

	Standard for Finding an Emergency	Approval Mechanism	Maximum Term	Notice	Effective Date	Judicial Review (specific)	Accompanying Proposal
Virginia	<p>“necessitated by an emergency situation” OR Federal law requires effectiveness within 280 days. Written statement of nature of emergency required.</p>	<p>Consultation with AG required (guidance on Town Hall notes that OAG will issue a “certification”), and approval at sole discretion of Governor.</p>	<p>12 months, and additional 6 month extension with prior Governor approval.</p>	<p>If ER is placed before Board or Commission for consideration, at least two days notice to requesting members of the public.</p>	<p>Upon adoption/ approval and filing with Registrar, or later date specified.</p>	<p>Governor’s approval of 6 month extension is <u>not</u> subject to judicial review.</p>	<p>If agency wishes to extend beyond ER term, NOIRA must be filed within 60 days of ER effective date; proposal must be filed within 180 days of ER effective date.</p>
California	<p>“Emergency” means a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.” Written statement including specific facts and substantial evidence (including documents relied</p>	<p>Submittal to Office of Admin, Law (OAL), followed by 10-day review period. OAL must allow 5 day public comment period, “unless the emergency situation clearly poses such an immediate serious harm that delaying action to allow public comment would</p>	<p>180 days, with no more than two 90 day re-adoptions available (assuming proposed rule in compliance with standard APA procedures is underway).</p>	<p>At least 5 days prior to submittal, to every person filing request for notification of regulatory action, unless “emergency situation clearly poses such an immediate, serious harm that delaying action to allow</p>	<p>Upon filing, or later date specified.</p>	<p>Limited to review of finding of emergency. Also, any interested person may seek declaration of the <i>validity</i> of a regulation that has been disapproved by the OAL.</p>	<p>Discretionary.</p>

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	on) to support emergency determination required.	be inconsistent with the public interest."		public comment would be inconsistent with the public interest."			
Florida	"an immediate danger to the public health, safety, or welfare requires emergency action." Statement of specific facts and reasons justifying the emergency determination, and the procedures provided, is required.		90 days, but may be renewed during pendency of administrative challenge (ALJ) of parallel proposed rule (proposed rules may be challenged in Fla.!))	"Fair" procedure required, with "at least the procedural protection given by other statutes, the State Constitution, or the United States Constitution." Notice, including full text of rules, must be published in first available issue of Fla. Admin. Weekly and provided to Administrative	Upon filing, or on a date less than 20 days thereafter if specified.	"The agency's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable."	Discretionary.

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				Procedures Committee.			
Maryland	Declaration of necessity of emergency and submittal of fiscal impact statement (requirements prescribed) to Joint Committee on Administrative, Executive, and Legislative Review.	Committee approval required (under prescribed procedures).	180 days	Public hearing may be held at request of Committee. ERs are listed on GA website within 3 business days of submittal to Committee. Public may otherwise receive notice on request (as prescribed).	No sooner than 10 business days after submittal to Committee, unless Governor finds immediate adoption is necessary to "protect the public health or safety."		Discretionary.
North Carolina	"when it finds that adherence to the notice and hearing requirements of this Part would be contrary to the public interest and that the immediate adoption of the rule is required	Submission to Office of Admin. Hearings Codifier of Rules, which must review statement of findings within 2 business days. Codifier may return to agency for additional	60 days, unless temporary rule has been submitted to Commission.	No public notice required.	When Codifier enters into Code, on the 6th business day following approval or agency filing over Codifier's	Action (by person aggrieved) for declaratory judgment in Wake County Superior Court. Review limited to agency's findings of	Simultaneous process for adopting "temporary" rule required.

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	<p>article” OR “if a natural resources related agency finds that abnormal or unusual conditions, immediate need, or the state's best interest requires immediate promulgation of emergency regulations to protect or manage natural resources.” The agency may file the regulation with the Legislative Council and a statement of the situation requiring immediate promulgation.”</p>						
West Virginia	“An emergency exists when the	Filed with SOS and noticed in	15 months. Various	Notice in State Register.	Upon SOS or AG	Agency statement of	Yes, concurrent.

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	<p>promulgation of an emergency rule is necessary (1) for the immediate preservation of the public peace, health, safety or welfare, (2) to comply with a time limitation established by this code or by a federal statute or regulation, or (3) to prevent substantial harm to the public interest.”</p> <p>Statement of facts and circumstances constituting the emergency, “stated with particularity,” required.</p>	<p>State Register; also filed with legislative rulemaking review committee, which may review and make recommendations to agency, SOS, or Legislature. SOS or AG has 42 days to approve, with scope of review prescribed.</p>	<p>circumstances under which rule may expire earlier, including SOS or AG disapproval. (Legislature also may disapprove.)</p>		<p>approval, or on 42nd day after filing with SOS.</p>	<p>emergency subject to de novo review in any court having original jurisdiction over such action. Review of SOS or AG determination available in WV Supreme Court of Appeals. Review of SOS determination may be instituted by the promulgating agency, member of Legislature, or “any person whose personal property</p>	

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						interests will be significantly affected.” Review of AG determination may be instituted by SOS, member of Legislature, or “any person whose personal property interests will be significantly affected.”	
APA	“when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public						

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	procedure thereon are impracticable, unnecessary, or contrary to the public interest.”						
MSAPA	“To the extent an agency for good cause finds that any requirements of Sections 3-103 through 3-107 are unnecessary, impracticable, or contrary to the public interest in the process of adopting a particular rule, those requirements do not apply. The agency shall incorporate the required finding and a brief statement of its supporting reasons in each		Within 2 years, Governor or other oversight committee may request that agency promulgate a replacement rule under standard rulemaking procedures. In this case, ER ceases to be effective 180 days after request filed.			If contested, “the burden is upon the agency to demonstrate that any omitted requirements of Sections 3-103 through 3-107 were impracticable, unnecessary, or contrary to the public interest in the particular circumstances involved.”	

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	rule adopted in reliance upon this subsection.”						