

California Must Catch Up: Support AB807 and Empower Public-Nonprofit Marine Mitigation Banking

Prepared by the Oyster Culture Foundation

Virginia Has Already Proven the Model. California Is Falling Behind.

While California faces mounting ecological stress in places like the San Francisco Bay, Virginia has already implemented a scalable, science-backed solution: the Virginia Aquatic Resources Trust Fund (VARTF), a public-nonprofit mitigation banking model managed by The Nature Conservancy (TNC).

Under this system, polluting entities purchase mitigation credits from VARTF to offset environmental impacts, with proceeds directly funding habitat restoration projects across the state. The Virginia Department of Environmental Quality (DEQ) and a multi-agency Interagency Review Team (IRT) ensure oversight and ecological success.

In stark contrast, California currently lacks a legal framework to apply this model to marine artificial reefs, despite the urgent need for habitat restoration and water quality improvement. As a result, federal and state funding remains inaccessible for reef-based projects, and no path exists to create a nonprofit-led mitigation bank using artificial reefs.

AB807 addresses this gap by enabling the deployment of marine artificial reefs as eligible mitigation tools—bringing California’s policy up to speed with what Virginia has been doing successfully for over a decade.

What AB807 Enables

AB807 amends Section 1798 of the Fish and Game Code to recognize artificial marine reefs as acceptable mitigation under California law. This change unlocks:

- Access to federal and state grant funding
- A legal pathway to create a nonprofit mitigation bank—the San Francisco Bay Mitigation Bank (SFBayMB)
- Accountability for polluters who would now be able to purchase credits for offsetting impacts
- A scalable restoration model driven by a nonprofit, for the benefit of the public and the environment

What OCF Is Proposing

The Oyster Culture Foundation proposes the development of SFBayMB, a public-nonprofit hybrid mitigation bank that would:

- Deploy 14 million Pacific oysters across 1,300 acres of San Francisco Bay
- Improve water quality by filtering excess nutrients, heavy metals, and contaminants
- Rebuild essential oyster reef habitats
- Buffer shorelines and bolster coastal resilience
- Create jobs in reef construction, marine science, and education
- Fund long-term operations through the sale of mitigation credits

Currently, none of this is legally supported. AB807 is the key that unlocks it.

Virginia Administrative Code: A Blueprint for California

The Virginia Water Protection Permit Program (9VAC25-210-116) provides a robust, codified foundation for how mitigation banking is implemented successfully in Virginia:

Key Takeaways from Virginia's Code:

- Mitigation bank credits are the preferred method of compensatory mitigation.
- If credits are available in the watershed, applicants must prove that permittee-responsible mitigation is superior.
- Mitigation must result in no net loss of aquatic resource acreage or function.
- A clear hierarchy is established:
 1. Mitigation bank credits
 2. In-lieu fee program credits
 3. Permittee-responsible mitigation
- In-lieu programs and banks must meet transparency, ecological, and legal standards.

“Mitigation bank credits... shall in most cases be deemed the ecologically and environmentally preferable form of compensation.” — Virginia Administrative Code 9VAC25-210-116(C)

How AB807 and OCF's Vision Are Aligned

- Regulatory Harmony: SFBayMB aligns with 33 CFR Part 332 and mirrors Virginia's state-level structure.
- Supports a Public-Nonprofit Model: Like TNC's VARTF, SFBayMB reinvests all funds into restoration and monitoring.
- Mitigation Banking Preference Is Already Codified Elsewhere: Virginia provides a working

model; AB807 brings California in line.

- SFBayMB Is Ecologically and Administratively Sound: Oyster reefs are a proven tool for bioremediation and shoreline protection.

Why This Must Be Nonprofit-Led

OCF's model ensures:

- Full public accountability
- Greater ecological return per dollar
- Transparent reinvestment into habitat development
- Educational and community engagement benefits

This is not a for-profit venture—it's a scalable, replicable public benefit initiative built for long-term resilience.

A Chance to Catch Up—And Lead

Virginia's success is undeniable. TNC's public-nonprofit model proves it's possible to scale habitat restoration, fund it sustainably, and deliver results with oversight and transparency.

California can—and must—do the same.

Passing AB807 enables OCF to launch a fully aligned, shovel-ready solution for San Francisco Bay. It brings California in line with a proven national model while advancing climate resilience, clean water, and environmental justice.

We urge you to support AB807 and allow the San Francisco Bay to benefit from the same tools that have restored Virginia's rivers and wetlands.

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