

## **Chapter 18 Conservation Commission Act**

### **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) "Fodder" means food for livestock.
- (14) "Hydroponic" means a technique for growing plants without soil.
- (15) "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.
- (16) "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.
- (17) "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 144, 2023 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) When the governor makes a new appointment or reappointment under Subsection (7)(a), or a vacancy appointment under Subsection (8), the governor's new appointment, reappointment, or vacancy appointment shall be made with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.
- (10) Attendance of six voting members of the commission at a meeting constitutes a quorum.
- (11) 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.
- (12) The commission shall keep a record of the commission's actions.
- (13) The attorney general shall provide legal services to the commission upon request.
- (14) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Amended by Chapter 529, 2024 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 purposes listed in Section 4-18-106, 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 126, 2023 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) "Fund" means the Agriculture Resource Development Fund created in this section.
  - (c) "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 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 from a preferential user to reimburse the commission for loans made from the fund in accordance with Title 73, Chapter 3d, Part 4, Compensation;
  - (e) money made available to the state for agriculture resource development or for a temporary water shortage emergency, as defined in Section 73-3d-101, from any source; and
  - (f) interest earned on the fund.
- (4) The commission may make loans from the 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, including a hydroponic fodder production system;
  - (g) a project or program to improve water quality;
  - (h) a project to address other environmental issues;
  - (i) subject to Subsection (5), a disaster relief program designed to aid the sustainability of agriculture during and immediately following a disaster; or
  - (j) subject to Subsection (6), authorized for temporary water shortage emergencies as provided in Title 73, Chapter 3d, Part 4, Compensation.
- (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 fund.
  - (b) Notwithstanding Subsection (5)(a), the department may use the money appropriated to the 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 not have at one time an aggregate amount of loans made under Subsection (4)(j) that exceeds \$5,000,000.
- (7) 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 fund that are consistent with statute.

Amended by Chapter 126, 2023 General Session

Amended by Chapter 144, 2023 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 improvement of water quantity and flows;
  - (e) hydroponic fodder production;
  - (f) the development of watershed plans; or
  - (g) 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 144, 2023 General Session

Amended by Chapter 238, 2023 General Session

## **Part 2**

### **Salinity Offset Fund**

#### **4-18-201 Title -- Definitions.**

- (1) This part is known as "Salinity Offset Fund."
- (2) As used in this part, "Colorado River Salinity Offset Program" means a program, administered by the Division of Water Quality, allowing oil, gas, or mining companies and other entities to provide funds to finance salinity reduction projects in the Colorado River Basin by purchasing salinity credits as offsets against discharges made by the company under permits issued by the Division of Water Quality.

Enacted by Chapter 345, 2017 General Session

#### **4-18-202 Salinity Offset Fund.**

- (1)
  - (a) There is created an expendable special revenue fund known as the "Salinity Offset Fund."
  - (b) The fund shall consist of:
    - (i) money received from the Division of Water Quality that has been collected as part of the Colorado River Salinity Offset Program;
    - (ii) grants from local governments, the state, or the federal government;
    - (iii) grants from private entities; and
    - (iv) interest on fund money.
- (2)
  - (a) The department shall:
    - (i) subject to the rules established under Subsection (2)(a)(ii), distribute fund money to farmers, ranchers, mutual irrigation companies, and other entities in the state to assist in financing irrigation, rangeland, and watershed improvement projects that will, in accordance with the Colorado River Salinity Offset Program, reduce salinity in the Colorado River; and
    - (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing:
      - (A) a project funding application process;
      - (B) project funding requirements;
      - (C) project approval criteria; and
      - (D) standards for evaluating the effectiveness of funded projects in reducing salinity in the Colorado River.
  - (b) The department may require entities seeking fund money to provide matching funds.
  - (c) The department shall submit to the Division of Water Quality proposed funding projects for the division's review and approval.

- (d) The Division of Water Quality and the department shall establish a committee to review and approve projects, as funding allows.
- (3)
  - (a) Except as provided in Subsection (3)(b), the department may use fund money for the administration of the fund, but this amount may not exceed 10% of the receipts to the fund.
  - (b) The department may not use earned interest for administration of the fund.

