

Questions about the proposed Grading Ordinance and its impacts on agriculture.

Please note that these answers are not comprehensive. You will need to take a look at the November 19, 2009 (Planning Commission Recommendation) version of the grading ordinance to get the full scope of the criteria for exemption and the procedural requirements. These answers are also based on a general analysis, as we don't have a specific proposal in front of us. A great deal of information is available on the County's website, which can be accessed at <http://www.sloplanning.org> (then click on the link under "News" that read "Grading and Stormwater Management Ordinance Revisions")

1. Rangeland Management.

- a. What will the requirements be for removing ½ acre or more of native vegetation that is encroaching on existing grazing land when the work is part of ongoing management of rangeland? Would this practice be exempt?

This appears to be compliant with the ongoing grazing exemption. The landowner would still be required to use appropriate agricultural practices and to ensure against substantial erosion/sedimentation impacts.

- b. What if some portions of the vegetation are outside the grazing area and need to be cut back before they take over part of the grazing land?

This would probably not qualify under the ongoing grazing limitation. If more than one-half acre of native vegetation is being removed from areas which have not been previously grazed (within the last 5 years), then the landowner would need to pursue a grading permit or alternative review.

- c. Will the rules for vegetation removal differ or be consistent for inland vs. coastal properties?

Agricultural exemption and alternative review criteria and procedures are almost identical in the proposed inland and coastal ordinances. The Coastal Zone Land Use Ordinance has additional *land use permit* (as opposed to grading permit) requirements for removal of native vegetation. These existing requirements will not be affected by the proposed ordinances.

2. Cropland Management.

- a. What will the requirements be for removing ½ acre or more of native vegetation that is encroaching on existing cropland when the work is part of ongoing management? Would this practice be exempt?

There is no limit on vegetation removal for crop production purposes in the grading ordinance. Yes, it would be exempt.

- b. What if some portions of the vegetation are outside the established growing area and need to be cut back before they take over part of the cropland?

If vegetation removal is for crop production, there is no limitation.

- c. Will the rules for vegetation removal differ or be consistent for inland vs. coastal properties?

The grading ordinance limitations and requirements will be almost identical. However *land use permit* requirements in the Coastal Zone will also apply. These requirements are not being changed. If a project requires a land use permit due to vegetation removal near an Environmentally Sensitive Habitat Area (ESHA) that will continue to be the case.

3. Fire Safety

- a. Will vegetation removal for fire safety be exempt? If not, what are the requirements/restrictions?

Vegetation clearance for fire safety purposes is exempt (see 22.52.070B.8). This does not include tree removal or removal of state/federal listed species (i.e. threatened or endangered). To qualify as exempt fire safety vegetation clearance must comply with CalFire recommendations.

- b. Will vegetation burning for fire safety be exempt? If not, what are the requirements/restrictions?

Burning as a means of fire safety clearance could also fall under the exemption listed above (22.52.070B.8). Please note that vegetation burning may require review/approval from the Air Pollution Control District and CalFire.

- c. How will CDF be involved?

Vegetation clearance for fire safety purposes would have to be done in compliance with CalFire recommendations to qualify as exempt.

- d. Will fire safety requirements differ for inland vs. coastal?

Grading permit exemptions for the coastal versus inland will be almost identical. Again, please refer to the previous discussion about land use permit requirements in the coastal zone.

4. Fifty-Yard Trigger

- a. Would the 50-cubic yard threshold apply to all agricultural work or just to new fields?

The 50 cubic yard threshold always applies. Projects involving more than 50 cubic yards may still be able to qualify for exemption, agricultural grading (i.e. filling out a form), or alternative review.

- b. Would farmers and ranchers be allowed to move more than 50 yards on existing fields?

Yes. Grading for ongoing crop production on existing fields would qualify for exemption regardless of the volume. Crop production activities (i.e. disking, plowing, etc.) would not count toward cubic yardage.

- c. Please list the exemptions.

Refer to 22.52.070B (Exemptions), 22.52.070C (Agricultural Grading), and 22.52.080 (Alternative Review) for full details on the exemptions. There is also a table available on the website that summarizes agricultural activities and the grading procedures.

- d. Will the same rules apply to the inland vs. coastal zones?

With regard to the thresholds for grading permits, there will be no difference between coastal and inland triggers.

5. Grading on slopes

- a. If grading is allowed to prepare new land for crop production or for grading on slopes less than 30 percent (where no fill is proposed), how does the 50-cubic yard threshold apply?

At 50 cubic yards, a grading permit is required. Agricultural grading on slopes of less than 30 percent can be exempted. A form is required to be filled out and filed with the Department of Planning and Building.

- b. What is the procedure proposed for grading over 30 percent slope?

