

Date: July 18, 2023
To: State Board of Agriculture members
From: Karla Valness, Senior Policy Advisor
Subject: Resolutions

Based on the Board Policy and Procedures for Resolutions, the following resolutions are scheduled for review in 2023.

Proposed action: ACTIVE Resolutions - For review and discussion*

Resolution	Title	Workgroup A—ODA Lead: Isaak Stapleton, Chris Benemann, Jess Paulson Board members: Allen, Lopez, Orem, Santamaria, Zielinski
269	Board of Agriculture Supports Development of Biofuels in Oregon	Hold for further review and comments.
305	The Native Plant Conservation Program	Keep active with proposed edits to background statement and update to Resolution statement. Edits are posted for public comment.

Proposed action: ACTIVE Resolutions - For review and discussion*

Resolution	Title	Workgroup B—ODA Lead: Jim Johnson, Rusty Rock Board members: Boyer, Harper, Johnson, Miller, Svaty
295	Protection of Oregon Agriculture	Hold for further review and comments.
310	Siting of agri-tourism, entertainment activities and associated activities on agricultural lands	Hold for further review and comments.

* The State Board of Agriculture will be accepting public comment on these resolutions during public comment opportunities listed on the board agenda for August 2023.

For a list of State Board of Agriculture Resolutions go to: <https://oda.direct/BOAResolutions>

Work sessions are open to the public.

Public Comment

Written comments – All written comments received will be posted on the ODA website and will be provided to the Board in advance of the meeting. Submit your written comments by email to: Karla Valness at karla.valness@oda.oregon.gov by **5:00 PM on Thursday, August 3, 2023**.

Verbal comments – Verbal comments are limited to three minutes and will be heard in the public comment period on Wednesday, August 16, or Thursday, August 17, 2023.

In-person	Remote
To provide verbal comments in-person you must sign-up, prior to the comment period on the agenda, at the meeting and provide your name and organization.	To provide verbal comment remotely, you must contact Karla Valness at karla.valness@oda.oregon.gov by 5:00 pm on Thursday, August 3, 2023 , and provide the following information:

If you have written material as part of your public comment, please provide the board assistant with 20 copies prior to your testimony. Comment time is limited to three minutes per person.

- Date you plan to provide verbal comments (August 16 or August 17)
- Your first and last name
- The topic of your comment
- The telephone number you will be using when calling the meeting.

Oregon State Board of Agriculture Resolution	
Title: Board of Agriculture Supports Development of Biofuels in Oregon	Number: 269 Effective Date: updated upon 2023 review
Workgroup: Allen, Lopez, Orem, Santamaria, Zielinski ODA Staff Contact: Jess Paulson	Next Review Date: 00/00/2023 – Under Review Date of Last Review/Revision: 12/02/2020 Original Resolution Date: 03/16/2005
Board Chair: Updated upon 2023 review	Signature on file

Proposed action: Active Resolution under review

Background

WHEREAS the use of biofuels provide an alternative to the use of fossil fuels and may assist in reducing greenhouse gas emissions.

WHEREAS biofuels are a renewable source of energy.

WHEREAS the State Board of Agriculture supports building in-state capacity to produce biofuels.

WHEREAS the State Board of Agriculture recognizes the Oregon Renewable Fuel Standard (RFS) that mandates biodiesel and ethanol in Oregon’s motor fuels and requires the Oregon Department of Agriculture (ODA) to study and monitor biodiesel and ethanol fuel production, use, and sales in Oregon and to regulate and enforce the RFS.

WHEREAS the RFS provides exceptions for very specific applications i.e., aircraft, antique vehicles, all-terrain vehicles, watercraft and power tools and exempts premium-unleaded gasoline from the ethanol mandate.

WHEREAS the RFS states all diesel fuel sold or offered for sale in Oregon is required to contain a minimum of 5% by volume biodiesel, creating a B5 biodiesel blend, except for 1) railroad locomotives, 2) marine engines, and 3) home heating applications.

