Title(s) (typed) .....

Corporate Seal:

Appendix 3.5.

## GUIDELINES FOR LETTER OF CREDIT.

A. An owner or operator of a nonhazardous solid waste disposal facility may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit which satisfies the requirements of this appendix and by submitting the original copy of the letter of credit attached to the facility closure or post-closure plan along with the permit application. The letter of credit must be effective before the initial receipt of waste at the facility for which it is issued. The issuing institution must be a bank or other financial institution which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Commonwealth of Virginia.

B. The wording of the letter of credit must be identical to the wording specified in the Appendix 3.6.

C. The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year. If the issuing institution decides not to extend the letter of credit beyond the current expiration date it must, at least 120 days before the date, notify both the owner or operator and the Executive Director by certified mail of that decision. The 120 day period will begin on the date of receipt by the Executive Director as shown on the signed return receipt. Expiration cannot occur, however, while a compliance procedure is pending.

D. The letter of credit must be issued for at least the amount of the cost estimate (see § 3.4. of these regulations), except as provided in § 3.5. of these

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regulations.

E. Whenever the cost estimate increases to an amount greater than the amount of credit, the owner or operator shall, within 60 days of the increase, cause the amount of credit to be increased to an amount at least equal to the new estimate or obtain other financial assurance as specified in this section to cover the increase. Whenever the cost estimate decreases, the letter of credit may be reduced to the amount of the new estimate following written approval by the Executive Director. Notice of an increase or decrease in the amount of the credit shall be sent to the Executive Director by certified mail within 60 days of the change.

F. Following a determination that the owner or operator has failed to perform closure or post-closure in accordance with the approved plan or other permit requirements, the Executive Director will draw on the letter of credit.

G. The letter of credit no longer satisfies the requirements of this paragraph subsequent to the receipt by the Executive Director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the then current expiration date. Upon receipt of such notice, the Executive Director shall issue an order of noncompliance with these regulations, unless the owner or operator of the site has demonstrated alternate financial assurance as specified in this appendix. Should the owner or operator not correct the violation by demonstrating such alternate financial assurance within 30 days of issuance of the compliance order, the Executive Director will draw on the letter of credit.

H. The Executive Director shall return the original letter of credit to the issuing institution for termination when:

1. The owner or operator substitutes alternate financial assurance for closure or post-closure as specified in this section; or
2. The Executive Director notifies the owner or operator, in accordance with § 3.5.D of these regulations that he is no longer required by this section to maintain financial assurance for closure or post-closure of the facility.

## Appendix 3.6.

### WORDING OF LETTER OF CREDIT.

A letter of credit as specified in § 3.5.B.3 of these regulations must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

#### IRREVOCABLE STANDBY LETTER OF CREDIT

Executive Director  
Department of Waste Management  
Commonwealth of Virginia

Dear Sir or Madam:

We hereby establish our Irrevocable Letter of Credit No. .... in favor of the Executive Director, Department of Waste Management, Commonwealth of Virginia, at the request and for the account of (owner's or operator's name and address) up to the aggregate amount of (in words) U.S. dollars \$....., available upon presentation of

1. your sight draft, bearing reference to this letter of credit No. .... together with
2. your signed statement declaring that the amount of the draft is payable pursuant to regulations issued under the authority of the Department of Waste Management, Commonwealth of Virginia.

The following amounts are included in the amount of this letter of credit: (Insert the facility identification number, if any, name and address, and the closure cost estimate, or portions thereof, for which financial assurance is demonstrated by this letter of credit.)

This letter of credit is effective as of (date) and will expire on (date at least one year later), but such expiration date will be automatically extended for a period of (at least one year) on (date) and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify you and (owner or operator's name) by certified mail that we decide not to extend the Letter of Credit beyond the current expiration date. In the event you are so notified, unused portion of the credit will be available upon presentation of your sight draft for 120 days after the date of receipt by you as shown on the signed return receipt or while a compliance procedure is pending, whichever is later.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we will duly honor such draft upon presentation to us, and we will pay to you the amount of the draft promptly and directly.

I hereby certify that I am authorized to execute this letter of credit on behalf of (issuing institution) and that the wording of this letter of credit is identical to the wording specified in the relevant regulations of the Department of Waste Management, Commonwealth of Virginia.

Attest:

(Signature and title of official of issuing institution) (Date)

This credit is subject to (insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce", of "the Uniform Commercial Code".)

## Appendix 3.7.

### GUIDELINES FOR DEPOSIT OF ACCEPTABLE

## COLLATERAL.

A. An owner or operator of a nonhazardous solid waste disposal facility may satisfy the requirements of this section, wholly or in part, by filing with the Executive Director a collateral bond payable to the Commonwealth of Virginia, conditioned so that the owner or operator shall comply with the closure or post-closure plan filed for the site. The amount of the bond shall be at least equal to the estimated closure or post-closure cost of the site for which the permit application has been filed or any part thereof not covered by other financial responsibility instruments. Liability of such bond shall be for the term of the permit or until proper final closure or post-closure of the site is completed, whichever comes first. Such bond shall be executed by the owner or operator after depositing with the Executive Director acceptable collateral, the market value of which shall be at least equal to the total estimated closure or post-closure cost or any part thereof not covered by other financial responsibility instruments.

B. Acceptable collateral may include certificates of deposit, negotiable bonds of the United States Government, the Commonwealth of Virginia or any of its agencies, any government authority within the Commonwealth of Virginia, or any county, municipality or other local bond issuing authority within the Commonwealth of Virginia approved as acceptable for financial responsibility purposes by the Executive Director.

C. The Executive Director shall, upon receipt of any such collateral, place the instrument(s) with the State Treasurer to be held in the name of the Commonwealth of Virginia, in trust, for the purposes for which such deposit is made.

D. The owner or operator shall be entitled to demand, receive and recover the interest and income from said instrument(s) as it becomes due and payable as long as the market value of the instrument(s) plus any other mechanisms used continue to at least equal the amount of the estimated closing cost.

E. The owner or operator shall also be permitted to replace the collateral instruments with other like instruments of at least equal market value upon proper notification to the Executive Director and the State Treasurer.

F. In the event of failure of the owner or operator to comply with the final closure or post-closure plan, the Executive Director shall declare said collateral forfeited and shall request the State Treasurer to convert said collateral into cash and transfer such funds to the Executive Director to be used for final closure purposes.

## Appendix 3.8.

### GUIDELINES FOR FINANCIAL TEST AND CORPORATE GUARANTEE FOR FINANCIAL ASSURANCE AND LIABILITY COVERAGE.

A. An owner or operator may satisfy the requirements for financial assurance by demonstrating that he passes a financial test as specified in this appendix. To pass this test the owner or operator shall meet the criteria in either 1 or 2 below:

#### 1. The owner or operator shall have:

a. Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

b. Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates; and

c. Tangible net worth of at least \$10 million; and

d. Assets in the United States amounting to at least 90% of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

#### 2. The owner or operator shall have:

a. A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

b. Tangible net worth at least six times the sum of the current closure and post-closure cost estimates; and

c. Tangible net worth of at least \$10 million; and

d. Assets located in the United States amounting to at least 90% of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

B. To demonstrate that he meets this test, the owner or operator shall submit the following items to the Executive Director;

1. A letter signed by the owner's or operator's chief financial officer and worded as specified in Appendix 3.9 for closure and post-closure financial assurance or Appendix 3.11 for liability coverage.

2. A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statement for the latest completed fiscal year; and

3. A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

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- a. He has compared the data which the letter from the chief financial officer specifies as having been derived from an independently audited, year-end financial statement for the latest fiscal year with the amounts in such financial statements; and
- b. In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.
- C. An owner or operator of a new facility shall submit the items specified to the Executive Director at least 60 days before the date on which solid waste is first received for treatment, storage, or disposal.
- D. After the initial submission of items specified in B, the owner or operator shall send updated information to the Executive Director within 90 days after the close of each succeeding fiscal year. This information shall consist of all three items specified in B.
- E. If the owner or operator no longer meets the requirements of A, he shall send notice to the Executive Director of intent to establish alternate financial assurance as specified in this part. The notice shall be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator shall provide the alternate financial assurance within 120 days after the end of such fiscal year.
- F. The Executive Director may, based on a reasonable belief that the owner or operator may no longer meet the requirement of A, require reports of financial condition at any time from the owner or operator in addition to those specified in B. If the Executive Director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of A, the owner or operator shall provide alternate financial assurance as specified in this part within 30 days after notification of such a finding.
- G. The Executive Director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see B.2). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Executive Director will evaluate other qualifications on an individual basis. The owner or operator shall provide alternate financial assurance as specified in this part within 30 days after notification of the disallowance.
- H. During the period of post-closure care, the Executive Director may approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the Executive Director that the amount of the cost estimate exceeds the remaining cost of the post-closure care.
- I. The owner or operator is no longer required to submit the items specified in B when:
1. An owner or operator substitutes alternate financial assurance as specified in this part; or
  2. The Executive Director releases the owner or operator from the requirements of this part.
- J. Release of the owner or operator from the requirements of this appendix within 60 days after receiving certification from the owner or operator and an independent registered professional engineer that closure has been accomplished in accordance with the closure plan. The Executive Director will notify the owner or operator in writing that he is no longer required by this appendix to maintain financial assurance for closure of the particular facility, unless the Executive Director has reason to believe that closure has not been in accordance with the closure plan.
- K. An owner or operator may meet the requirements of this appendix by obtaining a written guarantee, hereafter referred to as "corporate guarantee". The guarantor shall be the parent corporation of the owner or operator. The guarantor shall meet the requirements for owners or operators in A through G and shall comply with the terms of the corporate guarantee. The wording of the corporate guarantee shall be identical to the wording specified in Appendix 3.10. The corporate guarantee shall accompany the items sent to the Executive Director as specified in B. The terms of the corporate guarantee shall provide that:
1. If the owner or operator fails to perform final closure or post-closure of a facility covered by the corporate guarantee in accordance with the closure plan or post-closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in Appendices 3.1 and 3.2 in the name of the owner and operator.
  2. The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Executive Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Executive Director, as evidenced by the return receipts.
  3. If the owner or operator fails to provide alternate financial assurance as specified in this part and obtain the written approval of such alternate assurance from the Executive Director within 90 days after the receipt by both the owner or operator and the Executive Director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

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## Appendix 3.9.

### WORDING OF LETTER FROM CHIEF FINANCIAL OFFICER FOR FINANCIAL ASSURANCE.

NOTE: Instructions in brackets are to be replaced with the relevant information and the brackets removed.

Executive Director  
Department of Waste Management  
101 N. 14th Street, 11th Floor  
Richmond, Virginia 23219

Dear [Sir, Madam]:

I am the chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in § 3.5 of the Solid Waste Financial Assurance Regulations.

[Fill out the following four paragraphs regarding facilities and associated cost estimates. If your firm has no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its name, address, and current closure and/or post-closure cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care.]

1. This firm is the owner or operator of the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in Appendix 3.8 of the regulations. The current closure and/or post-closure cost estimates covered by the test are shown for each facility:

.....

2. This firm guarantees, through the corporate guarantee specified in Appendix 3.8 of the regulations, the closure or post-closure care of the following facilities owned or operated by subsidiaries of this firm. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility:

.....

3. This firm, as owner or operator or guarantor, is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a financial test. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:

.....

4. This firm is the owner or operator of the following solid waste management facilities for which financial assurance for closure and post-closure care is not demonstrated through the financial test or any other

financial assurance mechanism. The current closure and/or post-closure cost estimates for the facilities which are not covered by such financial assurance are shown for each facility:

.....

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

[Fill in Alternative I if the criteria of Appendix 3.8.A.1 are used. Fill in Alternative II if the criteria of Appendix 3.8.A.2 are used.]

#### ALTERNATIVE I.

(1) Sum of current closure and post-closure cost estimates [total of all cost estimates shown in the four paragraphs above.] ..... \$.....

(\*2) Total liabilities [if any portion of the closure or post-closure cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4.] ..... \$.....

(\*3) Tangible net worth ..... \$.....

(\*4) New worth ..... \$.....

(\*5) Current assets ..... \$.....

(\*6) Current liabilities ..... \$.....

(7) New working capital [line 5 minus line 6]. ..... \$.....

(\*8) The sum of net income plus depreciation, depletion, and amortization. .... \$.....

(\*9) Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.). ..... \$.....

YES NO

(10) Is line 3 at least \$10 million?

(11) Is line 3 at least 6 times line 1?

(12) Is line 7 at least 6 times line 1?

(\*13) Are at least 90% of firm's assets located in the U.S.? If not, complete line 14.

(14) Is line 9 at least 6 times line 1?

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- (15) Is line 2 divided by line 4 less than 2.0?
- (16) Is line 8 divided by line 2 greater than 0.1?
- (17) Is line 5 divided by line 6 greater than 1.5?

## ALTERNATIVE II.

- (1) Sum of current closure and post-closure cost estimates [total of all cost estimates shown in the four paragraphs above]. ..... \$.....
- (2) Current bond rating of most recent issuance of this firm and name of rating service ..... \$.....
- (3) Date of issuance of bond. .... \$.....
- (4) Date of maturity of bond. .... \$.....
- (\*5) Tangible net worth [If any portion of the closure and post-closure cost estimates if included in "Total Liabilities" on your firm's financial statements, you may add the amount of that portion to this line.] ..... \$.....
- (\*6) Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.) ..... \$.....  

YES      NO
- (\*7) Is line 5 at least \$10 million?
- (8) Is line 7 at least 6 times line 1?
- (\*9) Are at least 90% of firm's assets located in the U.S.? If not, complete line 10.
- (10) Is line 6 at least 6 times line 1?

I hereby certify that the wording of this letter is identical to the wording specified in Appendix 3.8 of the Regulations as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

### Appendix 3.10.

#### WORDING OF CORPORATE GUARANTEE FOR CLOSURE OR POST-CLOSURE CARE.

NOTE: Instructions in brackets are to be replaced with the relevant information and the brackets removed.

#### CORPORATE GUARANTEE FOR CLOSURE OR POST-CLOSURE CARE.

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the state of [insert name of state], herein referred to as guarantor, to the Virginia Department of Waste Management ("Department"), obligee, on behalf of our subsidiary [owner or operator] of [business address].

#### Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in Appendix 3.8.

2. [Owner or operator] owns or operates the following solid waste management facility(ies) covered by this guarantee: [List for each facility: name, and address. Indicate for each whether guarantee is for closure, post-closure care, or both.]

3. "Closure plans" and "post-closure plans" as used below refer to the plans maintained as required by § [3.5] of the Regulations.

4. For value received from [owner or operator], guarantor guarantees to the Department that in the event that [owner or operator] fails to perform [insert "closure", "post-closure care", or "closure and post-closure care"] of the above facility(ies) in accordance with the closure or post-closure plans and other [permit or interim status] requirements whenever required to do so, the guarantor shall do so or establish a trust fund as specified in § 3.5 of the Regulations in the name of [owner or operator] in the amount of the current closure or post-closure cost estimates as specified in § [3.4].

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the Executive Director and to [owner or operator] that he intends to provide alternate financial assurance as specified in § [3.5] of the Regulations, in the name of [owner or operator]. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [owner or operator] has done so.

6. The guarantor agrees to notify the Executive Director by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

7. Guarantor agrees that within 30 days after being notified by the Executive Director of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in § [3.5] of the Regulations, in the name of [owner or operator] unless [owner or operator] has done so.

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8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure or post-closure plan, amendment or modification of the closure or post-closure plan, amendment or modification of the permit, the extension or reduction of the time of performance of closure or post-closure.

9. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] shall comply with the applicable financial assurance requirements of § 3.5 for the above-listed facilities, except that guarantor may cancel this guarantee by sending notice by certified mail to the Executive Director and to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by both the Department and [owner or operator], as evidenced by the return receipts.

10. Guarantor agrees that if [owner or operator] fails to provide alternate financial assurance as specified in § 3.5 of the Regulations, and obtain written approval of such assurance from the Executive Director within 90 days after a notice of cancellation by the guarantor is received by the Executive Director from guarantor, guarantor shall provide such alternate financial assurance in the name of [owner or operator].

11. Guarantor expressly waives notice of acceptance of this guarantee by the Department or by [owner or operator]. Guarantor also expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in Appendix 3.10 of the Regulations as such regulations were constituted on the date first above written.

Effective date: .....

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary: .....

## Appendix 3.11.

### WORDING OF THE LETTER FROM CHIEF FINANCIAL OFFICER FOR LIABILITY COVERAGE.

Executive Director  
Department of Waste Management  
101 N. 14th Street, 11th Floor  
Richmond, VA 23219

Dear [Sir, Madam]:

I am the chief financial officer of [owner's or operator's name and address]. This letter is in support of the use of the financial test to demonstrate financial responsibility for liability coverage [insert "and closure and/or post-closure care" if applicable] as specified in § [3.6] of the Virginia Solid Waste Financial Assurance Regulations.

[Fill out the following paragraph regarding facilities and liability coverage. For each facility, include its name and address.]

The owner or operator identified above is the owner or operator of the following facilities for which liability coverage is being demonstrated through the financial test specified in § [3.6].

[If you are using the financial test to demonstrate coverage of both liability and closure and post-closure care, fill in the following four paragraphs regarding facilities and associated closure and post-closure cost estimates. If there are not facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its name, address, and current closure and/or post-closure care.]

1. The owner or operator identified above owns or operates the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in § [3.5] of the Virginia Solid Waste Financial Assurance Regulations. The current closure and/or post-closure cost estimates covered by the test are shown for each facility:

2. The owner or operator identified above guarantees, through the corporate guarantee specified in § [3.5] of the Virginia Solid Waste Financial Assurance Regulations, the closure and post-closure care of the following facilities owned or operated by its subsidiaries. The current cost estimates for the closure and post-closure care so guaranteed are shown for each facility:

3. This owner or operator is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of financial test. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:

4. The owner or operator identified above owns or operates the following hazardous waste management facilities. The current closure and/or post-closure cost estimates not covered by such financial assurance are



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shown for each facility:

.....

This owner or operator [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this owner or operator ends on [month, day]. The figures for the following items marked with the asterisk are derived from this owner's or operator's independently audited, year-end financial statements for the latest completed fiscal year ended [date].

[Fill in part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

## Part A.

### Liability Coverage for Accidental Occurrences.

[Fill in Alternative I if the criteria of Appendix 3.8.A.1 are used. Fill in Alternative II if the criteria of Appendix 3.8.A.2 are used.]

#### ALTERNATIVE I.

(1) Amount of annual aggregate liability coverage to be demonstrated. .... \$....

(\*2) Current Assets. .... \$....

(\*3) Current Liabilities. .... \$....

(4) Net working capital (line 2 minus line 3). .... \$....

(\*5) Tangible net worth. .... \$....

(\*6) If less than 90% of assets are located in the U.S., give total U.S. assets. .... \$....

YES NO

(7) Is line 5 at least \$10 million?

(8) Is line 4 at least 6 times line 1?

(9) Is line 5 at least 6 times line 1?

(\*10) Are at least 90% of assets located in the U.S.? If not, complete 11.

(11) Is line 6 at least 6 times line 1?

#### ALTERNATIVE II.

(1) Amount of annual aggregate liability coverage to be demonstrated. .... \$....

(2) Current bond rating of most recent issuance and name of rating service. .... \$....

(3) Date of issuance of bond. .... \$....

(4) Date of maturity of bond. .... \$....

(\*5) Tangible net worth. .... \$....

(\*6) Total assets in U.S. (required only if less than 90% of assets are located in the U.S.) .... \$....

YES NO

(7) Is line 5 at least \$10 million?

(8) Is line 5 at least 6 times line 1?

(\*9) Are at least 90% of assets located in the U.S.? If not, complete line 10.

(10) Is line 6 at least 6 times line 1?

[Fill in part B if you are using the financial test to demonstrate assurance of both liability coverage and closure or post-closure care.]

## Part B.

### Closure or Post-Closure Care and Liability Coverage.

[Fill in Alternative I if the criteria of Appendix 3.8.A.1 are used. Fill in Alternative II if the criteria of Appendix 3.8.A.2 are used.]

#### ALTERNATIVE I.

(1) Sum of current and post-closure cost estimates (total of all cost estimates listed above). .... \$....

(2) Amount of annual aggregate liability coverage to be demonstrated. .... \$....

(3) Sum of lines 1 and 2. .... \$....

(\*4) Total liabilities (if any portion of your closure or post-closure cost estimates is included in your total liabilities, you may deduct that portion from this line and add that amount to lines 5 and 6). .... \$....

(\*5) Tangible net worth. .... \$....

(\*6) Net worth. .... \$....

(\*7) Current Assets. .... \$....

(\*8) Current Liabilities. .... \$....

(9) Net working capital (line 7 minus line 8). .... \$....

(\*10) The sum of net income plus depreciation, depletion, and amortization. .... \$....

(\*11) Total assets in U.S. (required only if less than 90% of assets are located in the U.S.) .... \$....

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- |   | YES | NO | [Signature] |
|---|-----|----|-------------|
| (12) Is line 5 at least \$10 million?   |     |    | [Name]      |
| (13) Is line 5 at least 6 times line 3?   |     |    | [Title]     |
| (14) Is line 9 at least 6 times line 3?   |     |    | [Date]      |
| (*15) Are at least 90% of assets located in the U.S.? If not, complete line 16. |     |    |             |
| (16) Is line 11 at least 6 times line 3?  |     |    |             |
| (17) Is line 4 divided by line 6 less than 2.0?                                 |     |    |             |
| (18) Is line 10 divided by line 4 greater than 0.1?                             |     |    |             |
| (19) Is line 7 divided by line 8 greater than 1.5?                              |     |    |             |

## ALTERNATIVE II.

- (1) Sum of current and post-closure cost estimates (total of all cost estimates listed above). ..... \$.....
- (2) Amount of annual aggregate liability coverage to be demonstrated. .... \$.....
- (3) Sum of lines 1 and 2. .... \$.....
- (4) Current bond rating of most recent issuance and name of rating service. .... \$.....
- (5) Date of issuance of bond. .... \$.....
- (6) Date of maturity of bond. .... \$.....
- (\*7) Tangible net worth (if any portion of the closure or post-closure cost estimates is included in "total liabilities" on your financial statements you may add that portion to this line). .... \$.....
- (\*8) Total assets in the U.S. (required only if less than 90% of assets are located in the U.S.) ..... \$.....

- |   | YES | NO |
|---|-----|----|
| (9) Is line 7 at least \$10 million?  |     |    |
| (10) Is line 7 at least 6 times line 3?   |     |    |
| (*11) Are at least 90% of assets located in the U.S.? If not, complete line 12. |     |    |
| (12) Is line 8 at least 6 times line 3?   |     |    |

I hereby certify that the wording of this letter is identical to the wording specified in Appendix 3.11 of the Virginia Solid Waste Financial Assurance Regulations as such regulations were constituted on the date shown immediately below.

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# FINAL REGULATIONS

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For information concerning Final Regulations, see information page.

## Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulations.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-12-01. Virginia Hearing Impairment Identification and Monitoring System.

Statutory Authority: § 32.1-64.1 of the Code of Virginia.

Effective Date: April 3, 1987

### Summary:

These regulations establish and maintain a statewide system for the early identification and follow-up of infants with hearing impairment. The infants are assured of timely and appropriate medical and educational intervention and habilitation. The regulations provide consistent guidelines for a two-phase system to be implemented in all hospitals with neonatal special care services and in all hospitals with newborn nurseries.

VR 355-12-01. Virginia Hearing Impairment Identification and Monitoring System.

### PART I. DEFINITIONS.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"At risk" means considered to be in a risk status for having or developing hearing impairment as a result of the presence of one or more factors identified or manifested at birth.

"Commissioner" means the State Health Commissioner, Virginia Department of Health.

[ "Following up" means the process of:

1. Communicating with the primary medical care provider by mail (if stated), two to four months after receipt of the reporting form on those who passed [ and those who failed ] the screening; to explain the program and to advise of the child's status.

2. Communicating with the family and primary medical care provider by mail, two to four months after receipt of the reporting form on those who failed the hearing screening (intensive care units-Phases One and Two) or those who had one or more risk factors identified (newborn nurseries-Phase Two), in order to advise of the need for a hearing

*evaluation as well as how to locate a licensed audiologist.*

*3. Receiving results of the hearing evaluations, reviewing the reports for recommendations, and adding the information to the computer registry.*

*4. Mailing a reminder to the family if no information is received on the child within two months of the initial mailing.*

*5. Communicating with the family by mail after the results of the hearing evaluation are reported, confirming the results, and, if a hearing loss is diagnosed, providing the family with information about hearing loss and appropriate referral sources.*

"Follow-up" means the process of communicating with the family and the primary care provider of all infants reported at risk and those who failed the hearing screening, regarding their status, until either a hearing impairment is diagnosed or normal hearing is documented.  
]

"Neonatal special care and intensive care" means [ ~~that~~ those services provided in a ] unit which is physically separated from the normal newborn nursery, equipped with monitoring and life support systems, staffed with personnel specifically qualified in providing specialized neonatal care, and is able to provide 12-24 nursing hours per infant per day, 24-hour in-house respiratory therapy, and full-time physician management by a board eligible or board certified neonatologist.

"Phase One" means the first two years of implementation during which only those hospitals with neonatal special care and intensive care will participate.

"Phase Two" means that portion of the implementation, beginning two years after Phase One, during which those hospitals with newborn nurseries will participate. Phase One participating hospitals will continue under Phase One guidelines in Phase Two. Phase Two will remain in effect as the Hearing Impairment Identification and Monitoring System until changed.

"Registry" means a list of names and [ accompanying associated ] pertinent data [ of regarding ] those children to be followed in the Virginia Hearing Impairment Identification and Monitoring System.

"Risk factors for hearing impairment" means those factors known to place an infant at risk for being born with or developing a hearing impairment, including but not

# Final Regulations

limited to:

1. Family history of hearing loss or impairment [ of childhood onset ] in a blood relative [ ; that began in childhood ];
  2. Congenital perinatal infection (e.g., cytomegalovirus, rubella, herpes, toxoplasmosis, syphilis);
  3. Anatomic malformations involving the head, face, or neck (e.g., dysmorphic-appearance including syndromal and nonsyndromal abnormalities, overt or submucous cleft palate, obvious morphologic abnormalities of the pinna, preauricular skin tags;
  4. Birthweight of less than 1500 grams;
  5. Hyperbilirubinemia at level exceeding indications for exchange transfusion;
  6. Bacterial meningitis, especially Hemophilus influenzae;
  7. Severe asphyxia which may include infants with Apgar scores of [ ~~0~~three 0 to three ] who fail to institute spontaneous respiration by 10 minutes and those with hypotonia persisting to two hours of age; and
  8. Ototoxic [ ~~drugs administered~~ drug administration ] to [ an ] infant for [ ~~longer~~ greater ] than three days.
- [ The presence of one or more of these factors places an infant at risk. ]

## PART II. GENERAL INFORMATION.

### § 2.1. Authority for regulations.

Sections 32.1-64.1 and 32.1-64.2 of the Code of Virginia direct the commissioner to establish and maintain a system for the purpose of identifying and monitoring infants who are at risk for hearing impairment and directs the Board of Health to promulgate the rules and regulations necessary for implementation [ of the system ].

### § 2.2. Purpose of rules and regulations.

These rules and regulations are designed to provide consistent guidelines for implementation of this system in order to assure that infants with hearing impairment receive appropriate, early intervention.

### [ § 2.3. Administration of rules and regulations.

These rules and regulations are administered by:

1. State Board of Health. The Board of Health has the authority to promulgate regulations as it deems necessary to implement this system; and

2. State Health Commissioner. The State Health Commissioner is the executive officer for the State Board of Health with the authority of the board when it is not session, subject to the rules and regulations of the board.

### § 2.3. Administration of rules and regulations.

These rules and regulations are promulgated to implement the system and amended as necessary by the State Board of Health. The State Health Commissioner or his designee is charged with their administration; and the Virginia Department of Health shall provide the staff necessary for their implementation. ]

### § 2.4. Application of rules and regulations.

These regulations have general application throughout the Commonwealth.

### § 2.5. Effective date of rules and regulations.

These rules and regulations shall become effective April 3, 1987.

### § 2.6. Severability.

If any provision of these regulations or the application of them to any person or [ ~~circumstances~~ circumstance ] is held to be invalid, such invalidity shall not affect other provisions or [ the ] application of any other part of these regulations which can be given effect without the invalid provisions of the [ ~~applications~~ application ], and to this end, the provisions of these regulations and the various applications of them are declared to be severable.

## PART III. PHASE ONE.

### § 3.1. Participating hospitals' responsibilities.

Those hospitals with neonatal special care and intensive care services shall be responsible for:

1. Completing a Virginia Department of Health reporting form on each infant transferred or discharged from special care or intensive care services, identifying the presence or absence of risk factors for hearing impairment by both medical record and family history;
2. Giving an information packet containing a [ ~~program~~ written ] description [ of the identification and monitoring system ] as well as [ written ] information about hearing and speech/language development to the parent/guardian of each infant transferred or discharged from special care or intensive care services;
3. [ Screening Prior to transfer or discharge, screening ] the hearing of those infants identified [ to be ] at

# Final Regulations

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risk [ ~~prior to transfer or discharge, with by~~ ] one of the following:

a. Early latency auditory evoked response [ ~~using for which~~ ] the following protocols [ shall be observed ] :

- (1) Test both ears;
- (2) Use an air conduction audiometric transducer earphone or insert receiver;
- (3) [ ~~Use bone conduction in addition to air conduction; not in place of; Both air conduction and bone conduction;~~ ]
- (4) Use a click stimulus;
- (5) Use [ a ] stimulus intensity [ ~~of~~ ] between 30 and 60db nHL (re: perceptual click threshold for normal hearing adults, obtained with specific equipment used for the test);
- (6) Maintain a hard copy to attach to reporting form; and
- (7) [ ~~Inability to complete If~~ ] the screening [ ~~due to is not completed because of~~ ] early transfer, equipment failure, time restraints, or patient condition [ ~~is considered a failure the total test shall be regarded as a failure and reported as such on the form~~ ] .

b. An automated motion sensitive unit [ ~~using for which~~ ] the following protocols [ shall be observed ] :

- (1) [ ~~Follow procedural All manufacturer-recommended~~ ] guidelines [ ~~as recommended by the manufacturer shall be followed~~ ] ;
- (2) [ ~~Inability to complete If~~ ] the screening [ ~~due to is not completed because of~~ ] early transfer, equipment failure, time restraints, or patient condition [ ~~is considered a failure the total test shall be regarded as a failure and reported as such on the form~~ ] ;

4. Sending the reporting form, with attachments if indicated, to the Virginia Department of Health within one week of transfer or discharge from the unit;

5. Reporting to the Virginia Department of Health, on a monthly basis, statistics regarding the number of admissions and live transfers or discharges, [ the ] total number of infants at risk as well as the total number of at risk infants who passed and [ the ] total number who failed the hearing screening; and

6. Reporting to the Virginia Department of Health, on

a yearly basis, the individual(s) responsible for the hearing screening, equipment used, date of last calibration/maintenance, stimuli used, pass/fail criteria, and referral procedures.

