

**INDUSTRIAL PROTECTION ACT**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ronda Rudd Menlove**

Senate Sponsor: Peter C. Knudson

Cosponsors:  
Ben C. Ferry

Paul Ray

David Ure

---

---

**LONG TITLE**

**General Description:**

This bill authorizes the establishment of industrial protection areas.

**Highlighted Provisions:**

This bill:

► modifies provisions applicable to agriculture protection areas to allow industrial areas to follow the same procedures for becoming an industrial protection area and, once formed, to have the same legal protections as an agriculture protection area; and

► modifies notice provisions applicable to proposed agriculture protection areas and industrial protection areas.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**17-41-101**, as last amended by Chapter 356, Laws of Utah 1998

**17-41-201**, as last amended by Chapter 356, Laws of Utah 1998

**17-41-301**, as last amended by Chapter 205, Laws of Utah 1999

**17-41-302**, as last amended by Chapter 356, Laws of Utah 1998

- 30           **17-41-303**, as last amended by Chapter 356, Laws of Utah 1998
- 31           **17-41-304**, as last amended by Chapters 13 and 356, Laws of Utah 1998
- 32           **17-41-305**, as last amended by Chapter 356, Laws of Utah 1998
- 33           **17-41-306**, as last amended by Chapter 205, Laws of Utah 1999
- 34           **17-41-307**, as last amended by Chapter 356, Laws of Utah 1998
- 35           **17-41-402**, as last amended by Chapter 383, Laws of Utah 1997
- 36           **17-41-403**, as last amended by Chapter 183, Laws of Utah 2002
- 37           **17-41-404**, as enacted by Chapter 58, Laws of Utah 1994
- 38           **17-41-405**, as last amended by Chapter 356, Laws of Utah 1998
- 39           **17-41-406**, as last amended by Chapter 82, Laws of Utah 1997



41 *Be it enacted by the Legislature of the state of Utah:*

42           Section 1. Section **17-41-101** is amended to read:

43           **17-41-101. Definitions.**

44           As used in this chapter:

45           (1) "Advisory board" means [~~the Agriculture Protection Area Advisory Board created~~  
46 ~~by this chapter.~~];

47           (a) for an agriculture protection area, the agriculture protection area advisory board  
48 created as provided in Section 17-41-201; and

49           (b) for an industrial protection area, the industrial protection area advisory board  
50 created as provided in Section 17-41-201.

51           (2) (a) "Agriculture production" means production for commercial purposes of crops,  
52 livestock, and livestock products.

53           (b) "Agriculture production" includes the processing or retail marketing of any crops,  
54 livestock, and livestock products when more than 50% of the processed or merchandised  
55 products are produced by the farm operator.

56           (3) "Agriculture protection area" means a geographic area created under the authority  
57 of this chapter that is granted the specific legal protections contained in this chapter.

- 58 (4) "Applicable legislative body" means:
- 59 (a) with respect to a proposed agriculture protection area or industrial protection area:
- 60 (i) the legislative body of the county in which the land proposed to be included in an
- 61 agriculture protection area or industrial protection area is located, if the land is within the
- 62 unincorporated part of the county; or
- 63 (ii) the legislative body of the city or town in which the land proposed to be included in
- 64 an agriculture protection area or industrial protection area is located; and
- 65 (b) with respect to an existing agriculture protection area or industrial protection area:
- 66 (i) the legislative body of the county in which the agriculture protection area or
- 67 industrial protection area is located, if the agriculture protection area or industrial protection
- 68 area is within the unincorporated part of the county; or
- 69 (ii) the legislative body of the city or town in which the agriculture protection area or
- 70 industrial protection area is located.
- 71 (5) "Crops, livestock, and livestock products" includes:
- 72 (a) land devoted to the raising of useful plants and animals with a reasonable
- 73 expectation of profit, including:
- 74 (i) forages and sod crops;
- 75 (ii) grains and feed crops;
- 76 (iii) livestock as defined in [~~Section~~] Subsection 59-2-102(25)(d);
- 77 (iv) trees and fruits; or
- 78 (v) vegetables, nursery, floral, and ornamental stock; or
- 79 (b) land devoted to and meeting the requirements and qualifications for payments or
- 80 other compensation under a crop-land retirement program with an agency of the state or federal
- 81 government.
- 82 (6) "Industrial protection area" means a geographic area created under the authority of
- 83 this chapter that is granted the specific legal protections contained in this chapter.
- 84 [~~(6)~~] (7) (a) "Municipal" means of or relating to a city or town.
- 85 (b) "Municipality" means a city or town.