Grading for crop production (orchards/vineyards) on slopes over 30 percent may go through the alternative review process. This requires completing a form and filing it with the Department of Planning and Building for verification. Then, the applicant may go through the Resource Conservation District for review and approval.

- c. Is the 30-percent trigger proposed for the coastal zone? How would that work?

The 30 percent trigger for alternative review is intended to be the same in coastal and inland ordinances.

6. Ag Roads

- a. Will all new ag roads be required to go through alternative review?

Yes, if they involve 50 cubic yards or more of site work (most will). Alternatively, they can apply for a grading permit.

- b. Does this differ between inland and coastal?

No. The process will be almost identical. Please note that *land use permit* requirements may differ. This is outside of the scope of the grading ordinance and is not proposed to be changed.

- c. Will maintenance of existing roads be exempt? Inland and coastal?

There is an exemption available for routine maintenance of existing legally established roads where length and width will not be increased.

- d. Will there be rules regarding slope for ag roads? Inland and coastal?

There is no trigger for slopes on ag roads under this proposal.

7. Alternative Review – Coastal Zone

- a. Please explain how the alternative review program will be applied in the coastal zone.

The program is discussed above under **5. Grading on slopes**. For roads and ponds, Agricultural Commissioner review will also be required. In rare situations where a Coastal Development Permit is required for an activity and will not otherwise be issued (i.e. through a Minor Use Permit), the Director's approval of alternative review can constitute issuance of a Coastal Development Permit.

- b. Will the Planning Director need to approve first?

Yes.

- c. What is involved with a plot plan and Coastal Development Permit?

Please review Chapter 23.03 of the Coastal Zone Land Use Ordinance. These procedures will not be affected by the proposed ordinance revisions.

- d. Coastal Commission appeal projects would also require a minor use permit?

Yes. Grading in an appealable area (as defined by the Coastal Zone Land Use Ordinance) will trigger a Minor Use Permit.

- e. How do all these requirements add up to in terms of time and cost?

Agricultural grading (i.e. completing and filing a form with the Department of Planning and Building) is not anticipated to have a cost associated with it. The applicant needs to file the form before grading, but there will be no approval process and no delay.

For estimates on alternative review costs and timing, please contact your local Resource Conservation District.

Most agricultural practices can be accommodated either through agricultural grading or alternative review. If the applicant chooses instead to pursue a grading permit, permit costs can range from \$1,063 to over \$7,000, depending on scope, complexity, and the currently adopted fee schedule. Processing time can be as quick as one month for minor grading permits with a very limited scope to over 6 months for major grading permits with environmental issues.

- f. How does this differ from what's currently on the books?

Please review the staff reports for the previous hearings for a detailed discussion on what regulations are changing (staff reports are available on the website). A summary table on agricultural exemptions also provides some insight into agricultural grading changes in the inland area. In the coastal area, only cultivation practices qualified as exempt. Other practices (e.g. roads) required grading permits. Alternative review is a new feature to the coastal zone.

8. General Questions

- a. If the new rules are meant to deter harmful practices, acknowledged by many as perpetrated by developers under the guise of agriculture, what other options have been explored to resolve problems?

Staff has had problems enforcing the current ordinance due to loopholes and difficulty in interpretation. To address this, amendment to the ordinance would be necessary.

Other options that were considered were requiring *all* agricultural practices to go through RCD alternative review and requiring *all* agricultural practices (including ongoing) to file forms with Planning and Building for review and approval. These options were rejected, in part, because they would be too burdensome.

- b. These new rules feel punitive to the majority of local agriculturalists who are already doing the right thing. How can this be resolved?

The current proposal provides agricultural grading and straight exemption options for most agricultural practices.

Alternative review is available for other practices such as roads and crop production (orchards/vineyards) over 30 percent. These are the practices that are most prone to erosion and sedimentation. Testimony at the December ALAB meeting indicated that *some* agriculturalists are not applying appropriate agricultural practices. Alternative review is intended not to be punitive, but rather to best guide agriculturalists through the appropriate management procedures without having to deal with the County grading permit process. We see this as a collaborative option which also ensures that erosion and sedimentation issues will be addressed.

- c. What agriculture organizations were consulted about necessary agricultural practices, common measures taken to reduce erosion and other problems, and the potential impacts the new grading rules might have on the sustainability of agriculture as a viable business?

The draft ordinance was presented at three ALAB meetings.

The Agricultural Commissioner's office and Upper Salinas-Las Tablas RCD were consulted in the preparation of the drafts.

Comments were received from both county RCDs, the Farm Bureau, and the Paso Robles Wine Country Alliance.

County staff held a separate meeting with representatives from the Farm Bureau and Paso Robles Wine Country Alliance to discuss the proposed changes.

Several ideas and revisions received from all of these organizations were incorporated into the most recent draft.