§ 3.2. Virginia Department of Health responsibilities. The Virginia Department of Health shall be responsible for:

1. Collecting data from reporting forms received and entering [ those data ] on a computer registry;

2. [ ~~Following up Providing follow up~~ ] on all infants reported [ ~~with risk factors at risk~~ ] and those who failed the hearing screening [ ~~until either a hearing impairment is diagnosed or normal hearing is documented; including but not limited to:~~

a. Communicating with the primary medical care provider (if stated) by mail two or four months after receipt of the reporting form on those who passed and those who failed the screening, to explain the program and to advise of the child's status;

b. Communicating with the family by mail, four to six months after receipt of the reporting form on those who failed the hearing screening (intensive care units - Phases One and Two) or those who had one or more risk factors identified (newborn nurseries - Phase Two), in order to advise of the need for a hearing evaluation as well as to provide information on locating a licensed audiologist;

c. Receiving results of the hearing evaluations, reviewing the reports for recommendations, and adding the information to the computer registry;

d. Mailing a reminder to the family if no information is received on the child within two months of the initial mailing; and,

e. Communicating with the family by mail after the results of the hearing evaluation are reported, confirming the results, and, if a hearing loss is diagnosed, providing the family with information about hearing loss and appropriate referral sources. ]

3. Maintaining [ both ] a registry of those children diagnosed with hearing impairment [ ~~as well as and~~ ] a list of those [ ~~of~~ ] whom no response [ ~~is has been~~ ] received [ on follow up ] ;

4. Reporting [ appropriate information from ] the registry and [ the ] list to the Department for the Deaf and Hard of Hearing and the State Department of Education;

5. [ ~~Providing Supplying~~ ] the reporting forms and information packets to the participating hospitals; and

6. Providing training and technical assistance on this program to the participating hospitals.

## PART IV. PHASE TWO.

### § 4.1. Phase One participating hospitals' responsibilities.

Those hospitals with neonatal special care and intensive care services shall [ ~~continue to follow regulations as outlined in~~ maintain all procedures and protocols required by ] § 3.1 of these regulations.

### § 4.2. Other participating hospitals' responsibilities.

Those hospitals with newborn nurseries shall be responsible for:

1. Completing a reporting form on each infant transferred or discharged from the newborn nursery, identifying the presence or absence of risk factors for hearing impairment by both medical record and family history;

2. Giving an information packet containing a [ ~~program~~ written ] description [ of the identification and monitoring system ] as well as [ written ] information about hearing and speech/language development to the parent/guardian of each infant transferred or discharged from the newborn nursery;

3. Sending the reporting form to the Virginia Department of Health within a week of transfer or discharge from the unit; and

4. Reporting to the Virginia Department of Health, on a monthly basis, statistics regarding the number of admissions and live transfers or discharges, and the total number of infants at risk.

### § 4.3. Virginia Department of Health responsibilities. The Virginia Department of Health shall be responsible for:

1. Collecting data from reporting forms and entering [ those data ] on a computer registry;

2. [ ~~Following up~~ Providing follow up ] on all infants reported at risk [ ~~who fail~~ and those who failed ] the hearing screening (Phase One) and on all infants reported at risk (Phase Two) [ ~~until either a hearing impairment is diagnosed or normal hearing is documented;~~ including but not limited to:

a. Communicating with the primary medical care provider (if stated) by mail two to four months after receipt of the reporting form on those who passed and those who failed the screening, to explain the program and to advise of the child's status;

b. Communicating with the family by mail, four to

six months after receipt of the reporting form on those who failed the hearing screening (intensive care units - Phases One and Two) or those who had one or more risk factors identified (newborn nurseries - Phase Two), in order to advise of the need for a hearing evaluation as well as to provide information on locating a licensed audiologist;

c. Receiving results of the hearing evaluations, reviewing the reports for recommendations, and adding the information to the computer registry;

d. Mailing a reminder to the family if no information is received on the child within two months of the initial mailing; and

e. Communicating with the family by mail after the results of the hearing evaluation are reported, confirming the results, and, if a hearing loss is diagnosed, providing the family with information about hearing loss and appropriate referral sources. ]

3. Maintaining [ both ] a registry of those children diagnosed with hearing impairment [ ~~as well as~~ and ] a list of those [ ~~on~~ concerning ] whom no response [ ~~is has been~~ ] received [ on follow up ] ;

4. Reporting [ appropriate information from ] the registry and [ the ] list to the Department for the Deaf and Hard of Hearing and the State Department of Education;

5. [ ~~Providing~~ Supplying ] the reporting forms and information packets to the participating hospitals; and

6. Providing training and technical assistance on this program to the participating hospitals.

# Final Regulations

DHC ID# \_\_\_\_\_

VAHIMS CASE RECORD FORM  
 Division of Handicapped Children  
 Virginia Department of Health  
 109 Governor Street - James Madison Building  
 Richmond, Virginia 23219

PLEASE PRINT OR TYPE

1. Infant Name (Last) (First) (Middle)			2. Date of Birth MM / DD / YY	3. Child's Sex
4. Hospital Name (City/Co) (State)			5. Infant's Physician	
6. Mother's Full Name (Last) (First) (Middle) (Maiden)				
7. Father's Full Name (Last) (First) (Middle)			8. Telephone ( ) - _____	
9. Parent's Address (Street Name and Number)			(City/Town)	(State) (Zip)
10. Contact Person Name (Last) (First) (Middle)			11. Telephone ( ) - _____	
12. Address of Contact Person (Street Name and Number)			(City/Town)	(State) (Zip)
13. Relative Name (Last) (First) (Middle)			14. Telephone ( ) - _____	
15. Relative's Address (Street Name and Number)			(City/Town)	(State) (Zip)

16. (Check appropriate answer(s)) RISK FACTORS FOR HEARING IMPAIRMENT

NO	YES		NO	YES
<input type="checkbox"/>	<input type="checkbox"/>	1. Severe asphyxia-Apgar score of 0-3 or failure to institute spontaneous respiration by 10 minutes, and with hypotonia persisting to 2 hrs of age	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	2. Birthweight less than 1500 grams	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	3. Hyperbilirubinemia at level exceeding indication for exchange transfusion	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	4. Bacterial meningitis	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	5. Defects of the head/face/neck, such as ear deformities, cleft palate, dysmorphic appearance	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>

CONGENITAL PERINATAL INFECTIONS

<input type="checkbox"/>	<input type="checkbox"/>	8. Rubella
<input type="checkbox"/>	<input type="checkbox"/>	9. Herpes
<input type="checkbox"/>	<input type="checkbox"/>	10. Toxoplasmosis
<input type="checkbox"/>	<input type="checkbox"/>	11. Syphilis
<input type="checkbox"/>	<input type="checkbox"/>	12. Cytomegalovirus

<p>17. HEARING SCREENING RESULTS (check )</p> <p><input type="checkbox"/> Early Latency Auditory Evoked Response</p> <table style="width: 100%;"> <thead> <tr> <th></th> <th>PASS</th> <th>FAIL</th> </tr> </thead> <tbody> <tr> <td>Right Ear:</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>Left Ear:</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Automated Motion-Sensitive Unit</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table> <p>18. Name of Person Administering Hearing Screening (Title)</p>		PASS	FAIL	Right Ear:	<input type="checkbox"/>	<input type="checkbox"/>	Left Ear:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Automated Motion-Sensitive Unit	<input type="checkbox"/>	<input type="checkbox"/>	<p>19. DISCHARGE STATUS (check )</p> <table style="width: 100%;"> <thead> <tr> <th>No</th> <th>Yes</th> <th></th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>a. Infant Discharge Prior To Hearing Screening</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>b. Infant Discharge DATE: MM / DD / YY</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>c. Infant Transferred To: _____</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>d. Infant Expired DATE: MM / DD / YY</td> </tr> </tbody> </table> <p>20. Name of Person Completing Form (Title)</p> <p>21. DATE: ____/____/____</p> <p>22. Telephone ( ) - _____</p>	No	Yes		<input type="checkbox"/>	<input type="checkbox"/>	a. Infant Discharge Prior To Hearing Screening	<input type="checkbox"/>	<input type="checkbox"/>	b. Infant Discharge DATE: MM / DD / YY	<input type="checkbox"/>	<input type="checkbox"/>	c. Infant Transferred To: _____	<input type="checkbox"/>	<input type="checkbox"/>	d. Infant Expired DATE: MM / DD / YY
	PASS	FAIL																										
Right Ear:	<input type="checkbox"/>	<input type="checkbox"/>																										
Left Ear:	<input type="checkbox"/>	<input type="checkbox"/>																										
<input type="checkbox"/> Automated Motion-Sensitive Unit	<input type="checkbox"/>	<input type="checkbox"/>																										
No	Yes																											
<input type="checkbox"/>	<input type="checkbox"/>	a. Infant Discharge Prior To Hearing Screening																										
<input type="checkbox"/>	<input type="checkbox"/>	b. Infant Discharge DATE: MM / DD / YY																										
<input type="checkbox"/>	<input type="checkbox"/>	c. Infant Transferred To: _____																										
<input type="checkbox"/>	<input type="checkbox"/>	d. Infant Expired DATE: MM / DD / YY																										

\*\*\*\*\*

**Title of Regulation:** VR 355-12-02. State Plan for the Provision of Children's Specialty Services.

**Statutory Authority:** §§ 32.1-12 and 32.1-77 of the Code of Virginia.

**Effective Date:** May 1, 1987

**Summary:**

This final plan revises the previous plan of November 1, 1984. The changes in the plan include the following:

1. Revision of eligibility criteria to permit specialty services for children with severe facial deformities and spina bifida in higher income families and to allow patients in certain surgery programs who, at the time of annual financial recertification, are found to have increased incomes to stay in the program to complete their plans of treatment.
2. Limited expansion of covered conditions and services in the existing program specialty clinics.
3. Revision of the criteria for admission of newborns and aliens.
4. Addition of admissions to the program between clinic sessions.
5. Incorporation of recent Medicaid payment procedures for hospitalization and ancillary services.
6. Additions to the statement of responsibilities of the families of program participants.

The changes in the final State Plan for the Provision of Children's Specialty Services which differ from the proposed plan published on September 29, 1986, include the following:

1. Name of the program was changed from Crippled Children's Services to Children's Specialty Services.
2. Name of the plan was changed to State Plan for the Provision of Children's Specialty Services.
3. Name of the administering unit was changed to the Division of Children's Specialty Services.
4. All references to "crippled" in the plan were changed to "handicapped".
5. Definition of "specialty program" was added as follows: "the diagnostic, treatment, and case management activities provided by the Division of Children's Specialty Services which are limited to a particular branch of medicine or surgery."

6. Rehabilitation engineer was added as a member of the clinic team in the Cerebral Palsy, Spina Bifida and Orthopedic Programs.

7. Children with suspected medical ear problems or hearing loss shall be automatically referred to the Hearing Impairment Program by the coordinator of the Facial Deformities Program.

8. EMG is a covered ancillary service in the Neurology Program.

9. Section 7.1.C. first sentence now reads as follows: "Patients can be admitted to the program between clinic sessions if all of the following criteria are met."

10. Section 7.1.E. second sentence now reads as follows: "If the child is not given an immediate appointment, the program clinic coordinator will contact the family for the completion of the program application forms and is responsible for submission of the forms to the local health department after the first clinic visit. In situations in which the program coordinator has difficulty in contacting or compliance of the family, assistance of the local health department is requested."

11. Section 8.3.B.2. deleted the following sentence: "The family is responsible for the cost of hospitalization if the patient leaves against medical advice and no treatment is accomplished."

12. Section 8.5.A. added the following sentence: "If the clinical director makes a change in the drug order in between clinic visits due to a contact with the patient or family, he will immediately contact the program coordinator and complete a new prescription to be processed by the program coordinator to the appropriate sources."

13. Section 3.3. first sentence now reads as follows: "Participating hospitals have signed a contract with the department accepting payments for care based on Medicaid allowable cost determinations."

14. Section 11.2.D. now reads as follows: "Hospital care shall be provided by hospitals which agree to accept payments for care based on Medicaid allowable cost determinations."

VR 355-12-02. State Plan for the Provision of Children's Specialty Services.

## PART I. DEFINITIONS.

### 3-0 Definitions

3-1 As used in the plan, the words and terms hereinafter set forth all have meanings respectively set forth unless the context requires a different meaning.



# Final Regulations

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§ 1.1. The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

3-1-1 "Annual patient fee" means the annual charge for services provided in accordance with this plan and determined in accordance with the effective Board of Health "Regulations Governing Eligibility Standards and Charges for Medical Care Services."

3-1-2 "Appeal" shall be used to describe means the patient's right to seek relief from a decision that results in denial of services included in the plan.

3-1-3 "Applicant" means an individual who has applied for treatment services provided by [ ~~Bureau~~ Division ] of [ ~~Crippled~~ ] Children's [ ~~Specialty~~ ] Services.

3-1-4 "Board" means the Virginia State Board of Health.

3-1-12 [ "~~Crippled~~ ] "Children's [ ~~specialty~~ ] services" means the activities undertaken by the [ ~~bureau~~ program ] for:

1. The early identification of [ ~~crippled~~ handicapped ] children;
2. The provision for such children of preventive, diagnostic and treatment services authorized by the plan;
3. The development, strengthening and improvement of standards and techniques relating to the provision of such services;
4. Training of personnel engaged in providing these services, to the extent permitted by fiscal constraints; and
5. The necessary administrative services in connection with the aforementioned services.

3-1-6 "Clinic coordinator" means an employee of the [ ~~bureau~~ program ] who is designated to be responsible for the administration of clinic activities at an assigned provider facility.

3-1-7 "Clinical director" means the physician in charge of a [ ~~bureau~~ program ] sponsored clinic.

3-1-8 "Commissioner" means the State Health Commissioner. The commissioner is the chief executive officer of the board and vested with authority to act for the board when it is not in session.

3-1-9 "Covered condition" means a specific congenital or acquired physical condition which results in a [ ~~crippling~~ handicapping ] condition which is amenable to surgical or medical intervention that results in correction or functional improvement of that condition and, for which services are specifically authorized by the plan.

3-1-10 "Covered services" means those diagnostic and treatment services that directly relate to the treatment of a covered condition.

3-1-14 "Department" means the Virginia Department of Health.

3-1-15 "Director" means the Director, [ ~~Bureau~~ Division ] of [ ~~Crippled~~ ] Children's [ ~~Specialty~~ ] Services.

3-1-5 [ "~~Bureau~~ "Division" ] means the [ ~~Bureau~~ Division ] of [ ~~Crippled~~ ] Children's [ ~~Specialty~~ ] Services.

3-1-11 [ "~~Crippled~~ "Handicapped ] child" means a child between birth and 21 years of age who meets the financial eligibility criteria, and is afflicted with a covered condition.

3-1-13 [ "~~Crippling~~ "Handicapping ] condition" means a congenital anomaly or acquired disease or condition which if untreated, will result in a significant diminution of one's physical ability to function in his environment, i.e., cleft lip/palate, amputation, club foot, scoliosis, burn scar contractures, but not including acute care for trauma, pneumonia or routine pediatric care.

3-1-16 "Hospitalization" means an admission to a provider facility for more than 24 hours for the treatment of a covered condition. The length of stay shall not exceed 21 days per admission and 42 days for the year. (See subsections A.6 and A.7 of § 11.5.)

3-1-17 "Low income family" means those families whose annual gross income, as defined in the board's "Regulations Governing Eligibility Standards and Charges for Medical Care Services" does not exceed THE HIGHEST ANNUAL INCOME RANGE BELOW THE 100% SELF-PAY RANGE.

3-1-18 "Participant" means an individual who meets all the eligibility criteria for the program, and has been accepted for treatment services.

3-1-19 "Plan" means the State Plan for the Provision of [ ~~Crippled~~ ] Children's [ ~~Specialty~~ ] Services prepared pursuant to Title V of the United States Social Security Act, as amended.

3-1-20 "Preauthorized" means except as otherwise provided for in the plan, written approval by the director prior to the provision of a covered service for a participant, except as otherwise provided for in the plan.

[ "Program" means Children's Specialty Services Program administered by the Division of Children's Specialty Services. ]

3-1-21 "Provider facility" means any facility which provides a covered service under a contractual arrangement between that facility and the [ ~~Bureau~~ Division ] of [ ~~Crippled~~ ] Children's [ ~~Specialty~~ ] Services.

3-1-22 "Resident" means any child whose parents or legal guardian reside within the geographical boundaries of the Commonwealth with the intent to remain therein. Further, there shall be a reasonable assurance that the ~~person~~ child will remain long enough to benefit from any treatment provided.

[ "Specialty program" means the diagnostic, treatment and case management activities provided by the Division of Children's Specialty Services which are limited to a particular branch of medicine or surgery. ]

3-1-23 "Treatment services" means those preauthorized surgical or medical procedures necessary to correct or mitigate a covered [ ~~crippling handicapping~~ ] condition. This term shall include hospitalization, ambulatory surgery, outpatient surgery, in and out surgery, laboratory, radiographic and other diagnostic tests, medications, prostheses, appliances, or aftercare required to properly treat the covered condition. ANY SERVICE NOT SPECIFICALLY AUTHORIZED IN THIS PLAN IS NOT COVERED. ONCOLOGY SERVICES RADIATION AND CHEMOTHERAPY ARE NOT COVERED.

3-1-24 "Variance" The term used to describe the procedure to seek means an authorization to provide a noncovered service for a participant in the [ ~~Crippled~~ ] Children's [ ~~Specialty~~ ] Program when the additional service augments and provides for a better rehabilitative outcome.

## PART II. GENERAL INFORMATION.

### 1-0 STATUTORY AUTHORITY

#### 1-1 § 2.1. Authority.

Section 32.1-77 of the Code of Virginia (~~1950, as amended~~) authorizes the Board of Health to prepare, amend, and submit to the appropriate federal authority, a state plan for maternal and child health services and [ ~~crippled~~ ] children's [ ~~specialty~~ ] services pursuant to Title V of the United States Social Security Act and any amendments thereto. Section 32.1-12 of the Code of Virginia authorizes the board to promulgate regulations. This document is prepared under this authority.

#### 1-2 § 2.2. Purpose of the plan.

To ensure that services for the treatment and rehabilitation of [ ~~crippled handicapped~~ ] children are made available to eligible citizens of the Commonwealth within available appropriations and to qualify for federal funds to implement the plan.

#### 1-3 § 2.3. Authority to administer the plan.

Section 32.1-77 of the Code of Virginia authorizes the Commissioner of Health to administer the plan and to receive and expend federal funds for the administration

thereof in accordance with applicable federal and state laws and regulations.

The commissioner hereby delegates the authority to supervise the day-to-day activities required to administer the plan to the director, [ ~~Bureau Division~~ ] of [ ~~Crippled~~ ] Children's [ ~~Specialty~~ ] Services. The director shall be responsible for the efficient and effective implementation of the plan and shall be accountable to the commissioner.

#### 1-4 § 2.4. Severability.

If any provision of this plan or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of the plan which can be given effect without the invalid provisions of application, and to this end the provisions of this plan and the various applications thereof are declared to be severable.

#### 1-5 [ § 2.5. § 2.4. ] Effective date of plan.

This plan will become effective on November 1, 1984 [ ~~May 1, 1987.~~ ]

#### 1-6 [ § 2.6. § 2.5. ] Emergency suspension of services.

The commissioner may suspend any portion of the plan, including services provided, to ensure the financial integrity of the [ ~~Crippled~~ ] Children's [ ~~Specialty~~ ] Services Program. The commissioner shall report any action taken under the provisions of this ~~article section~~ to the Board of Health at its next subsequent scheduled meeting.

## PART III. ASSURANCE AND REFERENCES.

### 2-0 ASSURANCE AND REFERENCES

#### 2-1. Assurances

2-1-1 § 3.1. Section 32.1-77 of the Code of Virginia ; ~~as amended~~, designates the Commissioner of Health, a physician and Chief Executive Officer of the Department of Health, as the administrator of this plan.

The director of the [ ~~Bureau Division~~ ] of [ ~~Crippled~~ ] Children's [ ~~Specialty~~ ] Services, an organizational unit of the department, has the responsibility for supervising the day-to-day activities required to administer the plan. The director of this [ ~~bureau division~~ ] is a physician and full-time employee of the Department of Health.

2-1-2 § 3.2. Confidentiality of medical records is assured by § 32.1-41 of the Code of Virginia ; ~~as amended~~ .

2-2-3 § 3.3. Participating hospitals have signed a contract with the department accepting [ ~~a rate determined to be~~ ] REASONABLE COST as established by the Virginia Medical Assistance Program (~~MEDICAID~~) and does not exceed the cost of such services for the purposes of Title

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~~XVIII.~~ [ *reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities, determined in conformity with standards approved by the Secretary of Health and Human Services. This rate shall be calculated annually as an aggregate cost to charges based on Title XIX reimbursable costs, payments for care based on Medicaid allowable cost determinations.* ]

Further, the contract also stipulates that payments made by the department and accepted by the hospital constitutes full payment for services provided to patients sponsored by the [ ~~Bureau Division~~ ] of [ ~~Crippled~~ ] Children's [ ~~Specialty~~ ] Services ~~except as authorized by the plan~~ .

~~2-1-4~~ § 3.4. All services purchased for recipients of the [ ~~Bureau of Crippled~~ ] Children's [ ~~Specialty~~ ] Services Program are made in accordance with policies and procedures of the Commonwealth of Virginia's Department of General Services. Records are on file for audit for a period of five years from year of purchase.

~~2-1-5~~ § 3.5. The Department of Health maintains adequate records to show the disposition of all funds expended for activities under the plan.

~~2-1-6~~ § 3.6. The plan does not preclude establishment of "Demonstration Projects" when approved by the commissioner. All such projects shall be relevant to the [ ~~crippled~~ ] children's [ ~~specialty~~ ] services provided through the administration of the plan.

~~2-1-7~~ § 3.7. The plan does not preclude the use of subprofessional staff and volunteers in the provision of services authorized by the plan.

## PART IV. ORGANIZATIONAL RELATIONSHIPS.

### ~~4-0~~ ORGANIZATIONAL RELATIONSHIPS

§ 4.1. Relationships between [ ~~Bureau Division~~ ] of [ ~~Crippled~~ ] Children's [ ~~Specialty~~ ] Services and:

#### ~~4-1-1~~ A. Local health departments.

The [ ~~bureau division~~ ] and local health departments work as partners in the provision of services to [ ~~crippled handicapped~~ ] children. The [ ~~bureau program~~ ] provides medical specialists and clinics for patients in both selected locations and local health departments for diagnostic services and treatment of specified conditions. In the specialty clinics eligibility certification and the fee collection are also conducted by the [ ~~bureau program~~ ] personnel.

The local health department provides case finding, initial eligibility determination, *fee collection* , and counseling for all [ ~~bureau program~~ ] patients. Space, equipment and personnel to conduct clinics are provided by local health departments for specialty clinics held on their premises for [ ~~bureau program~~ ] sponsored patients. Local health

departments are responsible for case management between specialty clinic visits.

#### ~~4-1-2~~ B. Medical schools in Virginia.

The [ ~~bureau program~~ ] provides personnel, i.e., nurse coordinators, clerks, physical therapists, and social workers, to operate specialty clinics held in the medical schools. Reimbursement to physicians conducting specialty clinics is based on time spent in clinic.

The medical schools provide space, supplies, and routine equipment for conducting specialty clinics. Personnel, i.e., physicians, nurses, and support personnel, to accomplish outpatient services, ancillary services and hospitalization services are provided by state medical schools.

#### ~~4-1-3~~ C. Hospitals.

The [ ~~bureau program~~ ] provides personnel, i.e., nurse coordinators, clerks, physical therapists, and social workers, to operate specialty clinics held in hospitals. Also provided by the [ ~~bureau program~~ ] is reimbursement for ancillary services, hospitalization, and reimbursement to physicians based on time spent in clinics. Office space/equipment are provided by the [ ~~bureau program~~ ]

#### ~~4-1-4~~ D. Volunteer organizations.

##### ~~4-1-4-1~~ 1. United Cerebral Palsy.

United Cerebral Palsy *may* provide case findings, clinics, clinicians, and other personnel to operate clinics located at cerebral palsy centers.

The [ ~~bureau program~~ ] provides covered appliance, ancillary services and hospitalization as recommended by the cerebral palsy clinical director for those patients accepted into the [ ~~Crippled Children's~~ ] program from the cerebral palsy center.

##### ~~4-1-4-2~~ 2. Hemophilia Foundation.

The Hemophilia Foundation provides case findings and an advisory committee to direct public attention toward hemophilia through education. The [ ~~bureau program~~ ] provides covered services to hemophiliacs.

##### ~~4-1-4-3~~ 3. Society for Crippled Children and Adults.

The Society for Crippled Children and Adults provides case findings and directs public attention to [ ~~crippled handicapped~~ ] persons through education. Also the society provides some equipment and appliances not provided by the [ ~~bureau program~~ ] (wheelchairs, walkers, etc.)

#### ~~4-1-5~~ E. Other state agencies and programs.

##### ~~4-1-5-1~~ 1. Department of Rehabilitative Services.

The Department of Health has formal agreements with the Department of Rehabilitative Services for provision of clinic services by the [ ~~bureau~~ program ] with the Department of Rehabilitative Services reimbursing for ancillary services, hospitalization, drugs, and equipment/appliances.

#### 4-1-5-2 2. Department of Corrections.

The Department of Health has formal agreements with the Department of Corrections to provide continued clinic services for previous program participants. Reimbursement for covered ancillary services, drugs, and hospitalization is made by the Department of Corrections.

#### 4-1-5-3 3. Department of Education.

The Division of Special Education Programs and Services of the Department of Education provides educational consultants to the [ ~~bureau programs~~ program ] as an integral part of the evaluation and medical team. The educational consultant is a direct liaison between the [ ~~bureau programs~~ program ] and public schools. The [ ~~bureau~~ program ] also cooperates with the Division of Special Education Programs and Services in development of medical-educational programs for handicapped children ages [ ~~two~~ birth ] to 21 years in support of Public [ ~~Law~~ Laws ] 94-142 [ and 99-457 ].

The [ ~~bureau~~ program ] is a medical resource in support of the Statewide Scoliosis Screening Program in public schools.

#### 4-1-4-5- 4. Maternal and Child Health. Child Development Clinic Program.

The [ ~~bureau~~ program ] has formal agreements with the [ ~~Bureau~~ Division ] of Maternal and Child Health's child development clinics providing for cross referral from agency to agency, under which each agency will purchase the services ordered or recommended during the course of their treatment of the patient.

#### 5. Maternal and Child Health. Genetics Disease Program.

The [ ~~bureau~~ program ] has a formal agreement with the [ ~~Bureau~~ Division ] of Maternal and Child Health's Genetics Disease Program providing for cross referral between the [ ~~bureau~~ program ] and genetics centers. Genetic counseling, testing and diagnostic services shall be provided by the genetics centers to [ ~~bureau~~ program ] patients as part of their funding through the Maternal and Child Health Services Block Grant.

#### F. Primary care physicians.

The [ ~~bureau~~ program ] encourages each family to have a primary care physician for the provision of general

health care to the child. The [ ~~bureau~~ program ] sends clinic reports and hospital discharge summaries to the child's primary care physician to enhance medical management and promote continuity of care between [ ~~bureau~~ program ] clinic visits.

#### PART V.

#### [ ~~CRIPPLED~~ ] CHILDREN'S [ ~~SPECIALTY~~ ] SERVICES SCOPE AND CONTENT.

#### 5-0 CRIPPLED CHILDREN'S SERVICES SCOPE AND CONTENT

##### § 5.1. Mission statement.

The Virginia [ ~~Crippled~~ ] Children's [ ~~Specialty Services~~ ] Program's primary thrust is capacity building through a statewide structured health care delivery system which ensures the availability of appropriate and proper comprehensive care for [ ~~crippled~~ handicapped ] children. Such a system stresses quality assurance, establishment of standards, and monitoring of performance. Quality assurance involves the establishment of codified service programs under contract outlining professional qualifications and space, equipment, and procedure standards.

The system involves multidisciplinary teams and paraprofessionals, brought together for the comprehensive management of the multiple problems associated with long-term, multistaged, and complicated [ ~~crippling~~ handicapping ] conditions.

In addition to availability and quality assurance, the system is geared to individual needs and stresses continuity of care through shared responsibilities and coordination.

##### § 5.2. Scope of services.

The [ ~~bureau~~ division ] through agreements and contracts, provides structured programs within university medical facilities, private hospitals, and local health departments, for the specialized diagnosis and treatment of the broad series of childhood handicapping conditions. The [ ~~bureau~~ program ] concentrates on highly specialized services which are not generally or readily available within local communities and are of such a complicated and long-term nature that the cost would be prohibitive to low income families.

Regional center management is accomplished through [ ~~bureau~~ program ] offices located within the center. [ ~~Bureau~~ Program ] coordinators supervise all program transactions and activities within the center. The coordinator works with the clinical director relative to patient treatment to families, consults with nurses in local health departments, and follows [ ~~bureau~~ program ] sponsored patients through hospital stays.

##### § 5.3. Goals and objectives of the program.

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## 5.1.1 A. Goals.

5.3.1.1 1. To locate all children within the Commonwealth in need of [ ~~crippled~~ ] children's [ *specialty* ] services.

5.3.1.2 2. To maintain a registry of the deaf in the Commonwealth ( ~~Section~~ § 63.1-85.5 of the Code of Virginia).

3. *To maintain the Virginia Hearing Impairment Identification and Monitoring System (§§ 32.1-64.1 and 32.1-64.2 of the Code of Virginia).*

5.1.1.3 4. To provide diagnostic and treatment services by qualified medical specialists through regularly-scheduled clinics located in comprehensive medical/surgical regional centers as well as numerous field centers so as to be accessible to all parts of the Commonwealth.

5.1.1.4 5. To provide comprehensive outpatient and inpatient medical/surgical care for [ ~~crippled~~ *handicapped* ] children.

5.3.1.5 6. To arrange for indicated ancillary and professional services.

5.3.1.6 7. To plan, develop and facilitate implementation of needed services for [ ~~crippled~~ *handicapped* ] children.

## 5.3.2 B. Objectives.

### 5.3.2.1 1. General.

The director shall develop objectives that are the basis for the annual management plan for the [ ~~bureau~~ *program* ]. These objectives are developed as a result of the director's assessment of statistical data, the Virginia State Health Services Plan, and federal initiatives. These objectives shall become part of this plan if they have been accepted as part of the department's Biennium Budget Proposal. No special review action shall be required to include these objectives.

## PART VI. SERVICES PROVIDED.

### 6.0 SERVICES PROVIDED

#### § 6.1. Amputee.

6.1.1 A. Covered conditions shall be limited to amputations of the hand, arm, leg, feet, fingers, and toes. Neoplasms of all extremities requiring amputation are also covered.

EMERGENCY AMPUTATION DUE TO ACCIDENTS AND NEWBORN CONGENITAL AMPUTATIONS ARE IS

NOT A COVERED SERVICE DURING ACUTE PHASE OF TREATMENT. Children with [ ~~these conditions~~ *this condition* ] can be referred to the program for long-term rehabilitation.

#### 6.1.2 B. Treatment services.

6.1.2.1 1. Clinic services shall be provided by a team (Amputee Board) of orthopedist, prosthetist, occupational therapist, and physical therapist.

6.1.2.2 2. Hospitalization shall include surgery related to the covered condition and for fitting of and training in use of prostheses.

6.1.2.3 3. Ancillary services shall include *temporary and permanent* prosthetic devices and repairs, physical therapy, occupational therapy, stump care, gait training, stump socks, drugs, radiographic examinations, orthopedic appliances (braces, shoes, crutches, canes) and repairs, stump wrapping, casts, and muscle tests required for treatment of the covered conditions.

#### § 6.2. Cardiology.

6.2.1 A. Covered conditions shall be limited to congenital heart disease, and rheumatic fever, *Kawasaki Disease, tachyarrhythmias, bradyarrhythmias, infective endocarditis, and diseases of the pericardium and myocardium.*

Referral by the child's physician is required. The physician's nurse practitioner may make the referral.

~~Congenital conduction conditions are covered, including Wolff-Parkinson-White and congenital heart block. Other conduction abnormalities, unless on a congenital basis or caused by a congenital anatomical anomaly, are not covered including sinus, paroxysmal, and supraventricular tachycardia, sinus bradycardia, atrial, ventricular fibrillation and flutter, premature beats, and noncongenital heart block.~~

#### 6.2.2 B. Treatment services.

##### 6.2.2.1 1. Clinic services.

Medical follow-up shall be provided by a *pediatric* cardiologist.