86 [(7)] (8) "Planning commission" means:

87 (a) a countywide planning commission if the land proposed to be included in the  
88 agriculture protection area or industrial protection area is within the unincorporated part of the  
89 county and not within a township;

90 (b) a township planning commission if the land proposed to be included in the  
91 agriculture protection area or industrial protection area is within a township; or

92 (c) a planning commission of a city or town if the land proposed to be included in the  
93 agriculture protection area or industrial protection area is within a city or town.

94 [(8)] (9) "Political subdivision" means a county, city, town, school district, or special  
95 district.

96 [(9)] (10) "Proposal sponsors" means the owners of land in agricultural production or  
97 industrial use who are sponsoring the proposal for creating an agriculture protection area or  
98 industrial protection area, respectively.

99 [(10)] (11) "State agency" means each department, commission, board, council,  
100 agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory,  
101 library, unit, bureau, panel, or other administrative unit of the state.

102 [(11)] (12) "Unincorporated" means not within a city or town.

103 Section 2. Section **17-41-201** is amended to read:

104 **17-41-201. Agriculture protection area or industrial protection area advisory**  
105 **board.**

106 (1) (a) (i) Each county legislative body shall appoint no more than five members from  
107 the county's soil conservation district boards of supervisors to serve as the Agriculture  
108 Protection Area Advisory Board.

109 (ii) Each county legislative body shall appoint an industrial protection area advisory  
110 board.

111 (b) A county legislative body may appoint the [~~Agriculture Protection Area Advisory~~  
112 ~~Board~~] advisory board before or after a proposal to create an agriculture protection area or  
113 industrial protection area is filed.

114 (2) Each member of [~~the Agriculture Protection Advisory Board~~] an advisory board  
115 shall serve without salary, but a county legislative body may reimburse members for expenses  
116 incurred in the performance of their duties.

117 (3) Each [~~Agriculture Protection Area Advisory Board~~] advisory board shall:

118 (a) evaluate proposals for the establishment of agriculture protection areas or industrial  
119 protection areas and make recommendations to the applicable legislative body about whether or  
120 not the proposal should be accepted;

121 (b) provide expert advice to the planning commission and to the applicable legislative  
122 body about:

123 (i) the desirability of the proposal;

124 (ii) the nature of agricultural production or industrial use, as the case may be, within  
125 the proposed area;

126 (iii) the relation of agricultural production or industrial use, as the case may be, in the  
127 area to the county as a whole; and

128 (iv) which agriculture production or industrial use should be allowed within the  
129 agriculture protection area or industrial protection area, respectively; and

130 (c) perform all other duties required by this chapter.

131 Section 3. Section **17-41-301** is amended to read:

132 **17-41-301. Proposal for creation of agriculture protection area or industrial**  
133 **protection area.**

134 (1) (a) A proposal to create an agriculture protection area or an industrial protection  
135 area may be filed with:

136 (i) the legislative body of the county in which the area is located, if the area is within  
137 the unincorporated part of a county; or

138 (ii) the legislative body of the city or town in which the area is located, if the area is  
139 within a city or town.

140 (b) (i) To be accepted for processing by the applicable legislative body, a proposal  
141 under Subsection (1)(a) shall be signed by a majority in number of all owners of real property

142 and the owners of a majority of the land area in agricultural production or industrial use within  
143 the proposed agriculture protection area or industrial protection area, respectively.

144 (ii) For purposes of Subsection (1)(b)(i), the owners of real property shall be  
145 determined by the records of the county recorder.

146 (2) The proposal shall identify:

147 (a) the boundaries of the land proposed to become part of an agriculture protection area  
148 or industrial protection area;

149 (b) any limits on the types of agriculture production or industrial use to be allowed  
150 within the agriculture protection area or industrial protection area, respectively; and

151 (c) for each parcel of land:

152 (i) the names of the owners of record of the land proposed to be included within the  
153 agriculture protection area or industrial protection area;

154 (ii) the tax parcel number or account number identifying each parcel; and

155 (iii) the number of acres of each parcel.

156 (3) An agriculture protection area or industrial protection area may include within its  
157 boundaries land used for a roadway, dwelling site, park, or other nonagricultural or, in the case  
158 of an industrial protection area, nonindustrial use if that land constitutes a minority of the total  
159 acreage within the agriculture protection area or industrial protection area, respectively.