Renumbered and Amended by Chapter 345, 2017 General Session

### **Part 3**

## **Utah Soil Health Program**

#### **4-18-301 Title.**

This part is known as the "Utah Soil Health Program."

Enacted by Chapter 178, 2021 General Session

#### **4-18-302 Definitions.**

As used in this part:

- (1) "Agricultural producer" means a person engaged in the production of a product of agriculture, as defined in Section 4-1-109.
- (2) "Commission" means the Conservation Commission created in Section 4-18-104.
- (3) "Commissioner" means the commissioner of agriculture and food or the commissioner's designee.
- (4) "Demonstration project" means an on- or off-farm or ranch project that incorporates soil health practices and principles into soil management for the purposes of demonstrating soil health practices and the resulting impacts to agricultural producers and others.
- (5)
  - (a) "Educational project" means a project that promotes knowledge about soil health to eligible entities, consumers, policymakers, and others.
  - (b) "Educational project" includes the development of written or video-based materials or in-person events, such as workshops, field days, or conferences.
- (6) "Eligible entities" means public, governmental, and private entities, including:
  - (a) conservation districts;
  - (b) producers;
  - (c) groups of producers;
  - (d) producer groups;
  - (e) producer cooperatives;
  - (f) water conservancy districts;
  - (g) American Indian Tribes;
  - (h) nonprofit entities;
  - (i) academic or research institutions and subdivisions of these institutions;
  - (j) the United States or any corporation or agency created or designed by the United States; or
  - (k) the state or any of the state's agencies or political subdivisions.
- (7) "Environmental benefits" means benefits to natural and agricultural resources and human health, including:

- (a) improved air quality;
  - (b) surface or ground water quality and quantity;
  - (c) improved soil health, including nutrient cycling, soil fertility, or drought resilience;
  - (d) reductions in agricultural inputs;
  - (e) carbon sequestration or climate resilience;
  - (f) increased biodiversity; or
  - (g) improved nutritional quality of agricultural products.
- (8) "Historically underserved producer" means a producer who qualifies as one of the following:
- (a) a beginning farmer or rancher, as defined in 7 U.S.C. Sec. 2279;
  - (b) a limited resource farmer or rancher, as described in 7 U.S.C. Sec. 9081;
  - (c) a socially disadvantaged farmer or rancher, as defined in 7 U.S.C. Sec. 2003; or
  - (d) a veteran farmer or rancher, as defined in 7 U.S.C. Sec. 1502.
- (9) "Implementation project" means a project that provides incentives directly to producers to implement on-farm or on-ranch soil health practices.
- (10) "Incentives" means monetary incentives, including grants and loans, or non-monetary incentives, including equipment, technical assistance, educational materials, outreach, and market development assistance for market premiums or ecosystem services markets.
- (11) "Land manager" means a manager of land where agricultural activities occur, including:
- (a) a federal land manager;
  - (b) a lessee of federal, tribal, state, county, municipal, or private land where agricultural activities occur; or
  - (c) others as the department may determine.
- (12) "Landowner" means an owner of record of federal, tribal, state, county, municipal, or private land where agricultural activities occur.
- (13) "Program" means the Utah Soil Health Program created in Section 4-18-303.
- (14)
- (a) "Research project" means a project that advances the scientific understanding of how agricultural practices improve soil health, and related impacts, such as environmental benefits, benefits to human health, including the nutritive composition of foods, or economic impacts.
  - (b) "Research project" includes projects at experiment stations, on:
    - (i) lands owned by the United States or any corporation or agency created or designed by the United States;
    - (ii) lands owned by the state or any of the state's agencies or political subdivisions; or
    - (iii) private lands.
- (15) "Soil health" means the continued capacity of soil to function as a vital living ecosystem that sustains plants, animals, and humans.
- (16) "Soil health activities" means implementation of soil health practices, research projects, demonstration projects, or educational projects, or other activities the department finds necessary or appropriate to promote soil health.
- (17) "Soil Health Advisory Committee" means the committee created in Section 4-18-306.
- (18) "Soil health grant program" means the grant program authorized in Section 4-18-304.
- (19) "Soil health practices" means those practices that may contribute to soil health, including:
- (a) no-tillage;
  - (b) conservation tillage;
  - (c) crop rotations;
  - (d) intercropping;
  - (e) cover cropping;