##### 6.2.2.2 2. Hospitalization.

Newborn infants with congenital cardiac conditions of such severity as to require immediate corrective or palliative surgery within seven *30* days of birth and children with rheumatic fever may be admitted for [ ~~bureau~~ *program* ] sponsored treatment services during hospitalization.

Hospitalization for cardiac catheterization, ~~exercise stress test, Echocardiogram, vector cardiogram,~~ cardiac

surgery, and cardiac complications of the covered conditions shall be provided. ADMISSIONS FOR TREATMENT OF PNEUMONIA SHALL NOT BE COVERED.

For patients already admitted to the [ ~~Crippled~~ Children's [ ~~Specialty Services~~ ] Program during clinic services, the [ ~~bureau program~~ ] may authorize three days hospitalization for diagnosis or evaluation of suspected ~~rheumatic fever or congenital cardiac~~ problems. If illness is not due to either of these ~~this~~ condition, authorization for hospitalization will not be extended.

Hospitalization for the treatment of children during the acute phase of rheumatic fever shall be provided, to a maximum of 21 days.

[ ~~Bureau Program~~ ] sponsored patients admitted to a [ ~~bureau program~~ ] approved hospital as an emergency for cardiac complications of the covered conditions may have treatment services without preauthorization if the [ ~~bureau's program's~~ ] contract cardiologist has confirmed the diagnosis.

~~6.2.2.3~~ 3. Ancillary services shall include drugs, chest radiographs, EKG, blood and urine tests, ~~chemistries~~, Echocardiogram, exercise stress test, Holter Monitor, ~~shunt study, and radioisotope required for treatment of the covered conditions.~~ *cardiac blood pool imaging, Doppler Study, and magnetic resonance imaging.*

## § 6.3. Cerebral palsy.

~~6.3.1~~ A. Covered condition shall be limited to cerebral palsy.

### ~~6.3.2~~ B. Treatment services.

~~6.3.2.1~~ 1. Clinic services shall be provided by a team consisting of othopedist, occupational therapist, physical therapist, [ *rehabilitation engineer* ] and orthotist and located at cerebral palsy centers.

~~6.3.2.2~~ 2. Hospitalization shall be limited to orthopedic surgery ; ~~which may include and intensive~~ physical and occupational therapy required during the hospital stay.

~~6.3.2.3~~ 3. Ancillary services shall be limited to orthopedic appliances and repairs, *orthoses*, physical therapy, occupations therapy, drugs, radiographic examinations, casts, *magnetic resonance imaging*, blood and urine tests, and muscle tests required for the treatment of the covered condition.

## § 6.4. Cleft lip/palate facial deformities.

~~6.4.1~~ A. Covered conditions shall be limited to cleft lip, cleft palate, cleft lip and palate and congenital facial deformities such as Aperts, Treacher-Collins, craniofacial

microsomias, prognathisms, tumor, Cruzon's Syndrome, Pierre Robin Syndrome, and short palate, as well as other mandibulofacial dysostosis. Tongue-tie is not a covered condition unless accompanied by mandibulofacial problem. Orthodontics without plastic surgery is not covered.

### ~~6.4.2~~ B. Treatment services.

~~6.4.2.1~~ 1. Clinic services shall be provided by a clinic which may be made up of plastic surgeon, pedodontist, orthodontist, prosthodontist, oral surgeon, speech pathologist, medical social worker and pediatrician.

[ *Children with suspected medical ear problems or hearing loss shall be automatically referred to the Hearing Impairment Program by the coordinator of the Facial Deformities Program.* ]

~~6.4.2.2~~ 2. Hospitalization shall be limited to surgical correction of the covered condition or complications of the covered condition.

~~6.4.2.3~~ 3. Ancillary services shall be limited to radiographic examination; laboratory tests; drugs; photographs which are a part of the patient's medical record and are considered necessary for evaluation of growth and development; speech and language evaluation and speech therapy as recommended by clinic team; appliances; dental orthodontic or prosthodontic care relative to the covered condition.

### C. Nonlow income patients.

Persons with severe cleft lip and cleft palate or extensively involved facial deformities and syndromes which will involve long-term multistaged surgeries and reconstructions who do not meet criteria for low income (see Part I) shall be allowed to attend [ ~~bureau program~~ ] sponsored clinics on payment of the annual fee. Such patients shall be responsible for the cost of medical services directly with the provider. After presenting evidence of medical expenses incurred, not covered by insurance, for the patient in an amount equal to 5.0% of the family's gross annual income, the patient will then become a [ ~~bureau program~~ ] sponsored patient and be eligible for all indicated treatment services as outlined in subsection B of § 6.4 until the next annual financial recertification.

## § 6.5. Cystic fibrosis.

~~6.5.1~~ A. Covered condition shall be limited to cystic fibrosis.

### ~~6.5.2~~ B. Treatment services.

~~6.5.2.1~~ 1. Clinic services shall be provided by a pediatrician and may include consultation with other team members comprised of physical therapist, social worker, *nutritionist* and education consultant.

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~~6.5.2.2.~~ 2. Hospitalization shall be limited to treatment of acute exacerbation of the disease and evaluation and treatment for meconium ileus equivalent or other complications associated with cystic fibrosis. *Surgical removal of nasal polyps shall be covered if performed in existing [ bureau ] programs.*

~~6.5.2.3.~~ 3. Ancillary services shall be limited to laboratory studies, i.e., sweat chloride determination by pilocarpine iontophoresis sweat gland stimulation and titrimetric quantitative analysis, blood studies, urine studies, and throat and sputum cultures, radiographic examinations relative to cystic fibrosis, pulmonary functions studies, medication, i.e., antibiotics, enzymes, vitamins, expectorants, nebulization equipment, and physical therapy. Special formula is not covered. *Supplies for intravenous antibiotic therapy in the home shall be ordered through the Bureau of Pharmacy Services.*

## 6.5.3 C. Nonlow income patients.

Persons who do not meet criteria for low income (see ~~3.1.17 Part I~~ ) shall be allowed to attend [ ~~bureau program~~ ] sponsored clinics on payment of the annual fee. This allows such patients to order authorized medication through the Bureau of ~~Biologie and Drugs~~ Pharmacy Services. Such patients shall ~~pay full~~ be responsible for the cost of ~~ancillary medical services directly to~~ with the provider. Drugs shall be paid for at time order is placed in the local health department. After presenting evidence of medical expenses incurred , *not covered by insurance*, for the patient in an amount equal to 5.0% of the family's gross annual income, the patient will then become a [ ~~bureau program~~ ] sponsored patient and be eligible for all indicated treatment services as outlined in ~~6.5.2~~ subsection B of § 6.5 until the next annual financial recertification.

~~6.5.2.~~ D. Adult cystic fibrosis patients over 21 years of age shall be provided clinic services and ancillary services (see subsections B.1 and B.3 of § 6.5). No hospitalization is provided for adults.

## § 6.6. Endocrinology.

~~6.6.1~~ A. Covered conditions shall be limited to ~~diagnosed conditions such as endocrine neoplasms requiring surgery and hormone replacement, diabetes insipidus, hypo and hyperthyroidism, hypo and hyperparathyroidism, adrenal insufficiency and hyperfunction, diseases or disorders of the pituitary glands, thyroid gland, parathyroid glands, adrenal glands, pancreas and gonads.~~

~~6.6.1.1~~ Conditions not covered shall include *Full evaluation for short stature (defined as below the fifth percentile on the height chart for sex and age), tall stature, growth failure, precocious puberty, delayed sexual development and such other syndromes shall be provided but unless they have an endocrinological cause, they cannot be followed for ongoing treatment services in the endocrinology clinic but may qualify for coverage in*

*another [ bureau program ] sponsored clinic.*

## 6.6.2 B. Treatment services.

~~6.6.2.1~~ 1. Clinic services shall be provided by a pediatric endocrinologist.

~~6.6.2.2~~ 2. Hospitalization shall be provided for required surgery and medical management of complicated covered conditions.

~~6.6.2.3~~ 3. Ancillary services shall include laboratory services, i.e., blood studies and urine studies, necessary to diagnose or treat a covered condition, radiographic studies relative to the covered condition, and medication necessary to treat covered conditions.

## C. Childhood and Adolescent Diabetes Program.

*The diabetic clinics are a part of the Endocrinology Program and are especially structured for the treatment, management, and follow up of children and adolescents with diabetes mellitus. The clinics may function as a part of the endocrine clinics or may be self-standing.*

*1. Self-standing diabetes clinic services shall be limited to the treatment of diabetes mellitus and its complications.*

*2. Hospitalization shall be provided for required medical management of complicated covered condition when ordered by the clinical director.*

*3. Ancillary services shall cover radiographic studies, laboratory testing, insulin syringes, and testing materials.*

## § 6.7 Eye surgery.

~~6.7.1~~ A. Covered conditions shall be limited to strabismus, acquired cataract, strabismus with amblyopia, malignancies of eye requiring enucleation, conditions requiring corneal transplant, chronic glaucoma, ptosis, lacrimal stenosis, juvenile rheumatoid arthritis uveitis, granulomatous uveitis, keratoconus, retrolental fibroplasia, posttraumatic eye complications, congenital anophthalmos, congenital malformation of the eye, and albino eye conditions.

ACUTE GLAUCOMA AND ACUTE EYE ACCIDENTS ARE NOT COVERED CONDITIONS.

ABNORMAL VISION DUE TO REFRACTIVE ERROR ONLY AND RETINAL DETACHMENT ARE NOT COVERED CONDITIONS.

## 6.7.2 B. Treatment services.

~~6.7.2.1~~ 1. Clinic services shall be provided by an ophthalmologist.

6-7-2-2 2. Hospitalization and outpatient eye surgery shall be provided and limited to eye surgery for covered conditions.

6-7-2-3 3. Ancillary services shall be limited to eye glasses, drugs, prostheses, eye occlusors, contact lens, radiographic examinations, blood tests, and urine tests required for the diagnosis and treatment of the covered condition.

## § 6.8. Hearing impairment.

6-8-1 A. Before referral to a hearing impairment clinic, children must have failed a local hearing screening test followed by a failure of a rescreen in two to four weeks. They shall also have a local medical examination for impacted wax, foreign bodies, obvious pathology, etc. Children too young to respond to audiometric screening can be screened with tympanometry, the Modified Ewing, or on the basis of high risk status for hearing loss. Children unable to be screened because of a handicap are exempt from this referral requirement. Children known to the [ ~~bureau~~ ] cleft lip/cleft palate program can be referred to hearing impairment clinic without screen failures.

6-8-2 B. Covered conditions shall be limited to chronic recurrent otitis media, mastoiditis, congenital conditions of external auditory canal, middle and inner ear, disorders of tympanometry, the Modified Ewing, or on the basis of high risk status for hearing loss. Children unable to be screened because of a handicap are exempt from this referral requirement. Children known to the [ ~~bureau~~ ] cleft lip/cleft palate program can be referred to hearing impairment clinic without screening failures.

## 6-8-3 C. Treatment services.

6-8-3-1 1. Clinic services shall be provided by a team consisting of otologist, audiologist, psychologist and social worker.

6-8-3-2 2. Hospitalization and outpatient ear surgery shall be provided and limited to corrective ear surgery required for the covered conditions. TONSILLECTOMY AND ADENOIDECTOMY FOR THE TREATMENT OF DOCUMENTED AND DEMONSTRABLY RELATED HEARING LOSS IS COVERED.

6-8-3-3 3. Ancillary services shall be limited to medication, complete hearing evaluation, hearing aid evaluation, hearing aids and repairs, speech therapy, blood and urine tests, radiographic examinations, aural rehabilitation, and speech-language evaluation required for treatment of the covered conditions.

## § 6.9. Hemophilia.

6-9-1 A. Covered conditions shall be limited to hemophilia and Von Willebrand's disease.

## 6-9-2 B. Treatment services.

6-9-2-1 1. Clinic services shall be provided by a team consisting of a hematologist, orthopedist, and physical therapist.

6-9-2-2 2. Hospitalization shall be provided for severe bleeding episodes. Required orthopedic surgery is limited to individuals up to 21 years of age.

Emergency room care is provided for acute accidents and bleeding episodes.

A life threatening bleeding episode requiring immediate care may be received at the nearest hospital without prior authorization by the [ ~~bureau~~ program ] if or when the family has a private physician who manages the case in consultation with the clinical director and the hospital has adequate capabilities for treatment services.

6-9-2-3 3. Ancillary services shall be limited to drugs, training for home infusion, radiographic examinations, orthopedic appliances, splints, casts, physical therapy and blood tests required for the treatment of the covered conditions.

## 6-9-3 C. Nonlow income patients.

Persons who do not meet criteria for low income patients (see 3-1-17 Part I ) shall be allowed to attend [ ~~bureau~~ program ] sponsored clinics on payment of the annual patient fee. This allows such patients to order authorized medication through the Bureau of Biologies and Drugs. Such patients shall pay full cost of ancillary services directly to the provider of a specific ancillary service. Payment for the drug orders placed at the local health department shall be made to the Department. After presenting evidence of medical expenses incurred for the patient in an amount equal to 5% of the family's gross annual income, the patient will then become a Bureau sponsored patient and be eligible for all indicated treatment services as outlined in 6-9-2. Pharmacy Services. Due to the extremely high cost of the blood products, patients with hemophilia may pay the annual medical spend down in monthly installments to the [ ~~bureau~~ program ] coordinator. The spend down is equivalent to 5.0% of the family's gross annual income. The spend down shall be fully paid at the end of the 12 month period from the annual recertification date.

6-9-4 D. Covered services shall be provided for children and adults.

## § 6.10. Neurology.

6-10-1 A. Covered conditions shall be limited to demonstrable neurological pathology characterized by seizures; neurocutaneous and neuromuscular diseases; degenerative disorders of cerebral white matter, cerebellum, and basal ganglia; neoplasms (diagnosis only);



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*toxic encephalopathy; and diseases of the the spinal cord.*

Referral by the child's primary physician is required. ~~The diagnostic procedures for cerebral, spinocerebellar and demyelinating conditions are covered.~~ Children with emotional, school, and social problems or learning disabilities as their primary problem shall be referred to the child development clinics.

## 6-10-2 B. Treatment services.

6-10-2-1 1. Clinic services shall be provided by a team which includes a neurologist, psychologist, social worker and educational consultant.

6-10-2-2 2. Hospitalization for special work ups, difficult drug adjustment, and status epilepticus may be approved. All such hospitalization shall be approved and preauthorized (see 2-1-20 Part I ). An admission of a [ ~~bureau program~~ ] *sponsored patient* for a life threatening episode of status epilepticus does not require preauthorization.

6-10-2-3 3. Ancillary services shall be limited to drugs, blood tests, urine tests, radiographic examinations, EEG, CAT SCAN, [ *EMG* ] and ultrasonography , and *magnetic resonance imaging*.

## 6-10-3 C. Adult neurology.

When a [ ~~bureau program~~ ] sponsored patient in the neurology program reaches the age of 21 years and the clinic director determines that the patient will benefit from continued follow up, the patient may continue [ ~~bureau program~~ ] sponsored clinic visits; however, the patient shall pay the annual fee and all other costs except attending the clinic for follow up.

## § 6.11. Neurosurgery.

6-11-1 A. Covered conditions shall be limited to ~~uncomplicated~~ meningocele; myelomeningocele, encephalocele; craniosynostosis; subdural hematomas and effusions; surgically resectable abscesses, cysts, and tumors; surgical decompressions; surgical shunting for *all types of hydrocephalus. resulting from third ventricle or aqueductal stenosis.*

## 6-11-2 B. Treatment services.

6-11-2-1 1. Clinic services shall be provided by a neurosurgeon.

6-11-2-2 2. Hospitalization shall be limited to surgical intervention for covered conditions.

6-11-2-3 3. Ancillary services shall be limited to radiographic examination, drugs, *mangnetic resonance imaging, physical therapy, occupational therapy* and laboratory studies necessary to treat the covered conditions.

## § 6.12. Orthopedics.

6-12-1 A. Covered services shall be limited to any condition of the bone, joint or muscle which meets the definition of a [ ~~crippling handicapping~~ ] condition. ~~ROUTINE FRACTURES AND ACCIDENTS NOT RELATED TO COVERED CONDITION SHALL NOT BE COVERED.~~ Spontaneous fractures in the case of osteogenesis imperfecta, which are an integral part of the disease process, are covered, *as well as fractures occurring secondary to other covered conditions.*

## 6-12-2 B. Treatment services.

6-12-2-1 1. Clinic services shall be provided by orthopedists, physical therapist, occupational therapist, [ *rehabilitation engineer* ] and orthotist.

6-12-2-2 2. Hospitalization and inpatient and outpatient orthopedic surgery shall be provided and limited to corrective orthopedic surgery for covered conditions; but, rehabilitation shall be limited to procedures that can only be performed in a hospital. Hospitalization may be preauthorized for up to three days for diagnostic work up which may include arthrogram, arteriogram, muscle and bone biopsy, or myelogram if the clinician is unable to make an outpatient diagnosis.

6-12-2-3 3. Ancillary services shall be limited to physical therapy, occupational therapy, cast, orthopedic appliances and repairs, *orthoses, magnetic resonance imaging, radiographic examinations, muscle tests, drugs, and blood and urine tests* required for treatment of the covered conditions.

## 6-12-2-4 4. Physical therapy.

Physical therapists in the [ ~~Bureau Division~~ ] of [ ~~Crippled~~ ] Children's [ *Specialty* ] Services shall attend all orthopedic clinics held in their assigned area and take medical orders from the attending orthopedists. Physical therapists carry out medical orders of any [ ~~bureau~~ ] program clinical director through physical therapy clinics and home visits.

Physical therapy may be purchased on an outpatient basis from a contract provider for [ ~~bureau program~~ ] sponsored patients when ordered by the attending clinician. This service is used when a patient needs a modality or frequency of treatment not available in a [ ~~bureau program~~ ] physical therapy clinic *and when physical therapy is not available in the school system.*

## § 6.13. Pediatric evaluations.

*Every new patient admitted to any [ ~~Crippled~~ ] Children's [ *Specialty* ] Services Program who is not under the general well-child supervision of a local general practitioner or pediatrician shall be provided a comprehensive pediatric evaluation following the same protocol as required by Medicaid's Early and Periodic*

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*Screening, Diagnosis, and Treatment Program. The report will be incorporated as an integral part of the chart. If a condition is discovered by the evaluation which the [ bureau program ] does not cover, the patient will be referred to the other medical resources.*

[ § 6-13 § 6.14. ] Plastic surgery.

~~6-13-1~~ A. Covered conditions shall be limited to burn scar contractures, grafting for old burn scars, burn-related reconstructive surgery, congenital anomalies of the hands and feet (syndactylism), supernumerary digits, congenital absence or malformation of the ear, hypospadias if uncomplicated by other genitourinary anomalies, ptosis of eyelid, extensive hemangiomas which cause crippling, and scar contractures resulting from trauma : ~~COSMETIC SURGERY IS NOT COVERED: branchiogenic sinus and cyst, thyroglossal cyst, pigmented nevi, keloids, hypoplastic breast, perianal lesions and pressure ulcers in insensate skin.~~

6-13-2 B. Treatment services.

6-13-2-1 1. Clinic services shall be provided by a plastic surgeon.

6-13-2-2 2. Hospitalization and outpatient plastic surgery shall be provided and limited to surgical intervention for covered conditions.

6-13-2-3 3. Ancillary services shall be limited to radiographic examination necessary to treat the covered condition, laboratory services necessary to treat the covered condition, drugs, photographs as part of the medical record, physical therapy and occupational therapy evaluation, physical therapy services provided by the Bureau physical therapists and in local health department Physical Therapy clinics, and special appliances recommended by clinician.

[ § 6-14 § 6.15. ] Rheumatoid Arthritis: Rheumatology.

~~6-14-1~~ A. Covered conditions shall be limited to *juvenile rheumatoid arthritis, juvenile ankylosing spondylitis and other spondyloarthropathies, systemic lupus erythematosus, dermatomyositis and polymyositis, scleroderma, mixed connective tissue disease and other overlap syndromes, vasculitis syndromes such as Henoch-Schonlein, polyarthritis nodosa, Wegeners Granulomatosis, Kawasaki Disease, infectious and post infectious arthritis, connective tissue disorders (Marfan's Syndrome, etc.), erythema multiforme, erythema nosodosum, Lyme Disease and arthritis or arthralgias of unknown etiology.*

6-14-2 B. Treatment services.

~~6-14-2-1~~ 1. Clinic services shall be provided only at Children's Hospital in Richmond, by a team consisting of orthopedist, pediatric rheumatologist and pediatrician . Acute cases and acute occurrences are

~~tested only at Children's Hospital. The team may refer chronic uncomplicated cases to local Bureau sponsored field clinics for follow up.~~

Children requiring only orthopedic support of the crippling conditions may with complications such as seizures or cardiac involvement shall be followed in appropriate [ bureau program ] sponsored orthopedic clinics.

6-14-2-2 2. Hospitalization shall be provided only at Children's Hospital and limited to diagnosis, medical and surgical treatment of the covered condition.

6-14-2-3 3. Ancillary services shall be limited to drugs, physical therapy, nutrition services, occupational therapy, radiographic examinations, blood and urine tests, casts, orthopedic appliances and repairs, and muscle tests required for treatment of the covered condition.

[ § 6-15 § 6.16. ] Sickle cell anemia.

~~6-15-1~~ A. Covered condition shall be limited only to sickle cell disease crisis. NO SCHEDULED SICKLE CELL DISEASE CLINICS ARE SPONSORED BY THE [ BUREAU PROGRAM ]. THE [ BUREAU PROGRAM ] DOES NOT PARTICIPATE IN ROUTINE MANAGEMENT OF SICKLE CELL DISEASE.

6-15-2 B. Treatment services.

6-15-2-1 1. Clinic services shall be limited to crisis intervention measures performed in an emergency room facility of a hospital under contract with the [ bureau program ].

6-15-2-2 2. Hospitalization shall be limited to emergency treatment in the hospital for sickle cell disease crisis and does not require preauthorization.

6-15-2-3 3. Ancillary services shall be limited to laboratory services, i.e., blood and urine studies, and radiographic examinations necessary to treat covered conditions in an emergency room or hospital without preauthorization. Also included are intravenous administration of fluids, supplies associated with intravenous infusion, and scheduled prophylactic transfusions on an outpatient basis.

[ § 6-16 § 6.17. ] Scoliosis.

~~6-16-1~~ A. Covered conditions shall be limited to scoliosis and kyphosis.

6-16-2 B. Treatment services.

6-16-2-1 1. Clinic services shall be provided by an orthopedist, physical therapist and orthotist.

6-16-2-2 2. Hospitalization shall be limited to surgery,

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bracing, myelogram, and casting for the covered condition. HOSPITALIZATION FOR DIAGNOSIS ONLY SHALL NOT BE AUTHORIZED.

~~6-16-2-3~~ 3. Ancillary services shall be limited to orthopedic appliances and repairs, casts, physical therapy, drugs, *magnetic resonance imaging*, and radiographic examinations required for treatment of the covered conditions.

[ § ~~6-17~~ § 6.18. ] Spina bifida (*myelodysplasia*).

~~6-17-1~~ A. Covered condition shall be limited to ~~spinae bifida~~ *meningocele, myelomeningocele, lipomeningocele, diastematomyelia, and other intraspinal lesions.*

~~6-17-2~~ B. Treatment services.

~~6-17-2-1~~ 1. Clinic services shall be provided by a team consisting of orthopedist, neurosurgeon, urologist, physical therapist, orthotist, [ *rehabilitation engineer* ] and occupational therapist.

~~6-17-2-2~~ 2. Hospitalization shall be limited to corrective surgery and rehabilitation, bracing and casting for the covered condition.

~~6-17-2-3~~ 3. Ancillary services shall be limited to physical therapy, occupational therapy, casts, orthopedic appliances and repairs, drugs, [ *orthoses* ] *magnetic resonance imaging*, radiographic examinations, muscle tests, and blood and urine tests required to treat the covered conditions.

C. Nonlow income patients.

*Persons who do not meet criteria for low income (see Part I) shall be allowed to attend [ bureau program ] sponsored clinics on payment of the annual fee. This allows such patients to order authorized medications through Bureau of Pharmacy Services. Such patients shall be responsible for the cost of medical services directly with the provider. After presenting evidence of medical expenses incurred, not covered by insurance, for the patient in an amount equal to 5.0% of the family gross annual income, the patient will then become a [ bureau program ] sponsored patient and be eligible for all indicated treatment services as outlined in subsection B of § 6.18 until the next annual financial recertification.*

[ § ~~6-18~~ § 6.19. ] Surgery.

~~6-18-1~~ A. Covered conditions shall be limited to correctable congenital or acquired deformities of the gastrointestinal tract (tracheosophageal fistula, atresias, duplications, strictures, Hirschsprung's disease, *omphalocele operable atresia of bile duct*, diaphragmatic hernia, ileostomy and colostomy for ulcerative colitis, tumors, and regional ileitis); ~~requiring surgical treatment and deformities of the thorax (pectus excavatum).~~ Surgery of ~~lungs, trachea, and larynx is not covered; lung and~~

*thoracic wall (deformities of rib cage (pectus excavatum), congenital cysts of the lungs, congenital bronchial strictures, bronchial cysts, and bronchiectasis); and hepatic disorders and pancreatic lesions (atresia of the bile ducts, tumor, and choledochal cysts).*

~~6-18-2~~ B. Treatment services.

~~6-18-2-1~~ 1. Clinic services shall be provided by a pediatric surgeon.

~~6-18-2-2~~ 2. Hospitalization shall be limited to pediatric surgical intervention for covered conditions with ancillary services necessary to treat covered conditions.

~~6-18-2-2-1~~ a. Selected hospital referral. In cases of congenital anomaly or condition at birth requiring surgery in the newborn within seven ~~(7)~~ 30 days of birth TO SAVE LIFE which meet the criteria in ~~7-1-3~~ subsection D of § 7.1., the [ ~~bureau~~ program ] may provide coverage within limits set forth in ~~article 11-5-1~~ subsection A of § 11.5.

~~6-18-2-3~~ 3. Ancillary services shall be limited to radiographic examination necessary to treat covered conditions, laboratory studies, i.e., cultures, blood studies, etc., necessary to treat covered conditions, medication, and appliances, i.e., colostomy bags, etc.

[ § ~~6-19~~ § 6.20. ] Urology.

~~6-19-1~~ A. Covered conditions shall be limited to correctable urological conditions such as fistulas, dilatations, cysts, occlusions, or strictures of the urinary system. Also covered will be neurogenic bladder and *ureteral reflux* if associated with spina bifida or myelomeningocele, hypospadias and epispadias if complicated by other genitourinary anomalies, *extrophy of the bladder* or any congenital or acquired urological condition which is surgically correctable. *Surgical exploration and treatment of pseudohermaphroditism and hermaphroditism as well as surgery for cryptorchidism are covered.*

CONDITIONS NOT COVERED ARE ACUTE OR CHRONIC NEPHRITIS, NEPHROSIS, OTHER MEDICAL UROLOGICAL CONDITIONS AS WELL AS CIRCUMCISION FOR PHIMOSIS, KIDNEY TRANSPLANTS AND RENAL DIALYSIS.

~~6-19-2~~ B. Treatment services.

~~6-19-2-1~~ 1. Clinic services shall be provided by an urologist.

~~6-19-2-2~~ 2. Hospitalization shall be limited to evaluation and surgical intervention for covered conditions.

~~6-19-2-3~~ 3. Ancillary services shall be limited to

radiographic examination and laboratory studies, i.e., urine cultures, blood studies, urine studies, necessary to treat covered conditions, voiding studies, medication, and appliances, i.e., urostomy pouches, etc., necessary to treat covered conditions.

## PART VII. APPLICATION PROCESS.

### 7.0 APPLICATION PROCESS

#### § 7.1. Application procedures.

##### 7.1.1 A. Routine health department referral.

When a patient/family requests [ bureau program ] sponsored services, they shall provide the local health department with information pertaining to residence, family size, financial status, chief complaint, previous medical treatment, and other related data as required for the [ bureau program ] application and eligibility determination forms. These forms shall be sent to the [ bureau program ] clinic which provides the treatment services for the child's diagnosed or suspected physical condition.

7.1.1.1 1. For each child referred If no annual patient fee is required, an appointment for a the first visit is arranged by the [ bureau program ] coordinator at the earliest date possible.

If an annual patient fee is required, a check or money order made out to "Virginia Department of Health" with child's name noted shall be sent to the [ bureau program ] coordinator. Once the fee is received, the first appointment will be sent to the family. Medical urgency, clinic schedules, availability of appointments, preauthorization, and any backlog of referrals determine the date of the initial appointment.

7.1.1.2 2. It is the applicant's responsibility to furnish the local health department representative with the correct financial data in order that he may be appropriately classified according to income level and to determine applicable charges for [ bureau program ] sponsored services. Proof of income is to be presented at time of application. The documentation used to verify income shall be photocopied and attached to the eligibility determination form.

Any one of the following shall be used to verify income:

- 1- a. The most recent W-2 [ or W-4 ] withholding forms.
- 2- b. The most recent pay stubs.
- 3- c. The most recent income tax returns.
- 4- d. Verification of current wages from employer if

applicant approves such inquiry in writing.

If the applicant does not provide proof of income, the patient will not be admitted to [ bureau program ] sponsored services.

The State Board of Health "Regulations Governing Eligibility Standards and Charges for Medical Care Services" currently in effect shall be utilized in completing the eligibility determination form.

##### 7.1.2 B. Emergency referral to the program.

In cases where an applicant is in need of emergency referral for outpatient services, the local health department shall contact the appropriate [ bureau program ] clinic coordinator by telephone to set up an appointment. Eligibility for TREATMENT SERVICES shall then be established at the first clinic visit. Such patient is a "pending [ bureau program ] sponsored patient" until the [ bureau program ] application and eligibility determination forms with proof of income are sent by the local health department to the [ bureau program ] clinic coordinator.

##### C. Between clinic admissions.

Patients can be admitted to the [ bureau program ] between clinic [ visits sessions ] if [ all of ] the following criteria are met:

1. Patient was seen privately by the [ bureau program ] physician for the specialty clinic.
2. [ Bureau Program ] physician orders medical care to be done on an outpatient basis. Orders for hospitalization will not be approved.
3. [ Bureau Program ] financial criteria have been met including the payment of the appropriate [ bureau program ] annual fee.
4. Patient would be put in jeopardy to return to a second clinic to see the same doctor in a [ bureau program ] setting due to distance of his home from the medical center (clinic location) or patient requires treatment before the next available local [ bureau program ] clinic.
5. Approval has been received from [ bureau program ] director prior to [ bureau program ] admission.

The date of the [ bureau program ] admission will be the date the patient saw the [ bureau program ] physician in a private or outpatient setting. The [ bureau program ] will pay for outpatient medical care ordered by the [ bureau program ] physician at that time. All return visits to the physician shall be during a regularly scheduled [ bureau program ] clinic.

##### 7.1.3 D. Referrals for hospitalized patients.

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7-1-3-1 1. Except newborns with a congenital anomaly requiring corrective or palliative surgery within seven 30 days from birth, children with acute rheumatic fever, and children in sickle cell disease crisis, no patient will be admitted to the program at or during hospitalization for treatment services. At time of hospital discharge, the hospital may refer the patient for follow-up to the local health department for subsequent referral to the [ Crippled ] Children's [ Specialty Services ] Program and to the local primary care physician for follow-up .

7-1-3-2 2. Hospitals providing [ bureau program ] authorized services may refer newborns, with a covered congenital anomaly that requires corrective or palliative surgery within seven 30 days from birth, children with acute rheumatic fever and children in sickle cell disease crisis, to the [ bureau program ] by providing written notification to the appropriate [ bureau program ] clinic office within 24 hours after the initiation of the treatment services, excluding weekends. The [ bureau program ] clinic coordinator will issue a written pending approval to the hospital.