160 (4) A county or municipal legislative body may establish:

161 (a) the manner and form for submission of proposals; and

162 (b) reasonable fees for accepting and processing the proposal.

163 (5) Each county and municipal legislative body shall establish the minimum number of  
164 continuous acres that must be included in an agriculture protection area or industrial protection  
165 area.

166 Section 4. Section **17-41-302** is amended to read:

167 **17-41-302. Notice of proposal for creation of agriculture protection area or**  
168 **industrial protection area -- Responses.**

169 (1) Each applicable legislative body shall provide notice of the proposal by:

- 170 (a) publishing notice in a newspaper having general circulation within:
- 171 (i) the same county as the land proposed for inclusion within an agriculture protection
- 172 area or industrial protection area, as the case may be, if the land is within the unincorporated
- 173 part of the county; or
- 174 (ii) the same city or town as the land proposed for inclusion within an agriculture
- 175 protection area or industrial protection area, as the case may be, if the land is within a city or
- 176 town; [~~and~~]
- 177 (b) posting notice at five public places, designated by the county or municipal
- 178 legislative body, within or near the proposed agriculture protection area[~~-~~] or industrial
- 179 protection area; and
- 180 (c) mailing written notice to each owner of land within 1,000 feet of the land proposed
- 181 for inclusion within an agriculture protection area or industrial protection area.
- 182 (2) The notice shall contain:
- 183 (a) a statement that a proposal for the creation of an agriculture protection area or
- 184 industrial protection area has been filed with the applicable legislative body;
- 185 (b) a statement that the proposal will be open to public inspection in the office of the
- 186 applicable legislative body;
- 187 (c) a statement that any person or entity affected by the establishment of the area may,
- 188 within 15 days of the date of the notice, file with the applicable legislative body:
- 189 (i) written objections to the proposal; or
- 190 (ii) a written request to modify the proposal to exclude land from or add land to the
- 191 proposed agriculture protection area or industrial protection area, as the case may be;
- 192 (d) a statement that the applicable legislative body will submit the proposal to the
- 193 advisory committee and to the planning commission for review and recommendations; [~~and~~]
- 194 (e) a statement that the applicable legislative body will hold a public hearing to discuss
- 195 and hear public comment on:
- 196 (i) the proposal to create the agriculture protection area or industrial protection area;
- 197 (ii) the recommendations of the advisory committee and planning commission; and

198 (iii) any requests for modification of the proposal and any objections to the proposal[-];  
199 and

200 (f) a statement indicating the date, time, and place of the public hearing.

201 (3) (a) Any person wishing to modify the proposal for the creation of the agriculture  
202 protection area or industrial protection area shall, within 15 days after the date of the notice,  
203 file a written request for modification of the proposal, which identifies specifically the land that  
204 should be added to or removed from the proposal.

205 (b) Any person wishing to object to the proposal for the creation of the agriculture  
206 protection area or industrial protection area shall, within 15 days after the date of the notice,  
207 file a written objection to the creation of the agriculture protection area or industrial protection  
208 area.

209 Section 5. Section **17-41-303** is amended to read:

210 **17-41-303. Review of proposal for creation of agriculture protection area or**  
211 **industrial protection area.**

212 (1) After 15 days from the date of the notice, the applicable legislative body shall refer  
213 the proposal and any objections and proposed modifications to the proposal to the advisory  
214 committee and planning commission for their review, comments, and recommendations.

215 (2) (a) Within 45 days after receipt of the proposal, the planning commission shall  
216 submit a written report to the applicable legislative body that:

217 (i) analyzes and evaluates the effect of the creation of the proposed area on the  
218 planning policies and objectives of the county or municipality, as the case may be;

219 (ii) analyzes and evaluates the proposal by applying the criteria contained in Section  
220 17-41-305;

221 (iii) recommends any modifications to the land to be included in the proposed  
222 agriculture protection area or industrial protection area;

223 (iv) analyzes and evaluates any objections to the proposal; and

224 (v) includes a recommendation to the applicable legislative body either to accept,  
225 accept and modify, or reject the proposal.



