

Purpose

This form is designed to help applicants assemble a complete Tier II Review report. This form specifically addresses evaluating alternatives that avoid impacts to Tier II watersheds and streams. It is strongly recommended that applicants complete this analysis as early in the project planning stages as possible, during initial property site search and screening analysis of purchase and feasibility alternatives.

The Department will use this information to determine whether an adequate alternatives analysis was conducted, and to help determine if a reasonable alternative to the proposed activity is available. MDE may provide additional comments during the review.



Maryland Department of the Environment
Antidegradation Review Report Form
Alternatives Analysis - No Discharge Alternative



Fill in all that apply:

1. **Project Name:** _____
2. **Nontidal Wetlands & Waterways Construction Tracking Number:** _____
3. **MD General Permit Number:** _____

Applicant Signature: _____ **Date Complete:** _____

Background

Code of Maryland Regulations (COMAR) 26.08.02.04-2 (G(1)) states that "If a Tier II antidegradation review is required, the applicant shall provide an analysis of reasonable alternatives that do not require direct discharge or a potential water quality impact to a Tier II watershed. The analysis shall include cost data and estimates to determine the cost effectiveness and feasibility of the alternatives".

For land disturbing projects that result in permanent land use change, this 'no discharge' analysis specifically evaluates the reasonability of other sites or alternate routes which could be developed to meet the project purpose, but are located *outside* of the Tier II watershed. Reasonability considerations, as applicable, may take into account property availability, site constraints, natural resource concerns, size, accessibility, and cost to make the property suitable for the project. This analysis shall be performed regardless of whether or not the applicant has ownership or lease agreements to a preferred property or route.

Information from this analysis may be used to inform minimization analysis.

Instructions and Notes

1. Complete the analysis for each Tier II watershed impacted.
2. Review the information in this document carefully. Prepare a report to address all of the analyses required by this document. Submit all Tier II analysis and documentation at one time.
3. To help improve review efficiency and avoid delays, do not leave any response blank. Please use "N/A" for any questions or sections that are not applicable.
4. Provide sufficient supporting documentation for narratives.
5. The level of analysis necessary, and amount of documentation that may be needed to make a decision is dependent upon project size, scope, and scale of relative impacts to Tier II resources. Please develop responses accordingly.
6. Reports/responses shall be submitted in electronic format, as well as paper. Full plans are not required unless requested over the course of the review.
7. Direct any questions regarding this form to Angel Valdez at angel.valdez@maryland.gov.

No Discharge Alternative Analysis Final Documentation Checklist

- ☐ Signed & Dated MDE Tier II Alternatives Analysis – No Discharge Alternative form (page 1)
- ☐ Qualifying Exemptions with supporting documentation
- ☐ General Project Purpose Statement with relevant definitions
- ☐ Alternative Site Reasonability Analysis
 - ☐ Results of initial site search
 - ☐ Map of alternatives relative to preferred site and Tier II streams/catchment
 - ☐ Alternative Sites Summary Analysis Table Supplementary Information (per site)
 - ☐ Detailed Narrative of Alternate Analysis Outcome
- ☐ Alternative Route Reasonability Analysis
 - ☐ Results of initial site search
 - ☐ Map of all alternatives relative to preferred route and Tier II streams/catchment
 - ☐ Alternative Sites Summary Analysis Table Supplementary Information (per site)
 - ☐ Detailed Narrative of Alternate Analysis Outcome
- ☐ Narrative rationale for final decision of reasonableness

Qualifying Exemptions

For the purposes of the no discharge analysis for land disturbing activities, extenuating circumstances may apply to projects that are developed to address a specific need, may be linked to special funding, or linked to a specific location. Supporting documentation is required before consideration. Please read the following examples and determine whether or not a given situation is applicable.

The applicant must get concurrence from MDE as to the applicability of any special circumstances prior to completing the no discharge alternatives analysis. It is at the Department's discretion to determine whether a special circumstance applies, and whether or not this applicability means that there is not a reasonable alternative that avoids the Tier II watershed.

If none of the special circumstances apply, check "**Not Applicable**".

☐ **Not Applicable**

☐ **Situation 1:** Project is linked to unique or special incentives for State, County, or Municipality

Example: County needs for 1000 units of low-income senior housing in legislative district 7. Documentation must include the request for proposals (RFP) or similar missive to meet the housing need, and unique benefits or incentives lost if the project is moved outside of legislative district 7.