In such instances the [ bureau program ] clinic office will contact the family at the hospital and will initiate application form, eligibility determination form and application for hospitalization and forward a copy of the forms to the [ bureau program ] for review and approval. Proof of income is to be presented at the time of application and is the responsibility of the patient/family. The annual patient fee will be collected by the [ bureau program ] clinic coordinator. The [ bureau program ] clinic office will forward copies of the forms to the local health department after they have been approved.

The hospital and the family shall be advised that the [ bureau program ] will not assume any financial liability for the treatment of the patient until the director authorizes the treatment. In situations in which the [ bureau program ] clinic office is unable to contact the family at the hospital, the local health department will be notified and shall be responsible for contacting the family and initiating the application and eligibility determination forms and collecting the annual patient fee.

#### 7-1-4 E. Hospital referrals to clinic.

In cases where an applicant is referred to a [ bureau program ] sponsored clinic from within the hospital (not a hospitalized case) by a [ bureau program ] physician for a diagnosed case, the [ bureau program ] clinic office will make the first appointment directly with the applicant and initiate referral forms at time of the first [ bureau program ] sponsored clinic visit. If the child is not given an immediate appointment, the [ bureau clinic program ] coordinator will [ send a completed bureau application form to the local health department which will then initiate a financial eligibility form and return it to the

bureau clinic coordinator contact the family for the completion of the program application forms and is responsible for the submission of the forms to the local health department after the first clinic visit. In situations in which the program coordinator has difficulty in contacting or compliance of the family, assistance of the local health department is requested ]. Proof of income is to be presented by the family at time of completion of the financial eligibility form. The interviewer reviews presented evidence and attaches a photocopy of the evidence to the eligibility form.

#### § 7.2. Eligibility procedures.

7-2-1 A. No applicant becomes a participant in [ bureau program ] sponsored treatment services until he meets the conditions as described in Article subsection A of § 7.3. At time of referral, local health departments have a responsibility to screen the applicant for the following:

1. Age
2. Resident of Virginia
3. Suspected covered condition
4. Financial eligibility.

For all referrals, the [ bureau program ] clinic coordinator reviews the application forms to determine if the applicant meets the criteria for admission for treatment services.

7-2-2 B. Medical eligibility is determined at time of the [ bureau program ] sponsored clinic visit when the clinical director determines if the child has a covered condition. The [ bureau program ] director reserves the right to reverse any decision. If the patient has a noncovered condition the patient will be discharged and referred to another medical resource. The original annual patient fee covers the examinations and diagnostic modalities used in determining the diagnosis.

7-2-3 C. After completed application and attendance at a [ bureau program ] sponsored clinic, the family shall be given an explanation of treatment services and family responsibilities in the management and follow-up services.

7-2-4 D. For a newborn with a congenital anomaly requiring corrective or palliative surgery within seven 30 days of birth and children in sickle cell disease crisis or with acute rheumatic fever who have a covered condition at time of application and meet eligibility for treatment criteria, the annual fee is due within 14 days of contact by the [ bureau program ] with the family. [ Bureau Program ] sponsored treatment services begin no more than 24 hours prior to the date the hospital notifies the [ bureau program ] clinic coordinator of the hospitalization. NO APPLICATION FOR HOSPITALIZATION WILL BE APPROVED UNTIL THE ANNUAL PATIENT FEE IS PAID.

Upon discharge from the hospital, an appointment for follow up in a [ bureau program ] sponsored clinic will go to the family with a copy to the local health department. Clinic reports and discharge summaries will go to the local health department and private physician.

7.2.5 E. Patients with Medicaid, Medicare, or CHAMPUS coverage will be accepted in [ bureau sponsored programs the program ]. Patients with Medicaid in the Orthopedic, Hemophilia, and Hearing Impairment programs are provided ancillary services which are not covered by Medicaid. Medicaid, Medicare, or CHAMPUS will be billed for services covered and the payment will not be augmented by the Bureau. Further, the Bureau will not pay a "deductible" that would normally be the responsibility of this patient. Adult patients in the Cystic Fibrosis, Hemophilia, and Neurology programs with Medicare will be accepted for clinic services only because medication is not covered by Medicare.

F. Patients registered in a health maintenance organization (HMO) are not eligible to enter [ a bureau the ] program unless they are referred by the HMO primary physician and the HMO pays for care within its coverages.

7.2.6 G. For patients not receiving public assistance, the family's gross income and number of persons dependent upon this income are computed and compared against the health department income levels and charge schedules as promulgated by the State Board of Health. The patients are placed in an income category and charged a fee based on a sliding scale. The definition of income and family unit; income level schedules, and [ bureau program ] annual fees are described in the effective State Board of Health "Regulations Governing Eligibility Standards and Charges for Medical Care Services."

### § 7.3. Approval procedures.

7.3.1 A. To be admitted for [ bureau program ] sponsored treatment services, the child shall meet the following conditions:

a. 1. Shall be a resident of the Commonwealth of Virginia. Further, there shall be reasonable assurance that the child will remain a resident long enough to benefit from treatment.

Resident Aliens are eligible for [ bureau program ] sponsored services if they otherwise meet eligibility requirements.

Resident aliens who have been admitted to the United States for permanent residence can remain indefinitely, own property, work, and move about without restriction. They are issued a Form I-151 or I-551 as evidence of lawful admission for permanent residence. Refugees with an admission card I-94 marked "Refugee" are eligible for Bureau sponsored services.

Aliens of nonimmigrant status or their children are not eligible for Bureau sponsored services even if they otherwise meet the eligibility requirements.

Non-resident aliens are admitted to the United States temporarily for specific purposes and periods of time. They are generally required to carry a Form I-94 endorsed to show their status. Examples of nonimmigrants include: (a) alien students admitted to attend specific schools; (b) temporary workers, including agricultural laborers; (c) exchange visitors who are here under Department of State approved programs of study, teaching, research, or training; (d) visitors for business (not employment) or pleasure. An exception is children of these families born in the United States who are eligible if they otherwise meet eligibility requirements.

b. 2. Shall meet the definition of a [ crippled handicapped ] child as defined in Article 3-1-11, Part I.

e. 3. Shall be a member of a low income family as defined in Article 3-1-17, Part I except as provided for in 6.5.3. and 6.9.3. §§ 6.4.C., 6.5.C., 6.9.C., 6.18.C, and 8.6.F. due to the long-term and exhaustive expense of the treatment and management.

d. 4. Shall have provided proof of income and paid the annual fee according to the income category established by the family's gross income and number of persons dependent upon the income.

e. 5. Such services shall have received services which have been authorized by the [ bureau program ] prior to the commencement of treatment. Exceptions are described in 7-1-3.1 and 7-1-3.2 subsections D.1 and D.2 of § 7.1.

## PART VIII. THE TREATMENT PROCESS.

### 8.0 THE TREATMENT PROCESS

#### § 8.1. Preauthorization of services.

Treatment services as defined in article 3-1-23 Part I shall be preauthorized by the director. These services are available only to those children who have been accepted for treatment services and only for care arranged for by the [ Crippled ] Children's [ Specialty Services ] Program.

#### § 8.2. Clinic services.

[ Bureau Program ] sponsored clinics, central and field, are located throughout the Commonwealth of Virginia in university medical centers, community hospitals, physicians' offices, and local health departments. [ Bureau Program ] sponsored central clinics, located in or near major hospitals, provide case finding, treatment, hospitalization, surgery, and follow up. [ Bureau Program ]

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sponsored clinics provide a multidisciplinary approach to the management of the patient.

The members of the clinic team vary depending upon the diagnosis, needs of the patient and the availability of professional resources in the geographic area. The team usually includes a nurse, medical social worker and educational consultant in addition to the medical specialists and therapists.

~~8.2.1~~ A. The clinical director shall be a board eligible or certified specialist or provide proof of extensive subspecialty training if no board certification is available for a subspecialty. He shall attend all [ ~~bureau program~~ ] sponsored clinics, make all medical decisions and perform or assist with all surgeries.

~~8.2.2~~ B. Every clinic is managed by a [ ~~bureau program~~ ] coordinator or a public health nurse designated by the local health department whose responsibilities include the following:

- a. 1. Reviews referral forms, determines program eligibility and initiates appointment for the visit.
- b. 2. Coordinates patient services within the clinic, with medical and paramedical services, and with public health nurses in the local health departments.
- e. 3. Initiates basic teaching of the patient and family regarding the diagnosis and recommended treatment, such as use of appliances, and equipment, medications, diet and exercise.
- d. 4. Provides counseling and support in the clinic setting.
- e. 5. Is responsible for distribution of a written clinic report for each patient to the local health department, private physician, and [ ~~bureau program~~ ] central office.
- f. 6. Coordinates the patient's hospital admissions.

C. Medicaid patients referred to the [ ~~bureau program~~ ] shall be treated and managed in the [ ~~bureau program~~ ] clinics. Medicaid patients cannot be referred to the [ ~~bureau program~~ ] for braces, prostheses, or hearing aids only, as ordered by the private specialist. They shall be admitted for full specialty care. This does not preclude patients from having a primary care physician.

D. Quality of care dictates that a child cannot be followed in two or more separate clinics of the same specialty or by a private specialist and the same [ ~~crippled~~ ] children's specialty [ services ] clinic.

## § 8.3. Hospitalization.

A. The [ ~~bureau program~~ ] provides inpatient hospital services for each sponsored program as part of the total

treatment at hospitals providing [ ~~Bureau program~~ ] authorized services.

### B. Patient and family responsibilities.

1. The family shall agree to assign all hospitalization insurance benefits to the hospital and clinical physician.

[ ~~2. The family is responsible for the cost of hospitalization if the patient leaves against medical advice and no treatment is accomplished.~~ ]

~~3. [ 2. ] The family is responsible for medical care not covered in the [ ~~bureau program~~ ] specialty clinic and for hospitalization for the specialty in facilities other than those under contract with the [ ~~bureau program~~ ]. (Exception is sickle cell disease crisis. See subsection B.2 of § 6.16.)~~

~~4. [ 3. ] The family is responsible for medical services for the covered condition, either hospitalization or outpatient, that occurred before the patient was admitted to the [ ~~bureau program~~ ].~~

~~5. [ 4. ] The family is responsible for emergency room visits that the parents initiate unless the child is admitted to the hospital directly from the emergency room.~~

### ~~8.3.1~~ C. Hospitalization to establish a definitive diagnosis.

If hospitalization is indicated to establish a definitive diagnosis and develop a plan of treatment for the individual, such hospitalization may be authorized, but it SHALL BE preauthorized, subject to the following limitations:

~~8.3.1.1~~ 1. That reasonable evidence of the existence of a covered condition be documented.

~~8.3.1.2~~ 2. That the applicant be otherwise eligible for treatment services by meeting the criteria established in ~~Article 7.3.1. subsection A of § 7.3.~~

~~8.3.1.3~~ 3. That the procedures performed in the hospital directly relate to the covered condition.

~~8.3.1.4~~ 4. That the definitive diagnosis can only be established by hospitalizing the patient.

~~8.3.1.5~~ 5. That the hospital stay shall not exceed three days.

~~8.3.2~~ D. Hospitalization for acute exacerbation of covered conditions (see ~~11.5.1.a.3 subsection A.1.d of § 11.5.~~)

Preauthorization shall not be required whenever a participant requires emergency hospitalization for an acute exacerbation or complication of covered conditions.

## § 8.4. Nutrition services.

Patients at risk for nutrition disorders will be screened and referred as needed to nutritionists for counseling and follow up and referral to funding resources for nutrition supplements. Certain nutrition additives, i.e., MCT oil and Polycose, are supplied by the [ bureau program ]. Special formula is not provided.

## § 8.4. § 8.5. Drugs.

8.4.1 A. Drugs related to the covered condition are provided at no additional charge to [ bureau program ] sponsored patients after the annual patient fee has been paid except for Medicaid patients (see subsection B of § 8.5). These drugs are obtained from the Department of Health, Bureau of Biologies and Drugs- Pharmacy Services. The [ bureau program ] sponsored clinic initiates the initial drug order, and the local health departments are responsible for reorders of drugs.

[ If the clinical director makes a change in the drug order in between clinic visits due to a contact with the patient or family, he will immediately contact the program coordinator and complete a new prescription to be processed by the program coordinator to the appropriate sources. ]

8.4.2 B. Medicaid patients will be given regular prescriptions to obtain drugs from a pharmacy of their choice. The bureau clinic report will indicate the drugs ordered and directions. The only exception is medications for hemophiliacs who are unable to obtain them that cannot be obtained in local drug stores.

8.4.3 C. When patients in the neurology program reach the age of 21 years and are still active in the program, they will be closed to the program. However, they have the right to remain in the [ bureau program ] sponsored outpatient program if they agree to pay the annual fee, the cost of drugs, other ancillary services, and hospitalization. The local health department will continue to order drugs from the Bureau of Biologies and Drugs- Pharmacy Services but the patient shall pay the local health department the department's cost for the drugs.

## § 8.5. § 8.6. Follow up/aftercare.

8.5.1 A. Follow-up services are limited to the specialized medical care directly related to the diagnosis and treatment of the covered [ crippling or ] handicapping condition.

8.5.2 B. To promote continuity of care, clinic reports and hospital discharge summaries indicating findings, treatment and recommendations are sent to the child's local physician and the local health department.

8.5.3 C. The public health nurse in the local health department is a vital link in the [ Crippled ] Children's [ Specialty Services ] Program's nursing follow up. They

assist the patient and family in the understanding of the child's physical condition and follow up of medical recommendations.

8.5.4 D. Parents or guardians have definite responsibilities to cooperate with the [ bureau program ] sponsored clinic, the clinic director, the [ bureau program ] office and the local health department to help the child realize the maximum benefits from the health care provided. Quality and continuity of care are not possible without the direct participation of all the above components. These responsibilities include but are not limited to the following:

a. 1. TO KEEP ALL APPOINTMENTS FOR CARE. SUCH APPOINTMENTS MAY BE FOR CLINICS, ANCILLARY SERVICES, OR HOSPITALIZATION;

b. 2. TO FOLLOW INSTRUCTIONS FOR HOME CARE which may include the wearing of an appliance, bed rest, special diets, medications, or home therapy;

c. 3. To supply that part of the treatment which has been agreed upon between the clinic director and the parents or guardian which may include purchase of shoes, appliances, medications, special therapy;

d. 4. To provide general health care for the child as the program provides only specialized care related to the handicap; and,

e. 5. TO COOPERATE IN THE COLLECTION OF ANY HEALTH INSURANCE which is available for the services provided; and

6. To accompany the child to clinic or provide a knowledgeable guardian to accompany the child.

8.5.5 E. Patient eligibility for services SHALL BE REDETERMINED EVERY 12 MONTHS at the anniversary date of the first [ bureau program ] clinic visit or the date when authorized treatment began for hospitalized patients (see 11.1.2 subsection B of § 11.1). The recertification requirements are the same as Article 7.1.1.2 subsection A.2 of § 7.1 and the patient shall meet the conditions set forth in Article 7.3.1. subsection A of § 7.3.

The annual patient fee is due and payable at or before each anniversary date. If the proof of income and the annual patient fee, if indicated, are not provided within 30 days of the anniversary date, the patient will be discharged and referred to other medical sources for further care.

F. Patients who do not meet the definition of low income family (see Part I) at the time of their annual financial recertification shall be discharged from the [ bureau program(s) program ] except for the patients in the following situations who will remain in the program until discharged by the clinical director:



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1. Undergoing multistaged surgery and at least the first surgery has been accomplished;
2. Undergoing orthodontic treatment which has started;
3. Have multisystem involvement of complicated conditions in a program in which one or more surgeries have been accomplished and further surgeries are contemplated to rehabilitate the child's condition;
4. Have an underlying condition which leads to multisystem involvement, in which surgery has been accomplished in at least one [ specialty ] program. The patient can remain open to all [ specialty ] programs treating the condition and multisystem involvement. Full [ bureau program ] services will be provided in the [ specialty ] program(s) in which surgery has been accomplished. Outpatient services only will be provided in the other [ specialty ] programs.

Patients in nonlow income families who are allowed to stay in the program shall attend [ bureau program ] sponsored clinics on payment of the annual patient fee. Such patients shall be responsible for the cost of medical services directly with the provider. After presenting evidence of medical expenses incurred, not covered by insurance, for the patient in an amount equal to 5.0% of the family's gross annual income, the patient will then become eligible for all indicated treatment services until the next annual financial recertification.

8.5.6 G. Patients remain eligible for treatment services until one of the following occurs:

- a- 1. Patient has received maximum benefit as determined by the clinical director;
- b- 2. Patient, parent or guardian requests transfer to another medical resource;
- e- 3. Patient, parent or guardian is not interested in further service;
- d- 4. Patient reaches age 21 except for patients in the cystic fibrosis or hemophilia program and patients covered in § 8.4.3 subsection C of § 8.5;
- e- 5. Patient moves from Virginia;
- f- 6. ~~Financial ineligibility~~ Patient becomes ineligible financially ;
- g- 7. Documented lack of compliance with clinic recommendations is in participant's record ;
- h- 8. ~~Failure~~ Family fails to pay annual patient fee;
9. Patient enters a HMO which covers the specialty care;

i- 10. Other good and sufficient reasons such as disruptive and abusive behavior including verbal or physical are documented ; or

j- 11. Patient is diagnosed as having a malignant tumor with metastasis requiring oncology services and no longer requires treatment services for covered conditions which is inoperable or terminal .

H. If, at time of closure to [ bureau program ] sponsored treatment services, the patient still needs health care for covered [ crippling or ] handicapping physical condition, the patient will be referred to another source.

I. When patients are referred to a private source for care, the [ bureau program ] personnel will no longer participate in their care management or health/medical care. This includes patients who choose private care from physicians who provide care to [ bureau program ] sponsored patients in [ bureau program ] operated/sponsored clinics.

J. In [ bureau program ] sponsored clinics, private patients may be scheduled and seen by the clinician after the [ bureau program ] sponsored clinic is over. [ Bureau Program ] or local health department personnel shall not be involved with these patients. The [ Crippled ] Children's [ Specialty Services ] Program shall not incur any financial liability for these private patients.

## § 8.7. Transfer of patients.

Transfers of patients geographically and programmatically shall be in accordance with existing policies.

## PART IX. VARIANCES.

### 9.0 VARIANCES

#### § 9.1. General.

The commissioner is designated to act for the board in granting variances to this plan. He may, however, delegate the authority to grant variances to a panel (see § 9.2). It should be understood that variances will not be approved except in clearly unusual circumstances for children who are otherwise enrolled and where the additional service augments and provides for a better rehabilitative outcome.

A variance request may be made by the patient, the patient's family or guardian or a physician [ (see §§ 9.3 and 9.4) ].

#### § 9.2. Variance panel.

The commissioner will appoint a departmental panel to hear requests for and grant variances to the provisions of the plan.

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0-2-1 A. The variance panel shall be convened as required.

0-2-2 B. Any two members of the variance panel may act upon and, if both members concur in writing, grant requested variance when expeditious action is required to ensure quality care for a registered [ Crippled ] Children's [ Specialty ] Services' Program participant.

## § 9.3. Form of variance requests.

A request for variance may be either verbal or in writing.

0-3-1 A. A written request shall be used to seek a variance when a delay in providing a service not covered in the plan will not jeopardize the health or cause the patient undue suffering. The variance panel shall respond to a written request within five working days of receipt in the central office. These requests for variance shall be addressed to the director, [ Bureau Division ] of [ Crippled ] Children's [ Specialty ] Services.

0-3-2 B. A verbal (telephonic) request for variance may be used during normal working hours in cases where the delay associated with the written request would jeopardize the health or cause undue suffering of the participant. This request shall be directed to the director, [ Bureau Division ] of [ Crippled ] Children's [ Specialty ] Services, who will contact the variance panel members, explain the situation, obtain a decision and relay the panel's decision to the person requesting the variance.

0-3-2-1 I. The director, [ Bureau Division ] of Children's [ Specialty ] Services, shall prepare a memorandum for record (MFR) summarizing the case and the action taken. The MFR shall be attached to the patient's hospital bill when it is forwarded to the hospitalization accounts section for payment. Copies of the MFR shall also be forwarded to members of the panel, and such other parties as the panel deems necessary.

0-3-3 C. A variance is not required when the procedure in question is required to treat a complication of the preauthorized covered condition.

§ 9.4. In those rare instances when treatment must be initiated and time does not permit the physician to prepare a request for variance (such as at night or on weekends), he may make a retroactive request. Such requests shall be submitted within five working days following the commencement of the treatment. The physician, the patient's family and the provider facility shall be made aware of the possibility that the variance may not be granted.

## PART X. APPEALS.

### 10-0 APPEALS

## § 10.1. General.

The commissioner will appoint a departmental panel to review and make recommendations on all appeals filed under this section.

10-1-1 A. If an individual is denied services made available in this plan, and he believes that he is entitled to these services, the individual has the right to an appeal which may be made by that individual or a representative to the director, [ Bureau Division ] of [ Crippled ] Children's [ Specialty ] Services, within 30 days of the denial of service. The [ bureau program ] shall not limit or interfere with the individual's freedom to present an appeal. The individual shall be informed of the right to an appeal and the method by which an appeal may be filed including time limits and the requirement to present substantial evidence.

10-1-2 B. The director shall review each appeal and shall make written recommendations within 15 working days. These recommendations, along with any other documentation relevant to the appeal, shall then be forwarded to the departmental panel.

10-1-3 C. The departmental panel will review and make recommendations regarding the appeal.

10-1-4 D. The commissioner or deputy commissioner shall make the final decision within 45 days following the date on which an appeal is filed. The individual making the appeal shall be informed of this decision in writing.

10-1-5 E. The [ Bureau Division ] of [ Crippled ] Children's [ Specialty ] Services will not assume any financial liability, directly or indirectly for treatment services while the appeal is pending.

§ 10.2. Appeals shall be submitted in writing. The [ Bureau Division ] of [ Crippled ] Children's [ Specialty ] Services staff shall assist any individual who wishes to file an appeal. The appeal shall contain factual information which, in the opinion of the individual, is the basis for their appeal.

§ 10.3. When the appeal process has been exhausted and the individual desires further review, the individual shall be informed of the right to pursue judicial review.

## PART XI. FINANCIAL PROCEDURES AND REGULATIONS.

### 11-0 FINANCIAL PROCEDURES AND REGULATIONS

## § 11.1. Source of payment funds.

### 11-1-1 A. General.

Funds used in administration and operation of the [ Bureau Division ] of [ Crippled Children Children's Specialty ] Services [ programs ] are received from the

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federal government and from state funds appropriated by the legislature.

## 11.1.2 B. Annual patient fee.

If the patient's family gross income is such that an annual fee is required, the fee will be paid at the time treatment services are initiated and every 12 months thereafter as long as the child is receiving [ ~~bureau~~ program ] covered services. The financial eligibility and charges are based on the State Board of Health "Regulations Governing Eligibility Standards and Charges for Medical Care Services."

If the child enters more than one [ ~~bureau~~ specialty ] program, he maintains the anniversary date for financial eligibility screening of the first [ ~~bureau~~ specialty ] program entered. There is only one annual patient fee no matter how many [ ~~bureau~~ specialty ] programs that the patient enters. If the one annual patient fee is not paid, the patient is discharged from all [ ~~bureau~~ specialty ] programs. If the patient is medically discharged from the first [ specialty ] program but remains open in other [ specialty ] programs the same anniversary date remains for the other [ specialty ] programs.

If more than one child in a family enters [ a ~~bureau~~ the ] program, each child receives the same anniversary date for financial eligibility screening as the first child in the family. If two children in a family are in [ ~~bureau~~ programs the program ], there are two annual patient fees. There is no further annual patient fee if three or more children from one family are entered into programs.

## 11.1.3 C. Insurance.

THE COLLECTION OF PRIVATE HEALTH INSURANCE IS THE RESPONSIBILITY OF PROVIDER FACILITIES FOR TREATMENT SERVICES OF [ BUREAU PROGRAM ] SPONSORED PATIENTS. Parents/patients are expected to report the extent of their health insurance coverage and to cooperate in the collection of insurance funds. If the insurance company makes direct payment to the parent or legal guardian, such benefits will be assigned to the provider of the services. Insurance including outpatient and major medical will be used for all patients with such coverage. The providers will bill the insurance companies.

The [ ~~bureau~~ program ] may pay only when (i) the insurance company denies reimbursement for a service covered under the insurance company contract to the provider facility, or (ii) bill or a portion thereof is not covered by health insurance. The [ ~~bureau~~ program ] payment shall not exceed the Medicaid or the [ ~~bureau~~ program ] established rate.

11.1.4 D. Medical ~~Entitlement~~ assistance programs; Title XIX (Medicaid), Title XVIII (Medicare), and CHAMPUS.

Medicaid, Medicare and CHAMPUS will be used as the source of payment for patients covered under these

medical assistance programs. Payments by Medicaid, Medicare and CHAMPUS will be collected by provider facilities for treatment services of [ ~~bureau~~ program ] sponsored patients. The [ BUREAU PROGRAM ] WILL NOT PAY ANY PORTION OF THE BILL WHICH IS NOT COVERED BY MEDICAID OR MEDICARE UNLESS THE COVERED SERVICE IS NOT REIMBURSABLE BY MEDICAID OR MEDICARE. The [ ~~bureau~~ program ] will not pay a deductible that would normally be the responsibility of the patient.

## § 11.2. Rates of payment.

### 11.2.1 A. Physician services.

Board certified or eligible specialists are reimbursed for provision of clinic services pursuant to contract. The [ ~~bureau~~ program ] will not reimburse physicians for professional services provided during hospitalization or surgery on [ ~~bureau~~ program ] sponsored patients, but the physicians can pursue health insurance reimbursement.

### 11.2.2 B. Appliances.

The [ ~~bureau~~ program ] may provide payment for appliances including hearing aids and repairs, orthopedic braces and repairs, eye glasses, artificial eyes, dental appliances and prostheses, and orthopedic prostheses. Providers of these services shall be [ ~~bureau~~ program ] approved vendors. Rate of payment shall not exceed the usual and customary charge per unit or per service provided.

### 11.2.3 C. Dental services.

Dentists are reimbursed on a contractual basis.

### 11.2.4 D. Inpatient hospital care.

[ Hospitals shall agree to provide inpatient care for sponsored patients based on ] reasonable costs (as determined in accordance with standards approved by the Secretary, Health and Human Services) as provided in Public law 89-97 the 1965 amendments to the Social Security Act and subsequent amendments, represented by percentages of charges calculated annually from cost data submitted by the provider (see 2.1.3): [ a rate determined to be reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities, determined in conformity with standards approved by the Secretary of Health and Human Services. This rate shall be calculated annually as an aggregate cost to charges ratio based on Title XIX reimbursable costs Hospital care shall be provided by hospitals which agree to accept payments for care based on Medicaid allowable cost determinations. ] (See § 3.3.)

### 11.2.5 E. Ancillary services.

Services such as speech therapy, occupational therapy, physical therapy, hearing therapy, drugs, medical supplies,

radiographic examinations, and laboratory studies may shall be provided at a rate not to exceed the usual and customary charge of each provider in accordance with policies and procedures of the department and shall be paid at the rate established by the Department of Medical Assistance Services (Medicaid) for such services using the Physician's Current Procedural Terminology (CPT) code for each service.

## § 11.3. Limitations of payments.

### 11.3.1 A. Payment in full.

Payments for authorized medical care will be limited to those providers of service who accept the amounts allowed by the [ ~~bureau~~ program ] as payment in full. Such providers agree not to make any charge to or accept any payment from the patient or his family for services authorized by the [ ~~bureau~~ program ].

### 11.3.2 B. Nonrelated services.

Payments approved by the [ ~~bureau~~ program ] shall be limited to medical treatment related to the covered conditions. The [ ~~bureau~~ program ] provides only specialized care and does not provide general medical care.

### 11.3.3 C. Limitations of service.

Payment shall be made for treatment services only for [ ~~bureau~~ program ] sponsored patients and only from contract or approved providers.

Care provided by noncontract or nonapproved providers or care not authorized by the [ ~~bureau~~ program ] is not a liability of the [ ~~bureau~~ program ].

The [ ~~bureau~~ program ] will only pay for treatment services given by providers licensed by the Commonwealth of Virginia except the out-of-state providers with which the [ ~~bureau~~ program ] has contracts.

## § 11.4. Prerequisite for payment.

Payment will be made ONLY for services recommended in the treatment plan provided by the clinical directors, and approved by the [ ~~bureau~~ program ] director.

## § 11.5. Billing requirements.

11.5.1 A. The [ ~~bureau~~ program ] will only pay a hospital bill based on the fulfillment of ALL of the following criteria:

a- 1. Written authorization for a specified number of days shall be APPROVED BY THE [ BUREAU PROGRAM ] DIRECTOR PRIOR TO HOSPITALIZATION. Exceptions:

1- a. Newborns with a congenital anomaly requiring

corrective or palliative surgery within seven 30 days from birth (see subsection D of 7-1-3 § 7.1).

2- b. Acute rheumatic fever (see 6-2-2-2 subsection B.2 of § 6.2 and 7-1-3 subsection D of § 7.1).

3- c. Sickle cell disease crisis (see 6-15-2-2 subsection B.2 of § 6.16 and 7-1-3 subsection D of § 7.1).

4- d. Acute exacerbation or complication of a covered condition (see 8-3-2 subsection D of § 8.3).

b- 2. Hospitalization shall be for an authorized service or procedure necessary to correct or mitigate a covered [ ~~cripping~~ handicapping ] condition.

e- 3. Discharge summary shall be received by the [ ~~bureau's~~ program's ] clinic office within 30 days of discharge date.

d- 4. Itemized statement shall be submitted to the [ ~~bureau~~ program ] by the hospital with the form UB-82 HCFA within 90 days of discharge date or within 30 days of denial by third party payment source if over 90 days from service date unless adequate written justification is provided by the hospital. No itemized statement will be considered for payment prior to the receipt of the discharge summary.

e- 5. If authorization indicates coinsurance with a third party payor, the UB-82 HCFA shall indicate amount of all third party payment collected by the hospital. The [ ~~Crippled~~ ] Children's [ *Specialty Services* ] Program shall only be liable for the difference between what the third party payor pays and what the program would be liable for if it was the sole payor.

If the third party payor denies payment of any portion of the bill, the denial letter shall be attached.

f- 6. Hospitalization shall be a maximum of 21 days per hospital admission per [ *specialty* ] program. This shall run concurrently with any other insurance coverage, including Medicare and Medicaid.

g- 7. Hospitalization shall be a maximum of 42 days in a treatment year per [ *specialty* ] program which run concurrently with any other insurance coverage. A treatment year is defined as 12 months from date the [ ~~bureau~~ program ] authorized treatment began. It reoccurs every 12 months thereafter as long as the patient is authorized to receive [ ~~bureau~~ program ] sponsored services.

h- 8. If a longer period of time is required beyond that of the original authorization, a "Request for Extension of Hospitalization" shall be received by the [ ~~bureau~~ program ] at least 14 calendar days after the expiration date of the original authorized period.

11.5.2 B. Bills for ancillary services shall be presented

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for payment with the following information:

- a- 1. Name of child
- b- 2. Date of service
- c- 3. Amount of insurance or other third party payor funds received for the service
- d- 4. Itemized statement
- e- 5. Written authorization by the [ bureau program ].

f- C. Application for Orthopedic Appliances and Special Services, which has been preauthorized (see 3-1-20 Part I ) shall be attached to the certain bills for orthopedic appliances, hearing aids, eye glasses, speech therapy, ear molds, repair of hearing aids, evaluation of hearing aids, urological supplies, colostomy supplies, and audiological testing.

g- D. An invoice reviewed by the [ bureau program ] coordinator shall be used for itemized statement of multiple ancillary services per child, i.e., laboratory work, x-rays, EKG, EEG.

h- E. Bills should be presented within 90 days of the date of the ancillary service or denial by a third party payor. Bills submitted subsequent to 90 days shall be justified for acceptable extenuating circumstances. NO BILL MAY BE SUBMITTED FOR PAYMENT IF MORE THAN ONE YEAR HAS ELAPSED SINCE THE LAST DATE OF SERVICE.