226 (b) Within 45 days after receipt of the proposal, the advisory board shall submit a  
227 written report to the applicable legislative body that:

228 (i) recommends any modifications to the land to be included in the proposed  
229 agriculture protection area or industrial protection area;

230 (ii) analyzes and evaluates the proposal by applying the criteria contained in Section  
231 17-41-305;

232 (iii) analyzes and evaluates any objections to the proposal; and

233 (iv) includes a recommendation to the applicable legislative body either to accept,  
234 accept and modify, or reject the proposal.

235 (c) The applicable legislative body shall consider a failure of the planning commission  
236 or advisory committee to submit a written report within the 45 days under Subsection (2)(a) or  
237 (b) as a recommendation of that committee to approve the proposal as submitted.

238 Section 6. Section **17-41-304** is amended to read:

239 **17-41-304. Public hearing -- Review and action on proposal.**

240 (1) After receipt of the written reports from the advisory committee and planning  
241 commission, or after the 45 days have expired, whichever is earlier, the county or municipal  
242 legislative body shall:

243 (a) schedule a public hearing;

244 (b) provide notice of the public hearing by:

245 (i) publishing notice in a newspaper having general circulation within:

246 (A) the same county as the land proposed for inclusion within the agriculture  
247 protection area or industrial protection area, if the land is within the unincorporated part of the  
248 county; or

249 (B) the same city or town as the land proposed for inclusion within an agriculture  
250 protection area or industrial protection area, if the land is within a city or town; [~~and~~]

251 (ii) posting notice at five public places, designated by the applicable legislative body,  
252 within or near the proposed agriculture protection area or industrial protection area; and

253 (iii) mailing written notice to each owner of land within 1,000 feet of the land proposed

254 for inclusion within an agriculture protection area or industrial protection area; and

255 (c) ensure that the notice includes:

256 (i) the time, date, and place of the public hearing on the proposal;

257 (ii) a description of the proposed agriculture protection area or industrial protection  
258 area;

259 (iii) any proposed modifications to the proposed agriculture protection area or  
260 industrial protection area;

261 (iv) a summary of the recommendations of the advisory committee and planning  
262 commission; and

263 (v) a statement that interested persons may appear at the public hearing and speak in  
264 favor of or against the proposal, any proposed modifications to the proposal, or the  
265 recommendations of the advisory committee and planning commission.

266 (2) The applicable legislative body shall:

267 (a) convene the public hearing at the time, date, and place specified in the notice; and

268 (b) take verbal or written testimony from interested persons.

269 (3) (a) Within 120 days of the submission of the proposal, the applicable legislative  
270 body shall approve, modify and approve, or reject the proposal.

271 (b) The creation of an agriculture protection area or industrial protection area is  
272 effective at the earlier of:

273 (i) the applicable legislative body's approval of a proposal or modified proposal; or

274 (ii) 120 days after submission of a proposal complying with Subsection 17-41-301(2) if  
275 the applicable legislative body has failed to approve or reject the proposal within that time.

276 (4) (a) In order to give constructive notice of the existence of the agriculture protection  
277 area or industrial protection area to all persons who have, may acquire, or may seek to acquire  
278 an interest in land in or adjacent to the agriculture protection area or industrial protection area,

279 respectively, within ten days of the creation of an agriculture protection area or industrial

280 protection area, the applicable legislative body shall file an executed document containing a

281 legal description of the agriculture protection area or industrial protection area, as the case may

282 be, with:

283 (i) the county recorder of deeds; and

284 (ii) the affected planning commission.

285 (b) If the legal description of the property to be included in the agriculture protection

286 area or industrial protection area is available through the county recorder's office, the

287 applicable legislative body shall use that legal description in its executed document required in

288 Subsection (4)(a).

289 (5) Within ten days of the recording of the agriculture protection area, the applicable

290 legislative body shall:

291 (a) send written notification to the commissioner of agriculture and food that the

292 agriculture protection area has been created; and

293 (b) include in the notification:

294 (i) the number of landowners owning land within the agriculture protection area;

295 (ii) the total acreage of the area;

296 (iii) the date of approval of the area; and

297 (iv) the date of recording.

298 (6) The applicable legislative body's failure to record the notice required under

299 Subsection (4) or to send the written notification under Subsection (5) does not invalidate the

300 creation of an agriculture protection area.

301 (7) The applicable legislative body may consider the cost of recording notice under

302 Subsection (4) and the cost of sending notification under Subsection (5) in establishing a fee

303 under Subsection 17-41-301(4)(b).

