



FCA Alternative Requirement Evaluation

A description of procedures the Department will use to determine whether a local program is expected to maintain or expand the existing level of forest cover in the jurisdiction

1. The Department will allow any mitigation requirement(s) that would result in no net loss of forest cover after the required maintenance period and survivability requirements are met.
 - a. Only after individual projects have complied with and exhausted onsite mitigation requirements will activities pursuant to **Section 5-1607(b)** be considered.
 - b. No net loss will be determined without the consideration of projects approved before July 1, 2024, nor any exempted project under **Section 5-1602(B)** from any point in time.
2. The Department will require survivability requirements that result in an area definable as a forest.
 - a. According to **Section 5-1601(k)(1)** “forest” means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater.
 - i. (2) “forest” includes:
 1. (i) areas that have at least 100 trees per acre with at least 50% of those trees having a 2-inch or greater diameter at 4.5 feet above the ground; and
 2. (ii) Forest areas that have been cut but not cleared.
 - ii. (3) “Forest” does not include orchards.
3. Alternative requirements may not adopt language that would contradict **Section 5-1606(d)**. Solar photovoltaic facilities are not subject to afforestation requirements.
4. The Department will conduct an evaluation of the alternative program(s) by December 31, 2028. During this evaluation, the Department shall consider whether forest cover has been maintained or expanded (or not). As well as consider local reports (Section 5-1613) submitted. According to **Section 5-1606.1(A)(4)**, if modifications are required and not met by December 31, 2029, the alternative program approval may be rescinded.

For any further questions or clarifications, please contact J.T. Bowers at justin.bowers@maryland.gov.