- (f) planned grazing;
  - (g) the application of soil amendments that add carbon or organic matter, including biosolids, manure, compost, or biochar;
  - (h) revegetation; or
  - (i) other practices the department determines contribute or have the potential to contribute to soil health.
- (20) "Soil health principle" means a principle that promotes soil health and includes maximizing soil cover, minimizing soil disturbance, maximizing biodiversity, maintaining a continual live plant or root in the soil, or integrating livestock.
- (21) "State soil health inventory and platform" means a tool, including a geospatial inventory, documenting:
- (a) the condition of agricultural soils;
  - (b) the implementation of soil health practices; or
  - (c) the environmental and economic impacts, including current and potential future carbon holding capacity of soils, or other information the department considers appropriate.
- (22) "Technical assistance organization" means a person, including an eligible entity, who has demonstrated technical expertise in implementing soil health practices and soil health principles, as determined by the department.

Amended by Chapter 274, 2022 General Session

Enacted by Chapter 178, 2021 General Session

**4-18-303 Creates Utah Soil Health Program -- Program and purposes.**

- (1) Under the commission there is created the Utah Soil Health Program.
- (2) The program shall:
  - (a) encourage widespread adoption of soil health practices by producers;
  - (b) promote environmental benefits;
  - (c) advance the understanding of the environmental and economic benefits of soil health practices by producers, policymakers, consumers, and the general public; and
  - (d) support scientific research.
- (3) The program may obtain the objectives described in Subsection (2) by:
  - (a) providing incentives to implement soil health practices;
  - (b) increasing the understanding of the benefit of soil health practices through education and outreach programs;
  - (c) advancing scientific understanding of soil health as it relates to:
    - (i) the existing conditions of Utah's agricultural soils, including current carbon storage and carbon storage potential;
    - (ii) the on- and off-farm or ranch environmental benefits of soil health practices; and
    - (iii) the on- and off-farm or ranch economic benefits of soil health practices;
  - (d) evaluating currently available or developing new consistent soil health sampling and testing protocols appropriate for Utah's agricultural systems; and
  - (e) facilitating multi-stakeholder collaboration to advance the understanding of the science of soil health and the implementation of soil health practices, including amongst the federal government and the federal government's agencies, agencies and political subdivisions of the state, academic or research institutions, non-governmental organizations, private entities, nonprofits, producers, or other parties.
- (4) The department shall provide support to the commission in implementing the program.

Enacted by Chapter 178, 2021 General Session

**4-18-304 Program development.**

- (1) In consultation with the Soil Health Advisory Committee created in Section 4-18-306 and in accordance with Subsection 4-18-305(1)(e), the commission may establish the following programs:
  - (a) a grant program for eligible entities to engage in soil health activities including implementation, research, education, or demonstration projects;
  - (b) a state soil health monitoring and inventory platform; or
  - (c) other programs the commission considers appropriate or necessary.
- (2) In establishing a program in accordance with Subsection (1), the commission may prioritize the establishment of programs based on the needs of historically underserved producers, the availability of funds and staffing, emerging areas of scientific inquiry and research, environmental benefits, or other considerations.
- (3) A program established pursuant to this section shall be voluntary and incentive-based and may not:
  - (a) require participation by an eligible entity;
  - (b) mandate the implementation of soil health practices by non-participating entities; or
  - (c) bind participants to execute specific practice standards in adverse climate conditions or circumstances with limited or no chance of success or that would cause irreparable physical or economic harm to the producer's operation physically or economically.
- (4) In addition to Section 4-18-307:
  - (a) the commission, grantees, partners, or other program participants may not disclose, sell, or otherwise provide information that could be used to identify the agricultural operations or practices of program participants without express permission provided in writing; and
  - (b) in determining whether information may be released, the private interests of a participant are presumed to outweigh the public interest in disclosure.
- (5) The commission shall act as the policy board to set guidelines by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the administration of programs developed under Section 4-18-305. The Soil Health Advisory Committee serves as an advisory committee to the commission.