Example: Project is located in a State Designated Priority Funding Area, State Designated Enterprise Zone, or similar area targeted by the State for economic growth, business development, or investment.

☐ **Situation 2:** Project has location specific limitations

Example: College campus extension. Education capital funding limits development to sites that are within 5 miles of the main campus. Documentation should include the RFP or similar documentation.

Example: Project is taking place in an existing right of way, or using an area that is currently operational. Such projects include replacing transmission lines, expanding operations on a working farm or business center.

☐ **Situation 3:** Military project (or similar) with restrictions due to national security, etc.

Example: Construct a new runway and hangar for Air Force 1. The military may identify a certain location or base where this construction shall occur due to existing facilities, support personnel, and security concerns.

☐ **Situation 4:** Project has little to no resource impacts.

Example: Repair or replacement of existing structures, road resurfacing, bridge maintenance using scaffolding, General Waterways Construction Permits, habitat restoration, rehabilitation, and stabilization.

☐ **Situation 5:** Project is a "Grandfathered" development, that meets the specifications within Chapter 1.2, in the *Maryland Model Stormwater Management Ordinance, June 2009 & April 2010*

Administrative waivers, extension documentation, etc. are required documentation.

Note -This exemption does not apply to linear projects like roads or pipelines. Grandfathered projects are not exempt from the minimization alternatives analysis.

General Project Purpose Statement

1. Define the overall project purpose and site selection criteria. To result in a fair and meaningful analysis for the antidegradation review the site selection criteria must fall into the following parameters:
 - a. The statement must not be so narrowly constructed as to limit the results to one site with no other possible alternatives, or
 - b. Likewise, the statement cannot be too broadly written creating too many alternatives to effectively consider.
2. Example Statements
 - a. Too Narrow: To develop a high density residential housing complex consisting of 1000 living units on a 200 acre site adjacent to the Mall of Maryland. -- The likelihood that there are multiple properties other than the desired alternative available are unlikely, and this eliminates the possibility of properties outside of the Tier II watershed.
 - b. Too Broad: To develop a residential housing complex in Charles County. -- This will yield hundreds of results, creating a burdensome and unrealistic amount of work to evaluate each alternative.**
 - c. Reasonable: To develop a residential housing complex near a major shopping center in Northern Charles County. -- This will reduce the number of available properties to a more manageable amount, while still meeting the overall purpose of providing housing near a retail center in a target geographic area. The applicant can further refine the statement by defining "near", "major shopping center", and "Northern Charles County".
3. The applicant must craft a statement that yields at least 3 available alternative properties outside of Tier II watersheds for further evaluation. For alternative routes, if no routes are deemed feasible outside of Tier II watersheds, and there are several route alternatives have been identified, then evaluate the route with the least environmental impacts to Tier II watersheds.
4. The level of detail for the alternative analysis process should appropriately match the complexity of the project taking into consideration factors such as resource impacts to Tier II watersheds in terms of impervious cover, forest cover loss, riparian buffer impacts, public comment, etc. For example, the amount of documentation provided for 3 alternatives to place a single dwelling on one acre is expected to be significantly less than the documentation expected for a 300 acre mixed-use development.

**Based on comments received during the review or other mitigating circumstances, the Department may require the applicant to evaluate additional alternatives, or provide a more in-depth analysis.

Table 1: Alternative Site Evaluation Summary Analysis Table			
Evaluate each criterion listed in the left hand column for each alternative site. Populate each box with the appropriate conditions listing one or more of the options provided (a, b, c...), such as types of utilities available at a given site. Estimate resource impacts in lf, acres, etc.			
	Site 1	Site 2	Site 3
Availability: a. Owned by applicant b. For sale c. Special, please explain (example: remediation required)			
Sizing appropriate: a. As is b. Purchase of adjoining property/ROW required			
Accessible Utilities: a. Electric b. Water c. Sewer d. Site access (existing road/bridge, etc.). e. None			
Development Resources: a. Existing SWM b. Existing buildings/structures c. Site cleared			
Zoning: a. Appropriate b. Waiver required			
Resource Impacts: a. Streams b. Forest c. Wetlands/wetlands buffer d. 100-yr flood plain			
Cost to Acquire is Reasonable: Yes or No			

