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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Marine Resources Commission
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	4 VAC 20-1410
<b>VAC Chapter title(s)</b>	Utility Line Encroachments Beneath or Over State-Owned Subaqueous Beds
<b>Action title</b>	Creation of a general permit that does not require instream construction activities upon State-owned subaqueous beds
<b>Final agency action date</b>	November 1, 2023
<b>Date this document prepared</b>	September 21, 2023

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 establishing Chapter 4 VAC 20-1410-10 et seq., "Utility Line Encroachments Beneath or Over State-Owned Subaqueous Beds", to create a general permit that is intended to increase efficiency in the review and approval of projects involving the installation of utility lines in a manner that does not require instream construction activities upon State-owned subaqueous beds.

### 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the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

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[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, including marine fisheries and habitat regulations.

[Impetus] Currently, anytime a utility line crossing encroaches either above or below the State-owned subaqueous bottom a Virginia Marine Resources Commission (VMRC) subaqueous permit is required for that portion of the project. These permits require a full public interest review before a permit can be issued which result in permit issuance times up to 90 days. Experience has shown that the installation of aerial and bored utility lines will not adversely impact natural resources under the jurisdiction of VMRC. In addition, these types of projects would normally be expected to receive a subaqueous permit from the Commission following the standard public interest review. To be more efficient, staff is proposing this general permit as a way to expedite these types of projects. By eliminating the public interest review, where there are no direct impacts on natural resources under VMRC regulatory authority, the time from receipt of a complete application to issuance of the general permit can save several weeks and allow the applicants to focus on other logistical issues.

### 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.*

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This is to certify that the foregoing is a true and accurate copy of the chapter (4VAC20-1410-10 et seq., "Utility Line Encroachments Beneath or Over State-Owned Subaqueous Beds") 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 October 24, 2023.