## VIRGINIA BOARD OF OPTOMETRY

Title of Regulation: VR 510-01-2. Regulations of the Virginia Board of Optometry.

Statutory Authority: § 54-376 of the Code of Virginia.

Effective Date: April 1, 1987

### Summary:

*These regulations provide the standards for the practice of optometry in Virginia; state the requirements for candidates for examination and licensure as optometrists; and govern the board in the performance of its duties. The proposals constitute a general revision of existing regulations and considerably simplify and shorten them.*

*Among other provisions, the proposals add a prohibition on the use of diagnostic drugs without board certification to use them; replace seven regulations on advertising-and-disclosure requirements with a single prohibition against advertising that is false, misleading, or deceptive; and clarify the criteria*

*for approving continuing education courses necessary for license renewal.*

VR 510-01-2. Regulations of the Virginia Board of Optometry.

## PART I. GENERAL PROVISIONS.

### § 1.1. Public participation guidelines.

#### A. Mailing list.

*The executive director of the board will maintain a list of persons and organizations who will be mailed the following documents as they become available.*

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceedings", [ the ] subject of which is proposed or existing regulations.
3. Final regulation adopted.

#### B. Being placed on list: deletion.

*Any person wishing to be placed on the mailing list may have their name added by writing the board. In addition, the board may, at its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation, in the formation or promulgation of regulations. Those on the list will be provided all information stated in subsection A. of this section. Those on the list may be periodically requested to indicate their desire to continue to receive documents or to be deleted from the list. When mail is returned as undeliverable, or when no timely response is forthcoming, they will be deleted from the list.*

#### C. Notice of intent.

*At least 30 days prior to publication of the notice of intent, an informational proceeding as required by § 9-6.14:7.1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation and will address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar for inclusion in the Virginia Register of Regulations.*

*D. Information proceedings or public hearings for existing rules.*

*At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of*

compliance. Notice of such proceeding will be transmitted to the Registrar for inclusion in the Virginia Register. Such proceeding may be held separately or in conjunction with other informational proceedings.

**E. Petition for rulemaking.**

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received in a timely manner shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

**F. Notice of formulation and adoption.**

Prior to any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register.

**G. Advisory committees.**

The board may appoint advisory committees as it may deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption and review of regulations.

**§ 1.2. Applicants.**

A. The applicant, in order to be qualified to be examined by the board for licensure to practice optometry in the Commonwealth, shall:

1. Be a graduate of a school of optometry approved by the Council on Optometric Education; have the registrar of the school provide an official transcript to the board;
2. File at least 30 days prior to the date of examination, on a form supplied by the board, a completed application which shall have affixed securely in the space provided, one recent passport-type photograph of himself, not less than 2 1/2 by 2 1/2 inches in size;
3. Submit an official report from the National Board of Examiners in Optometry of the scores received on all parts of the examination of the National Board of Examiners in Optometry.
4. Submit the prescribed examination fee;

B. If any applicant withdraws from the examination at least 30 days prior to the examination date, all but the prescribed administrative fee will be refunded. If the applicant withdraws in 30 days or fewer prior to the examination date, only the licensure fee will be refunded. If an applicant is unsuccessful in passing the examination, the applicant [ may shall receive upon ] request a refund of the licensure fee.

**§ 1.3. Fees.**

The following fees are required:

Examination fee .....	\$100
[ Initial Licensure Fee	
First Examination after Renewal .....	\$200
Second Examination after Renewal .....	\$150
Third Examination after Renewal .....	\$100
Fourth Examination after Renewal .....	\$50 ]
Examination fee, certification to use diagnostic pharmaceutical agents .....	\$50
Licensure fee (renewed biennially) .....	\$200
Late fee .....	\$30
[ Administrative Fee .....	\$25
Professional Designation Application Fee .....	\$100
Biennial Professional Designation Registration Fee .....	100/location
Continuing Education Course Review Fee .....	10/credit hour
..... over 2 credits	..... (\$100 maximum) ]
Reinstatement fee .....	\$200

**PART II.  
EXAMINATIONS.**

**§ 2.1. Examinations.**

A. For the purpose of § 54-380 of the Code of Virginia, the board adopts all parts of the examination of the National Board of Examiners in Optometry as its written examination for licensure. In addition, upon receiving a passing score on all parts of the examination of the National Board of Examiners in Optometry, an applicant shall successfully complete a practical examination administered by the Virginia Board of Optometry.

B. A candidate may take or retake the practical examination upon payment of the prescribed fee. A candidate failing the practical examination shall retake the entire examination, except that a candidate who fails one section may retake the failed portion at the next administration of the examination only, upon payment of the examination fee. Otherwise the full examination shall be retaken.

**PART III.**

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## UNPROFESSIONAL CONDUCT.

### § 3.1. Unprofessional conduct.

It shall be deemed unprofessional conduct for any licensed optometrist in the Commonwealth to:

1. Fail to use in connection with the optometrist's name wherever it appears relating to the practice of optometry one of the following: the word "optometrist," the abbreviation "O.D.," or the words "doctor of optometry."

2. Practice optometry under a name other than the optometrist's own name : [ , except to the extent authorized by § 4.1., "Professional Designations." ]

3. Fail to maintain records on each patient for not less than five years from the date of the most recent service rendered. Such records shall include, but not be limited to (i) all the examinations made of the patient; (ii) the results of such examinations; and (iii) all treatments and drugs used or procedures performed on, all materials dispensed to, and all prescriptions written for, the patient : [ , and the name of the attending optometrist. ]

4. Fail to include the following information on a prescription for ophthalmic goods:

a. The printed name of the [ prescribing ] optometrist [ s ];

b. The address and telephone number at which the patient's records are maintained and the optometrist can be reached for consultation;

c. The name of the patient;

d. The signature of the optometrist [ s ];

e. The date of the examination, and, if appropriate, expiration date of the prescription;

f. Any special instructions.

5. Refuse to provide a written prescription for spectacle lenses upon the request of the patient once all fees have been paid.

6. Refuse to provide a written prescription for contact lenses upon the request of the patient once all fees have been paid and the prescription has been established and the follow-up care completed. Follow-up care will be presumed to have been completed if there is no reappointment scheduled within 30 days after the last visit.

7. Advertise in a manner that is false, misleading, or deceptive. False, misleading and deceptive advertising shall include, but not be limited to, when the price of

ophthalmic goods or services (or both) is advertised, to fail to state what goods and services the advertised price includes.

8. Administer any diagnostic pharmaceutical agents, specified in § 54-386.2 of the Code of Virginia, without certification of the Board of Optometry to use such agent.

9. Fail to post conspicuously in the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location.

[ 10. Violate any provision of these regulations pertaining to professional designations.

10. The following requirements apply to any optometrists who employs other optometrists to practice optometry in one or more locations owned or operated by the employing optometrist:

a. Fail to keep a record of the names of all optometrists who practice at a given location on the premises of the optometric office for five years following their departure from the practice.

b. Fail to note the examining optometrist's name in the record of the patient, following a description of the service rendered, subsequent to the administration of any optometric service.

c. Fail to include and note the name of the licensed optometrist providing care on the billing invoices, and on the receipts given to patients.

d. To use, or cause to be used, a name which contains the name of an inactive, retired, removed, or deceased optometrist for a period exceeding two years from the date of succession to a practice. When an optometrist lists the name of the inactive, retired, removed, or deceased within the permitted time period, it shall be listed in conjunction with the optometrist's own name, together with the words, "succeeded by," "succeeding," or "successor to." ]

## PART IV

### [ PROFESSIONAL DESIGNATIONS

#### § 4.1. Professional designations.

A. An optometrist may practice in an office that uses any of the following professional designations, provided that the name of at least one licensed optometrist, associated with the office appears in conjunction with any advertisement or other use of that description:

1. The full name of the optometrist as it appears on his license and renewal certificate; or

2. The name of an optometrist who employs him and practices in the same office; or
3. A partnership name composed of some or all names of optometrists practicing in the same office; or
4. A fictitious name, if the conditions set forth in subsection B. of this section are fulfilled.

B. Optometrists licensed in this Commonwealth who practice as individuals, partnerships, associations, or other group practices may use a fictitious name for the optometric office in which they conduct their practices, provided the following conditions are met:

1. Each fictitious name shall be registered with the board by a licensed optometrist, who must be associated with the optometric office and who shall assume responsibility for compliance with this section. Each fictitious name shall be approved by the board and a fee shall be paid as prescribed by board regulations prior to use of the name. Names which, in the judgment of the board, are false, misleading, or deceptive will be prohibited.
2. No licensed optometrist may, at any time, register to practice optometry under more than one fictitious name.
3. All advertisements, including but not limited to signs, printed advertisements, and letterheads, shall contain the following:
  - a. The name of at least one licensed optometrist associated with the optometric office who shall, in conjunction with the licensed optometrists referred to in paragraph 1 of this subsection, assume responsibility for the advertisement:
  - b. Lettering in which the name of the optometrist appears of at least half the size of the lettering in which the fictitious name appears.
4. No fictitious name may be used that does not contain the word "optometry" or reasonably recognizable derivatives thereof.
5. In the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location shall be kept at all times prominently and conspicuously displayed.
6. The names of all optometrists who practice under the fictitious name shall be maintained in the records of the optometric office for five years following their departure from the practice.
7. Subsequent to the administration of any optometric service, the optometrist of record shall place his name in the record of the patient following a description of

the service rendered. If the treatment is rendered by an optometrist other than the optometrist of record, the name of that optometrist shall be placed in the record of the patient.

8. The name of the licensed optometrist providing care shall appear on the initial statement of charges and on the receipts given to patients.

9. No fictitious name may be used which contains the name of an inactive, retired, removed, or deceased optometrist, except that for a period of no more than one year from the date of succession to a practice, an optometrist may list the name of the inactive, retired, removed, or deceased optometrist, so long as he does so in conjunction with his own name, together with the words, "succeeded by," "succeeding," or "successor to."

## PART V ] RENEWAL OF [ LICENSE LICENSURE ] ; REINSTATEMENT.

### § 5.1. Renewal fees.

A. Every person authorized by the board to practice optometry shall, on or before October 31 of every even-numbered year, pay to the [ executive director of the ] Board of Optometry the prescribed biennial licensure fee.

B. It shall be the duty and responsibility of each licensee to assure that the board has the licensee's current address. All notices required by law or by these rules and regulations are to be deemed to be validly tendered when mailed to the address given.

C. It shall be the duty of each person so licensed to return the renewal application with the prescribed fee prior to the expiration of their license. The license of every person who does not return the completed form and fee by October 31 of the renewal year shall automatically become invalid. Upon expiration of the license, the executive director of the board shall notify the licensee of expiration and reinstatement procedures. The board shall reinstate the lapsed license, provided that the applicant can demonstrate continuing competence; that the applicant has satisfied requirements for continuing education during the lapsed period; and that the applicant has paid the prescribed late fees, all unpaid renewal fees from the time the license lapsed, and the prescribed reinstatement fee.

D. The board may, in its discretion, require an applicant who cannot satisfy the requirement of subsection C of § 5.1 of these regulations, to pass all parts of the examination of the National Board of Examiners in Optometry or the state practical examination, or both.

## PART VI CONTINUING EDUCATION.



# Final Regulations

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## § 6.1. Continuing education.

A. Each license renewal shall be conditioned upon submission of evidence to the board of 24 hours of continuing education taken by the applicant during the previous license period.

B. It shall be the responsibility of each licensee to submit evidence substantiating attendance of continuing education courses, as required by subsection A. of this section, no later than the last day of each license period.

C. The board will review courses for acceptability for purposes of continuing education requirements [ upon payment of a fee as prescribed by board regulations ] if the following information is provided:

1. The title of the course;
2. The sponsoring [ ~~organization~~ organization(s); ]
3. The name of the lecturer;
4. The qualifications of the lecturer;
5. [ ~~A brief An~~ ] outline of the course's content;
6. The length of the course in clock hours; [ ~~and~~ ]
7. The method of certification of attendance [ : ; and ]
8. Number of credit hours requested. ]

D. The titles of all courses approved by the board will be kept on a list maintained by the board. All courses approved by the board shall pertain directly to the care of the patient.

Courses excluded by the board shall include:

1. Courses which are [ ~~primarily~~ ] designed to promote the sale of specific instruments or products; [ ~~and~~ ]
2. Courses offering instruction on augmenting income [ : ; and ]

[ 3. Courses which are neither advertised nor in fact available to all optometrists or any courses for which there is no independent assurance that no part of the educational session is devoted to the promotion of specific instruments, products, or marketing philosophies. ]

E. When the biennial license fee is submitted to the executive director of the board, the licensee shall enclose with it the required forms to indicate fulfillment of the continuing education requirements for the previous period. In the event such form, with proper substantiation, is not filed by October 31, the executive director of the board shall notify the licensee that their license has lapsed. The board may reinstate the license, upon showing of disability

or undue hardship, or upon showing that the licensee has complied with the requirements of subsection B. of this section.

## PART VII. SEVERABILITY.

### § 8.1. Severability clause.

Contained herein are the regulations of the Virginia Board of Optometry. These regulations repeal and supersede all other regulations adopted, promulgated, revised, or amended by the board.

If any provision of these regulations or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications, and to this end the provisions of the regulations are declared severable.

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# STATE CORPORATION COMMISSION

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## STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 9, 1986

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUE860024

Ex Parte, in the matter of adopting  
Commission Policy Regarding Natural Gas  
Industrial Rates and Transportation  
Policies.

### OPINION AND ORDER

On April 4, 1986, the Commission issued an order establishing a rulemaking proceeding to reassess natural gas industrial rates and transportation policies in Virginia. This hearing resulted from the changes in the natural gas industry most immediately caused by the issuance of Order 436 by the Federal Energy Regulatory Commission (FERC). This Order is altering the traditional roles of the various components of the industry - producer, pipeline, local distribution company and end user. While the impetus and control of much of the change remains at the federal level, the successful operation of the FERC induced programs will be determined by the approach taken by state commissions in the implementation on the state level.

The changes have been fueled by a number of factors: decontrol of wellhead gas prices, the decline in oil prices, the competition given our domestic gas industry by Mexican and Canadian gas, the advent of the spot market and contract carriage provisions. Since 1980 the industry has seen an excess supply of gas. This has resulted in increased risk to producers and pipelines under the traditional marketing functions and increased pressure by industrial users to have available a mechanism to obtain natural gas at lower prices. Devices such as Special Marketing Programs, shifts in the allocation of fixed costs in demand and commodity charge components of the minimum bill, and elimination of variable costs from the minimum bill were precursors of the present FERC attempts to enable the natural gas industry to respond to the very real competitive forces in the marketplace.

The federal government through FERC has determined that users of natural gas in this country will benefit if they are given the option to purchase gas directly from the producers and have it transported by the pipelines to their point of use. This policy dramatically alters the traditional role of the interstate pipeline, the intrastate pipeline and the local distribution company. This policy decision, embodied in FERC Order 436 and now expanded in Order 451, poses substantial practical and philosophical problems. The restructuring of this industry cannot happen quickly and the fruits or disadvantages of this move will take even more time to realize and evaluate.

While this shift began on the federal level and initially involved those entities subject to the jurisdiction of FERC, local distribution companies and intrastate pipelines as an integral part of the industry, must also adjust to the new way of doing business. Failure to do so clearly would frustrate national policy. As in the telecommunications industry, it is now incumbent on the local utilities and state regulators to make federal policies work for the public good.

In our April order, we invited interested parties to participate in this rulemaking proceeding, directed staff to complete its investigation and file its analysis and report, and further, identified several critical issues which the Commission hoped parties to the proceeding would address and which the Commission believed needed to be addressed to facilitate the transition of the natural gas industry in Virginia to a more competitive environment.

As noted in the order establishing the rulemaking proceeding, the Commission has received numerous formal as well as informal requests for guidance and analysis of specific problems related to industrial rate design and transportation policies. Some of the problems which have been raised in those inquiries and proceedings can and should be most effectively decided on a general basis to facilitate a more orderly development of the regulatory scheme. However, although we intend to address many of the problems, this proceeding and this order are intended to provide only a framework for the development of the natural gas industry in Virginia. Actual rates and company specific considerations should and will be taken into account on a company by company basis within the framework established herein.

Beginning on June 17, 1986, the Commission conducted public hearings to receive testimony and comments from interested parties on the development of an appropriate rate design for industrial rates and transportation policies in general. A number of diverse parties provided input on the issues raised by the Commission and by the staff report. The Commission would like to thank all parties for their contributions in this proceeding and their efforts to suggest a reasoned and equitable approach to this new and still changing environment.

Appearances were entered by Edward L. Flippen for Anheuser-Busch Companies, Inc. (Anheuser-Busch), BASF Corporation (BASF), James River Corporation (James River), Owens-Illinois, Inc. (Owens-Illinois), Reynolds Metals Company (Reynolds), and Westvaco Corporation (Westvaco); Fielding L. Williams, Jr. for Celanese Smoking Products, a Division of Celanese Corporation (Celanese); Charles F. Midkiff and Louis M. Monacell for Allied Corporation (Allied); Anthony Gambardella for the Division of Consumer Counsel, Office of the Attorney General (Consumer Counsel); Eric M. Page and David B. Kearney for the City of Richmond (Richmond); Guy T. Tripp, III and James F. Bowe, Jr. for Virginia Natural Gas (VNG); Donald R. Hayes for Northern Virginia Natural Gas, a Division of Washington Gas Light Company (NVNG);

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Wilbur L. Hazlegrove for Roanoke Gas Company (Roanoke); Stephen H. Watts, II for Commonwealth Gas Services, Inc. (Services), Lynchburg Gas Company (Lynchburg), Columbia Gas of Virginia, Inc. (Columbia) and Commonwealth Gas Pipeline Corporation (Pipeline); Allan E. Roth for Columbia; John S. Graham, III for Equitable Resources Energy Company; and Deborah V. Ellenberg for Staff.

## TESTIMONY

Representatives from Anheuser-Busch, BASF, James River, Owens-Illinois, Reynolds and Westvaco came forward to testify on their own behalf. In addition, those industrial companies jointly supported the testimony of Dr. Roy Shanker, an economic consultant. That group of industrial end-users urged the Commission to recognize that competition and increased transportation are in the public interest. They further urged the Commission to unbundle transportation related services, develop cost of service rates for those services and allow such rates to be downwardly flexible to the variable cost of service. They also stated that the Commission should require Pipeline to make its upstream Columbia Gulf transportation capacity entitlement available to its contract demand customers upon their request. The industrial companies further recommended that, to implement the policies developed in this proceeding, utilities be directed to develop and file cost of service studies and to file embedded cost of service transportation rates pursuant to those studies within twelve months of the date of this order. Dr. Shanker testified that embedded cost rates will eliminate most of the economic incentives for bypass. Mr. Flippen, counsel for the six industrials, stated further that the Commission need not address the question of bypass unless and until an actual case arises. Finally, those parties supported the concept of flexible interruptible retail rates and recommended the ceiling be based on the embedded cost of service and the floor on the utility's marginal cost of service.

Celanese presented one witness who urged the Commission to adopt flexible transportation rates within cost of service parameters. Celanese's witness also stated that standby service for transportation customers should be provided at carefully considered and unbundled rates.

Allied presented one witness, John Brickhill, who urged the Commission to encourage voluntary transportation by taking a company's participation into account in establishing an appropriate return on equity or by not allowing utilities to pass on to remaining customers the fixed costs associated with lost load which could have been averted through transportation. He also testified that the Commission should address the problems associated with the allocation of upstream transportation capacity and urged the Commission to look at the long term impact on end-users, not simply at Pipeline's current cost of gas. He asserted that customers must rely on the long term ability to transport gas, not simply transportation of spot market purchases. Allied argued that transportation rates should

be based on an embedded cost of service design and should be downwardly flexible if retail sales rates are downwardly flexible. It said that flexible pricing must be closely scrutinized to prevent anti-competitive abuses. Mr. Brickhill stated that rate design should promote competition and fairness by application of cost causation principles in a manner which would avoid undue rate shock. He observed that now would be a good time to move to parity as gas costs overall are declining. The impact therefore would be minimized.

The Consumer Counsel presented the testimony of Mr. Steven Ruback. He stated that local distribution companies (LDCs) should lower their system average cost of gas and that the Commission should concentrate on reviewing the utility companies' purchasing practices. With regard to rate design, the Consumer Counsel recommended rates be based on the same non-gas margin contribution as if the customer had purchased gas from the LDC under a non-flexible rate schedule. This, he argued, would make both customers and utility companies indifferent as to whether a customer transports or purchases gas from the utility. Mr. Ruback stated that such a margin approach would avoid price signals which encouraged a customer to switch to transportation and thereby make a lower contribution to the utility's fixed costs. He further urged that interruptible flexible retail rates be addressed on a company specific basis and that the floor should be based on the highest commodity cost of gas. Further, the Consumer Counsel cautioned the Commission against making spot market purchase dedications to particular customers and stated that such inappropriate dedications would result in unjust and preferential rates.

Richmond presented the testimony of one witness, Michael Moore. Mr. Moore agreed with most other parties that increased competition and transportation are in the public interest. Mr. Moore also urged the Commission to address the allocation of upstream capacity and stated that customers must have the assurance that upstream capacity will be available or there will be a resulting disincentive to transportation. Moreover, he stated that such allocation should be available to Pipeline's customers since they pay the contract demand costs to reserve the capacity.

Virginia Natural Gas, through its witness, Ann Rasnic, also urged the Commission to find as a matter of policy that transportation is in the public interest. It also urged the Commission to consider allocation of upstream capacity and argued that the customers of Pipeline need the assurance that transportation will be available through that upstream capacity to facilitate economic and reliable service to the end-user. VNG supported staff's recommendation that transportation rates be designed on an embedded cost of service basis, with some contribution to contract demand costs included in interruptible rates. Ms. Rasnic urged the Commission to retain interruptible flexible retail rates within specific parameters. She recommended the floor be based on a utility's weighted average commodity cost of gas (WACCOG) unless the utility can show that something less than that WACCOG is

necessary to compete with alternate fuels and still provides a net benefit to the firm customer. VNG also recommended that the ceiling of the authorized range should be the firm industrial sales rate. Finally, VNG suggested the Commission support the general concept of an incentive proposal which would encourage a utility company to maximize throughput from interruptible sales and transportation volumes. Under the mechanism, any shortcomings or additional revenue generated over a target level would be shared between stockholders and ratepayers according to the risk borne by each. VNG stated that the proposal is in the public interest because it reduces the need for base rate changes by eliminating severe shifts in utility earnings and further, it provides an incentive to increase throughput resulting from interruptible sales and transportation volumes which, of course, is in the public interest of all parties.

Northern Virginia Natural Gas (NVNG) also participated in the rulemaking proceeding and presented two witnesses, Jack Keane and Frank Hollewa. NVNG stated that, as a general matter, the transition from a regulated environment to a market driven environment will impact each local LDC differently according to each company's size and load profile; accordingly, it recommended that this rulemaking should only present broad guidelines to provide flexibility for company operations. Moreover, NVNG supported a gradual phasing out of the industrial subsidy of firm rates. In addition, transportation, the company asserted, should be voluntary or with some provision for waiver or exemption and should only be offered on an interruptible basis until more experience is gained with the service. It also recommended the establishment of minimum criteria, by each LDC, relating to size, delivery point, and contract term. Transportation rates, NVNG stated, should be flexible and market driven. NVNG said interruptible flexible retail rates should be established within a floor based on an LDC's WACCOG and each LDC should be allowed to dedicate a specific package of spot market gas to an industrial customer.

Roanoke did not introduce the testimony of any witnesses; however, its attorney, Wilbur Hazlegrove stated the company's position. As a general policy matter, he stated that the LDC was charged with protecting the firm residential customers and that there was no obligation to serve industrial customers. He was doubtful that the Commission would be able to handle a transition to a market driven environment smoothly and cautioned the Commission to proceed slowly, concentrating on more pressing problems, such as the take-or-pay costs issued before FERC. He stated that there was no need to mandate transportation, as the industry was already responding to the competitive market. He called transportation effectively a bypass of the utility system supply and stated that the traditional distributor monopoly of gas supply would soon be replaced by "a proliferation of purchasers chasing an inadequate gas supply with big bucks." Industrial rates and transportation policies, he urged, should be developed on a company specific basis.

Pipeline, Columbia, Services and Lynchburg presented their comments through their counsel, Stephen H. Watts, II. By its statement of position on future allocation of upstream pipeline capacity dated June 24, 1986, Pipeline stated that it has voluntarily allocated its upstream transportation capacity among its five contract demand customers pursuant to mutual agreement. It recognized the customer's need to be able to rely on such an allocation to make longer term gas purchase commitments and stated that it would not revoke the upstream allocation provided to its customers without thirty days notice. Pipeline stated that the issue relative to the allocation of upstream capacity must be decided in terms of a utility company's public service obligation to use its available resources to offer reliable supply at lower cost for all of customers. However, it requested Commission guidance on the allocation question.

Pipeline was also concerned that any policy decisions rendered in this proceeding should not displace the stipulation filed by several parties in Pipeline's recently concluded rate case.<sup>1</sup> In that case Pipeline had proposed cost based transportation rates within and outside of contract demand (CD), provided a methodology for sharing capacity between CD customers and provided equal priority for transportation and sales gas volumes within firm and interruptible classifications. Pipeline expressed concern with the impact of transportation in the long run since the current market instability is due to temporary and extraordinary conditions. Pipeline also urged the Commission to address the bypass question.

On behalf of Columbia, Mr. Watts stated transportation rates ideally should be based on the non-gas sales rate schedule margin, since there is not a significant difference between the non-gas cost of providing transportation service and the cost of delivering gas for sale to its customers. However, under conditions where the price is being set by the market, he stated fixed transportation rates will result in a loss of throughput and accordingly, Columbia recommended flexible transportation rates.

Services agreed that industrial transportation rates should be fully allocated and distributed according to class cost of service studies with class rates of return moving towards parity. Services also urged that industrial rates be downwardly flexible with a floor based on a utility's variable cost of gas sold to the industrial customer. Transportation rates, it urged, should be the non-gas component of the applicable sales rates and should be downwardly flexible to allow competition and prevent bypass.

Lynchburg urged the Commission to consider and maintain flexibility in any policy or framework adopted in this proceeding to allow LDC's to compete with nonregulated markets. Lynchburg also stated that there was not a need for the Commission to mandate transportation. Lynchburg itself offers firm and interruptible transportation but has not had a request for either type of service.

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Mr. Cody Walker appeared on behalf of the staff. He indicated that a mandatory carriage policy was not necessary but incentives should be developed to encourage voluntary participation.

Staff recommended value of service rates be retained for retail interruptible sales. Mr. Walker stated that the parameters between which flexible rates could vary on a month to month basis should be based on cost of service considerations. The fluctuation of the rate within the established range could vary as necessary to compete with competitive alternative fuel prices. Staff recommended that the floor of the flexible rate range be equal to a utility company's highest commodity cost of gas plus adjustments for taxes and unaccounted for gas, unless the utility shows that a lower floor is necessary to compete with alternate fuels and further, that a lower floor still provides a net benefit to the firm customers. Mr. Walker supported a ceiling based on the same rate of return as provided by the firm industrial rates.

Staff recommended that transportation rates be designed on an embedded cost of service basis. Incorporated into that recommendation, staff included a contribution to compensate firm customers for the interruptible customers' use of excess capacity because it is reasonable to allocate some of the demand costs to interruptible customers as rent or compensation for use of the facilities. Staff did not support flexible transportation rates.

## TRANSPORTATION POLICY

The increase in competition in the natural gas industry has clearly been in the public interest. Competition at the wellhead has already served to lower gas costs overall and nondiscriminatory transportation has stimulated that competition. Even nonparticipating customers benefit from transportation due to the increased pressures on utility companies to lower gas costs overall to more effectively compete. Moreover, a company which effectively competes can increase the throughput on its system and again lower costs for all its customers. In addition, transportation provides one more market option which a utility can offer its customers and consequently maximizes the requisite flexibility necessary to compete with a variety of alternatives. We agree with the majority of the parties to this proceeding that transportation of natural gas is in the public interest. However, it is not necessary to mandate that all utility companies file transportation tariffs and provide that carriage. As many parties observed, as a practical matter, most Virginia utility companies who have a demand for transportation on their systems have effective transportation tariffs on file with this Commission. Although we will not mandate transportation, we intend to encourage voluntary participation in transportation programs. This Commission will review individual company practices in future rate cases to assure that each company maximizes utilization of its system. Several means to encourage transportation were suggested by several parties in this proceeding. We will be critical in the event load is lost as a result of a company's failure to transport. Such

loss will be taken into account in setting rates. Appropriate measures will necessarily be taken into account in each company's rate case to preclude penalizing a company who has no demand for transportation for its failure to provide transportation.

## INTERRUPTIBLE RETAIL RATES

This Commission has historically embraced the flexible rate as a viable mechanism to provide utility companies with the flexibility necessary to compete with unregulated alternate fuels. In January of 1984, the Commission first approved a flexible rate for Washington Gas Light Company.<sup>2</sup> In the final order issued in that case we stated that:

We are confident that a flexible rate is required in order for the Company to remain in the competitive market of interruptible customers. If the Company were to lose its entire interruptible load, there would be an automatic shifting of significant non-gas costs to all firm customers. Hence, the economic viability of the Company hinges upon its ability to generate revenues from interruptible customers, and to do so it must have a flexible pricing structure to compete in that market.

That principle has been restated in numerous proceedings addressing flexible rates. As the gas industry moves toward a more competitive market it is even more essential that utility companies retain the flexibility available through measures such as flexible rates to be able to respond to the marketplace.

Although most parties to this proceeding generally supported the basic concept of a flexible rate, the suggested parameters of that mechanism varied. VNG suggested that it was more appropriate to establish the floor based on a company's weighted average commodity cost of gas (WACCOG) plus appropriate adjustments. Further, VNG suggested that the ceiling be equal to the large volume firm sales rate, rather than simply incorporating the return included in the firm rate as suggested by staff. In addition, several parties recommended establishing a floor based on the utility company's spot market purchases or, in other words, to allow utilities to dedicate their cheapest purchases to the most elastic customers.

Several parties also cautioned that each utility company's situation will be different and will depend in part upon load profiles and purchasing practices. Accordingly, those parties recommended that flexible rates should be reviewed on a company specific basis.

Although we agree that specific provisions may vary based on an individual company's market and operating characteristics, basic guidelines can be established to provide a uniform approach to companies' flexible rates. We conclude that the floor of a flexible rate should be based on the highest commodity cost of gas or if more

than one supplier furnishes gas, the floor should be the weighted average commodity cost of gas. If, and we emphasize "if," the utility can demonstrate that a lower cost is necessary to compete with alternate fuels and further, that the firm or core customer still receives a net benefit from retaining the interruptible sale, the lower price will be accepted.

As pointed out by several parties, the point at which the price necessary to retain an interruptible sale no longer provides a benefit to the system will vary significantly from company to company. Accordingly, it is reasonable to establish the starting point for the floor at the highest commodity cost and allow companies to offer proof that something less is necessary and still beneficial on a case by case basis. That test will of course reflect an analysis of several factors, foremost of which will be the incremental cost of gas acquired to serve the interruptible load. To facilitate a direct comparison it may be appropriate to assume the benefits of retaining the interruptible load will coincide with the immediate impact on gas costs.

We will necessarily be cautious about allowing companies to dedicate spot market purchases to the most elastic customers. The Commission must be particularly sensitive to the protection of the inelastic core customers. A rate design which results in inelastic customers subsidizing the elastic customer is clearly improper. Economic purchases should not be made solely for elastic customers to the exclusion of purchases for system supply. The authority to make such a dedication to the most elastic customers would also eliminate one incentive for a company to minimize its general system costs. With a low price necessary to compete with alternate fuels in the current market, a captive customer, or one with no ready alternative, might be assessed the higher cost of gas without close regulatory scrutiny. We caution all utility companies to review their general system purchasing practices and to fulfill the statutory obligation to provide reliable utility service at a just and reasonable cost.

