



SUMMARY REPORT

Agenda Date: 9/19/2023

To: Board of Supervisors, County of Sonoma

Department or Agency Name(s): Sheriff's Office, Agriculture/Weights & Measures, Office of Equity, Emergency Management

Staff Name and Phone Number: James Naugle / 565-2781; Andrew Smith / 565-2371; Alegría De La Cruz / 565-8709; Jeffrey DuVall / 565-1152

Vote Requirement: Majority

Supervisorial District(s): All Districts

Title:

County Agriculture Access Verification Program Review

Recommended Action:

- A) Receive an update from staff on the County's Agriculture Access Verification Program.
- B) Review for Board Policy Consideration program options and data, which includes the option to adopt a Resolution to rescind the current program and replace it with a modified program with a delegation of authority to the Sheriff to develop, implement, and administer the program consistent with Board established parameters on the exercise of that delegated authority.

Executive Summary:

It has been one year since the Board adopted the current Agricultural Access Verification Program. In that time, and as of the date of this staff report was written, the County has not experienced a major wildfire event in which cards issued under the Program were presented and utilized in the field under emergency circumstances. Those who have received cards have obtained safety training and have had certain data collected and information verified, including their identity, connection to a bona fide commercial agricultural operation, and the nature of the critical and essential activities currently allowed in this program for which the card holder may seek access. Because current enrollment likely does not reflect the numbers of persons who may seek access during an emergency event, law enforcement expects significant numbers of agricultural operations to seek access during an event who are not pre-vetted, or individuals who do not evacuate in the first instance, despite evacuation orders.

On June 6, 2023, your Board directed placing an item on the Board's agenda to allow discussion of the program and alternatives and delegation to the Sheriff. This item reviews the current program and presents various survey data and information on other counties' programs. It also outlines basic program alternatives and provides a Resolution for program modifications for your Board's consideration. Included, for Board Policy consideration and not a staff recommendation, is a resolution, that if adopted, would rescind the current program and replace it with a modified program that addresses access for livestock and plant agricultural interests and delegates administration to the Sheriff's Office. Note, that the Sheriff's discretion to develop administrative rules, applications, and program materials, and to implement and administer the revised program would be constrained by the parameters set in the attached Resolution, but otherwise would allow for flexibility and an ability to respond to changing needs without returning to the Board.

This staff report does not apply the Board report template steps considered by the [Board on 11/17/2020](#). Please see discussion below addressing Equity Officer's review.

Background:

On August 30, 2022, your Board adopted a resolution establishing a County Agricultural Access Verification Card Program ("Program") and delegating authority to the Sheriff to lead administration of the Program. As part of the August 30, 2022, item, staff also included a detailed Program document. The purpose of the current Program is to provide a uniform and efficient method to identify to law enforcement and other emergency personnel those persons who are commercial plant agriculture farm owner-operators, livestock producers, and their direct full-time employees. The Program acknowledges that the ability to provide some degree of access into evacuated areas for commercial agricultural operations will support greater compliance with evacuation orders.

The Program was developed with Board Ad Hoc committee participation, with input from a significant and diverse number of stakeholders during engagement efforts and following a policy workshop held on July 19, 2022. The adopted Program covers both plant and livestock commercial agricultural producers and sets out various requirements for obtaining a card.

The Board's action adopting the current Program was made pursuant to its police power to protect the public health, safety, and general welfare, and pursuant to its broad discretionary powers related to emergencies and natural disasters under the California Emergency Services Act (Cal. Gov. Code Section 8550 et seq.); and was in consideration of additional authorities, including Section 2350 of the California Food and Agricultural Code, which was part of the 2021 livestock pass state legislation known as AB 1103. Specific details of the program are included in the Discussion section below.

Discussion:

The Current Agricultural Access Verification Card Program

Under the Program, owners and full-time employees may apply for an Agricultural Access Verification Card. To obtain these cards, qualified individuals must voluntarily apply and must go through a four-hour training program (available in English and Spanish). Further, applicants/owners must meet additional criteria outlined in Attachment 1. The cards issued include a photo ID that quickly allow emergency personnel in the field to assess the Card holder's identity, training, and that the purpose for entry is to conduct certain critical activities.

Cards do not under any circumstance guarantee access to an evacuation zone, and it is always in the discretion of law enforcement personnel to determine whether entry is safe and can be allowed on a case-by-case basis given circumstances on the ground at any given time.

