

APA Amendments

- Amend § 2.2-4013 (D) as follows:

"A thirty-day final adoption period for regulations shall commence upon the publication of the final regulation in the Register, and such date of publication shall serve as the date of adoption for purposes of appeal except for emergency regulations as described in § 2.2-4011(B), suspended regulations as described in § 2.2-4015(B), and regulations of the Marine Resources Commission as described in § 2.2-4006(B). The Governor may review the final regulation..."

- Amend § 2.2-4006 (B) as follows:

B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The effective date of regulations adopted under this subsection shall be in accordance with the provisions of § 2.2-4015, except in the case of emergency regulations, which shall become effective as provided in subsection B of § 2.2-4012, and regulations and emergency regulations of the Marine Resources Commission, which shall become effective on the date of passage by the Commission. Regulations of the Marine Resources Commission, including emergency regulations adopted pursuant to § 28.2-210, shall become effective on the date specified by the Commission but not earlier than the date filed in accordance with § 2.2-4103. Emergency regulations of the Marine Resources Commission adopted pursuant to § 28.2-801 shall become effective as provided in § 28.2-801. Such dates also shall serve as the point of adoption for purposes of appeal of all regulations of the Marine Resources Commission.

- Amend § 2.2-4011(B) as follows:

B. Agencies may also adopt emergency regulations in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment and the regulation is not exempt under the provisions of subdivision A 4 of § 2.2-4006. In such cases, the agency shall state in writing the nature of the emergency and of the necessity for such action and may adopt the regulations. Pursuant to § 2.2-4012, such regulations shall become effective upon approval by the Governor and filing with the Registrar of Regulations. Notice of such filing shall be posted concurrently on the Virginia Regulatory Town Hall. The date of filing of such regulations shall serve as the date of adoption for purposes of appeal.

- Amend § 2.2-4015(B) as follows:

B. Whenever the regulatory process has been suspended for any reason, any action by the agency that either amends the regulation or does not amend the regulation but specifies a new effective date shall be considered a readoption of the regulation for the purposes of appeal. If a the regulation is suspended under § 2.2-4007.06, such readoption subsequent agency action on the regulation shall take place after the thirty-day public comment period required by that subsection. Suspension of the regulatory process by an the agency may occur simultaneously with the filing of final regulations as provided in subsection B of § 2.2-4013. Whenever the regulatory process has been suspended for any reason and the agency subsequently acts to

amend the regulation or to specify a new effective date, the date of publication of that subsequent action in the Register shall serve as the date of adoption for purposes of appeal. When a regulation has been suspended, the agency must set the effective date no earlier than fifteen days from publication **in the Register** of the ~~readoption action and any changes made to the regulation~~ **subsequent action on the** regulation ~~in the Register~~. During that fifteen-day period, if the agency receives requests from at least twenty-five persons for the opportunity to comment on new substantial changes, it shall again suspend the regulation pursuant to § 2.2-4007.06.

Marine Resources Commission Amendments

- Amend § 28.2-212 as follows:

Where the Commission elects to adopt a regulation, it shall do so after receiving public comment at the public meeting for which the regulation was advertised in accordance with § 28.2-209. Such regulation shall become effective upon its passage by the Commission **and filing the regulation as provided in § 2.2-4103, or any other later date specified by the Commission.** A regulation may be adopted in the form in which it was filed or as amended at the public meeting ~~hearing~~, provided the amendments do not alter the primary purpose of the regulation.

- Amend § 28.2-210 as follows:

If, in an emergency, the adoption of a regulation is necessary for the immediate preservation of the public peace, health, safety, and welfare, or the protection of the seafood industry, natural resources or marine organisms, the Commission may promulgate the necessary regulation. The regulation shall be published and filed as prescribed in § 28.2-209. Such regulation shall become effective upon its passage by the Commission **and filing the regulation as provided in § 2.2-4103.** The date of passage shall serve as the date of adoption for purposes of appeal. No regulation adopted as an emergency regulation shall remain in effect longer than thirty days unless a public hearing is held as required in § 28.2-211 after being advertised as prescribed in § 28.2-209.

- Amend § 28.2-801 as follows:

A. The State Health Commissioner and the Commissioner of Marine Resources shall enforce the provisions of this chapter and regulations promulgated thereunder.

B. The State Board of Health and the Marine Resources Commission may promulgate regulations necessary to carry out the provisions of this chapter.

C. The Marine Resources Commission, whenever it determines that an emergency exists, may promulgate regulations which relate to shellfish in condemned areas, in order to protect the health of the public, without complying with the requirements of §§ 28.2-209 and 28.2-210. Such regulations shall become effective upon their passage by the Marine Resources Commission. The date of passage shall serve as the date of adoption for purposes of appeal. These regulations shall be enforced by revoking any permits which may have been issued.