The customer charge component of the rate should reflect the fully distributed costs of providing the interruptible service. We will closely review this in rate filings.

Finally, at this point in the evolving competition in the gas industry, we concur with the recommendations of most parties that it is prudent to move gradually toward parity of return in firm industrial rates. Such movement must be gradual to minimize rate shock to residential customers and carefully evaluated at each step.

## TRANSPORTATION RATE DESIGN

A number of parties recommended the embedded cost of service rate proposed by staff to be established as a maximum transportation rate and that the utility companies be afforded the flexibility to adjust the transportation rate downward from that embedded cost of

service level to the marginal cost of providing transportation service. There are problems, however, associated with flexible transportation rates. The value of transportation to individual customers will vary on the basis of a number of different factors. Unlike the flexible retail rates, there is not a readily identifiable alternate source of competition to transportation. Transportation may occur due to any one of a number of factors ranging from wellhead cost of gas to alternate fuel prices. To respond to these variables, the utility would need to apply a different rate for each customer and would consequently engage in discriminatory ratemaking between similarly situated transportation customers. Such a framework would also result in problems with effective regulatory review problems.

The Consumer Counsel recommended a different approach to the design of transportation rates. Its witness, Mr. Ruback, recommended basing transportation rates on the non-gas margin of the applicable retail sales rate which would otherwise be available to that customer. He stated the benefit of this rate design approach would be the utility's revenue neutrality relative to a customer's election to transport its own gas or purchase from the utility. At the public hearing, the Consumer Counsel further clarified that its margin approach should be limited to nonflexible rate schedule margins.

Other parties observed that such a margin approach could be a goal if industrial retail rates were already based on cost-causation principles, however, based on current rate designs, the nonflexible margin approach results in unworkable and uncompetitive rates. Such an approach would effectively eliminate transportation as a service option in Virginia, thereby compounding the current problems with competitive fuel prices. In addition, the Consumer Counsel's limitation on the margin approach to nonflexible rates would not result in the company's operations being revenue neutral. An alternate fuel user who could purchase gas under an interruptible flexible rate schedule would not be purchasing gas under the firm large volume rate schedule as its alternative to transportation service and accordingly, its choice between a flexible sales or transportation service would not result in a revenue neutral situation. If the limitation to nonflexible rate schedules were removed and transportation rates were based on the appropriate margin, a wide range of rate levels would be charged to transportation customers despite the fact that the customers were all receiving the same type of service.

We will direct that an embedded cost of service approach to transportation rate design be applied on a company by company basis for both firm and interruptible transportation service. Over time, the non-gas margin of the industrial sales rates will be more closely aligned with the transportation rates, however at the present time we must provide viable competitive options for utilities to offer their customers. Moreover, since the growth in transportation service is a recent phenomenon, development of embedded cost of service transportation

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rates at the present time will not result in rate shock to the captive customers. An immediate elimination of the subsidy currently being provided by industrial customers in the retail rates would, however, result in rate shock. We would note, however, that, with the recent drop in oil prices, the impetus to shift much of the fixed costs of the utility to firm customers is already in place.

An interruptible customer does not contribute to the fixed cost of capacity associated with peak demand and such service is inferior to firm service, since it is interrupted during periods of peak load; however, the interruptible service is provided through the same facilities as firm service. Therefore there should be some compensation by the interruptible customer to the firm customer for the use of that excess capacity. The contribution will vary from company to company, again depending on the customer mix and load profile, and therefore should be specifically addressed on a company by company basis. The demand allocation applied in each case should reflect the operating characteristics of the company.

To facilitate and expedite implementation of the framework established herein, all gas utility companies should conduct class cost of service studies and file them with the Commission within the next 12 months. Exemptions from this filing requirement, upon proper petition, may be considered for small gas utilities with limited industrial loads and who have not received requests for transportation service. Any tariffs filed should be based on cost of service studies. Those companies who do not intend to file rate cases in the next 12 months, should file limited applications to revise their transportation rates where transportation is being offered in accordance with the findings herein within that same 12 month time period.

## UNBUNDLED SERVICES

There was overwhelming support for an approach to rate design which identifies the several services which a utility provides and separately determines the fully allocated costs of providing each service. Unbundling services in this way provides a menu from which a customer can tailor the type of service and degree of reliability appropriate for that customer. The extent to which unbundling occurs will again vary from company to company and accordingly should be evaluated on that basis, however, it provides a reasonable approach to rate design at a time when the industry is becoming more competitive in the services offered. Transportation and standby retail service are two examples of services which can be easily unbundled from the traditional retail sale and provided on an individual basis.

## ALLOCATION OF UPSTREAM TRANSPORTATION CAPACITY

One of the foremost concerns raised in this proceeding relates to the proper allocation of upstream transportation

capacity. At the present time few interstate pipeline companies have agreed to become open access transporters. Columbia Gas Transmission Corporation, a primary interstate supplier for Virginia, and Columbia Gulf are, however, open access transporters. Because they represent a major supplier for the east coast, tremendous demand has been placed on them for transportation. This has resulted in demand exceeding capacity available and raised serious questions concerning the allocation of transportation capacity on their pipeline facilities.

The FERC recently addressed the problems with allocation of Columbia Gulf's main line capacity. The FERC defined the "first-come/first-served" methodology which was first described in FERC Order No. 436. The FERC has generally outlined the allocation of transportation capacity to Columbia Gulf's wholesale customers' end-users through March 31, 1987. The FERC directed that in making monthly nominations, the wholesale customers should include any requests for service by their customers. While addressing the Gulf capacity allocation generally, the FERC by Order Approving a Settlement Offer with modifications in FERC Docket No. RP86-14-004 dated March 28, 1986, stated at page 19 that "the relationships between Columbia Gas' wholesale customers and the end-users they serve is properly a matter of local concern, to be determined by each customer with its end-users and is subject to state regulatory agency oversight and/or regulation."<sup>3</sup> Commonwealth Gas Pipeline as a direct customer of Columbia has received an allocation of Gulf capacity pursuant to this settlement. Initially, Pipeline used its allocated capacity to purchase spot gas for its system supply, thereby lowering the per unit cost of gas to all customers equally. Pipeline was informed that this arrangement did not comply with the terms of the PGA settlement with FERC. As result Pipeline released its capacity to its direct customers who in turn agreed to an allocation formula. Pipeline has five direct customers - Virginia Natural Gas, Suffolk Gas, the City of Richmond, Allied and Commonwealth Gas Services. Presently, Pipeline is operating on a shared allocation basis; however, the stated policy of the company continues the ability to revoke the shared allocation on thirty days notice.

Pipeline and its customers have asked for Commission guidance on the proper allocation of Pipeline's entitlement to upstream transportation capacity. Although the problem will be somewhat relieved in the event that other interstate pipelines serving Virginia become open access transporters, the problem clearly must be addressed now at least for the short term period.

Many parties urged the Commission to provide some assurance on the availability of upstream capacity. They are interested in acquiring supply for the longer term, not solely from short term spot market purchases. To do this they need more than thirty days assurance of transportation. Moreover, they argue that Pipeline's customers pay the contract demand associated with reserving capacity upstream and, accordingly, should be

able to elect to use that capacity or to ask Pipeline to use the capacity to minimize its commodity cost of gas. In making that decision, those customers of course would weigh their own ability to purchase gas at economic prices relative to the price of their supplier.

The Commission recognizes that if gas transportation is to work effectively and efficiently, those who wish to transport gas must have some assurance that the capacity to transport will be available. Without that assurance, these users are forced to purchase system supply or leave the system for alternate fuels. All of Pipeline's LDC customers have indicated that obligation can be best fulfilled by passing the upstream allocation on to them. Accordingly, the choice should be Pipeline's customers. We will monitor this situation as other interstate pipelines become open access transporters and understand that the time may come when such allocation may be unnecessary, impracticable or impossible.

Although not bound by the FERC settlement, we encourage local distribution companies to utilize policies which afford a degree of reliability for transportation capacity usable by their transportation customers.

## BYPASS

The issue of bypass was also identified in this proceeding. We define bypass to mean direct connection by an end user to an interstate or intrastate pipeline, thereby bypassing the certificated local distribution company. This issue involves the economic incentives for bypass as well as its legality under present law. The Commission believes that appropriately designed embedded cost of service rates should eliminate the economic incentives for bypass. This will of course require the good faith efforts of both the customer and the utility. In any event, the Commission does not believe the record before us is adequate to resolve the legal issue at this time.

## STANDBY SERVICE

The industrial companies represented in this proceeding generally agreed that they should bear the risk of their election to transport gas for themselves rather than rely upon their traditional local distribution company. Clearly, if a customer elects transportation and should not also elect a standby service, the utility company does not have a continuing public service obligation to sell gas to that customer. By placing the responsibility where it belongs, on the customer to elect what type of service it wants to take, the gas company can retain some predictability in its requirements, a predictability which is necessary for it to make its own system plans. Standby service should be offered at compensatory rates.

## OTHER TERMS AND CONDITIONS

Any investments made to specifically serve a new transportation customer should be recovered from that customer; accordingly each utility company should provide

some type of guarantee through customer charges, minimal purchase requirements, minimal monthly payments, contract terms or some other means to assure recovery of the investment from the specific customer.

We recognize that there are some circumstances in which penalties may be necessary to prevent gross abuses of system availability and to prevent large or disparate operating practices. Penalties should not be designed to be onerous and a disincentive to transportation, but rather should be compensatory for any additional cost which may result from the operating problems. Application of penalties should be addressed by each company on a company specific basis.

Adjustments for unaccounted for gas should be made to account for any difference in deliveries where such differences can be practically identified, for example deliveries through temperature compensated meters vs. non-temperature compensated meters.

We have concern over tariff conditions imposing minimum terms or volumes and other conditions which may be contrary to the market. We will closely review the reasonableness of terms and conditions which may be included in company tariffs.

In conclusion, we want to commend all participants in this proceeding. This is an uncharted course for the industry, consumers and regulators. Proposals other than those adopted herein have been offered. We are confident the changing nature of this industry will give rise to even more approaches to these issues generally and as they relate to a specific company. It is essential that dialogue continue examining the broader policy questions as well as specific rate designs and the performance of the market and industry. We must be aware of all reasonable options to maintain our ability to provide effective and innovative regulation which will allow us to meet the goal of reliable gas service at a reasonable price for the public good.

NOW, THE COMMISSION, having considered the record and the recommendations of the parties is of the opinion and finds:

- (1) That increased competition and transportation are in the public interest and the voluntary participation in transportation programs should be encouraged;
- (2) That interruptible flexible rate mechanisms are reasonable and should be retained. The parameters should reflect a floor and ceiling consistent with the discussion above;
- (3) That interruptible rates should include a customer charge which recovers the fully distributed cost associated with that service;
- (4) That firm industrial rates should be developed to move gradually towards the fully distributed costs of service;



# State Corporation Commission

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(5) That transportation rates should be based on the fully distributed costs as recommended by staff;

(6) That all gas utility companies should conduct cost of service studies to facilitate implementation of the policies established herein and file them within the next 12 months;

(7) That the rate design goals and terms and conditions of transportation service discussed herein shall be applied to gas companies in future rate cases;

(8) That services should be unbundled to the extent practicable. Standby service at compensatory rates should be made available to all customers. However, those customers not electing such standby service bear the risk associated with the decision to rely on transportation gas; and

(9) That the terms and conditions of transportation service should be developed consistent with the discussion herein. Accordingly,

## IT IS ORDERED:

(1) The findings and policies discussed and established herein shall be applied in rate cases or limited issue applications filed by gas companies subsequent to the date of this order; and

(2) There appearing nothing further to be done in this proceeding, this docket shall be closed and the papers placed in the file for ended causes.

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Footnote 1: By Final Order dated July 11, 1986, the Commission did not adopt the Stipulation in its entirety. Case No. PUE850052, Application of Commonwealth Gas Pipeline Corporation, to revise its tariffs - Appeal to the Supreme Court pending.

Footnote 2: Application of Washington Gas Light Company for a change in its gas interruptible rate and other tariff provisions, 1984 SCC Report 395.

Footnote 3: We note that the FERC allocation order is effective only through March of 1987, at which time it will likely be reevaluated.

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ATTESTED COPIES hereof shall be sent to Bill Robinson, Department of Economic Development, 1000 Washington Building, Richmond, Virginia 23219; Edward L. Flippin, Esquire, P.O. Box 1122, Richmond, Virginia 23208; Louis R. Monacell, Esquire and Charles F. Midkiff, Esquire, 1200 Mutual Building, Richmond, Virginia 23210; John Tyner, Allied Corporation, P.O. Box 20006R, Morristown, New Jersey 07960; Frank Piquet, Allied Corporation Hopewell Plant, Route 10, Hopewell, Virginia

23860; Terry Orr, Anheuser-Busch Companies, Inc., One Busch Place, St. Louis, Missouri 67118; Roy S. Hollomon, Badische Corporation, P.O. Drawer D, Williamsburg, Virginia 23187; J. B. Rawlings, Brick and Tile Corporation, P.O. Box 45, Lawrenceville, Virginia 23868; Charles V. McLoud, Burlington Industries, P.O. Box 21207, Greensboro, North Carolina 27420; Gary B. Lowe, The Fairfax Hospital, 3300 Gallows Road, Falls Church, Virginia 22046; John Keenan, Griffin Pipe Products Company, 2000 Spring Road, Oak Brook, Illinois 60521; Thurman H. Upchurch, Griffin Pipe Products Company, P.O. Box 740, Lynchburg, Virginia 24505; Jerry Cain, Hercules, Inc., Hercules Plaza, Wilmington, Delaware 19894; Bill McMichens, Kawneer Company, Inc., 1551 Country Club Road, Harrisonburg, Virginia 22801; Steve Terry, Meredith/Burda, P.O. Box 11829, Lynchburg, Virginia 24506; John V. Woellner, Owens Illinois, Inc., One Seagate, Toledo, Ohio 43666; Kenneth A. Barry, Esquire, Reynolds Metals Company, 6601 West Broad Street, Richmond, Virginia 23230; Henry Riewerts, Nabisco Brands, E. Hanover, New Jersey 07936; Tom Stevens, National Linen Service, 1180 Peachtree Street, N.E., Atlanta, Georgia 30309; Chris Runion, Rocco Feeds, Inc., P.O. Box 549, Harrisonburg, Virginia 22801; Allen M. Koleff, Stone Container Corporation, 3805 Presidential Parkway, Atlanta, Georgia 30136; David L. Obenshain, Uniroyal, Inc., P.O. Box 9, Scottsville, Virginia 24590; William L. Pfost, Jr., Wayn-Tex, Inc., 901 South Delphine Avenue, Waynesboro, Virginia 22980; David E. Baldwin, Westinghouse, Wire Division, P.O. Box 869, Abingdon, Virginia 24210; John Carrara, Esquire, 299 Park Avenue, New York, New York 10171; Bruce A. Fortin, Weyerhaeuser Company, P.O. Box 1188, Chesapeake, Virginia 23320; J. Lewis Raines, Jr., Esquire, Suffolk Gas Corporation, P.O. Box 1458, Suffolk, Virginia 23434; Guy T. Tripp, III, Esquire and Richard D. Gary, Esquire, P.O. Box 1535, Richmond, Virginia 23212; Fielding L. Williams, Jr., Esquire, P.O. Box 1320, Richmond, Virginia 23210; Wilbur L. Hazelgrove, Esquire, P.O. Box 720, Roanoke, Virginia 24004; James C. Dimitri, Esquire, Office of the Attorney General, 101 North 8th Street, Richmond, Virginia 23219; C. W. Guy, Tennessee, Virginia Energy, P.O. Box 60, Johnson City, Tennessee 37605; David B. Kearney, Esquire, 900 East Broad Street, Suite 300, Richmond, Virginia 23219; Stephen H. Watts, II, Esquire, One James Center, Richmond, Virginia 23219; John S. Graham, III, Esquire, One James Center, Richmond, Virginia 23210; and to the Commission's Divisions of Energy Regulation and Economic Research and Development.

## STATE CORPORATION COMMISSION

October 16, 1985

RE: Reporting of Bulk Power Supply Emergencies and Electric Power Outages.

We have recently reviewed the reporting requirements relative to events affecting bulk power supply and electric power outages established by letter of July 1, 1970. We are revising our requirements by instructing each electric

# State Corporation Commission

utility to report:

1. Any decision to issue a public or private request to any customer(s) to reduce the use of electricity to maintain the continuity of service of the reporting company's bulk electric power supply system.
2. Any action to reduce firm customer loads by reduction of voltage to maintain adequacy of bulk electric power supply.
3. Any decision to reduce firm customer loads by manual switching, operation of automatic load-shedding devices, or any other means for reasons of maintaining adequacy of bulk electric power supply.
4. Any electric power supply equipment or facility failure or other event that constitutes a hazard to the current or prospective adequacy and/or reliability of the reporting company's bulk electric power supply system.
5. Any service interruptions that are 30 minutes or more in duration affecting 3000 customers or interrupting loads of 4500 kilowatts or more.
6. Any outages that are 30 minutes or more in duration affecting service to 10% of the (Virginia) customers of a utility or 10% of the total (Virginia) utility system load at the time of the interruption.
7. Any service interruption to a cooperative delivery point that is 10 minutes or longer in duration. Separate reports should be made by both the utility wholesale supplier and the cooperative involved.
8. When a fuel supply emergency exists or is projected to occur. A fuel supply emergency exists when supplies of fuels for generation are at a level or are projected to be at a level which would threaten the reliability of electric service. When fuel stock levels reach 50 percent of normal levels and a continued downward trend in fuel stock levels is projected, fuel stock supply should be considered to have reached a level that would require a report to this Commission.

Reports made under the provisions of paragraphs 1-4 should be by telephone. Reports in accordance with paragraphs 1-3 should be at the time of taking such action. Reports in accordance with paragraph 4 should be as soon as practical without unduly interfering with service restoration, but in any event within one hour after the beginning of the interruption.

Reports made under paragraph 8 should be by telephone, but no later than the next business day after a determination of a fuel emergency has been made.

Reports made in compliance with paragraphs 5, 6, and 7 should be in writing and include: the geographic location

of the outage, time of occurrence, cause of the interruption, number of customers affected, load interrupted, duration of outage, and any other pertinent information. These reports should be submitted by mail as soon as practical but in no case should they be mailed later than the next regular business day following the interruption. In addition, the Commission should be advised of interruptions under the provisions of paragraph 5 by telephone as soon as practical during the regular business day or promptly in the morning of the following business day if the interruption occurs during non-business hours.

All reports should be made to the Division of Energy Regulation (see the attachment for the appropriate telephone numbers).

/s/ Preston C. Shannon  
Chairman

/s/ Elizabeth B. Lacy  
Commissioner

/s/ Thomas P. Harwood, Jr.  
Commissioner

## DIVISION OF ENERGY REGULATION

Monday - Friday  
8:15 A.M. - 5:00 P.M.

Telephone (804) 786-2766  
or  
(804) 786-3615

## Nights, Weekends and Holidays

William F. Stephens  
Director  
Telephone (804) 741-2835  
or  
(804) 295-1946

John D. Hall, Jr.  
Assistant Director  
(804) 262-9728

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# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.14:9.1 of the Code of Virginia)

### DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-01-5. Virginia Voluntary Formulary.

Office of the Governor

February 13, 1987

Dr. C. M. G. Buttery  
Commissioner  
Department of Health  
109 Governor Street  
Richmond, Virginia 23219

Dear Dr. Buttery:

I have reviewed the regulations for the Virginia Voluntary Formulary (VR 355-01-5) under the procedures of Executive Order Number Five (86).

The regulations appear carefully drawn to maintain an updated listing of therapeutically equivalent and interchangeable pharmaceutical products which can serve as a valuable resource for pharmacists and health care professionals. Because of the positive impact and policy considerations addressed by these regulations, I have no objections to these proposals as presented.

/s/ Gerald L. Baliles

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Title of Regulation: VR 355-12-01. Virginia Hearing Impairment Identification and Monitoring System.

Office of the Governor

January 27, 1987

Dr. C. M. G. Buttery  
Commissioner  
Department of Health  
109 Governor Street  
Richmond, Virginia 23219

Dear Dr. Buttery:

I have reviewed the regulations for the Virginia Hearing Impairment Identification and Monitoring System under the procedures of Executive Order Number Five (86).

The proposed regulations contain all of the elements of an effective system for identifying and monitoring those

newborns who are at risk for hearing loss or hearing impairment. I would recommend, however, that the regulations be reviewed carefully to ensure that they clearly express the responsibilities of and procedures to be followed by both the Department and the participating hospitals understand their respective roles in ensuring the success of this most important program.

/s/ Gerald L. Baliles

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Title of Regulation: VR 355-12-02. State Plan for the Provision of Children's Specialty Services.

Office of the Governor

January 20, 1987

Dr. C. M. G. Buttery  
Commissioner  
Department of Health  
109 Governor Street  
Richmond, Virginia 23219

Dear Dr. Buttery:

I have reviewed the proposed amendments to the State Plan for the Provision of Children's Specialty Services under the procedures of Executive Order Number Five (86).

The regulations appear carefully drawn to enable Virginia to qualify for federal funds through the development of a plan to ensure the availability of services for treatment and rehabilitation of eligible crippled children. Although I commend the Department for broadening its attempts to address the special problems of children whom the State Plan is intended to serve, more information is needed on the manner in which the Department arrived at the threshold criteria for determining eligibility of higher income families and the amount of their financial contribution to enable them to receive services. I would also encourage the Department to examine closely the proposed amendments to ensure that services can be expanded in the manner proposed within existing budgetary constraints.

/s/ Gerald L. Baliles

### VIRGINIA BOARD OF OPTOMETRY

Title of Regulation: VR 510-01-1. Regulations of the Virginia Board of Optometry.

Office of the Governor

February 12, 1987

Mr. Bernard L. Hernderson, Jr.  
Director  
Department of Health Regulatory Boards  
1601 Rolling Hills Drive  
Richmond, Virginia 23229

Dear Mr. Henderson:

I have reviewed the initial and final Regulations of the Board of Optometry under the procedures of Executive Order Number Five (86).

The regulations appear carefully drawn to clarify the standards for the practice of optometry and to maintain the quality of care. The provisions in the final regulations governing the use of trade names are particularly notable because they allow optometrists maximum flexibility in their practice while ensuring the existence of adequate safeguards to protect the public health. The Board of Optometry is to be commended for the reasonableness of its approach to this issue. Because of the positive impact and policy considerations addressed by these standards, I have no objections to the final regulations as presented.

/s/ Gerald L. Baliles

**DEPARTMENT OF SOCIAL SERVICES (BOARD OF)**

Title of Regulation: VR 615-70-1. State Income Tax Intercept for Child Support.

Office of the Governor

February 2, 1987

Mr. William L. Lukhard  
Commissioner  
Virginia Department of Social Services  
8007 Discovery Drive  
Richmond, Virginia 23288

Dear Mr. Lukhard:

I have reviewed the regulations for the State Income Tax Intercept for Child Support (VR 615-70-1) under the procedures of Executive Order Number Five (86).

The regulations appear carefully drawn to maximize the recoupment by custodial parents of child support arrearages accrued when those parents and their children have received Aid to Dependent Children benefits. Because of the positive impact and policy considerations addressed by these regulations, I have no objections to these proposals as presented.

/s/ Gerald L. Baliles

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## GENERAL NOTICES/ERRATA

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<b>Symbol Key †</b>
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† Indicates entries since last publication of the Virginia Register
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### CRIMINAL JUSTICE SERVICES BOARD

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to amend regulations entitled: **Rules Relating to Compulsory In-Service Training Standards for Jailors or Custodial Officers of Local Criminal Justice Agencies.** The purpose of the proposed regulations is to amend and update existing regulations governing in-service training for jailors or custodial officers of local criminal justice agencies.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until April 2, 1987, to L.T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Other pertinent information: This is part of a routine periodic review.

**Contact:** Jay Malcan, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to amend regulations entitled: **Rules Relating to Compulsory In-Service Training Standards for Law Enforcement Officers.** The purpose of the proposed regulation is to amend and update existing regulations governing in-service training for law enforcement officers.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until April 2, 1987, to L.T. Eckenrode, Division Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Other pertinent information: This is part of a routine periodic review.

**Contact:** Jay Malcan, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to amend regulations entitled: **Rules Relating to Compulsory In-Service Training Standards for Officers of the Department of Corrections, Division of Adult Services.** The purpose of the proposed regulations is to amend and update existing regulations governing in-service training for officers of the State Department of Corrections.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until April 2, 1987, to L.T. Eckenrode, Division Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Other pertinent information: This is part of a routine periodic review.

**Contact:** Jay Malcan, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to amend regulations entitled: **Rules Relating to Compulsory Minimum Training Standards for Correctional Officers of State Department of Corrections, Division of Institutional Services.** The purpose of the proposed regulations is to amend and update existing regulations governing the basic training of correctional officers of the State Department of Corrections.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until April 2, 1987, to L.T. Eckenrode, Division Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Other pertinent information: This is part of a routine periodic review.

**Contact:** Jay Malcan, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va.

23219

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **1984 Editions of the Uniform Statewide Building Code, Volumes I and II; Public Building Safety Regulations; Industrialized Building and Mobile Home Safety Regulations; LP Gas Regulations; and the Tradesmen Certification Standards.** The purpose of these amendments is to provide safety standards for the construction and maintenance of buildings and structures; provide safety standards for the handling and storage of LP Gas; and to provide standards for the certification of building related tradesmen.

Statutory Authority: Article 1 (§ 36.97 et seq.) of Chapter 6 of the Code of Virginia.

Written comments may be submitted until April 30, 1987.

**Contact:** Jack A. Proctor, CPCA Deputy Director, DBRS, Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219, telephone (804) 786-4751

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to promulgate regulations entitled: **(1) The Virginia Amusement Device Regulations and (2) The Virginia Statewide Fire Prevention Code.** The purpose of the proposed regulations is to (i) provide safety standards for the construction, maintenance, operation and inspection of amusement devices and to provide standards for the certification of amusement device inspectors; and (ii) provide safety standards to safeguard life and property from the hazards of fire or explosion.

Statutory Authority: (1) § 36-98.3 and (2) § 27-97 of the Code of Virginia.

Written comments may be submitted until April 30, 1987.

**Contact:** Jack A. Proctor, CPCA Deputy Director, DBRS, Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219, telephone (804) 786-4751

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **ADC Grant Diversion Regulations.** The purpose of the proposed regulations is to specify the conditions under which persons participating in work supplement programs, such as ADC Grant Diversion, will continue to be eligible for Medicaid.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until March 2, 1987.

Other pertinent information: A copy of the regulation is available from Victoria P. Simmons at (804) 786-7933.

**Contact:** Ann E. Cook, Director, Division of Medical Social Services, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 225-4220

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **Hardship Provisions in "Medicaid Qualifying Trusts."** The purpose of the proposed regulations is to define the hardship conditions which will result in exemption from "Medicaid qualifying trusts" in determining eligibility for Medicaid.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until March 2, 1987.

Other pertinent information: A copy of the regulation is available from Victoria P. Simmons at (804) 786-7933.

**Contact:** Ann E. Cook, Director, Division of Medical Social Services, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 225-4220

# General Notices/Errata

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## DEPARTMENT OF REHABILITATIVE SERVICES

### Notice of Intended Regulatory Action

NOTE: WRITTEN COMMENT PERIOD HAS BEEN EXTENDED.

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Rehabilitative Services intends to promulgate regulations entitled: **Provision of Vocational Rehabilitation Services**. The purpose of the proposed regulations is to establish policies, procedures and requirements governing the provision of services to disabled persons.

Statutory Authority: §§ 51.01-8 through 51.01-30 of the Code of Virginia.

Written comments may be submitted until March 10, 1987, to Charles H. Merritt, Assistant Commissioner, Department of Rehabilitative Services, P.O. Box 11045, Richmond, Va. 23230.

Contact: Jim Hunter, Board Administrator, Department of Rehabilitative Services, P.O. Box 11045, Richmond, Va. 23230, telephone (804) 257-6446 (toll-free 1-800-552-5019)

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services (Board of) intends to consider amending regulations entitled: **The Virginia Fuel Assistance Program**. The purpose of the proposed amendments is to develop policies and procedures for implementation of the 1987-88 Fuel Assistance Program, which will include: (i) any needed changes based on problems identified in the 1986-87 program; (ii) revamping of the energy crisis assistance component; and (iii) other changes as a result of reduced federal funding.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until March 3, 1987, to I. Guy Lusk, Director, Division of Benefit Programs, Virginia Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Other pertinent information: Regulatory requirements are contained in Title VI of the Human Services Reauthorization Act of 1984 (P.L. 98-558)

Contact: Charlene H. Chapman, Supervisor, Energy and Emergency Assistance Unit, Division of Benefit Programs, Department of Social Services, 8007 Discovery Dr.,

Richmond, Va. 23229-8699, telephone (804) 281-9050

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider promulgating regulations entitled: **Lump Sum Payments in the Aid to Dependent Children (ADC) Program**. The purpose of the proposed regulations is to revise policy to require that the following payments also be considered lump sums for purposes of establishing a period of ineligibility: all windfall payments, e.g., inheritances or lottery winnings; personal injury awards; casualty property loss payments for replacement or repair of resources; life insurance settlements, regardless of whether the policy is owned by the client or another individual. In situations involving casualty property loss payments for replacement or repair of resources, such payments will not be considered as income or resources if the client initiates action to replace or repair the resource within 30 days after receipt of the lump sum payment and expends the payment for such replacement or repair within six months after receipt.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until March 4, 1987, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699

Other pertinent information: 45 Code of Federal Regulations 233.20(a) (3) (ii) (F)

Contact: Carolyn Ellis, Supervisor, Economic Assistance Unit, Division of Benefit Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9046

## DEPARTMENT OF TAXATION

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating regulations entitled: **VR 630-10-88.1. Recording Studios (Virginia Retail Sales and Use Tax Regulations)**. The purpose of the proposed regulations is to set forth the application of the sales and use tax to audio and video recording studios.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until March 4, 1987.

Contact: Danny M. Payne, Director, Tax Policy Division, Department of Taxation, P.O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department for the Visually Handicapped intends to promulgate regulations entitled: 1) **Regulations Governing Rehabilitation Teaching**; 2) **Regulations Governing Independent Living**; 3) **Regulations Governing Intake and Social Services**, 4) **Regulations Governing Library Services for the Blind and Physically Handicapped**. The purpose of the proposed regulations is to establish policies, procedures and requirements governing the provision of services to blind and visually impaired persons in the areas of Rehabilitation Teaching, Independent Living and Intake and Social Services, and Library Services for the Blind and Physically Handicapped.

Statutory Authority: §§ 63.1-78 and 63.1-79 of the Code of Virginia.

Written comments may be submitted until March 31, 1987.

Contact: David H. Kennedy, Assistant Program Director, Virginia Department for the Visually Handicapped, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 264-3140

## GENERAL NOTICES

### NOTICE TO THE PUBLIC

#### 1987 STATE GOVERNMENT SAVINGS BOND CAMPAIGN

April 16, 1987 through May 1, 1987

Contact: Representatives of the three branches of state government.

#### Executive:

Administration - Charles d'Evegnée (804) 786-3831  
Economic Development - Mary Nicely (804) 786-1536  
Education - Dr. Ann Williams (804) 225-2117  
Finance - Carol Milton - (804) 225-2360  
Human Resources - Bill Pega (804) 264-3106  
Natural Resources - Lee Bess (804) 786-2121  
Transportation and Public Safety - David Wheeler (804) 257-0554

#### Judicial:

Bill Capers - (804) 786-1258

#### Legislative:

Glen Tittermary - (804) 786-1258

#### Other:

Bruce Meador, State Government Savings Bond Chairman - (804) 786-8013  
Carol Duke, U.S. Treasury Savings Bond Manager - (804) 771-2271

### MARCH OF DIMES 1987 WALKAMERICA DAY

April 26, 1987 - 9 a.m.

