

Effective 7/1/2017

**Part 1
General Provisions**

4-18-101 Title.

This chapter is known as the "Conservation Commission Act."

Renumbered and Amended by Chapter 227, 2013 General Session

4-18-102 Findings and declarations -- Duties.

- (1) In addition to the policy provided in Section 4-46-101, the Legislature finds and declares that:
 - (a) the soil and water resources of this state constitute one of the state's basic assets; and
 - (b) the preservation of soil and water resources requires planning and programs to ensure:
 - (i) the development and use of soil and water resources; and
 - (ii) soil and water resources' protection from the adverse effects of wind and water erosion, sediment, and sediment related pollutants.
- (2) The Legislature finds that local production of food is essential for:
 - (a) the security of the state's food supply; and
 - (b) the self-sufficiency of the state's citizens.
- (3) The Legislature finds that sustainable agriculture is critical to:
 - (a) the success of rural communities;
 - (b) the historical culture of the state;
 - (c) maintaining healthy farmland;
 - (d) maintaining high water quality;
 - (e) maintaining abundant wildlife;
 - (f) high-quality recreation for citizens of the state; and
 - (g) helping to stabilize the state economy.
- (4) The Legislature finds that livestock grazing on public lands is important for the proper management, maintenance, and health of public lands in the state.
- (5) The Legislature encourages each agricultural producer in the state to operate in a reasonable and responsible manner to maintain the integrity of soil, water, and air.
- (6) The department shall administer the Utah Agriculture Certificate of Environmental Stewardship Program, created in Section 4-18-107, to encourage each agricultural producer in this state to operate in a reasonable and responsible manner to maintain the integrity of the state's resources.
- (7) The Legislature finds that soil health is essential to protecting the state's soil and water resources, bolstering the state's food supply, and sustaining the state's agricultural industry.

Amended by Chapter 68, 2022 General Session

4-18-103 Definitions.

As used in this chapter:

- (1)
 - (a) "Agricultural discharge" means the release of agriculture water from the property of a farm, ranch, or feedlot that:
 - (i) pollutes a surface body of water, including a stream, lake, pond, marshland, watercourse, waterway, river, ditch, or other water conveyance system;

- (ii) pollutes ground water; or
- (iii) constitutes a significant nuisance to urban land.
- (b) "Agricultural discharge" does not include:
 - (i) runoff from a farm, ranch, or feedlot, or the return flow of water from an irrigated field onto land that is not part of a body of water; or
 - (ii) a release of water from a farm, ranch, or feedlot into a normally dry water conveyance leading to an active body of water, if the release does not reach the water of a lake, pond, stream, marshland, river, or other active body of water.
- (2) "Agricultural operation" means a farm, ranch, or animal feeding operation.
- (3) "Agriculture water" means:
 - (a) water used by a farm, ranch, or feedlot for the production of food, fiber, or fuel;
 - (b) the return flow of water from irrigated agriculture; or
 - (c) agricultural storm water runoff.
- (4) "Alternate" means a substitute for a district supervisor if the district supervisor cannot attend a meeting.
- (5)
 - (a) "Animal feeding operation" means a facility where animals, other than aquatic animals, are stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period.
 - (b) "Animal feeding operation" does not include an operation where animals are in areas such as pastures or rangeland that sustain crops or forage growth during the normal growing season.
- (6) "Best management practices" means practices, including management policies and the use of technology, used by each sector of agriculture in the production of food and fiber that are commonly accepted practices, or that are at least as effective as commonly accepted practices, and that:
 - (a) protect the environment;
 - (b) protect human health;
 - (c) ensure the humane treatment of animals; and
 - (d) promote the financial viability of agricultural production.
- (7) "Certified agricultural operation" means an agricultural operation that is certified under the Utah Agriculture Certificate of Environmental Stewardship Program in accordance with Section 4-18-107.
- (8) "Certified conservation planner" means a planner of a state conservation district, or other qualified planner, that is approved by the commission to certify an agricultural operation under the Utah Agriculture Certificate of Environmental Stewardship Program, created in Section 4-18-107.
- (9) "Commission" means the Conservation Commission created in Section 4-18-104.
- (10) "Comprehensive nutrient management plan" or "nutrient management plan" means a plan to properly store, handle, and spread manure and other agricultural byproducts to:
 - (a) protect the environment; and
 - (b) provide nutrients for the production of crops.
- (11) "Coordinated resource management plan" means a plan of action created at a local level with broad participation of land owners, natural resource agencies, and interested stakeholders to protect or enhance the environment, human health, humane treatment of animals, and financial viability in the community.
- (12) "District" or "conservation district" has the same meaning as "conservation district" as defined in Section 17D-3-102.