Alternative Sites Summary Analysis Table Supplementary Information:

1. Explanation of site search criteria and rationale.
 - a. Relate project requirements to the criteria in Table 1.
 - b. Include any additional critical criteria not identified in the above table.
2. Results of initial site search.
 - a. List the available sites for consideration before the applicant chose 3 for further evaluation.
 - b. Include a brief narrative description of each site.
 - c. Include a table listing basic site address, lot size, parcel and map.
 - d. Include an overview map showing sites and their relative location to the preferred property.
 - e. If available, include Real Property Search Data (From Maryland Department of Assessments and Taxation (<http://sdat.dat.maryland.gov/RealProperty/Pages/default.aspx>), or MLS (Multiple Listing Service) information.
3. Expand upon the responses in Table 1.
 - a. Include a narrative that clearly explains how the applicant determined the final 3 sites for further consideration in Table 1.
 - b. Provide basic information about each site, i.e. land use, land cover, unique features, on-site resources such as streams, wetlands, relevant geology and/or hydrology, etc.
 - c. Discuss specific resource impacts.
 - i. Include a table that further breaks down the resource impacts associated with the 3 alternative sites.
 - ii. Include a narrative that further details whether resources could be avoided. For example, an on-site stream that will most likely be crossed to accommodate site access would make that site less favorable when compared to another option.
4. Justify final site decision.

Table 1: Alternative Route Evaluation Summary Analysis Table (use for linear projects such as roads, utility lines, etc)			
Evaluate each criteria listed in the left hand column for each alternative site. Populate each box with the appropriate conditions, i.e. either yes/no, or by listing one or more of the options provided (a, b, c...), such as types of utilities available at a given site.			
	Site 1	Site 2	Site 3
Availability: a. ROW Owned by applicant b. ROW can be acquired or leased c. Other, please explain			
Accessible Utilities (i.e. where connecting infrastructure is required): a. Electric b. Water c. Sewer or pipeline d. Site access (existing road/bridge, etc.). e. None			
Zoning: a. Appropriate b. Waiver required			
Resource Impacts: a. Streams b. Forest c. Wetlands/wetlands buffer d. 100-yr flood plain			
Cost to Acquire is Reasonable: Yes or No			

Alternative Route Summary Analysis Table Supplementary Information:

1. Explanation of route search criteria and rationale.
 - a. Relate project requirements to the criteria in Table 1.
 - b. Include any additional critical criteria not identified in the above table. For example, if the purpose of the project is to improve public safety, documentation must be provided to support this claim. For a new road this may include data on accidents, visibility issues, or geometric design issues that can complicate travel.
2. Results of initial route search.
 - a. List the available routes for consideration before the applicant chose 3 for further evaluation.
 - b. Include a brief narrative description of each route.
 - c. Include a table listing route start and end addresses, parcel and map, land use (i.e. residential neighborhood, commercial district, etc.)
 - d. Include an overview map showing results and their relative location within the impacted Tier II watershed.
3. Expand upon the responses in Table 1.
 - a. Include a narrative that clearly explains how the applicant determined the final 3 sites for further consideration in Table 1.
 - b. Provide basic information about each site, i.e. land use, land cover, unique features, on-site resources such as streams, wetlands, etc.
 - c. Discuss specific resource impacts.
 - i. Include a table that further breaks down the resource impacts associated with the 3 alternative routes. For example identify the number of streams on-site, potential forest loss for site clearing, etc.
 - ii. Include a narrative that further details whether resources could be avoided. For example, an on-site stream that will most likely be crossed to accommodate site access would make that site less favorable when compared to another option.
Note: In making a final decision, MDE may take into consideration whether or not the project can avoid the impact by going over it (i.e. bridge) or under it (i.e. drilling). Consider this in the resource impact evaluation. The method of crossing may be a special permit condition.
4. Justify final route decision.

Provide a hardcopy responses to:

Maryland Department of the Environment
Environmental Assessment and Standards Program
Antidegradation Implementation Coordinator
ATTN: Angel D. Valdez
1800 Washington Blvd
Baltimore, Maryland 21230

Provide an electronic response, by CD to the address above, or a way to download the response from secure cloud-based site, email: to Angel Valdez at angel.valdez@maryland.gov.