Enacted by Chapter 178, 2021 General Session

**4-18-305 Powers and duties.**

- (1) In carrying out the provisions of this part, including for the soil health grant program, the commission may:
  - (a) subject to Subsection (2), accept grants, gifts, services, donations, or other resources from:
    - (i) the United States government or a corporation or agency created or designed by the United States to lend or grant money;
    - (ii) the state or any of the state's political subdivisions; or
    - (iii) any other source;
  - (b) administer and expend money for the purpose of planning, developing, or putting into operation a program or project in accordance with Section 4-18-304 that is made available to the department:
    - (i) by the United States government or any of the United States' agencies;
    - (ii) by the state or any of the state's political subdivisions; or
    - (iii) derived from any other source;

- (c) provide grants, loans, and other resources to an eligible entity to perform soil health activities;
  - (d) unless otherwise specified by the grantor or donor, use funds received, including from the state or any of the state's political subdivisions or the United States government or any of the United States' agencies, to serve as matching funds for soil health activities;
  - (e) place money the commission receives pursuant to Subsection (1)(a) into an escrow account and to administer and expend any money or interest accrued in the trust; and
  - (f) cooperate and collaborate with:
    - (i) producers;
    - (ii) groups of producers;
    - (iii) producer cooperatives;
    - (iv) conservation districts;
    - (v) water conservancy districts;
    - (vi) academic, land grant, or other research institutions;
    - (vii) the United States government, the United States' agencies, or any corporation of the United States;
    - (viii) the state or any of the state's political subdivisions;
    - (ix) other states;
    - (x) American Indian Tribes; or
    - (xi) other entities as the commission may decide for the purpose of advancing the scientific understanding of soil health, soil health practices, or the environmental or economic outcomes, increasing monetary or nonmonetary resources to support scientific research, or in applying for grants, including applying for grants jointly, or otherwise obtaining resources to support the programs authorized in this part.
- (2)
- (a) The department may not pledge the faith or credit of the state or any county or other political subdivision.
  - (b) In connection with grants, gifts, donations, or other resources, the commission:
    - (i) may enter into agreements or contracts as may be required; and
    - (ii) shall comply with Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, and executive orders establishing ethics policy for executive branch agencies and employees.
- (3) In establishing a soil health grant program, the commission shall issue guidelines, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
- (a) make money available for demonstration, educational, implementation, or research grants to eligible entities;
  - (b) if a grant recipient of an implementation, demonstration, or research project grant does not have sufficient expertise in implementing soil health practices or principles or interpreting project outcomes, require the recipient to work with a technical assistance organization;
  - (c) ensure that the most accurate and current scientific evidence related to soil health, soil health practices, and economic and environmental benefits of soil health practices is considered in awarding a grant;
  - (d) minimize the use of money by grant recipients for costs not directly related to grant outcomes, such as administrative expenses or other expenses related to overhead;
  - (e) establish a monitoring and oversight procedure to ensure that money is spent in accordance with the state law; and
  - (f) establish protocols to ensure the confidentiality of producer, landowner, and land information, including with respect to a state soil health monitoring and inventory platform and state soil health testing program.

- (4) Notwithstanding Subsection 4-18-304(3) and Section 4-18-307, the commission shall require a recipient of a grant for research, educational, or demonstration projects to:
  - (a) conduct outreach and educational activities regarding the projects, including field day visits; and
  - (b) disclose information related to the projects, including the locations of the projects, the soil health practices implemented, and the environmental or economic outcomes.
- (5) Upon receiving money to implement a soil health grant program, the commission shall make money available to eligible entities by July 1 of the following year.
- (6) The commission may adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out this part.