WHEREAS the ODA’s Motor Fuel Quality (MFQ) Program:

- Ensures that the 2.1 billion gallons of motor vehicle gasoline, diesel and biofuels currently sold in Oregon each year meet national standards and specifications (ASTM) for quality.
- Tests gasoline against its stated octane rating to make sure consumers are receiving the octane they are paying for.
- Enforces Oregon’s RFS.

WHEREAS Oregon’s Clean Fuel Program (CFP) is administered by the Oregon Department of Environmental Quality (ODEQ) pursuant to ORS 468A.275. The CFP will reduce the lifecycle greenhouse gas emissions generated by the use of transportation fuels in the State of Oregon by at least 10% below 2010 baseline levels by the year 2025 in part by providing incentives for the use of low carbon agriculturally derived fuels in Oregon’s transportation fuel market.

Resolution

Be it resolved that the State Board of Agriculture supports tax credits, property tax exemptions, siting assistance and other methods of promotion and use of biofuels, biofuel development, and biofuel processing in Oregon.

Be it further resolved that the Board supports Oregon's CFP. ODA will provide technical guidance and advice as may be necessary to promote the use of nationally recognized consensus-based transportation fuel quality standards in the administration of the CFP. ODA will assist in the development of nationally recognized consensus-based quality standards for new alternative transportation fuels as they become available in the market. ODA will provide transportation fuel quality testing services on a complaint basis as needed to help assess a fuel's eligibility for CFP benefits.

Be it further resolved that the Board feels any increase in resource requirements needed for the Oregon Department of Agriculture (ODA) related to monitoring, evaluating, and testing of biofuels shall be provided through fees paid into the Motor Fuel Quality (MFQ) account within ODA. Biofuel standards adopted by the Oregon Department of Agriculture shall be enforced by analysis on department equipment or through contracted laboratory services, according to established testing protocols.

Summary

Supports tax credits, property tax exemptions, siting assistance, and other methods of promoting the use of biofuels in Oregon. ODA will enforce adopted standards and analyze fuel on agency equipment or through private laboratories.

Proposed action: Active Resolution under review

Oregon State Board of Agriculture Resolution

Title: The Native Plant Conservation Program	Number: 305 Effective Date: 12/02/2020 <u>updated upon 2023 review</u>
Workgroup: <u>Allen, Lopez, Orem, Santamaria, Zielinski, Johnson, Kitamura, Myers, Raymond</u> ODA Staff Contact: Stephanie Page/Helmuth Røgg <u>Chris Benemann</u>	Next Review Date: 00/00/2023 – <u>Under Review</u> Date of Last Review/Revision: 12/02/2020 Original Resolution Date: 06/02/2010
Board Chair: Stephanie Hallock <u>Updated upon 2023 review</u>	Signature on file

Proposed action: Active Resolution under review

Background

WHEREAS the Native Plant Conservation Program assists state and local government agencies with the management and recovery plans of state protected plant populations found on their land.

WHEREAS the program issues permits for scientific research, the collection of, and for consultation for ~~taking research and habitat restoration~~ projects which involve~~ing~~ or may impact listed plant species.

WHEREAS the program conducts research to enhance protected plant species recovery efforts through data collection.

WHEREAS the Native Plant Conservation Program maintains the Oregon threatened and endangered plant list through periodic review of listed species and proposing recommendations to list new species based on acquired data-

Resolution

Be it resolved that the Oregon Board of Agriculture: recognizes the statutorily mandated responsibilities of the ODA's Native Plant Conservation Program.

~~It is further recognized that an adequately funded~~The -Native Plant Conservation Program is important to Oregon and implements projects specifically related to conservation of threatened and endangered plants, improving watershed health and wildlife habitat, and responds to consultation and permit requests.

Summary

Recognizes the statutorily mandated responsibilities of the Native Plant Conservation Program.