- (13) "Pollution" means a harmful human-made or human-induced alteration to the water of the state, including an alteration to the chemical, physical, biological, or radiological integrity of water that harms the water of the state.
- (14) "State technical standards" means a collection of best management practices that will protect the environment in a reasonable and economical manner for each sector of agriculture as required by this chapter.
- (15) "Sustainable agriculture" means agriculture production and practices that promote:
 - (a) the environmental responsibility of owners and operators of farms, ranches, and feedlots; and
 - (b) the profitability of owners and operators of farms, ranches, and feedlots.

Amended by Chapter 383, 2014 General Session

4-18-104 Conservation Commission created -- Composition -- Appointment -- Terms -- Compensation -- Attorney general to provide legal assistance.

- (1) There is created within the department the Conservation Commission to perform the functions specified in this chapter.
- (2) The Conservation Commission shall be composed of:
 - (a) 12 voting members, including:
 - (i) the director of the Extension Service at Utah State University or the director's designee;
 - (ii) the executive director of the Department of Natural Resources or the executive director's designee;
 - (iii) the executive director of the Department of Environmental Quality or the executive director's designee;
 - (iv) the president of the County Weed Supervisors Association or the president's designee; and
 - (v) seven district supervisors who provide district representation on the commission on a multicounty basis; and
 - (b) the commissioner or the commissioner's designee.
- (3) If a district supervisor is unable to attend a meeting, the district supervisor may designate an alternate to serve in the place of the district supervisor for that meeting.
- (4) None of the members described in Subsection (2)(a)(v) or (3) may serve on an association that represents a conservation district.
- (5)
 - (a) The commissioner or the commissioner's designee shall serve as chair of the Conservation Commission.
 - (b) The commissioner or the commissioner's designee may not vote except in the event of a tie, in which case the commissioner or the commissioner's designee shall cast the deciding vote.
- (6) The members of the commission specified in Subsection (2)(a)(v) shall:
 - (a) be recommended by the commission to the governor; and
 - (b) be appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.
- (7)
 - (a) Except as required by Subsection (7)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (7)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.
 - (c) A commission member may not be appointed to more than two consecutive terms.

- (8) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (9) Attendance of six voting members of the commission at a meeting constitutes a quorum.
- (10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (11) The commission shall keep a record of the commission's actions.
- (12) The attorney general shall provide legal services to the commission upon request.
- (13) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Amended by Chapter 352, 2020 General Session

Amended by Chapter 373, 2020 General Session

4-18-105 Conservation Commission -- Functions and duties.

- (1) The commission shall:
 - (a) facilitate the development and implementation of the strategies and programs necessary to:
 - (i) protect, conserve, use, and develop the soil, water, and air resources of the state; and
 - (ii) promote the protection, integrity, and restoration of land for agricultural and other beneficial purposes;
 - (b) disseminate information regarding districts' activities and programs;
 - (c) supervise the formation, reorganization, or dissolution of districts according to the requirements of Title 17D, Chapter 3, Conservation District Act;
 - (d) prescribe uniform accounting and recordkeeping procedures for districts and require each district to submit annually the information required in Section 17D-3-103;
 - (e) approve and make loans for agricultural purposes, through the loan advisory board described in Section 4-18-106, from the Agriculture Resource Development Fund;
 - (f) seek to obtain and administer federal or state money in accordance with applicable federal or state guidelines and make loans or grants from that money to an eligible entity, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the preservation of soil, water, and air resources, or for a reason set forth in Section 4-18-108;
 - (g) seek to coordinate soil and water protection, conservation, and development activities and programs of state agencies, local governmental units, other states, special interest groups, and federal agencies;
 - (h) when assigned by the governor, when required by contract with the Department of Environmental Quality, or when required by contract with the United States Environmental Protection Agency:
 - (i) develop programs for the prevention, control, or abatement of new or existing pollution to the soil, water, or air of the state;
 - (ii) advise, consult, and cooperate with affected parties to further the purpose of this chapter;
 - (iii) conduct studies, investigations, research, and demonstrations relating to agricultural pollution issues;
 - (iv) give reasonable consideration in the exercise of its powers and duties to the economic impact on sustainable agriculture;

- (v) meet the requirements of federal law related to water and air pollution in the exercise of the commission's powers and duties; and
 - (vi) establish administrative penalties relating to agricultural discharges as defined in Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm; and
 - (i) coordinate with the Division of Conservation created in Section 4-46-401.
- (2) The commission may:
- (a) employ, with the approval of the department, an administrator and necessary technical experts and employees;
 - (b) execute contracts or other instruments necessary to exercise the commission's powers;
 - (c) take necessary action to promote and enforce the purpose and findings of Section 4-18-102;
 - (d) sue and be sued; and
 - (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and Subsections (2) (b) and (c).