The current Program considers the following to be critical activities:

1. Evacuating, transporting, sheltering, feeding, watering, administering veterinary or other care to livestock;

2. Irrigating crops;
3. Fueling emergency generators or providing auxiliary support to peace officers and emergency personnel (such as identifying access roads and water points).

These current critical activities both reflect the limited allowable activities pursuant to State legislation Assembly Bill 1103 Agricultural lands: livestock producers: managerial employees: livestock pass program: disaster access to ranch lands related to livestock, and expand into crop agriculture.

There are several conditions of use for holders of Ag Access Verification Cards:

1. Ag Access Verification Cards will only be used when safe to do so as determined by public safety officials managing the incident response.
2. An Ag Access Verification Card does not grant permission to ignore evacuation orders or guarantee automatic entry.
3. Ag Access Verification Card holders must comply with all directions from law enforcement and other emergency personnel.
4. Access will not be granted outside of daylight hours and those granted access must exit prior to sunset.
5. Onsite law enforcement or other emergency personnel may place a limit on time spent behind any road closure.
6. All persons must depart the restricted area by the same route they entered.
7. A law enforcement and other emergency personnel escort may be required at the discretion of onsite law enforcement or other emergency personnel.
8. Each person seeking entry must have their Ag Access Verification Card in their possession. Ex. If three people in one car seek to enter an evacuated area, ALL THREE people must possess their Ag Access Verification Card.
9. Individuals inside the evacuated areas must have their Ag Access Verification Card with them at all times and be able to present it to law enforcement - even if the Ag Access Verification Card was already inspected at a road closure checkpoint. On-scene law enforcement maintains full discretion to remove individuals who are unable to present their Ag Access Verification Card.
10. All individuals who were provided access into an evacuated area must leave immediately if directed to do so by law enforcement or other emergency personnel.

Currently, 168 applications have been received; of those, only 103 cards have been issued. A summary of applications by type and application issuance status is available in Attachment 3.

By comparison, during the 2017/2019/2020 fires, over 400 businesses contacted the Sheriff's and Agricultural Commissioner's Offices requesting emergency access to their properties.

To better understand participation, the Agriculture/Weights & Measures in collaboration with UC Cooperative Extension surveyed fire safety training course participants. The survey resulted in 71 responses. Please see Attachment 4 for survey results.

Neighboring Counties' Pass Programs

In addition to Sonoma County's program, Mendocino, Lake, Napa, Solano, and Marin counties have Ag/Livestock pass programs in place. Each county's program allows access to livestock and plant agriculture, each varying on allowed activities and limits on the number of person(s) for access. Please see Attachment 5 for additional information.

Options

Consistent with the Board's June 6th, 2023, request, staff has returned with this item for a review of the current program, discussion of possible program alternatives, and a proposed resolution to modify the existing program and delegate additional authority to the Sheriff's Office to administer the program. The options, including adoption of the proposed resolution, are summarized as follows:

1. To maintain the current program, take no action.
2. For access for livestock producers only, provide direction to staff to bring back an item to repeal the current program and immediately replace it with a livestock-only program that delegates authority to the Sheriff (or Ag Commissioner) to develop a program consistent with state law AB 1103.
3. To maintain a program for access for livestock and plant agricultural interests and provide the Sheriff greater flexibility in program administration, consider, and adopt the proposed resolution, which would repeal the current program and replace it with a revised program that expands potential access and increases the number of individuals behind evacuation zone lines by expanding the definition of critical agricultural activities. The resolution would modify the definition of critical agricultural activities to be defined as those that are time-sensitive and necessary to avoid loss or damage and may include harvesting crops, milking cows, monitoring fermentation, collecting dairy samples and other agricultural and processing activities. The modifications would no longer require training to be in person if approved by the Sheriff. The resolution would also delegate authority to the Sheriff to develop, implement, and administer the program, including conditions of use consistent with the resolution. The proposed resolution contains requirements to constrain and guide the exercise of the Sheriff's discretion under the delegation to achieve the Board's program and policy goals.

Staff notes that on February 15, 2023, California State Assembly, AB-1141 was introduced. It is currently pending in the State Senate with committee. AB-1141, if adopted, would essentially expand the state's livestock pass program to include plant agriculture. If AB-1141 is adopted, staff recommends again revisiting the County's program to see if changes are appropriate.