Proposed action: Active Resolution under review

Oregon State Board of Agriculture Resolution	
Title: Protection of Oregon Agriculture	Number: 295 Effective Date: 02/13/2020 <u>updated upon 2023 review</u>
Workgroup B: Boyer, Harper, Johnson, Miller, Svaty Boyer, Brentano, Hallock, Harper, Santamaria	Next Review Date: 00/00/2023 – <u>Under Review</u> Date of Last Review/Revision: 02/13/2020 Original Resolution Date: 02/13/2009
ODA Staff Contact: Jim Johnson	
Board Chair: Marty Myers <u>Updated upon 2023 review</u>	Signature on file

Proposed action: Active Resolution under review

Background

WHEREAS, the State Board of Agriculture is committed to supporting viable operations of agriculture throughout Oregon;

WHEREAS, the establishment of Exclusive Farm Use Zones (EFU) have supported the viable operation of farming in Oregon;

WHEREAS, waivers and exemptions of the land use laws developed to protect agricultural lands will most likely lead to location of large scale developments, new subdivisions and other nonfarm uses in and amongst ongoing farm and ranch operations; and

WHEREAS, deliberations regarding designation and treatment of agricultural lands under the statewide land use planning program have included the consideration of actions that could designate or treat differently many lands currently zoned exclusive farm use based on soil quality without accounting for land important to the state’s livestock, dairy and winegrape industries;

WHEREAS, the USDA NRCS agricultural capability classification system (Class I-VII) does not always adequately address the special and unique needs of certain high-value crops such as vineyards and orchards and is not designed to provide analysis on the value of range and pasturelands; and

WHEREAS many provisions currently found in state law provide opportunities to re-evaluate land use designations, and “rezone” lands when determined to be appropriate, and

WHEREAS irrigation is key element in maintaining the viability of the state’s agricultural industry.

WHEREAS decisions involving urban growth, the development of transportation and other infrastructure can impact the long-term viability of agriculture, and

WHEREAS the state land use system can be complex and difficult to understand in many areas.

Resolution

Be it resolved that the Oregon State Board of Agriculture:
 Resolution number: 295
 Resolution title: Protection of Oregon Agriculture

1. Reaffirms its commitment to protect viable farming operations in Oregon as a valuable natural and economic resource for our state.
2. Urges that waivers and exemptions to land use regulations not be granted without giving -due consideration to need and reasonable alternatives to impacting agricultural lands and operations.
3. Urges that programs dealing with compensation for land use limitations, such as the use of conservation easements [supported by the Oregon Agricultural Heritage Program](#), purchase of development rights and transfer of development rights, be developed to compliment the state land use program.
4. Supports protection of the state's viable grazing and vineyard lands and urges their continued protection as exclusive farm use lands and consideration as high-value farmland;
5. Urges consideration of other factors in addition to soils capability classification, when determining the value of land for high-value and specialty crops and range and pasture forage production.
6. Urges consideration of the impacts of nonresource related development on adjacent agricultural lands, including the sustainability of existing water rights in, any deliberations related to the definition, inventory and designation of agricultural lands.
7. Supports the evaluation, through the periodic review process, of the adequacy of county agricultural lands inventories and agricultural land zoning.
8. Supports the development of a state strategic plan that integrates land use, transportation [water supply](#) and economic development priorities.

Summary

Reaffirms commitment to protect viable farming operations in Oregon as a valuable natural and economic resource for the state.

Proposed action: Active Resolution under review

Oregon State Board of Agriculture Resolution

Title: Siting of Agri-tourism, Entertainment Activities and associated activities on Agricultural Lands	Number: 310 Effective Date: 09/23/2020 <u>updated upon 2023 review</u>
Workgroup B: Boyer, Harper, Johnson, Miller, SvatyBoyer, Hallock, Harper, Santamaria ODA Staff Contact: Jim Johnson	Next Review Date: 00/00/2023 – <u>Under Review</u> Date of Last Review/Revision: 09/23/2020 Original Resolution Date: 09/19/2012
Board Chair: Stephanie Hallock <u>Updated upon 2023 review</u>	Signature on file

