
NEW JOINT FEDERAL/STATE APPLICATION (JPA)

**Regulatory Services Division
Wetlands and Waterways Program
Water and Science Administration
Maryland Department of the Environment**

**New JPA (Version 2017.10) must be used for submitting tidal applications by:
March 31, 2018**

Previous versions of the JPA will not be accepted or may result in the application being sent to the U.S. Army Corps of Engineers – Baltimore District as a Category B regardless of the activity proposed.

In 2011, the Maryland Department of the Environment (MDE) and the U.S. Army Corps of Engineers – Baltimore District (Corps) began to coordinate on amending and updating the JPA used for tidal wetland projects, known as the “short form”. In addition, the short form had never been officially accepted by the Corps for use as an acceptable application. Many of the necessary changes were required by the Corps due to comments and requirements from their federal partner agencies and processes found within the Maryland State Programmatic General Permit (MDSPGP)-4. The revised “short form” was finalized, formally accepted by the Corps, and released for use by MDE and the Corps in late 2013, early 2014.

On October 1, 2016, the Corps issued the MDSPGP-5 that included many new processes and requirements necessary to complete the application process. In an effort to keep the application process the same, but meet those new requirements the Corps and MDE collaborated on making changes to the “short form” to enable an applicant to self-certify on the application their compliance with those requirements found within the MDSPGP-5. The necessary changes were made, approved by the Corps, and are now part of a newly revised Tidal Wetland JPA (“short form”) that is available on our website for download at:

http://mde.maryland.gov/programs/Water/WetlandsandWaterways/PermitsandApplications/Pages/tidal_permits.aspx

What are these changes and why do I have to use the new Tidal Wetland JPA?

Part 8 on the first page of the application is a self-certification by the applicant that their project site for the proposed activity is or is not located in, on, or adjacent to a federally authorized Civil Works Project. A project site that is located in, on or adjacent to a federally authorized Civil Works Project requires a Section 408 review and the application must be forwarded to the Corps as a Category B under the MDSPGP-5 for their review and issuance of a decision; the yes box should be checked. Previous versions of the JPA will not be accepted or will result in the application being sent to the U.S. Army Corps of Engineers – Baltimore District as a Category B regardless of the activity proposed and absent the mandatory information necessary for appropriate USACE project categorization. The Corps will review and issue the federal decision separate from the State decision.

The U.S. Army Corps of Engineers has constructed many Civil Works projects across the Nation's landscape, including but not limited to, dams, levees, navigation projects, jetties, dams and reservoirs, and floodwalls. A separate review is required pursuant to 33 USC 408 (Section 408) when work will temporarily or permanently modify, alter, occupy, or use any USACE project. For many, but not all USACE projects, additional information is publicly available at:

Federal Navigation Channels: <http://www.nab.usace.army.mil/Missions/Civil-Works/Nav-Maps/>

National Levee Database: <http://nld.usace.army.mil/egis/f?p=471:1:>

Corps Lakes: <http://www.nab.usace.army.mil/Missions/Dams-Recreation/>

Note: These sources currently do not contain all USACE projects located in the Baltimore District.

Part 9 on the first page has been updated from a read and understands to a self-certification by the applicant that all authorized work will meet the Endangered Species Act Best Management Practices (BMP) applicable to work in tidal waters as required in the MDSPGP-5. If the authorized activity will not comply or it is not known if it will comply with the Endangered Species Act BMPs, indicated by checking the appropriate boxes, then the application must be a Category B under the MDSPGP-5 and will require the issuance of the federal authorization by the CORPS. If a previous edition of the tidal wetland JPA is used that does not have this self-certification section then the application must be sent to the Corps as a Category B under the MDSPGP-5.

The following Best Management Practices are applicable to projects within tidal waters and tidal wetlands under the MDSPGP-5 (Refer below and to the MDSPGP-5 - Section VII.B.4.c.i-iii on Page 77 for additional information regarding these Best Management Practices).

Best Management Practices Applicable to Category A and Category B Activities within Tidal Waters and Wetlands:

i. Pile Driving for Category A Activities: For the protection of listed species, pile driving methods must maintain noise level thresholds not to exceed 150 db re 1 μ Pa RMS or 206 db peak re 1 μ Pa and must meet **one** of the following conditions:

- (1) Plastic or concrete piles must be less than 12 inches when a cushioned impact hammer or vibratory hammer is utilized for installation.
- (2) Timber piles must be 10 inches or less when a vibratory hammer is utilized for installation.
- (3) Vinyl or timber sheet piles must be 24 inches or less in width, as measured from the outer edge of corrugation to the inner edge of corrugation, when a cushioned impact hammer or vibratory hammer is used.
- (4) Pile driving activities must be located within freshwater tributaries or within tidal or nontidal wetlands.
- (5) Piles of any size/type with any hammer method must be installed behind diversion structures or in the dry when the tide is out in the intertidal zone.
- (6) Piles of any size/type with any hammer method must be installed between November 30 and March 15.

(Note: Any pile driving activity that does not meet one of the conditions above must be reviewed by the Corps as a Category B activity or an alternate Corps permit review process, as appropriate.

ii. Pile Driving for Category A and Category B Activities: For Category A and Category B activities, pile driving must be initiated with a soft start each day of pile driving, building up power slowly from a low energy start-up over a 20 minute period to allow for fish and other wildlife to leave the area.

Sediment Disturbing Activities Time-of-Year Restriction for Category A and Category B Activities: Sediment disturbing activities, which includes pile driving activities, are prohibited during the period April 1 through June 30 within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt (**See Appendix B**) for the protection of shortnose sturgeon during early life stages in these waters.

Part 12 has been updated to amend the Federal Privacy Act with updated wording and a section that allows the applicant to request that all MDE correspondence regarding the review of the application to occur with their designated principal contact indicated in Part 3. The Corps will still correspond with the applicant as required by federal law.

Applicants can find information on filling out the JPA Tidal Application and sample plans for various tidal activities at:

http://mde.maryland.gov/programs/Water/WetlandsandWaterways/PermitsandApplications/Pages/tidal_instructions.aspx

Applicants may also contact the MDE's Tidal Wetland Natural Resource Reviewer for the County that their proposed project is located. A list of contacts is available at the following web address:

<http://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/WetlandsAndWaterwaysProgramDirectory.aspx>