Department of Motor Vehicles, 2201 West Broad Street, Richmond, Virginia

Contact: Bruce Meador, State Government Community Services Liaison, Department of Planning and Budget, P.O. Box 1422, Richmond, Va. 23211, telephone (804) 786-8013

### NOTICES TO STATE AGENCIES

RE: Forms for filing material on dates for publication in the Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Ann M. Brown, Assistant Registrar of Regulations, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

#### FORMS:

PROPOSED (Transmittal Sheet) - RR01  
FINAL (Transmittal Sheet) - RR02  
NOTICE OF MEETING - RR03  
NOTICE OF INTENDED REGULATORY ACTION - RR04  
NOTICE OF COMMENT PERIOD - RR05  
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR06



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# CALENDAR OF EVENTS

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<b>Symbols Key</b>	
†	Indicates entries since last publication of the Virginia Register
☒	Location accessible to handicapped
☎	Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

## EXECUTIVE

### GOVERNOR'S ADVISORY BOARD ON AGING

† April 22, 1987 - 1 p.m. - Open Meeting

† April 23, 1987 - 9 a.m. - Open Meeting

Holiday Inn, Euclid Avenue, Bristol, Virginia

Quarterly meeting to discuss issues of concern to older Virginians. The theme of this meeting will be rural elderly.

Contact: Williams Peterson, Virginia Department for the Aging, 101 N. 14th St., 18th Floor, Richmond, Va. 23219-2797, telephone (804) 225-3140

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (COMMISSIONER OF)

April 17, 1987 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14.7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to amend regulations entitled: VR 115-03-05. Virginia Grade Standards for Breeder Swine. These regulations

provide official descriptions of requirements to be used by VDACS in determining the quality grade of breeder swine whenever official grading services are requested. The purpose of the proposed revision is to clarify wording and update the Virginia standards to more closely align them with recent changes in the related USDA Grade Standards for Slaughter Swine. The revisions are the result of conformity with the Governor's Regulatory Review Program.

Statutory Authority: § 3.1-338 of the Code of Virginia.

Written comments may be submitted until April 17, 1987, to S. Mason Carbaugh, Commissioner, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Virginia 23219.

Contact: H. Frank Graves, Chief, Bureau of Livestock Marketing Services, Division of Markets, Virginia Department of Agriculture and Consumer Services, Room 711, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-3935

### Virginia Winegrowers Advisory Board

† March 2, 1987 - 11 a.m. - Open Meeting

Sophia Street Station, Fredericksburg, Virginia

A regular quarterly meeting of the board to review status reports on the projects which it funds.

Contact: Lou Ann Ladin, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Va. 23209, telephone (804) 786-0481

### STATE AIR POLLUTION CONTROL BOARD

† March 3, 1987 - 7:30 p.m. - Open Meeting

Russell County Courthouse, General District Courtroom, Main Street, Lebanon, Virginia. ☒

A meeting to receive comments regarding an application that has been received from Maymead Lime Co. to install and operate a 200 TPH hot mix asphalt plant in Russell County, Virginia.

Contact: Michael D. Overstreet, 121 Russell Rd., Abingdon, Va. 24210, telephone (703) 628-7841

April 6, 1987 - 9 a.m. - RESCHEDULED TO

## Calendar of Events

**April 3, 1987 - 9 a.m. - Open Meeting**  
Location to be announced.

A general meeting of the board.

**Contact:** Dick Stone, State Air Pollution Control Board,  
P.O. Box 10089, Richmond, Va. 23240, telephone (804)  
786-5478

### VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

† **March 3, 1987 - 9:30 a.m. - Open Meeting**  
† **March 17, 1987 - 9:30 a.m. - Open Meeting**  
† **March 31, 1987 - 9:30 a.m. - Open Meeting**  
2901 Hermitage Road, Richmond, Virginia. ☐

Receipt and discussion of reports on activities from  
staff members. Other matters not yet determined.

**Contact:** Robert N. Swinson, 2901 Hermitage Rd.,  
Richmond, Va. 23220, telephone (804) 257-0617

### STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

**March 13, 1987 - 9 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 5th Floor,  
3600 West Broad Street, Richmond, Virginia. ☐

The board will meet to (i) approve minutes of the  
November 14, 1986, meeting; (ii) review disciplinary  
cases; (iii) review correspondence; and (iv) discuss  
regulatory review.

#### Board of Certified Landscape Architects

**March 12, 1987 - 1 p.m. - Open Meeting**  
Department of Commerce, Travelers Building, 5th Floor,  
3600 West Broad Street, Richmond, Virginia. ☐

A meeting to (i) approve minutes of the March 19,  
1987, meeting; (ii) review applications; and (iii)  
discuss regulatory review.

#### Board of Professional Engineers

**March 10, 1987 - 9 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 5th Floor,  
3600 West Broad Street, Richmond, Virginia. ☐

A meeting to (i) approve minutes of the January 20,  
1987, meeting; (ii) review applications; (iii) discuss  
regulatory review; and (iv) discuss enforcement cases.

**Contact:** Joan L. White, Assistant Director, APELSCLA,  
Department of Commerce, 3600 W. Broad St., Richmond,  
Va. 23230, telephone (804) 257-8555

### VIRGINIA BOARD OF EXAMINERS FOR AUDIOLOGY AND SPEECH PATHOLOGY

**April 22, 1987 - 10 a.m. - Public Hearing**  
Department of Commerce, Travelers Building, 3600 West  
Broad Street, 5th Floor, Conference Room 1, Richmond,  
Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Virginia Board of  
Examiners for Audiology and Speech Pathology intends  
to amend regulations entitled: **VR 115-01-2. State  
Board of Examiners for Audiology and Speech  
Pathology.** These regulations govern the licensure of  
audiologist and speech pathologists in the  
Commonwealth of Virginia. The proposed amendment  
to these regulations will reinstate the issuance of  
temporary permits.

Statutory Authority: § 54-1.28(5) of the Code of Virginia.

Written comments may be submitted until March 31, 1987.

**Contact:** Geralde W. Morgan, Assistant Director,  
Department of Commerce, 3600 W. Broad St., Richmond,  
Va. 23230, telephone (804) 257-8508

### GOVERNOR'S ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

**March 6, 1987 - 10 a.m. - Open Meeting**  
Koger Executive Center, Koger Building, Conference Room,  
8007 Discovery Drive, Richmond, Virginia. ☐

A regularly scheduled quarterly meeting.

**Contact:** D. Ray Sirry, Director, 8007 Discovery Dr.,  
Richmond, Va. 23229-8699, telephone (804) 281-9081

### INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF CHILDREN'S RESIDENTIAL FACILITIES

#### Coordinating Committee

† **March 13, 1987 - 8 a.m. - Open Meeting**  
Department of Corrections, Room 105, 4615 West Broad  
Street, Richmond, Virginia. ☐

# Calendar of Events

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A meeting to consider (i) annual administrative plan; (ii) proposed revisions to Core Standards ; and (iii) legislative update.

**Contact:** John J. Allen, Jr., Office of the Coordinator, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025

## DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

### Outdoor Recreation Advisory Board

† **March 4, 1987 - 3:30 p.m.** – Open Meeting  
Virginia Marine Science Museum, 717 General Booth Boulevard, Virginia Beach, Virginia. ☐

A quarterly business meeting to review statewide recreation and matters pertaining to state parks.

**Contact:** Art Buehler, Virginia Division of Parks and Recreation, Washington Bldg., Room 1201, Richmond, Va. 23219, telephone (804) 786-5046

### Upper James River Advisory Board

† **March 4, 1987 - 11:30 a.m.** – Open Meeting  
Sunny Brook Inn, Hollins, Virginia

A quarterly business meeting of the Upper James River Advisory Board to discuss matters pertaining to that section of the scenic river.

**Contact:** Richard Gibbons, Virginia Division of Parks and Recreation, Washington Bldg., Room 1201, Richmond, Va. 23219, telephone (804) 786-4132

### Virginia Soil and Water Conservation Board

† **March 19, 1987 - 9 a.m.** – Open Meeting  
Farm Credit Office, 6526 Mechanicsville Turnpike, Mechanicsville, Virginia

A regular bimonthly business meeting.

**Contact:** Donald L. Wells, 203 Governor St., Suite 206, Richmond, Va. 23219, telephone (804) 786-2064

## BOARD OF CORRECTIONS

**March 11, 1987 - 10 a.m.** – Open Meeting  
Department of Corrections, 4615 West Broad Street, Richmond, Virginia. ☐

A regular monthly meeting to consider such matters as may be presented to the Board of Corrections.

**Contact:** Vivian Toler, Secretary to the Board, 4615 W. Broad St., P.O. Box 26963, Richmond, Va. 23261, telephone (804) 257-6274

## CRIMINAL JUSTICE SERVICES BOARD

**April 1, 1987 - 9 a.m.** – Public Hearing  
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-11. Rules Relating to Compulsory Minimum Training Standards for Noncustodial Employees of the Department of Corrections.** The above regulation amends existing training standards for noncustodial employees of the Department of Corrections.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until March 19, 1987, to L. T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

**Contact:** Jay Malcan, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

\* \* \* \* \*

**April 1, 1987 - 9 a.m.** – Public Hearing  
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-16.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-4. Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers/Courthouse and Courtroom Security Officers/Deputy Sheriffs Designated to Serve Process.** The regulations amend existing training standards for the above Officers and Deputy Sheriffs.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until March 19, 1987, to L. T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

**Contact:** Jay Malcon, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

# Calendar of Events

† April 1, 1987 - 11 a.m. - Open Meeting  
General Assembly Building, House Room C, Capitol Square,  
Richmond, Virginia. ☐

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system.

## Committee on Training

† April 1, 1987 - 9 a.m. - Open Meeting  
General Assembly Building, House Room C, Capitol Square,  
Richmond, Virginia. ☐

A meeting to discuss matters related to training for criminal justice personnel.

Contact: Jay Malcan, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

## VIRGINIA BOARD OF DENTISTRY

March 6, 1987 - 1 p.m. - Open Meeting  
Department of Health Regulatory Boards, Koger Center,  
Surry Building, Conference Room 2, 1601 Rolling Hills  
Drive, Richmond, Virginia. ☐

The examination committee will meet to review bids for exam services.

† March 11, 1987 - 9 a.m. - Open Meeting  
Department of Health Regulatory Boards, Koger Center,  
Surry Building, Conference Room 2, 1601 Rolling Hills  
Drive, Richmond, Virginia. ☐

A formal hearing: Virginia Board of Dentistry v. Jeffery Brodgon, D.D.S.

April 2, 1987 - 8 a.m. - Open Meeting  
April 3, 1987 - 8 a.m. - Open Meeting  
Omni Hotel, 235 West Main Street, Charlottesville, Virginia.  
☐

A meeting to (i) consider disciplinary actions; (ii) review bids for examination services; (iii) review budget for 1988-90 biennium; and (iv) elect Board of Dentistry officers.

May 8, 1987 - 9 a.m. - Open Meeting -  
Martha Washington Hotel, Abingdon, Virginia

A meeting to consider comments and adoption of proposed board regulations.

Contact: N. Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9906

\* \* \* \* \*

April 10, 1986 - Public hearing was held on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Dentistry intends to propose new regulations and repeal existing regulations entitled: VR 255-01-1. **Virginia Board of Dentistry Regulations.**

Statutory Authority: § 54-163 of the Code of Virginia.

Written comments may be submitted until April 17, 1987.

Other pertinent information: The board may conduct another public hearing on these proposed regulations if the comments are substantive and present new issues.

Contact: Nancy T. Feldman, Executive Director, Virginia Board of Dentistry, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-6609

## STATE BOARD OF EDUCATION

March 19, 1987 - 9 a.m. - Open Meeting  
March 20, 1987 - 9 a.m. - Open Meeting  
April 22, 1987 - 9 a.m. - Open Meeting  
April 23, 1987 - 9 a.m. - Open Meeting  
April 24, 1987 - 9 a.m. - Open Meeting  
James Monroe Building, 1st Floor, Conference Rooms C and D, 101 North 14th Street, Richmond, Virginia. ☐

The State Board of Education will hold its regularly monthly meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

Contact: Margaret N. Roberts, James Monroe Bldg., 25th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2540

\* \* \* \* \*

April 17, 1987 - 3 p.m. - Public Hearing  
General Assembly Building, House Room C, Capitol Square,  
Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to repeal existing vocational education regulations and adopt new regulations entitled: VR 270-01-0011. **Vocational Education Regulations.** These regulations govern the operation and administration of secondary vocational education programs in the public schools of Virginia.

Statutory Authority: § 22.1-16 of the Code of Virginia.

# Calendar of Events

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Written comments may be submitted until April 17, 1987.

**Contact:** Dewey T. Oakley, Jr., Administrative Director, Vocational Education, Virginia Department of Education, P.O. Box 6-Q, Richmond, Va. 23216-2060, telephone (804) 225-2073

## VIRGINIA EMPLOYMENT COMMISSION

**April 23, 1987 - 10 a.m. – Public Hearing**  
Virginia Employment Commission Administrative Office  
Courtroom, 703 East Main Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to repeal regulations entitled: **Rules and Regulations Affecting Unemployment Compensation XV - Governmental Subrogation**. The regulation proposed for repeal concerns the rights of governmental entities to recoup overpayments of unemployment compensation to claimants who formerly worked for them.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until April 18, 1987.

Other pertinent information: Text of existing and proposed regulations available upon request.

**Contact:** Joseph L. Hayes, Employment Commission Appeals Administrative Chief, Virginia Employment Commission, P.O. Box 1358, Richmond, Va. 23211, telephone (804) 786-7554

\* \* \* \* \*

**April 23, 1987 - 10 a.m. – Public Hearing**  
Virginia Employment Commission Administrative Office  
Courtroom, 703 East Main Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to repeal regulations entitled: **Rules and Regulations Affecting Unemployment Compensation VII - Notices**. The regulation proposed for repeal concerns the posting of notices concerning unemployment compensation by employers.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until April 18, 1987.

Other pertinent information: Text of existing and proposed regulations available upon request.

**Contact:** Joseph L. Hayes, Employment Commission Appeals Administrative Chief, Virginia Employment Commission, P.O. Box 1358, Richmond, Va. 23211,

telephone (804) 786-7554

\* \* \* \* \*

**April 23, 1987 - 10 a.m. – Public Hearing**  
Virginia Employment Commission Administrative Office  
Courtroom, 703 East Main Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to amend regulations entitled: **VR 300-01-1. Definitions of General Provisions (Virginia Employment Commission Regulations and General Rules)**. The proposed regulation revises an existing one defining terms and providing for the development and review of regulations.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until April 18, 1987.

Other pertinent information: Text of existing and proposed regulations available upon request.

**Contact:** Joseph L. Hayes, Employment Commission Appeals Administrative Chief, Virginia Employment Commission, P.O. Box 1358, Richmond, Va. 23211, telephone (804) 786-7554

\* \* \* \* \*

**April 23, 1987 - 10 a.m. – Public Hearing**  
Virginia Employment Commission Administrative Office  
Courtroom, 703 East Main Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to amend regulations entitled: **VR 300-01-2. Unemployment Taxes (Virginia Employment Commission Regulations and General Rules)**. The proposed regulation combines and revises six existing regulations relating to the collection of unemployment taxes, maintenance of records, submission of reports, combination of employer accounts, and coverage of work performed in more than one state.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until April 18, 1987.

Other pertinent information: Text to existing and proposed regulations available upon request.

**Contact:** Joseph L. Hayes, Employment Commission Appeals Administrative Chief, Virginia Employment Commission, P.O. Box 1358, Richmond, Va. 23211, telephone (804) 786-7554

# Calendar of Events

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## DEPARTMENT OF FORESTRY

**April 23, 1987 - 10 a.m. — Public Hearing**  
Virginia Employment Commission Administrative Office  
Courtroom, 703 East Main Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to amend regulations entitled: **VR 300-01-3. Benefits (Virginia Employment Commission Regulations and General Rules)**. The proposed regulation combines and revises five existing regulations concerning total and partial unemployment compensation benefits, interstate claims, combined wage claims, and miscellaneous benefit provisions.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until April 18, 1987.

Other pertinent information: Text of existing and proposed regulations available upon request.

**Contact:** Joseph L. Hayes, Employment Commission Appeals Administrative Chief, Virginia Employment Commission, P.O. Box 1358, Richmond, Va. 23211, telephone (804) 786-7554

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**April 23, 1987 - 10 a.m. — Public Hearing**  
Virginia Employment Commission Administrative Office  
Courtroom, 703 East Main Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to amend regulations entitled: **VR 300-01-4. Adjudication (Virginia Employment Commission Regulations and General Rules)**. The proposed regulation revises an existing regulation concerning appeals from determinations on claims for unemployment compensation, including the conduct of administrative hearings.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until April 18, 1987.

Other pertinent information: Text of existing and proposed regulations available upon request.

**Contact:** Joseph L. Hayes, Employment Commission Appeals Administrative Chief, Virginia Employment Commission, P.O. Box 1358, Richmond, Va. 23211, telephone (804) 786-7554

## Reforestation of Timberlands Board

**March 3, 1987 - 10 a.m. — Open Meeting**  
Department of Forestry, 509 East Nine Mile Road,  
Sandston, Virginia. ☐

Semi-annual meeting of the board to review accomplishments and budget.

**Contact:** James D. Starr, Department of Forestry, P.O. Box 3758, Charlottesville, Va. 22903-0758, telephone (804) 977-6555

## Board of Forestry

**March 4, 1987 - 10 a.m. — Open Meeting**  
New Kent Forestry Center, Route 60 (4 miles east of  
Providence Forge), New Kent, Virginia. ☐

A general business meeting.

**Contact:** Deborah L. Mills, Forest Resource Planner, Department of Forestry, Box 3758, Charlottesville, Va. 22903, telephone (804) 977-6555

## COMMISSION OF GAME AND INLAND FISHERIES

† **March 19, 1987 - 9:30 a.m. — Public Hearing**  
† **March 20, 1987 - 9:30 a.m. — Public Hearing**  
Hyatt Richmond (at Brookfield), 6624 West Broad Street,  
Richmond, Virginia. ☐

The commission will consider recommendations and proposals from the staff and public relative to changes in the hunting and trapping regulations of the commission, for the 1987 and 1988 hunting seasons. This will involve season dates, bag limits, etc. on various species of game animals and game birds.

**Contact:** Mrs. Norma G. Adams, 4010 W. Broad St., Richmond, Va. 23230, telephone (804) 257-1000

## DEPARTMENT OF GENERAL SERVICES

### Art and Architectural Review Board

**March 6, 1987 - 10 a.m. — Open Meeting**  
Virginia Museum of Fine Arts, Main Conference Room,  
Boulevard and Grove Avenue, Richmond, Virginia. ☐

The board will advise the director of the Department of General Services and the Governor on architecture

# Calendar of Events

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of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

**Contact:** M. Stanley Krause, AIA, AICP, Rancorn, Wildman & Krause, Architects and City Planning Consultants, P.O. Box 1817, Newport News, Va. 23601, telephone (804) 867-8030

## State Insurance Advisory Board

**March 20, 1987 - 9:30 a.m. – Open Meeting**  
Department of General Services, 9th Street Office Building, Conference Room of the Director of the Department of General Services, Room 209, Richmond, Virginia. ☐

A quarterly meeting of the State Insurance Advisory Board.

**Contact:** Charles F. Scott, Department of General Services, Division of Risk Management, 9th Floor, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 225-4619

## DEPARTMENT OF HEALTH

### Commission on Medical Care Facilities

**March 9, 1987 - 10 a.m. – Open Meeting**  
**April 13, 1987 - 10 a.m. – Open Meeting**  
James Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia. ☐

By Executive Order Thirty-One (86) Governor Baliles created an Advisory Commission with two responsibilities: (i) to examine the effectiveness of the Certificate of Public Need Program in controlling medical care costs while making good quality, accessible health care available to all Virginians; and (ii) if this examination demonstrates that the Commonwealth's existing health planning process no longer effectively meets these objectives, the commission shall assess alternatives and recommend revisions to the existing Certificate of Public Need Process.

**Contact:** E. George Stone, State Health Department, James Madison Bldg., Room 1010, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-6970

## COUNCIL ON HEALTH REGULATORY BOARDS

### Ad-Hoc Committee on Allied Health Professions

† **March 11, 1987 - 1 p.m. – Open Meeting**  
Department of Health Regulatory Boards, Koger Center,

Surry Building, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

The committee will meet to continue its study of the regulation on allied health occupations and professions.

### Administration and Budget Committee

† **April 9, 1987 - 1 p.m. – Open Meeting**  
Department of Health Regulatory Boards, Koger Center, Surry Building, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

The committee will discuss preparation of the 1988-90 biennial budget of the Department of Health Regulatory Boards.

### Compliance and Discipline Committee

† **March 12, 1987 - 1:30 p.m. – Open Meeting**  
Department of Health Regulatory Boards, Koger Center, Surry Building, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

The committee will review projects related to compliance and enforcement within the Department of Health Regulatory Boards.

### Executive Committee

† **March 12, 1987 - 10 a.m. – Open Meeting**  
Department of Health Regulatory Boards, Koger Center, Surry Building, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

The committee will review the biennial budget for the Council on Health Regulatory Boards and consider other business of the council.

### Public and Professional Information and Education Committee

† **March 10, 1987 - 1 p.m. – Open Meeting**  
Department of Health Regulatory Boards, Koger Center, Surry Building, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

The committee will meet to plan for the Fourth Annual Conference on Health Professional Regulation.

### Task Force on Need to Redefine Nursing

† **March 9, 1987 - 1 p.m. – Open Meeting**  
Department of Health Regulatory Boards, Koger Center, Surry Building, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

The task force will meet to review drafts of its final report to the director of the Department of Health Regulatory Boards.

telephone (804) 225-2634

Contact: Richard D. Morrison, Policy Analyst, Department of Health Regulatory Boards, Surry Bldg., 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9918

**BOARD OF HOUSING AND COMMUNITY DEVELOPMENT**

**Amusement Device Technical Advisory Committee**

March 12, 1987 - 8:30 a.m. - Open Meeting  
March 26, 1987 - 8:30 a.m. - Open Meeting  
4th Street Office Building, 7th Floor Conference Room, 205 North 4th Street, Richmond, Virginia. ☒

A meeting to develop recommended regulations pertaining to the construction, maintenance, operation and inspection of amusement devices for consideration by the Board of Housing and Community Development.

**VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL**

March 25, 1987 - 9:30 a.m. - Open Meeting  
Johnston-Willis Hospital, 1401 Johnston-Willis Drive, Richmond, Virginia. ☒

A monthly business meeting of the council for the purpose of addressing financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, 9th Floor, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-6371

**Division of Building Regulatory Services**

April 13, 1987 - 10 a.m. - Open Meeting  
Prince William County Board of Supervisors' Chambers, 1 County Complex Court, Prince William, Virginia. ☒

April 14, 1987 - 10 a.m. - Open Meeting  
Buena Vista Circuit Court Room, City Hall, 2039 Sycamore Street, Buena Vista, Virginia. ☒

April 15, 1987 - 10 a.m. - Open Meeting  
Smyth County Court House, Board of Supervisors' Room, Main Street, Marion, Virginia. ☒

April 16, 1987 - 10 a.m. - Open Meeting  
Human Services Building, Auditorium, 5249 Olde Town Road (Route 658), James City County, Virginia. ☒

A meeting to solicit public input for amendments to the 1984 Editions of the Uniform Statewide Building Code, Volumes I and II; Public Building Safety Regulations; Industrialized Building and Mobile Home Safety Regulations; LP Gas Regulations; and the Tradesmen Certification Standards; and for promulgating the Amusement Device Regulations and the Statewide Fire Prevention Code.

Contact: Jack A. Proctor, CPCA, Deputy Director, Division of Building Regulatory Services, Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219-1747, telephone (804) 786-4751

**STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA**

† March 4, 1987 - 9:30 a.m. - Open Meeting  
University of Virginia, Charlottesville, Virginia

A monthly council meeting. The agenda is available on request.

Contact: Grace I. Lessner, 101 N. 14th St., 9th Floor, Richmond, Va. 23219, telephone (804) 225-2683

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March 13, 1987 - 10 a.m. - Public Hearing  
James Monroe Building, Conference Room C, 101 North 14th Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Council of Higher Education for Virginia intends to adopt and repeal regulations entitled: **VR 380-02-01. Regulations Governing the Approval of Certain Institutions to Confer Degrees, Diplomas, and Certificates.** This regulation states process and conditions for approval of private in-state institutions to offer credit instruction and to award degrees, diplomas, and certificates in Virginia.

Statutory Authority: § 23-268 of the Code of Virginia.

Written comments may be submitted until March 6, 1987.

Contact: Dr. John Molnar, Institutional Approval Coordinator, SCHEV, 101 N. 14th St., Richmond, Va. 23219,

**VIRGINIA HOUSING DEVELOPMENT AUTHORITY**

† March 17, 1987 - 9 a.m. - Open Meeting  
13 South 13th Street, Richmond, Virginia. ☒

This will be the regular monthly meeting of the Board



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of Commissioners of the Virginia Housing Development Authority. The Board of Commissioners will review and, if appropriate, approve the minutes from the prior monthly meeting; will consider for approval and ratification mortgage loan commitments under its various programs; will review the authority's operations for the prior month; will consider and, if appropriate, approve the Procedures, Instructions and Guidelines for Allocation of Low Income Housing Tax Credits; and will consider such other matters and take such other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** Judson McKellar, Jr., General Counsel, 13 South 13th St., Richmond, Va. 23219, telephone (804) 782-1986

## DEPARTMENT OF LABOR AND INDUSTRY

**April 13, 1987 - 7 p.m. – Public Hearing**  
Pulaski Armory, 140 First Street, Pulaski, Virginia

**April 14, 1987 - 7 p.m. – Public Hearing**  
Central Virginia Community College, Amherst Classroom Building, Room 2123, Lynchburg, Virginia

**April 15, 1987 - 7 p.m. – Public Hearing**  
Gar-Field Senior High School, Auditorium, 14000 Smoketown Road, Dale City, Virginia

**April 16, 1987 - 7 p.m. – Public Hearing**  
Christopher Newport College, Administration Building, John Anderson Auditorium, Room A-105, 50 Shoe Lane, Newport News, Virginia

**April 20, 1987 - 7 p.m. – Public Hearing**  
State Capitol, House Room 4, 9th and Grace Streets, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Apprenticeship Council intends to adopt regulations entitled: **VR 425-01-27. Regulations Governing the Administration of Apprenticeship Program in the Commonwealth of Virginia, Biennial Program Sponsor Evaluation (XI)**. The proposed program sponsor evaluation procedure is intended to improve the quality control capabilities of the Virginia Apprenticeship Council and the Division of Apprenticeship Training by establishing an evaluation system which will provide sufficient program information to recognize outstanding programs and to aid in the identification and correction of deficiencies in sponsors' apprenticeship programs.

Statutory Authority: § 40.1-118 of the Code of Virginia.

Written comments may be submitted until April 1, 1987, to

Commissioner Carol A. Amato, Department of Labor and Industry, P.O. Box 12064, Richmond, Virginia 23241.

**Contact:** Robert S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, P.O. Box 12064, Richmond, Va. 23241, telephone (804) 786-2381 or (804) 786-3075

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**April 13, 1987 - 7 p.m. – Public Hearing**  
Pulaski Armory, 140 First Street, NW, Pulaski, Virginia

**April 14, 1987 - 7 p.m. – Public Hearing**  
Central Virginia Community College, Amherst Classroom Building, Room 2123, Lynchburg, Virginia

**April 15, 1987 - 7 p.m. – Public Hearing**  
Gar-Field Senior High School, Auditorium, 14000 Smoketown Road, Dale City, Virginia

**April 16, 1987 - 7 p.m. – Public Hearing**  
Christopher Newport College, Administration Building, John Anderson Auditorium, Room A-105, 50 Shoe Lane, Newport News, Virginia

**April 20, 1987 - 7 p.m. – Public Hearing**  
State Capitol, House Room 4, 9th and Grace Streets, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Apprenticeship Council intends to amend regulations entitled: **VR 425-01-28. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia, Standards of Apprenticeship Programs: Numeric Ratio of Apprentices to Journeymen (IV.B.14)**. These regulations propose to amend the ratio of apprentices to journeymen from 1:3 to 1:1 in order to meet the present and future skilled manpower needs.

Statutory Authority: § 40.1-118 of the Code of Virginia.

Written comments may be submitted until April 1, 1987, to Commissioner Carol Amato, Department of Labor and Industry, P.O. Box 12064, Richmond, Virginia 23241.

**Contact:** Robert S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, P.O. Box 12064, Richmond, Va. 23214, telephone (804) 786-2381 or (804) 786-3075

## VIRGINIA STATE LIBRARY BOARD

† **March 17, 1987 - 11 a.m. – Open Meeting**  
Virginia State Library, Supreme Court Room, 3rd Floor, 11th Street at Capitol Square, Richmond, Virginia. ☐

## Calendar of Events

A regular meeting to discuss administrative matters.

### Automated Systems and Networking Committee

† **March 17, 1987 - 9:30 a.m.** – Open Meeting  
Virginia State Library, Conference Room B, 3rd Floor, 11th Street at Capitol Square, Richmond, Virginia. ☒

To discuss Automated Systems and Networking Committee matters.

**Contact:** Jean K. Reynolds, Virginia State Library, 11th St. at Capitol Square, Richmond, Va. 23219, telephone (804) 786-2332

### COMMISSION ON LOCAL GOVERNMENT

† **March 23, 1987 - 4 p.m.** – Open Meeting  
Martha Washington Inn, 150 West Main Street, Abingdon, Virginia

A regular meeting of the Commission on Local Government to consider such matters as may be presented.

**March 24, 1987 - 11 a.m.** – Open Meeting  
Town of Lebanon - Russell County (site to be determined)

Oral presentations regarding the Town of Lebanon's annexation action.

**March 24, 1987 - 7:30 p.m.** – Public Hearing  
Town of Lebanon - Russell County (site to be determined)

Public hearing regarding the Town of Lebanon's annexation action.

**March 25, 1987 - 9 a.m.** - Open Meeting  
Town of Lebanon - Russell County (site to be determined)

Oral presentations regarding the Town of Lebanon's annexation action. (Continuation of oral presentations by the Town of Lebanon if needed)

† **April 1, 1987 - 11 a.m.** – Open Meeting  
City of Salem (County of Roanoke area - site to be determined)

Oral presentations regarding Akers, et. al. vs. Roanoke County and the City of Salem annexation issues.

† **April 1, 1987 - 7:30 p.m.** – Public Hearing  
City of Salem (County of Roanoke area - site to be determined)

A public hearing regarding Akers, et. al. vs. Roanoke County and the City of Salem annexation issues.

† **April 2, 1987 - 9 a.m.** – Open Meeting  
City of Salem (County of Roanoke area - site to be determined)

Oral presentations regarding Akers, et. al. vs. Roanoke County and the City of Salem annexation issues. (Continuation of oral presentations as needed.)

**Contact:** Barbara Bingham, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

### LONG-TERM CARE COUNCIL

† **April 9, 1987 - 2 p.m.** – Open Meeting  
James Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia. ☒

The council will discuss issues relating to the development and coordination of long-term care services in Virginia.

### Local Long-Term Care Coordinating Committees

† **May 12, 1987 - 9:30 a.m.** – Open Meeting  
Ramada Inn, 7104 Studley Road, Manassas, Virginia. ☒

† **May 13, 1987 - 9:30 a.m.** – Open Meeting  
Sheraton Inn (Coliseum), 1215 West Mercury Boulevard, Hampton, Virginia. ☒

† **May 14, 1987 - 9:30 a.m.** – Open Meeting  
Holiday Inn (Crossroads), 2000 Staples Mill Road, Richmond, Virginia. ☒

† **May 15, 1987 - 9:30 a.m.** – Open Meeting  
Western State Hospital, Staunton, Virginia. ☒

† **May 21, 1987 - 9:30 a.m.** – Open Meeting  
The Hardware Company Restaurant, Abingdon, Virginia. ☒

Mutual discussion and information-sharing concerning the activities and concerns of both the council and local coordinating committees.

