

ATTACHMENT 1

A Guide for Applying Streams and Creeks Setbacks to Exempt Hoop Structures and Shade Structures

A. Purpose

Hoop structures and shade structures (a.k.a. crop protection structures) 20 ft. or less in height do not require a permit on land zoned Agricultural-I (AG-I) and Agricultural-II (AG-II) in the inland area if they comply with certain development standards. The County Land Use and Development Code (LUDC) requires a setback between exempt crop protection structures and the top-of-bank or edge of riparian vegetation of streams and creeks, whichever is more protective of the resource: 100 feet in Rural areas and 50 feet in Urban, Inner Rural and Existing Development Rural Neighborhood areas (LUDC Subsection 35.42.140.C.3.a.(4)).

The purpose of this guide is to assist a landowner with determining when waterways are considered “streams and creeks” so as to require a setback of crop protection structures. This guide is not a regulatory document, and only is intended to provide additional information for consideration when determining whether a crop protection structure is subject to the setback requirement.

B. General Guidance

1. **Consult criteria.** Consult the criteria presented in Table 1, below.
2. **Weigh options.** When the decision to require the setback is not obvious based on the criteria in Table 1, a landowner should rely on personal knowledge of the waterway and the general criteria presented in this guidance document to determine whether the waterway is a stream or creek that then requires the setback. If the landowner is uncertain, the landowner can:
 - a. Hire a qualified professional in biology or botany for assistance.
 - b. Consult with County staff (who might require input from a qualified professional), apply for a formal exemption, or apply for a permit.
 - c. Adhere to the setback.
3. **Advisory – relocated or modified streams and creeks.** Careful consideration of existing conditions is required when determining whether the setback for crop protection structures is required on existing farm fields that are adjacent to relocated or modified streams and creeks.

New modifications to a stream or creek would require permits or authorization from state and federal agencies (e.g., a streambed alteration agreement from the California Department of Fish and Wildlife (CDFW) and/or an equivalent authorization from the U.S. Army Corp of Engineers). Please note that permits may not have been required in the past for activities that currently require permits from these agencies. It is the landowner’s responsibility to ensure the property is in compliance with state and federal regulations.

This guidance document considers the existing conditions of the stream or creek for application of the setback when using crop protection structures. Any modification of a stream or creek, such as removal of riparian vegetation, in an effort to use crop protection structures without the setback, may result in noncompliance with state or federal regulations, and potentially County regulations.

Table 1 – General Criteria to Assist with Determining Application of the Setback to Hoop Structures and Shade Structures

Setback Required ¹	Setback Might Apply	Setback Not Required
<ul style="list-style-type: none"> • USGS 7.5-minute quad blue line (solid or dashed) and/or NWI stream/creek, <u>and</u>: <ul style="list-style-type: none"> ○ Waterway not created by humans, and ○ Evidence of flowing water (either extant or intermittent), and ○ Defined bed/bank, and ○ Riparian vegetation present. • Not USGS or NWI stream/creek, <u>but</u>: <ul style="list-style-type: none"> ○ Waterway not created by humans, and ○ Evidence of flowing water (either extant or intermittent), and ○ Defined bed/bank, and ○ Riparian vegetation present. 	<ul style="list-style-type: none"> • A dam, bridge, culvert, or in-stream crossing represent degrees of human alteration. <ul style="list-style-type: none"> ○ At the location of the dam, bridge, etc. the setback likely would not apply. ○ In general, upstream or downstream of such human alterations the setback would apply if the waterway meets the criteria in the “Setback Required” column. • Waterway relocated or modified to accommodate a farm field, with established vegetation.² • Waterway created or modified by humans, lined in concrete or riprap, with vegetation of unknown habitat value. 	<ul style="list-style-type: none"> • Waterway created or modified by humans, lined in concrete or riprap, no vegetation. • Waterway purposely created by humans for drainage, such as a drainage channel between a farm field and a road, or between two farm fields, no vegetation. • Waterway that was relocated or modified to accommodate a farm field, no vegetation. • Where a levee or public road separates a farm field from a river, stream, or creek. • Where a USGS blue line traverses a field that appears to have been farmed for many years; i.e., the facts on the ground, such as no bed, no bank, no riparian vegetation, no longer support the blue line mapping in that location.

¹ The physical traits listed herein describe the features of streams and creeks. If all are present, the setback applies. If any one of the physical traits are not present, the waterway might fall within the “Setback Might Apply” category. However, in most cases, the waterway would likely be considered a stream or creek and setbacks would apply. For example, streams and creeks that are dry for most of the year may have little to no riparian vegetation but would still qualify as a stream and require the setback (e.g., the Cuyama River.).

² This example likely provides wildlife habitat, especially if native riparian vegetation has established. The setback is intended to protect wildlife habitat; thus, the setback likely applies. However, site-specific circumstances will be key determining factors.

Useful Definitions

USGS. United States Geological Survey. This federal agency maps streams, creeks, and rivers on topographic maps throughout the United States.

NWI. National Wetlands Inventory. The federal government generates the NWI, which provides maps of streams and creeks. Most correspond to USGS blue lines but not in all instances. NWI may include some additional smaller order creeks located higher in watersheds and closer to headwaters.

Riparian vegetation. Vegetation normally found along the banks and beds of streams, creeks, and rivers. Examples include, but are not limited to, trees such as sycamore, cottonwood, alder, and willow, and other water loving plants such as willow shrubs, cattails, rushes, mule fat, etc.