

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 2.2-4011 of the Code of Virginia, relating to the Administrative Process*
3 *Act; emergency regulations.*

4 [S 1043]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 2.2-4011 of the Code of Virginia is amended and reenacted as follows:**8 **§ 2.2-4011. Emergency regulations; publication; exceptions.**

9 A. Regulations that an agency finds are necessitated by an emergency situation may be adopted by
10 an agency upon consultation with the Attorney General, which approval shall be granted only after the
11 agency has submitted a request stating in writing the nature of the emergency, and the necessity for such
12 action shall be at the sole discretion of the Governor.

13 B. Agencies may also adopt emergency regulations in situations in which Virginia statutory law or
14 the appropriation act or federal law or federal regulation requires that a regulation be effective in 280
15 days or less from its enactment, and the regulation is not exempt under the provisions of subdivision A-
16 4- of § 2.2-4006. In such cases, the agency shall state in writing the nature of the emergency and of the
17 necessity for such action and may adopt the regulations. Pursuant to § 2.2-4012, such regulations shall
18 become effective upon approval by the Governor and filing with the Registrar of Regulations.

19 C. All emergency regulations shall be limited to no more than ~~twelve~~ 18 months in duration. During
20 the ~~twelve-month~~ 18-month period, an agency may issue additional emergency regulations as needed
21 addressing the subject matter of the initial emergency regulation, but any such additional emergency
22 regulations shall not be effective beyond the ~~twelve-month~~ 18-month period from the effective date of
23 the initial emergency regulation. If the agency wishes to continue regulating the subject matter governed
24 by the emergency regulation beyond the ~~twelve-month~~ 18-month limitation, a regulation to replace the
25 emergency regulation shall be promulgated in accordance with this article. The Notice of Intended
26 Regulatory Action to promulgate a replacement regulation shall be filed with the Registrar within sixty
27 60 days of the effective date of the emergency regulation and published as soon as practicable, and the
28 proposed replacement regulation shall be filed with the Registrar within 180 days after the effective date
29 of the emergency regulation and published as soon as practicable.

30 D. In the event that an agency concludes that despite its best efforts, a replacement regulation cannot
31 be adopted before expiration of the ~~12-month~~ 18-month period described in subsection C, it may seek
32 the prior written approval of the Governor to extend the duration of the emergency regulation for a
33 period of not more than six additional months. Any such request must be submitted to the Governor at
34 least 30 days prior to the scheduled expiration of the emergency regulation and shall include a
35 description of the agency's efforts to adopt a replacement regulation together with the reasons that a
36 replacement regulation cannot be adopted before the *scheduled* expiration of the emergency regulation.
37 Upon approval of the Governor, *provided such approval occurs prior to the scheduled expiration of the*
38 *emergency regulation*, the duration of the emergency regulation shall be extended for a period of no
39 more than six months. Such approval shall be in the sole discretion of the Governor and shall not be
40 subject to judicial review. Agencies shall notify the Registrar of Regulations of the new expiration date
41 of the emergency regulation as soon as practicable.

42 E. Emergency regulations shall be published as soon as practicable in the Register.

43 F. The Regulations of the Marine Resources Commission shall be excluded from the provisions of
44 this section.

ENROLLED

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