Enacted by Chapter 178, 2021 General Session

**4-18-306 Soil Health Advisory Committee.**

- (1) The Soil Health Advisory Committee is created under the commission.
- (2) The Soil Health Advisory Committee shall assist the commission in administering the program.
- (3) The Soil Health Advisory Committee shall maintain no less than seven members appointed by the commissioner.
- (4) Soil Health Advisory Committee members shall include farmers, ranchers, or other agricultural producers of diverse production systems, including diversity in size, product, irrigated and dryland systems, and other production methods. Members may include:
  - (a) an irrigated crop producer;
  - (b) a dryland crop producer;
  - (c) a dairyman or pasture producer;
  - (d) a rancher;
  - (e) a specialty crop or small farm producer;
  - (f) a crop consultant;
  - (g) a tribal representative;
  - (h) a representative with expertise in soil health;
  - (i) a committee member representative of the commission; or
  - (j) a Utah Association of Conservation Districts representative.
- (5) At least two members of the Soil Health Advisory Committee shall be water users who own, lease, or represent owners of adjudicated water rights used for agricultural purposes.
- (6) Representation on the Soil Health Advisory Committee shall reflect the different geographic areas and demographic diversity of the state, to the greatest extent possible.
- (7)
  - (a) The commissioner shall appoint members of the Soil Health Advisory Committee for four year terms.
  - (b) Notwithstanding the requirements of Subsection (7)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of Soil Health Advisory Committee members are staggered so that approximately half of the committee is appointed every two years.
  - (c) An appointee to the Soil Health Advisory Committee may not serve more than two full terms.
- (8) A Soil Health Advisory Committee member shall hold office until the expiration of the term for which the member is appointed or until a successor has been duly appointed.
- (9) The commissioner may remove a member of the Soil Health Advisory Committee for cause.
- (10) The Soil Health Advisory Committee may invite a representative of the Utah Association of Conservation Districts, the United States Department of Agriculture Natural Resources

Conservation Service, Utah State University faculty member, the Department of Natural Resources, Division of Water Rights, and Division of Water Quality, to provide technical expertise to the Soil Health Advisory Committee on an as needed basis.

- (11) The department will provide staff to manage the Soil Advisory Health Committee.
- (12) The Soil Health Advisory Committee shall make recommendations to the commission concerning and assist in:
  - (a) setting program priorities;
  - (b) developing the development of guidelines for the implementation of the program, including guidelines and recommendations for the qualifications of nonprofit entities to receive grant money;
  - (c) soliciting input from similar stakeholders within each member's area of expertise and region of the state and communicate the Soil Health Advisory Committee's recommendations to the region and stakeholders represented by each member;
  - (d) soliciting input, in collaboration with the department, from underserved agricultural producers;
  - (e) soliciting input from producers that reflect the different geographic areas and demographic diversity of the state to the greatest extent possible;
  - (f) identifying key questions and areas of need to recommend for future research and demonstration efforts;
  - (g) reviewing soil health grant proposals, including proposed budgets, proposed grant outcomes, and the qualifications of any nonprofits applying for grants;
  - (h) creating a screening and ranking system for proposals and proposing funding recommendations to the commission;
  - (i) reviewing agreements for cooperation or collaboration entered into by the department pursuant to Subsection 4-18-305(1)(f) and making recommendations to the commission for approval;
  - (j) reviewing and recommending soil health practices to ensure they support soil health;
  - (k) evaluating the results and effectiveness of soil health activities and the program in improving soil health; and
  - (l) recommending to the commission, ways to enhance statewide efforts to support healthy soils throughout the state.
- (13) The Soil Health Advisory Committee shall meet at least quarterly. Meetings shall be conducted as required by Title 52, Chapter 4, Open and Public Meetings Act.
- (14) 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.

Amended by Chapter 528, 2023 General Session

**4-18-307 Producer and landowner information - confidentiality.**

- (1) With regard to information that constitutes a record under Title 63G, Chapter 2, Government Records Access and Management Act, notwithstanding that act, the department may not disclose a record, including analyses or a map, compiled or maintained pursuant to this part that is related to private lands and identify, or allow to be identified, the agricultural practices of a specific Utah landowner or producer.
- (2) In determining whether a record may be released, private interests are presumed to outweigh the public interest in disclosure.



- (3) Summary or aggregated data that does not specifically identify agricultural practices of an individual landowner or producer is not subject to this section.

Enacted by Chapter 178, 2021 General Session

**4-18-308 Reporting requirement.**

- (1) Each year, before November 1, the department shall prepare and make available to the public a report on the department's official website that contains the following information:
  - (a) an accounting of money received and spent for the program;
  - (b) a description of activities undertaken, including the number and type of grant-funded projects and the educational and stakeholder engagement activities; and
  - (c) a summary of the activities and recommendations of the Soil Health Advisory Committee.
- (2) The commissioner shall annually report to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the November interim meeting of that committee. The report shall include the information described in Subsection (1).

Amended by Chapter 59, 2024 General Session