304 Section 7. Section **17-41-305** is amended to read:

305 **17-41-305. Criteria to be applied in evaluating a proposal for the creation of an**  
306 **agriculture protection area or industrial protection area.**

307 In evaluating a proposal and in determining whether or not to create or recommend the

308 creation of an agriculture protection area or industrial protection area, the advisory committee,

309 planning commission, and applicable legislative body shall apply the following criteria:

310 (1) whether or not the land is currently being used for agriculture production or for an  
311 industrial use, as the case may be;

312 (2) whether or not the land is zoned for agriculture use or industrial use, as the case  
313 may be;

314 (3) whether or not the land is viable for agriculture production or industrial use, as the  
315 case may be;

316 (4) the extent and nature of existing or proposed farm improvements or the extent and  
317 nature of existing or proposed improvements to or expansion of the industrial use, as the case  
318 may be; and

319 (5) (a) in the case of an agriculture protection area, anticipated trends in agricultural  
320 and technological conditions[-]; or

321 (b) in the case of an industrial protection area, anticipated trends in technological  
322 conditions applicable to the industrial use of the land in question.

323 Section 8. Section **17-41-306** is amended to read:

324 **17-41-306. Adding land to or removing land from an agriculture protection area**  
325 **or industrial protection area.**

326 (1) (a) Any owner may add land to an existing agriculture protection area or industrial  
327 protection area, as the case may be, by:

328 (i) filing a proposal with:

329 (A) the county legislative body, if the agriculture protection area or industrial  
330 protection area and the land to be added are within the unincorporated part of the county; or

331 (B) the municipal legislative body, if the agriculture protection area or industrial  
332 protection area and the land to be added are within a city or town; and

333 (ii) obtaining the approval of the applicable legislative body for the addition of the land  
334 to the area.

335 (b) The applicable legislative body shall comply with the provisions for creating an  
336 agriculture protection area or industrial protection area, as the case may be, in determining  
337 whether or not to accept the proposal.

338 (2) (a) Any owner may remove land from an agriculture protection area or industrial  
339 protection area by filing a petition for removal of the land from the agriculture protection area  
340 or industrial protection area, respectively, with the applicable legislative body.

341 (b) (i) The applicable legislative body shall:

342 (A) grant the petition for removal of land from an agriculture protection area or  
343 industrial protection area, as the case may be, even if removal of the land would result in an  
344 agriculture protection area or industrial protection area of less than the number of acres  
345 established by the applicable legislative body as the minimum under Section 17-41-301; and

346 (B) in order to give constructive notice of the removal to all persons who have, may  
347 acquire, or may seek to acquire an interest in land in or adjacent to the agriculture protection  
348 area or industrial protection area and the land removed from the agriculture protection area or  
349 industrial protection area, file a legal description of the revised boundaries of the agriculture  
350 protection area or industrial protection area with the county recorder of deeds and the affected  
351 planning commission.

352 (ii) The remaining land in the agriculture protection area or industrial protection area is  
353 still an agriculture protection area or industrial protection area, respectively.

354 (3) (a) If a municipality annexes any land that is part of an agriculture protection area  
355 or industrial protection area located in the unincorporated part of the county, the county  
356 legislative body shall, within 30 days after the land is annexed, review the feasibility of that  
357 land remaining in the agriculture protection area or industrial protection area according to the  
358 procedures and requirements of Section 17-41-307.

359 (b) The county legislative body shall remove the annexed land from the agriculture  
360 protection area or industrial protection area, as the case may be, if:

361 (i) the county legislative body concludes, after the review under Section 17-41-307,  
362 that removal is appropriate; and

363 (ii) the owners of all the annexed land that is within the agriculture protection area or  
364 industrial protection area consent in writing to the removal.

365 (c) Removal of land from an agriculture protection area or industrial protection area

366 under this Subsection (3) does not affect whether that land may be:

367 (i) included in a proposal under Section 17-41-301 to create an agriculture protection  
368 area or industrial protection area within the municipality; or

369 (ii) added to an existing agriculture protection area or industrial protection area within  
370 the municipality under Subsection (1).

371 Section 9. Section **17-41-307** is amended to read:

372 **17-41-307. Review of agriculture protection areas and industrial protection**  
373 **areas.**

374 (1) In the 20th calendar year after its creation under this part, each agriculture  
375 protection area or industrial protection area, as the case may be, shall be reviewed, under the  
376 provisions of this section, by:

377 (a) the county legislative body, if the agriculture protection area or industrial protection  
378 area is within the unincorporated part of the county; or

379 (b) the municipal legislative body, if the agriculture protection area or industrial  
380 protection area is within the municipality.

