



Army Corps Seeks to Accelerate Wetlands Permitting with New Mitigation Bank Guidance

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Mitigation bank credits may become more readily available to builders, developers and other permittees following new guidance issued in late February. The U.S. Army Corps of Engineers issued Regulatory Guidance Letter 19-01, developed in collaboration with the U.S. Environmental Protection Agency, on February 22, 2019. (Available [here](#))

The guidance applies to new mitigation banks – those not yet approved by district engineers. Existing mitigation banks are eligible to seek modification of their plans to implement the updated approach. The guidance follows the three phases of the credit release schedule; initial, interim and final; and maintains the flexibility and discretion allowed District Engineers. But the guidance revises the past approach to interim releases – clarifying that interim releases do not have to be incremental following successful construction of the project.

As a result of the guidance, mitigation banks that have been approved and constructed may be able to make more credits available for sale, even in advance of full achievement of ecological standards. This could allow more credits to be available for permitting purposes during the ongoing development of mitigation banks. As before, credit release is contingent upon approval and construction of the mitigation bank, along with adequate financial assurance being posted by the sponsor to adequately assure funding for completion of the approved mitigation bank.

“Having more credits available for sale to permittees can allow for even more reduced permitting timeframes for the important infrastructure, energy, and other administration priority activities,” said R.D. James, Assistant Secretary of the Army for Civil Works “Homebuilders and many others who need authorization from the Corps for their proposed activities will also benefit from increase in available mitigation credits.” (Press Release available [here](#))

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