**Contact:** Catherine P. Saunders, Virginia Department for the Aging, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2912

### LONGWOOD COLLEGE BOARD OF VISITORS

#### Executive Committee

† **March 6, 1987 - 10:30 a.m.** – Open Meeting  
Longwood College, Office of the President, Farmville, Virginia. ☒

# Calendar of Events

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A meeting to consider matters pertaining to Longwood College. 225-4220

**Contact:** Dr. Janet D. Greenwood, Longwood College, Farmville, Va. 23901, telephone (804) 392-9211 (SCATS 265-4211)

## MARINE RESOURCES COMMISSION

**March 3, 1987 - 9:30 a.m. - Open Meeting**  
Newport News City Council Chamber, 2400 Washington Avenue, Newport News, Virginia

The Marine Resources Commission meets on the first Tuesday of each month to hear and decide cases on fishing licensing; oyster ground leasing; environmental permits in wetlands, bottomlands, coastal sand dunes, and beaches. It hears and decides appeals made on local wetlands board decisions.

Fishery Management and Conservation measures are discussed by the commission. The commission is empowered to exercise general regulatory power within 15 days, and is empowered to take specialized marine life harvesting and conservation measures within five days.

**Contact:** Virginia S. Chappell, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, Va. 23607, telephone (804) 247-2208

## BOARD OF MEDICAL ASSISTANCE SERVICES

**April 3, 1987 - Written comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-03-2.6152. Definition of Home Ownership.** This regulation amends the State Plan for Medical Assistance and establishes the definition of home ownership (contiguous property) to be used in determining eligibility for Medicaid.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until April 3, 1987.

Other pertinent information: For a copy of the regulation, contact Victoria P. Simmons, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219, telephone (804) 786-7933.

**Contact:** Ann E. Cook, Director, Medical Social Services, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804)

## VIRGINIA STATE BOARD OF MEDICINE

**March 19, 1987 - 8:30 a.m. - Open Meeting**  
**March 20, 1987 - 8:30 a.m. - Open Meeting**  
**March 21, 1987 - 8:30 a.m. - Open Meeting**  
**March 22, 1987 - 8:30 a.m. - Open Meeting**

The board will meet (i) to review reports; (ii) to interview licensees and make decisions on discipline matters before the board on Thursday, Friday and Saturday morning; and (iii) at 1:30 p.m., Saturday, March 21, 1987, and on Sunday, March 22, 1987, the full board will meet in open session to conduct general board business.

**March 6, 1987 - 10 a.m. - Open Meeting**  
Fredericksburg Sheraton Resort and Conference Center, Route 1 and I-95, Fredericksburg, Virginia. ☒

The Informal Conference Committee composed of three members of the Virginia Board will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 (A)(6) of the Code of Virginia.

## Podiatry Examination Committee

† **March 28, 1987 - 9 a.m. - Open Meeting**  
Springfield Hilton Hotel, 6550 Loisdale Road, Springfield, Virginia. ☒

The Virginia State Board of Medicine Podiatry Examination Committee will meet to develop examination questions for the board's podiatry examination.

**Contact:** Eugenia K. Dorson, Regulatory Board Administrator, Surry Bldg., 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9925

## STATE MENTAL HEALTH AND MENTAL RETARDATION BOARD

† **March 25, 1987 - 10 a.m. - Open Meeting**  
Prince William Community Services Board, Manassas, Virginia. ☒

A regular monthly meeting. The agenda will be published on March 18 and may be obtained by calling Jane Helfrich.

**Contact:** Jane V. Helfrich, State Mental Health and Mental

# Calendar of Events

Retardation Board Secretary, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, (804) 786-3921

## Forensic Issues Advisory Committee

March 6, 1987 - 10 a.m. - Open Meeting  
Madison Building, 13th Floor, Conference Room, 109 Governor Street, Richmond, Virginia. ☒

A regular meeting to discuss issues related to the provision of forensic mental health, mental retardation and substance abuse services.

Contact: Russell C. Petrella, Director of Forensic Services, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-4837

## DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION; UNIVERSITY OF VIRGINIA INSTITUTE OF LAW, PSYCHIATRY AND PUBLIC POLICY

### Division of Continuing Education and Office of Continuing Medical Education

† May 28, 1987 - Open Meeting  
† May 29, 1987 - Open Meeting  
Conference Center, Colonial Williamsburg Lodge, Williamsburg, Virginia. ☒

Tenth Annual Symposium on Mental Health and the Law, entitled: "Professional Liability in the Mental Health, Mental Retardation and Substance Abuse Professions."

An annual symposium addressing issues related to mental health and the law. Ten hours in Category 1 CME, 1 CEU and 10 CLE credits applied for.

Contact: Lynn Daidone, Administrator, Institute of Law, Psychiatry and Public Policy, Blue Ridge Hospital, Box 100, Charlottesville, Va. 22901, telephone (804) 924-5435

## GOVERNOR'S MIGRANT AND SEASONAL FARMWORKERS BOARD

† March 11, 1987 - 9:30 a.m. - Open Meeting  
Piedmont Virginia Community College, Charlottesville, Virginia

A regularly scheduled bi-monthly meeting.

Contact: Marilyn Mandel, Planning Director, Virginia Department of Labor and Industry, P.O. Box 12064, Richmond, Va. 23241, telephone (804) 786-2385

## VIRGINIA STATE BOARD OF NURSING

† March 10, 1987 - 10 a.m. - Open Meeting  
Fairfax Hospital, Education Conference Center No. 4, 3300 Gallows Road, Falls Church, Virginia. ☒ (Interpreter for deaf provided if requested)

A formal hearing on Patricia B. Parsons, L.P.N., will be held to inquire into allegations that certain laws and regulations governing the practice of nursing in Virginia may have been violated.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909

\* \* \* \* \*

March 23, 1987 - 1:30 p.m. - Public Hearing  
Holiday Inn West, 6531 West Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Board of Nursing intends to adopt, amend or repeal regulations entitled: **VR 495-01-1. Board of Nursing Regulations.**

Statutory Authority: § 54-367.11 of the Code of Virginia.

Written comments may be submitted until April 6, 1987.

Other pertinent information: The proposed regulations were developed as a part of the comprehensive review of regulations initiated by Governor Charles S. Robb.

Contact: Corinne F. Dorsey, Executive Director, Virginia State Board of Nursing, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909

## STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

† March 19, 1987 - 9 a.m. - Open Meeting  
Department of Commerce, Travelers Building, Conference Room 2, 3600 West Broad Street, Richmond, Virginia. ☒

An open board meeting to (i) conduct examinations; (ii) conduct regulatory review; (iii) discuss state written examinations; and (iv) sign certificates.

Contact: Gerald W. Morgan, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8508

# Calendar of Events

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## VIRGINIA STATE BOARD OF OPTICIANS

† **March 13, 1987 - 9:30 a.m.** — Open Meeting  
Department of Commerce, Travelers Building, Conference Room 3, 5th Floor, 3600 West Broad Street, Richmond, Virginia. ☐

A meeting to (i) review applications for reinstatement; (ii) review practical exam with candidates; (iii) review investigative reports of complaints and determine disposition; and (iv) address general correspondence pertinent to the operation of the board.

**Contact:** Evelyn W. Brennan, Assistant Director, Virginia State Board of Opticians, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8509

## VIRGINIA BOARD OF OPTOMETRY

† **March 11, 1987 - 9 a.m.** — Open Meeting  
Supreme Court of Virginia Conference Room, 3rd Floor, 100 North Ninth Street, Richmond, Virginia.

A general board business meeting.

**Contact:** Moria C. Lux, Executive Director, Virginia Board of Optometry, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9910

## STATE BOARD OF PHARMACY

**March 17, 1987 - 9 a.m.** — Open Meeting  
Howard Johnson Hotel, 3201 North Boulevard, Richmond, Virginia. ☐

A board meeting concerning routine business and regulation proposals.

**Contact:** J. B. Carson, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 786-0182

## BOARD OF COMMISSIONERS TO EXAMINE PILOTS

**April 15, 1987 - 10 a.m.** — Open Meeting  
Hasler and Company, 212 Tazewell Street, Norfolk, Virginia

The board will meet to conduct routine business at its regular quarterly meeting.

**Contact:** David E. Dick, 3600 W. Broad St., Richmond, Va., 23230, telephone (804) 257-8515 or William L. Taylor, 3327 Shore Dr., Virginia Beach, Va., 23451, telephone (804) 496-0995

## POLYGRAPH EXAMINERS ADVISORY BOARD

† **March 25, 1987 - 9 a.m.** — Open Meeting  
Department of Commerce, Travelers Building, 5th Floor, 3600 West Broad Street, Richmond, Virginia. ☐

The board will meet for the purpose of administering the polygraph examiner licensing examination to eligible licensed examiner interns.

**Contact:** Iva B. Frizzel, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8515/257-8563

## VIRGINIA BOARD OF PROFESSIONAL COUNSELORS

**March 11, 1987 - 10 a.m.** — Open Meeting  
Department of Health Regulatory Boards, Koger Center, Surry Building, 2nd Floor, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

Informal conference

**Contact:** Joyce D. Williams, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9912

## VIRGINIA BOARD OF PSYCHOLOGY

† **March 19, 1987 - 9 a.m.** — Open Meeting  
Department of Health Regulatory Boards, Koger Center, Surry Building, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to (i) conduct general board business; (ii) respond to correspondence addressed to the board; and (iii) review applications for the licensing examination on April 10, 1987.

**Contact:** Phyllis Henderson, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9913

## VIRGINIA REAL ESTATE BOARD

† **March 18, 1987 - 9 a.m.** — Open Meeting  
Department of Commerce, Travelers Building, 5th Floor, 3600 West Broad Street, Richmond, Virginia. ☐

A regular business meeting of the board. The agenda will consist of (i) investigative cases (files) to be considered; (ii) files to be reconsidered; and (iii) matters relating to fair housing, property registration and licensing issues (e.g., reinstatement, eligibility requests).

The board will also consider possible adoption of the proposed regulations.

# Calendar of Events

Contact: Florence R. Brassier, Assistant Director Real Estate, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8552

## VIRGINIA RESOURCES AUTHORITY

**March 10, 1987 - 10 a.m. - Open Meeting**  
Mutual Building, Authority Board Room, Suite 305, 909 East Main Street, Richmond, Virginia. ☒

The board will meet to (i) approve minutes of the January 6, 1987, meeting; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: Shockley D. Gardner, Jr., Executive Director, P.O. Box 1300, Richmond, Va. 23210, telephone (804) 644-3100

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

**April 3, 1987 - Written comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **VR 615-01-17. Deprivation Requirement in the Aid to Dependent Children (ADC) Program.** The proposed regulation will simplify the process of establishing deprivation on the basis of continued absence.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until April 3, 1987, to I. Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Other pertinent information: Developed pursuant to 45 CFR, § 233.90(c)(1)(iii)

Contact: Carolyn C. Ellis, Supervisor, Economic Assistance Unit, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9046

\* \* \* \* \*

**April 3, 1987 - Written comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: **VR 615-01-18. Entitlement Date in the Aid to Dependent Children (ADC) and General Relief (GR) Programs.**

An amendment to begin entitlement for ADC and GR with the date of application.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until April 3, 1987, to I. Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Other pertinent information: Developed pursuant to 45 CFR § 206.10(1)(6)(i)(C)

Contact: Carolyn C. Ellis, Supervisor, Economic Assistance Unit, Division of Benefit Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9046

## DEPARTMENT OF TAXATION

**April 6, 1987 - 10 a.m. - Public Hearing**  
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to amend regulations entitled: **VR 630-10-112. Welfare Assistance Redeemable in Goods (Retail Sales and Use Tax).** This regulation references the exemption for purchases with food stamps and WIC drafts enacted by the 1986 Session of the General Assembly and explains how food dealers may account for such exempt sales.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until March 20, 1987.

Contact: Danny M. Payne, Director, Tax Policy Division, Department of Taxation, P. O. Box 6-L, Richmond, Va. 23281, telephone (804) 257-8010

## COMMONWEALTH TRANSPORTATION BOARD

† **March 19, 1987 - 10 a.m. - Open Meeting**  
† **April 16, 1987 - 10 a.m. - Open Meeting**  
Department of Transportation, Board Room, 3rd Floor, 1401 East Broad Street, Richmond, Virginia. ☒

A monthly meeting of the Commonwealth Transportation Board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-9950

# Calendar of Events

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## DEPARTMENT OF TRANSPORTATION

† **March 23, 1987 - 10 a.m.** - Public Hearing  
Fredericksburg District Office, Deacon Road (Secondary Route 607, 0.4 mile west of Route 218), Fredericksburg, Virginia. ☒ (Interpreter for deaf provided if requested)

† **March 25, 1987 - 10 a.m.** - Public Hearing  
Suffolk District Office, 1700 North Main Street (Route 460), Suffolk, Virginia. ☒ (Interpreter for deaf provided if requested)

† **March 27, 1987 - 10 a.m.** - Public Hearing  
Richmond District Office, Pine Forest Drive (off Route 1, one mile north of Colonial Heights), Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

† **March 30, 1987 - 10 a.m.** - Public Hearing  
Lynchburg District Office, Route 501 (0.26 mile south of the intersection of Routes 460 and 501, south of Lynchburg), Lynchburg, Virginia. ☒ (Interpreter for deaf provided if requested)

† **March 30, 1987 - 2:30 p.m.** - Public Hearing  
Staunton District Office, Commerce Road (Route 11 Bypass, north of Staunton), Staunton, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 2, 1987 - 10 a.m.** - Public Hearing  
Culpeper District Office, Route 15 (0.5 mile south of Route 3), Culpeper, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 3, 1987 - 10 a.m.** - Public Hearing  
Salem District Office, Harrison Avenue (north of Main Street and east of Virginia 311), Salem, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 9, 1987 - 10 a.m.** - Public Hearing  
Holiday Inn at Fair Oaks, 11787 Lee Jackson Highway, Fairfax, Virginia. 5 (Interpreter for deaf provided if requested)

† **April 13, 1987 - 1 p.m.** - Public Hearing  
Virginia High School, Long Crescent Drive, Bristol, Virginia. ☒ (Interpreter for deaf provided if requested)

A public hearing to receive comments on highway allocations for the coming year and on updating the six-year improvement program for the interstate, primary, and urban systems.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-9950

## VIRGINIA BOARD OF VETERINARY MEDICINE

March 5, 1987 - Written comments may be submitted until

this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Veterinary Medicine intends to adopt, amend, or repeal new and existing regulations entitled: **VR 645-01-1. Regulations Governing the Practice of Veterinary Medicine.** The proposed regulations, a revision of existing ones, provide standards for the practice of veterinary medicine in Virginia and state requirements for candidates for licensure of veterinary medicine, animal technology, and animal facilities.

Statutory Authority: § 54-784.03(13) of the Code of Virginia.

Written comments may be submitted until March 5, 1987.

Contact: Moira C. Lux, Executive Director, Virginia Board of Veterinary Medicine, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9915

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

### Advisory Committee on Services

**March 8, 1987 - 10:30 a.m.** - Open Meeting  
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee meets quarterly to advise the Virginia Department for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Diane E. Allen, Executive Secretary, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 264-3145

## VIRGINIA VOLUNTARY FORMULARY BOARD

† **March 12, 1987 - 10:30 a.m.** - Open Meeting  
Virginia Department of Health, James Madison Building, Main Floor Conference Room, 109 Governor Street, Richmond, Virginia. ☒

A meeting to review public hearing comments and drug product data for drug products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4326

# Calendar of Events

## DEPARTMENT OF WASTE MANAGEMENT (BOARD OF)

† March 31, 1987 - 10 a.m. - Public Hearing  
James Monroe Building, Conference Room D, 101 North  
14th Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Waste Management intends to adopt regulations entitled: **VR 672-20-1. Financial Assurance Regulations for Solid Waste Facilities.** These regulations establish the financial assurance requirements for privately owned or operated nonhazardous solid waste disposal facilities.

### STATEMENT

Alternate means to guarantee financial assurance for closure and post-closure of facilities are specified as a condition of permit application for new facilities. Existing facilities are required to comply with the requirements on the effective date. The regulations require maintenance of liability coverage for sudden and nonsudden incidents. Alternative means of providing coverage is included. Applying a financial test is authorized as an alternative to appropriate insurance coverage. Limited exemptions are included.

The purpose of the regulations is to assure that privately owned or operated solid waste disposal facilities will provide sufficient funds to properly close facilities that might be abandoned. They provide a means to fund facility closure, post-closure care and maintenance, and for protection from environmental damage. They provide alternative means for liability coverage for sudden and nonsudden incidents during operation and post-closure periods.

Statutory Authority: § 10-265 of the Code of Virginia.

Written comments may be submitted until April 30, 1987.

Contact: Cheryl Cashman, Public Information Officer, Department of Waste Management, James Monroe Bldg., 11th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2667

## STATE WATER CONTROL BOARD

March 9, 1987 - 2 p.m. - Public Hearing  
King George General District Courthouse, King George, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **Rappahannock Area Development Commission (RADCO) 208 Areawide Waste Treatment Management Plan and Potomac-Shenandoah River Basin Water**

**Quality Management Plan.** Revision of the plans to include water quality management planning for RADCO Study Area IV which includes waste treatment disposal alternatives for the King George Courthouse area of King George County where previous planning had not yet occurred.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until March 19, 1987, to Ms. Doneva Dalton, Hearing Reporter, Office of Policy Analysis, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Stephen L. Hogye, Supervisor, Water Resources Development, State Water Control Board, 5515 Cherokee Ave., Suite 404, Alexandria, Va. 22312, telephone (703) 642-7422

\* \* \* \* \*

**REPEAL NOTICE:** The State Water Control Board proposes to repeal the four following regulations: **Regulation No. 3; Regulation No. 7. Industrial Waste Survey; Regulation No. 10. Trash and Pumpout Services for Vessels at Anchor; Priority System for Construction Grant Recipients to Determine Whether a Supplemental State Grant Should be Provided to Help Relieve an Extraordinary Hardship in Local Funding.**

March 11, 1987 - 2 p.m. - Public Hearing  
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to repeal regulations entitled: **Regulation No. 3.** Regulation No.3 provides for local approval of the location or site of any proposed nongovernmentally owned sewage treatment plant before issuance of a certificate by the State Water Control Board.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until March 11, 1987, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cindy M. Berndt, Policy Analyst, Office of Policy Analysis, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6828

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March 11, 1987 - 2 p.m. - Public Hearing  
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1



## Calendar of Events

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of the Code of Virginia that the State Water Control Board intends to repeal regulations entitled: **Regulation No. 7 - Industrial Waste Survey.** Regulation No. 7 sets forth the methodology for owners of sewerage systems or treatment works to survey discharges of industrial wastes or other wastes into their systems and to submit the results of the survey to the board by July 1, 1977.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until March 11, 1987, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cindy M. Berndt, Policy Analyst, Office of Policy Analysis, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6828

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**March 11, 1987 - 2 p.m. - Public Hearing**  
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to repeal regulations entitled: **Regulation No. 10 - Trash and Pumpout Services for Vessels at Anchor.** Regulation No. 10 requires commercial vessels in the foreign trade larger than 1,000 gross tons that anchor in Virginia waters for longer than 48 hours to properly dispose of trash, garbage, sewage and sewage sludge.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until March 11, 1987, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cindy M. Berndt, Policy Analyst, Office of Policy Analysis, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6828

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**March 11, 1987 - 2 p.m. - Public Hearing**  
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to repeal regulations entitled: **Priority System for Construction Grant Recipients to Determine Whether a Supplemental State Grant Should be Provided to Help Relieve an Extraordinary Hardship in Local Funding.** The Priority System (more commonly referred to as the

Hardship System) sets forth the criteria for properly evaluating and ranking communities which are receiving federal construction grant assistance in ascending order of the degree of financial hardship brought about by building and operating wastewater treatment facilities.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until March 11, 1987, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cindy M. Berndt, Policy Analyst, Office of Policy Analysis, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6828

\* \* \* \* \*

**March 11, 1987 - 2 p.m. - Open Meeting**  
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-41-01. Public Participation Guidelines.** The guidelines set forth the manner in which the agency will encourage the participation of parties in the formation and development of regulations. The proposed amendments are intended to clarify requirements of the Guidelines and the Administrative Process Act and facilitate the regulatory adoption process.

Statutory Authority: § 62.1-44.15(7) of the Code of Virginia.

Written comments may be submitted until March 11, 1987 to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cindy M. Berndt, Policy Analyst, Office of Policy Analysis, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6828

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**March 11, 1987 - 2 p.m. - Public Hearing**  
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-11-03. Water Resources Policy.** The Water Resources Policy is a statement of broad water resource management principles. The proposed amendments are editorial changes not affecting the principles set forth in the policy.

## Calendar of Events

Statutory Authority: § 62.1-44.38 of the Code of Virginia.

Written comments may be submitted until March 11, 1987 to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cindy M. Berndt, Policy Analyst, Office of Policy Analysis, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6828

\* \* \* \* \*

March 23, 1987 - 9 a.m. - Open Meeting  
March 24, 1987 - 9 a.m. - Open Meeting  
General Assembly Building, Senate Room B, Capitol Square, Richmond, Virginia. ☐

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, 2111 N. Hamilton St., Richmond, Va. 23230, telephone (804) 257-6829

### THE COLLEGE OF WILLIAM AND MARY

#### Board of Visitors

March 26, 1987 - 3 p.m. - Open Meeting  
March 27, 1987 - 8 a.m. - Open Meeting  
March 28, 1987 - 8 a.m. - Open Meeting  
Campus Center, Jamestown Road, Williamsburg, Virginia

A regularly scheduled meeting of the Board of Visitors of the College of William and Mary to (i) review the budgets and fees of the college and Richard Bland College; (ii) receive reports from several committees of the board; and (iii) act on those resolutions that are presented by the administrations of William and Mary and Richard Bland Colleges.

An informational release will be available four days prior to the board meeting for those individuals and organizations who request it.

April 24, 1987 - 3 p.m. - Open Meeting  
April 25, 1987 - 8 a.m. - Open Meeting  
April 26, 1987 - 8 a.m. - Open Meeting  
Campus Center, Jamestown Road, Williamsburg, Virginia

A regularly scheduled meeting of the Board of Visitors of the College of William and Mary to (i) approve the budgets and fees of the college and Richard Bland College; (ii) receive reports from several committees of the board; and (iii) act on those resolutions that are presented by the administrations of William and Mary and Richard Bland Colleges.

An informational release will be available four days

prior to the board meeting for those individuals and organizations who request it.

Contact: The College of William and Mary, Office of University Relations, James Blair Hall, Room 308, Williamsburg, Va. 23185, telephone (804) 253-4226

### COUNCIL ON THE STATUS OF WOMEN

† March 10, 1987 - 8 p.m. - Open Meeting  
Jefferson Sheraton Hotel, 5 East Franklin Street (Franklin at Adams Street), Richmond, Virginia. ☐

A meeting of the following committees:

Education  
Employment  
Family/Support  
Public Relations

† March 11, 1987 - 9 a.m. - Open Meeting  
State Capitol, House Room 1, Richmond, Virginia. ☐

A regular meeting of the council to conduct general business and to receive reports from the committees of the council. The agenda will be available from the council office on March 1, 1987.

Contact: Bonnie H. Robinson, Executive Director, Virginia Council on the Status of Women, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9200

## LEGISLATIVE

### Notice to Subscribers

Legislative meetings held during the Session of the General Assembly are exempted from publication in the Virginia Register of Regulations. You may call Legislative Information for information on standing committee meetings. The number is (804) 786-6530.

# Calendar of Events

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## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### March 2

- † Agriculture and Consumer Services, Department of
- Winegrowers Advisory Board, Virginia

#### March 3

- † Air Pollution Control Board
- † Alcoholic Beverage Control Board, Virginia Forestry, Department of
- Reforestation of Timberlands Board
- Marine Resources Commission

#### March 4

- † Conservation and Historic Resources, Department of
- Outdoor Recreation Advisory Board
- Upper James River Advisory Board
- Department of Forestry
- Board of Forestry
- † Higher Education for Virginia, State Council of

#### March 6

- Child Abuse and Neglect, Governor's Advisory Board on
- Dentistry, Virginia Board of
- General Services, Department of
- Art and Architectural Review Board
- † Longwood College Board of Visitors
- Executive Committee
- Medicine, Virginia State Board of
- Informal Conference Committee
- Mental Health and Mental Retardation, Department of
- Forensic Issues Advisory Committee

#### March 8

- Visually Handicapped, Virginia Department for the
- Advisory Committee on Services

#### March 9

- Health, Department of
- Commission on Medical Care Facilities
- † Health Regulatory Boards, Council on
- Task Force on Need to Redefine Nursing

#### March 10

- Architects, Professional Engineers, Land Surveyors and Certified Landscape Architect, State Board of
- Board of Professional Engineers
- † Health Regulatory Boards, Council on
- Public and Professional Information and Education Committee
- † Nursing, Virginia State Board of
- † Women, Virginia Council on the Status of Resources Authority, Virginia

#### March 11

- Corrections, Board of

- † Dentistry, Virginia Board of
- † Health Regulatory Boards, Council on
- Ad-Hoc Committee on Allied Health Professions
- † Migrant and Seasonal Farmworkers Board, Governor's
- † Optometry, Virginia Board of
- Professional Counselors, Board of
- † Women, Virginia Council on the Status of

#### March 12

- Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of
- Board of Certified Landscape Architects
- † Health Regulatory Boards, Council on
- Compliance and Discipline Committee
- Executive Committee
- Housing and Community Development, Board of
- Amusement Device Technical Advisory Committee
- † Voluntary Formulary Board, Virginia

#### March 13

- Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of
- † Children's Residential Facilities, Interdepartmental Licensure and Certification of
- Coordinating Committee
- † Opticians, Virginia State Board of

#### March 17

- † Alcoholic Beverage Control Board, Virginia
- † Housing Development Authority, Virginia
- † Library Board, Virginia State
- † Library Board, Virginia State
- Automated Systems and Networking Committee
- Pharmacy, State Board of

#### March 18

- Pharmacy, State Board of
- † Real Estate Board, Virginia

#### March 19

- † Conservation and Historic Resources, Department of
- Virginia Soil and Water Conservation Board
- Education, State Board of
- Medicine, Virginia State Board of
- † Nursing Home Administrators, State Board of Examiners for
- † Psychology, Virginia Board of
- † Transportation Board, Commonwealth

#### March 20

- Education, State Board of
- General Services, Department of
- State Insurance Advisory Board
- Medicine, Virginia State Board of

#### March 21

- Medicine, Virginia State Board of

#### March 22

- Medicine, Virginia State Board of

## Calendar of Events

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**March 23**

† Local Government, Commission on  
Water Control Board, State

**March 24**

Local Government, Commission on  
Water Control Board, State

**March 25**

Health Services Cost Review Council, Virginia  
Local Government, Commission on  
† Mental Health and Mental Retardation Board  
† Polygraph Examiners Advisory Board

**March 26**

Housing and Community Development, Board of  
- Amusement Device Technical Advisory Committee  
William and Mary, The College of  
- Board of Visitors

**March 27**

William and Mary, The College of  
- Board of Visitors

**March 28**

† Medicine, Virginia State Board of  
- Podiatry Examination Committee  
William and Mary, The College of  
- Board of Visitors

**March 31**

† Alcoholic Beverage Control Board, Virginia

**April 1**

† Criminal Justice Services Board  
† Criminal Justice Services Board  
- Committee on Training  
† Local Government, Commission on

**April 2**

Dentistry, Virginia Board of  
† Local Government, Commission on

**April 3**

Air Pollution Control Board, State  
Dentistry, Virginia Board of

**April 9**

† Health Regulatory Boards, Council on  
- Administration and Budget Committee  
† Long-Term Care Council

**April 13**

Health, Department of  
- Commission on Medical Care Facilities  
Housing and Community Development, Department of  
- Division of Building Regulatory Services

**April 14**

Housing and Community Development, Department of  
- Division of Building Regulatory Services

**April 15**

Housing and Community Development, Department of  
- Division of Building Regulatory Services

**April 16**

Government Savings Bond Campaign, State  
Housing and Community Development, Department of  
- Division of Building Regulatory Services  
Pilots, Board of Commissioners to Examine  
† Transportation Board, Commonwealth

**April 17**

Government Savings Bond Campaign, State

**April 18**

Government Savings Bond Campaign, State

**April 19**

Government Savings Bond Campaign, State

**April 20**

Government Savings Bond Campaign, State

**April 21**

Government Savings Bond Campaign, State

**April 22**

† Aging, Governor's Advisory Board  
Education, State Board of  
Government Savings Bond Campaign, State

**April 23**

† Aging, Governor's Advisory Board  
Education, State Board of  
Government Savings Bond Campaign, State

**April 24**

Education, State Board of  
Government Savings Bond Campaign, State  
William and Mary, The College of  
- Board of Visitors

**April 25**

Government Savings Bond Campaign, State  
William and Mary, The College of  
- Board of Visitors

**April 26**

Government Savings Bond Campaign, State  
WalkAmerica Day at DMV  
William and Mary, The College of  
- Board of Visitors

**April 27**

Government Savings Bond Campaign, State

**April 28**

Government Savings Bond Campaign, State

**April 29**

Government Savings Bond Campaign, State

# Calendar of Events

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- April 30**  
Government Savings Bond Campaign, State
- May 1**  
Government Savings Bond Campaign, State
- May 8**  
Dentistry, Virginia Board of
- May 12**  
† Long-Term Care Council  
- Local Long-Term Care Coordinating Committees
- May 13**  
† Long-Term Care Council  
- Local Long-Term Care Coordinating Committees
- May 14**  
† Long-Term Care Council  
- Local Long-Term Care Coordinating Committees
- May 15**  
† Long-Term Care Council  
- Local Long-Term Care Coordinating Committees
- May 21**  
† Long-Term Care Council  
- Local Long-Term Care Coordinating Committees
- May 28**  
† Mental Health and Mental Retardation, Department of; University of Virginia Institute of Law, Psychiatry and Public Policy  
- Division of Continuing Education and Office of Continuing Medical Education
- May 29**  
† Mental Health and Mental Retardation, Department of; University of Virginia Institute of Law, Psychiatry and Public Policy  
- Division of Continuing Education and Office of Continuing Medical Education

## PUBLIC HEARINGS

- March 9**  
Water Control Board, State
- March 11**  
Water Control Board, State
- March 13**  
Higher Education for Virginia, State Council of
- March 19**  
† Game and Inland Fisheries, Commission on
- March 20**  
† Game and Inland Fisheries, Commission on
- March 23**  
Nursing, Virginia State Board of  
† Transportation, Department of
- March 24**  
Local Government, Commission on
- March 25**  
† Transportation, Department of
- March 27**  
† Transportation, Department of
- March 30**  
† Transportation, Department of
- March 31**  
† Waste Management, Department of
- April 1**  
Criminal Justice Services Board  
† Local Government, Commission on
- April 2**  
† Transportation, Department of
- April 3**  
† Transportation, Department of
- April 6**  
Taxation, Department of
- April 9**  
† Transportation, Department of
- April 13**  
Labor and Industry, Department of  
- Apprenticeship Council  
† Transportation, Department of
- April 14**  
Labor and Industry, Department of  
- Apprenticeship Council
- April 15**  
Labor and Industry, Department of  
- Apprenticeship Council
- April 16**  
Labor and Industry, Department of  
- Apprenticeship Council
- April 17**  
Education, State Board of
- April 20**  
Labor and Industry, Department of  
- Apprenticeship Council
- April 22**  
Audiology and Speech Pathology, Virginia Board of

## Calendar of Events

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Examiners for

**April 23**

Employment Commission, Virginia

**Calendar of Events**

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