381 (2) (a) In the 20th year, the applicable legislative body shall:

382 (i) request the planning commission and advisory board to submit recommendations  
383 about whether the agriculture protection area or industrial protection area, as the case may be,  
384 should be continued, modified, or terminated;

385 (ii) at least 120 days before the end of the calendar year, hold a public hearing to  
386 discuss whether the agriculture protection area or industrial protection area, as the case may be,  
387 should be continued, modified, or terminated;

388 (iii) give notice of the hearing using the same procedures required by Section  
389 17-41-302; and

390 (iv) after the public hearing, continue, modify, or terminate the agriculture protection  
391 area or industrial protection area.

392 (b) If the applicable legislative body modifies or terminates the agriculture protection  
393 area or industrial protection area, it shall file an executed document containing the legal

394 description of the agriculture protection area or industrial protection area, respectively, with the  
395 county recorder of deeds.

396 (3) If the applicable legislative body fails affirmatively to continue, modify, or  
397 terminate the agriculture protection area or industrial protection area, as the case may be, in the  
398 20th calendar year, the agriculture protection area or industrial protection area is considered to  
399 be reauthorized for another 20 years.

400 Section 10. Section **17-41-402** is amended to read:

401 **17-41-402. Limitations on local regulations.**

402 (1) Each political subdivision within which an agriculture protection area or industrial  
403 protection area is created shall encourage the continuity, development, and viability of  
404 agriculture or industrial use, respectively, within the area by not enacting local laws,  
405 ordinances, or regulations that would unreasonably restrict farm structures or farm practices or,  
406 in the case of an industrial protection area, industrial uses of the land within the area unless  
407 those laws, ordinances, or regulations bear a direct relationship to public health or safety.

408 (2) A political subdivision may not change the zoning designation of or zoning  
409 regulations affecting land within an agriculture protection area or industrial protection area, as  
410 the case may be, unless it receives written approval for the change from all the landowners  
411 within the agriculture protection area or industrial protection area, respectively, affected by the  
412 change.

413 Section 11. Section **17-41-403** is amended to read:

414 **17-41-403. Nuisances.**

415 (1) Each political subdivision shall ensure that any of its laws or ordinances that define  
416 or prohibit a public nuisance exclude from the definition or prohibition:

417 (a) for an agriculture protection area, any agricultural activity or operation within an  
418 agriculture protection area conducted using sound agricultural practices unless that activity or  
419 operation bears a direct relationship to public health or safety[-]; or

420 (b) for an industrial protection area, any industrial use of the land within the industrial  
421 protection area that is consistent with sound practices applicable to the industrial use, unless

422 that use bears a direct relationship to public health or safety.

423 (2) In a civil action for nuisance or a criminal action for public nuisance under Section  
424 76-10-803, it is a complete defense if the action involves agricultural activities and those  
425 agricultural activities were:

426 (a) conducted within an agriculture protection area; and

427 (b) not in violation of any federal, state, or local law or regulation relating to the  
428 alleged nuisance or were conducted according to sound agricultural practices.

429 (3) (a) For any new subdivision development located in whole or in part within 300  
430 feet of the boundary of an agriculture protection area, the owner of the development shall  
431 provide notice on any plat filed with the county recorder the following notice:

432 "Agriculture Protection Area

433 This property is located in the vicinity of an established agriculture protection area in  
434 which normal agricultural uses and activities have been afforded the highest priority use  
435 status. It can be anticipated that such agricultural uses and activities may now or in the  
436 future be conducted on property included in the agriculture protection area. The use  
437 and enjoyment of this property is expressly conditioned on acceptance of any  
438 annoyance or inconvenience which may result from such normal agricultural uses and  
439 activities."

440 (b) For any new subdivision development located in whole or in part within 1,000 feet  
441 of the boundary of an industrial protection area, the owner of the development shall provide  
442 notice on any plat filed with the county recorder the following notice:

443 "Industrial Protection Area

444 This property is located in the vicinity of an established industrial protection area in  
445 which normal industrial uses and activities have been afforded the highest priority use  
446 status. It can be anticipated that such industrial uses and activities may now or in the  
447 future be conducted on property included in the industrial protection area. The use and  
448 enjoyment of this property is expressly conditioned on acceptance of any annoyance or  
449 inconvenience which may result from such normal industrial uses and activities."



