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Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Marine Resources Commission
Virginia Administrative Code (VAC) Chapter citation(s)	4VAC20-390
VAC Chapter title(s)	Wetlands Mitigation -- Compensation Policy
Action title	Compliance with the mandate of Chapter 334 of the 2023 Acts of the Virginia General Assembly (HB 1950).
Final agency action date	February 1, 2025
Date this document prepared	October 24, 2024

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Virginia Marine Resources Commission (VMRC) is amending Chapter 4VAC20-390-10 et seq., "Wetlands Mitigation -- Compensation Policy", to comply with the mandate of Chapter 334 of the 2023 Acts of the Virginia General Assembly (HB 1950).

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined

in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

[Mandate] VMRC is authorized by § 28.2-201 of the Code of Virginia to promulgate regulations and guidelines necessary to carry out the provisions of Title 28.2.

[Impetus] The proposed updates, mandated by HB 1950 and § 28.2-1308 of the Virginia Code, will bring the state guidance into conformity with existing federal and state regulations. The revision to the regulation can foster a market-based approach to compensatory mitigation through the establishment of additional wetlands mitigation banks. Additionally, this update would better facilitate meeting the Commonwealth’s obligation as a signatory to the Chesapeake Bay Program Agreement to achieve no net loss of wetlands from the Commonwealth’s permitting programs.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

This is to certify that the foregoing is a true and accurate copy of the chapter (4VAC20-390-10 et seq., “Wetlands Mitigation -- Compensation Policy”) passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission’s minute book, at meeting held in Hampton, Virginia on January 28, 2025.