Proposed action: Active Resolution under review

Background

Whereas the appropriate siting of commercial activities associated with farm use can be beneficial to operators and help to educate the public about Oregon agriculture;

Whereas there is increasing interest in the development of rural tourism and entertainment activities, many times in relation to agriculture;

Whereas increasingly there are many cases of such activities presenting compatibility issues with farming practices and presenting implications to rural infrastructure and services

Whereas issues have been raised relating to the uneven application of the laws dealing with the siting of agri-tourism, rural entertainment and commercial facilities related to farm use which may provide unfair competitive advantages to like operations;

Whereas "agri-tourism" related land uses are being authorized in the exclusive farm use (EFU) zone by several ways including: farm use (u-picks), room and board facilities, commercial use in conjunction with farm use, home occupations, wineries, restaurant in conjunction with winery, agri-tourism events, farm stands, eastern Oregon guest ranch, cider business, farm brewery and outdoor mass gatherings. Unlike the detailed provisions developed for wineries, most of these land uses are poorly or not defined at all in statute or administrative rule.

Whereas the 2011 Legislature established land use laws dealing with some of these issues including SB 960 [ORS 215.213(11), (12) and (13) and 215.283(4), (5) and (6)] , and HB 3280 [ORS 215.452, 215.213(1)(p) and 215.283(1)(n)] issues remain relating to uneven application, definition and context of specific land uses and the continued use of laws that are set to sunset:

Resolution

Be it resolved that the Oregon State Board of Agriculture:

1. Supports the use of agricultural lands for activities related to entertainment and tourism and other events only under strictly defined circumstances.
2. When defining circumstances, the Board supports the following considerations:

- a. The proposed agri-tourism use is determined to be directly related to commercial farm use or processing activities occurring on the subject farm or ranch operation;
 - b. The proposed agri-tourism use is determined to be incidental and subordinate to the farm use of the subject operation. An activity should be considered to be incidental and subordinate if found to be accessory to, supplement or be adjunct to the farm use (as defined in state statute) of the subject farm operation and if it supports farm use. Such a determination should be made on the basis of standards established that are similar to those enacted by the Legislature in SB 960 (2012) codified in ORS 215.213(4) and 215.283(4) and “defined by the Oregon Court of Appeals in *Friends of Yamhill County v. Yamhill County*, 301 Or App 726 (2020).
 - c. The proposed agri-tourism use is determined to be compatible or can be made compatible with other area farming and ranch operations. Compatibility evaluation should include all activities and events, including those that are not considered a “land use” under Oregon law. Such an evaluation needs to recognize the diversity of Oregon agriculture and the associated agricultural practices that are or may become common to area farms and ranches. Compatibility should also be based on an analysis of the cumulative impacts that existing and proposed activities could have on area farm and ranch operations.
3. Supports better definition of what comprises certain land uses established by law in the exclusive farm use zone that are currently being used to authorized agri-tourism related activities. Examples include “winery,” “commercial use in conjunction with farm use,” “home occupation,” “private parks” and “mass gatherings.”
 4. Supports land use standards that assure that any food service related to bonafide, regular and ongoing agri-tourism events compliment and are accessory to the agri-tourism activity and associated farm use.
 5. Urges the department to work with stakeholder-community partnersgroups to better define the circumstances when commercial activities are appropriate on agricultural lands. The board recognizes that the development of criteria that best protects agriculture and the general public involves many complicated issues. The board advises a comprehensive evaluation and analysis, including an analysis of the cumulative impacts to agricultural operation, before any proposed actions are taken.
 - 5.6. Recommends that the Land Conservation and Development Commission (LCDC) consider the development of a detailed definition of what "agri-tourism" entails.
 - 6.7. Supports consistent and even application of land use standards relating to agri-tourism to and for all types of agricultural operations, similar to what was enacted by the Legislature in SB 960.
 - 7.8. This action repeals and replaces Resolution No. 304.

Summary

Siting of agri-tourism, entertainment activities and associated activities on agricultural lands.

Proposed action: Active Resolution under review