450 Section 12. Section **17-41-404** is amended to read:

451 **17-41-404. Policy of state agencies.**

452 Each state agency shall encourage the continuity, development, and viability of  
453 agriculture within agriculture protection areas and industrial uses with industrial protection  
454 areas by:

455 (1) not enacting rules that would impose unreasonable restrictions on farm structures or  
456 farm practices within the agriculture protection area or on industrial uses and practices within  
457 the industrial protection area unless those laws, ordinances, or regulations bear a direct  
458 relationship to public health or safety or are required by federal law; and

459 (2) modifying existing rules that would impose unreasonable restrictions on farm  
460 structures or farm practices within the agriculture protection area or on industrial uses and  
461 activities within the industrial protection area unless those laws, ordinances, or regulations bear  
462 a direct relationship to public health or safety or are required by federal law.

463 Section 13. Section **17-41-405** is amended to read:

464 **17-41-405. Eminent domain restrictions.**

465 (1) A political subdivision having or exercising eminent domain powers may not  
466 condemn for any purpose any land within an agriculture protection area that is being used for  
467 agricultural production or any land within an industrial protection area that is being put to an  
468 industrial use unless it has obtained approval, according to the procedures and requirements of  
469 this section, from the applicable legislative body and the advisory board.

470 (2) Any condemnor wishing to condemn property within an agriculture protection area  
471 or industrial protection area shall file a notice of condemnation with the applicable legislative  
472 body and the agriculture protection area or industrial protection area's advisory board at least  
473 30 days before filing an eminent domain complaint.

474 (3) The applicable legislative body and the advisory board shall:

475 (a) hold a joint public hearing on the proposed condemnation at a location within the  
476 county in which the agriculture protection area or industrial protection area is located;

477 (b) publish notice of the time, date, place, and purpose of the public hearing in a

478 newspaper of general circulation within the agriculture protection area or industrial protection  
479 area, as the case may be; and

480 (c) post notice of the time, date, place, and purpose of the public hearing in five  
481 conspicuous public places, designated by the applicable legislative body, within or near the  
482 agriculture protection area or industrial protection area, as the case may be.

483 (4) (a) If the condemnation is for highway purposes or for the disposal of solid or  
484 liquid waste materials, the applicable legislative body and the advisory board may approve the  
485 condemnation only if there is no reasonable and prudent alternative to the use of the land  
486 within the agriculture protection area or industrial protection area for the project.

487 (b) If the condemnation is for any other purpose, the applicable legislative body and the  
488 advisory board may approve the condemnation only if:

489 (i) the proposed condemnation would not have an unreasonably adverse effect upon the  
490 preservation and enhancement of agriculture within the agriculture protection area or of the  
491 industrial use within the industrial protection area; or

492 (ii) there is no reasonable and prudent alternative to the use of the land within the  
493 agriculture protection area or industrial protection area for the project.

494 (5) (a) Within 60 days [of] after receipt of the notice of condemnation, the applicable  
495 legislative body and the advisory board shall approve or reject the proposed condemnation.

496 (b) If the applicable legislative body and the advisory board fail to act within the 60  
497 days or such further time as the applicable legislative body establishes, the condemnation shall  
498 be considered rejected.

499 (6) The applicable legislative body or the advisory board may request the county or  
500 municipal attorney to bring an action to enjoin any condemnor from violating any provisions of  
501 this section.

502 Section 14. Section **17-41-406** is amended to read:

503 **17-41-406. Restrictions on state development projects.**

504 (1) Each state agency that plans any development project that might affect land within  
505 an agriculture protection area or industrial protection area shall submit its development plan to

506 [~~the commissioner of agriculture and food and the agriculture protection area's advisory board~~  
507 ~~for their review.];~~

508 (a) the advisory board of the agriculture protection area or industrial protection area,  
509 respectively; and

510 (b) in the case of an agriculture protection area, the commissioner of agriculture and  
511 food.

512 (2) The commissioner of agriculture and food, in the case of an agriculture protection  
513 area, and the [~~agriculture protection area's~~] advisory board shall:

514 (a) review the state agency's proposed development plan; and

515 (b) recommend any modifications to the development project that would protect the  
516 integrity of the agriculture protection area or industrial protection area, as the case may be, or  
517 that would protect the agriculture protection area from nonfarm encroachment or the industrial  
518 protection area from nonindustrial encroachment.