Equity Officer Review

Identified program revisions have not followed the established staff report template steps for significant policy decisions, ([see 11/17/2020 Board of Supervisors Administrative Updates item <https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=4696623&GUID=1CF2D7CE-CAE8-4480-866C-E57DB4FD0EEC&Options=&Search=>](https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=4696623&GUID=1CF2D7CE-CAE8-4480-866C-E57DB4FD0EEC&Options=&Search=>)) which include the following: apply the Race Equity Toolkit; consult with the Office of Equity to review the application of the Race Equity Toolkit; hold a workshop to discuss the policy options with the Board and the public; meet with community stakeholders; schedule individual meetings with the Board to provide an update on these recommendations; post the recommended policy options on the Board of Supervisors Items of Significant Interest website 30 days in advance of the scheduled adoption date; and, bring the final policy option before the Board for adoption at a scheduled Board of Supervisors meeting. Instead, those steps have been foreclosed here, and these policy options are being daylighted for the first time here for possible approval in one step.

A significant departure from this typical procedure also forecloses identification of disproportional risks to certain community members and consideration of mitigation measures to address the disproportional risks at issue with a significant expansion of the number of people behind evacuation zone lines during a wildfire emergency, the delegation of program implementation, monitoring, and compliance to the Sheriff's Office, and the enforcement mechanism to ensure compliance with the Board's delegation of its legislative authority. The County recognizes that equity is grounded in new processes where the voices and contributions of people of color, low-income and other underrepresented or underserved communities identify solutions to achieve that outcome. Achieving equity usually requires seeing, thinking, and working differently to address the harms that have caused racial inequities.

See Attachment 8 for Equity Office analysis review.

Strategic Plan:

N/A.

Racial Equity:

See Attachment 8 for Equity Office analysis review.

Was this item identified as an opportunity to apply the Racial Equity Toolkit?

Choose an item.

This item was not included in the Board accepted 2023 Significant Items Calendar. Therefore, it was not in the inventory of items identified for Racial Equity Analysis. However, the County's Equity Office has provided in Attachment 8 an analysis summary review of prior equity data and mitigation measures from 2022.

Prior Board Actions:

June 6, 2023: Wildfire Preparedness Update; Review the County's wildfire preparedness capabilities.

August 30, 2022: The Board of Supervisors adopted the Agriculture Access Verification Resolution #2022-0338.

July 19, 2022: Conducted a community workshop on Agriculture Access into Evacuated Areas and directed staff to return to the Board on August 30, 2022, with updated information on legal authorities relevant to

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establishing an access program and recommendations regarding program scope and administration.

June 15, 2022: Budget Hearings: Board set aside \$2,000,000 to support an Immediate Needs Disaster Fund and \$1,000,000 to support a proposed Low Wage Disaster Pay Program.

May 3, 2022: Received a status report on efforts to date by the Evacuation Zone Access Ad Hoc Committee.

February 1, 2022: Established an Evacuation Zone Access Ad Hoc Committee

FISCAL SUMMARY

| Expenditures | FY23-24 Adopted | FY24-25 Projected | FY25-26 Projected |
|------------------------------------|----------------------------|------------------------------|------------------------------|
| Budgeted Expenses | | | |
| Additional Appropriation Requested | | | |
| Total Expenditures | | | |
| Funding Sources | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | | | |
| Contingencies | | | |
| Total Sources | | | |

Narrative Explanation of Fiscal Impacts:

N/A

Narrative Explanation of Staffing Impacts (If Required):

None.

Attachments:

Attachment 1: Sonoma County Ag Pass Application Requirements and Minimum Wildfire Zone Safety Training

Attachment 2: California State Incident Safety for Agriculture Lands and Livestock Procedures Course Plan

Attachment 3: Sonoma County Agricultural Verification Pass Application Summary and Status

Attachment 4: UC Cooperative Extension Ag Pass Survey Results

Attachment 5: CA Statewide Survey Results of County Agriculture Access Programs

Attachment 6: Resolution

Attachment 7A: PowerPoint Presentation_English

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Adjunto 7B: Presentación de PowerPoint_Español

Attachment 8: 2022 Demographic Data & Equity Mitigation Measures

Related Items “On File” with the Clerk of the Board:

None.