Amended by Chapter 68, 2022 General Session

4-18-106 Agriculture Resource Development Fund -- Contents -- Use of fund money -- Advisory board.

- (1) As used in this section:
- (a) "Disaster" means an extraordinary circumstance, including a flood, drought, or fire, that results in:
 - (i) the president of the United States declaring an emergency or major disaster in the state;
 - (ii) the governor declaring a state of emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or
 - (iii) the chief executive officer of a local government declaring a local emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.
 - (b) "Local government" means the same as that term is defined in Section 53-2a-602.
- (2) There is created a revolving loan fund known as the Agriculture Resource Development Fund.
- (3) The Agriculture Resource Development Fund shall consist of:
- (a) money appropriated to the fund by the Legislature;
 - (b) sales and use tax receipts transferred to the fund in accordance with Section 59-12-103;
 - (c) money received for the repayment of loans made from the fund;
 - (d) money made available to the state for agriculture resource development from any source; and
 - (e) interest earned on the fund.
- (4) The commission may make loans from the Agriculture Resource Development Fund for:
- (a) a rangeland improvement and management project;
 - (b) a watershed protection or flood prevention project;
 - (c) a soil and water conservation project;
 - (d) a program designed to promote energy efficient farming practices;
 - (e) an improvement program for agriculture product storage or program designed to protect a crop or animal resource;
 - (f) a hydroponic or aquaponic system;
 - (g) a project or program to improve water quality;
 - (h) a project to address other environmental issues; or
 - (i) subject to Subsection (5), a disaster relief program designed to aid the sustainability of agriculture during and immediately following a disaster.
- (5)

- (a) Loans made through a disaster relief program described in Subsection (4)(i) may not comprise more than 10% of the funds appropriated by the Legislature to the Agriculture Resource Development Fund.
- (b) Notwithstanding Subsection (5)(a), the department may use all money appropriated to the Agriculture Resource Development Fund by the Legislature or another source, without limitation, if the money is appropriated specifically for use in a disaster relief program.
- (c)
 - (i) Until December 31, 2024, the department is authorized to borrow up to \$3,000,000 of General Fund appropriations from the Agricultural Water Optimization Account created in Section 73-10g-204 to be used in making loans through a disaster relief program described in Subsection (4)(i).
 - (ii) If the department borrows from the Agricultural Water Optimization Account under Subsection (5)(c)(i), the department shall deposit the repayment of principal and interest on loans made through a disaster relief program, regardless of the source of the funds used to make those loans, into the Agricultural Water Optimization Account, with preference over the repayment of any other source of funds, until the Agricultural Water Optimization Account is repaid in full.
- (6) The commission may appoint an advisory board to:
 - (a) oversee the award process for loans, as described in this section;
 - (b) approve loans; and
 - (c) recommend policies and procedures for the Agriculture Resource Development Fund that are consistent with statute.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 178, 2019 General Session

4-18-107 Utah Agriculture Certificate of Environmental Stewardship Program.

- (1) There is created the Utah Agriculture Certificate of Environmental Stewardship Program.
- (2) The commission, with the assistance of the department and with the advice of the Water Quality Board created in Section 19-1-106, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act that establish:
 - (a)
 - (i) best management practices;
 - (ii) state technical standards; and
 - (iii) guidelines for nutrient management plans;
 - (b) requirements for qualification under the Utah Agriculture Certificate of Environmental Stewardship Program that:
 - (i) are consistent with sustainable agriculture;
 - (ii) help prevent harm to the environment, including prevention of an agricultural discharge; and
 - (iii) encourage agricultural operations in the state to follow:
 - (A) best management practices; and
 - (B) nutrient management plans that meet the state technical standards appropriate for each type of agricultural operation;
 - (c) the procedure for qualification under the Utah Agriculture Certificate of Environmental Stewardship Program;
 - (d) the requirements and certification process for an individual to become a certified conservation planner; and

- (e) standards and procedures for administering the Utah Agriculture Certificate of Environmental Stewardship Program, including:
 - (i) renewal of a certification under Subsection (4)(b);
 - (ii) investigation and revocation of a certification under Subsection (6); and
 - (iii) revocation of a certification under Subsection (7)(b).
- (3) An owner or operator of an agricultural operation may apply to certify the agricultural operation under the Utah Agriculture Certificate of Environmental Stewardship Program in accordance with this section.
- (4)
 - (a) Except as provided in Subsection (6) or (7), a certified agricultural operation remains certified for a period of five years after the day on which the agricultural operation becomes certified.
 - (b) A certified agricultural operation may, in accordance with commission rule, renew the certification for an additional five years to keep the certification for a total period of 10 years after the day on which the agricultural operation becomes certified.
- (5) Subject to review by the commissioner or the commissioner's designee, a certified conservation planner shall certify each qualifying agricultural operation that applies to the Utah Agriculture Certificate of Environmental Stewardship Program.
- (6)
 - (a) Upon request of the Department of Environmental Quality or upon receipt by the department of a citizen environmental complaint, the department shall, with the assistance of certified conservation planners as necessary, investigate a certified agricultural operation to determine whether the agricultural operation has committed a significant violation of the requirements of the Utah Agriculture Certificate of Environmental Stewardship Program.
 - (b) If, after completing an investigation described in Subsection (6)(a), the department determines that a certified agricultural operation has committed a significant violation of the requirements for the Utah Agriculture Certificate of Environmental Stewardship Program, the department shall report the violation to the commission.
 - (c) Upon receipt of a report described in Subsection (6)(b), the commission shall review the report and:
 - (i) revoke the agricultural operation's certification; or
 - (ii) set terms and conditions for the agricultural operation to maintain its certification.
- (7)
 - (a) If, for a certification renewal under Subsection (4)(b), or an investigation under Subsection (6)(a), the department requests access to a certified agricultural operation, the certified agricultural operation shall, at a reasonable time, allow access for the department to:
 - (i) inspect the agricultural operation; or
 - (ii) review the records of the agricultural operation.
 - (b) If a certified agricultural operation denies the department access as described in Subsection (7)(a), the commission may revoke the agricultural operation's certification.
- (8) If the commission changes a requirement of the Utah Agriculture Certificate of Environmental Stewardship Program after an agricultural operation is certified in accordance with former requirements, during the certification and renewal periods described in Subsections (4)(a) and (b) the agricultural operation may choose whether to abide by a new requirement, but the agricultural operation is not subject to the new requirement until the agricultural operation reapplies for certification.
- (9) Nothing in this section exempts an agricultural discharge made by a certified agricultural operation from the provisions of Subsection 19-5-105.5(3)(b).
- (10)

- (a) Except as provided in Subsections 19-5-105.6(2) and (3), a certified agriculture operation may not be required to implement additional projects or best management practices to address nonpoint source discharges.
- (b) The Division of Water Quality shall consider an agriculture operation's compliance with certification under an approved agriculture environmental stewardship program a mitigating factor for penalty purposes, as provided in Section 19-5-105.6.

Amended by Chapter 345, 2017 General Session

4-18-108 Grants for environmental improvement projects -- Criteria for award -- Duties of commission.

- (1) The commission may make a grant from the Agriculture Resource Development Fund, or from funds appropriated by the federal government, Legislature, or another entity, to an eligible entity, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:
 - (a) control or eradication of noxious weeds and invasive plant species in cooperation and coordination with a local weed board;
 - (b) the costs of plans or projects to improve manure management, control surface water runoff, or address other environmental issues on a farm or ranch operation, including the costs of preparing or implementing a nutrient management plan;
 - (c) the improvement of water quality;
 - (d) the development of watershed plans; or
 - (e) a program to address other environmental issues.
- (2)
 - (a) In awarding a grant, the commission shall consider the following criteria:
 - (i) the ability of the grantee to pay for the costs of proposed plans or projects;
 - (ii) the availability of:
 - (A) matching funds provided by the grantee or another source; or
 - (B) material, labor, or other items of value provided in lieu of money by the grantee or another source; and
 - (iii) the benefits that accrue to the general public by the awarding of a grant.
 - (b) The commission may establish by rule additional criteria for the awarding of a grant.
- (3) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.
- (4) The commission may appoint an advisory board to:
 - (a) assist with the grant process;
 - (b) make recommendations to the commission regarding grants; and
 - (c) establish policies and procedures for awarding loans or grants.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 178, 2019 General Session