

Representative Logan Wilde proposes the following substitute bill:

CRITICAL INFRASTRUCTURE MATERIALS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Logan Wilde

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses critical infrastructure materials.

Highlighted Provisions:

This bill:

- ▶ enacts provisions related to vested critical infrastructure materials operations;
- ▶ amends a definition provision;
- ▶ addresses advisory boards;
- ▶ provides for the creation of critical infrastructure materials protection areas;
- ▶ addresses adding land to or removing land from a critical infrastructure materials protection area;
- ▶ requires review of a critical infrastructure materials protection area;
- ▶ limits local regulation of a critical infrastructure materials protection area;
- ▶ addresses nuisances;
- ▶ requires certain recordings with the county recorder;
- ▶ addresses actions of state agencies related to critical infrastructure materials protection areas;
- ▶ restricts eminent domain; and
- ▶ makes technical and conforming changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **17-41-101**, as last amended by Laws of Utah 2015, Chapter 352

33 **17-41-201**, as last amended by Laws of Utah 2007, Chapter 179

34 **17-41-301**, as last amended by Laws of Utah 2011, Chapter 297

35 **17-41-302**, as last amended by Laws of Utah 2009, Chapter 388

36 **17-41-303**, as last amended by Laws of Utah 2006, Chapter 194

37 **17-41-304**, as last amended by Laws of Utah 2010, Chapter 90

38 **17-41-305**, as last amended by Laws of Utah 2006, Chapter 194

39 **17-41-306**, as last amended by Laws of Utah 2009, Chapter 376

40 **17-41-307**, as last amended by Laws of Utah 2017, Chapter 92

41 **17-41-402**, as last amended by Laws of Utah 2009, Chapter 376

42 **17-41-403**, as last amended by Laws of Utah 2009, Chapter 376

43 **17-41-404**, as last amended by Laws of Utah 2006, Chapter 194

44 **17-41-405**, as last amended by Laws of Utah 2010, Chapter 90

45 **17-41-406**, as last amended by Laws of Utah 2008, Chapter 168

46 ENACTS:

47 **10-9a-901**, Utah Code Annotated 1953

48 **10-9a-902**, Utah Code Annotated 1953

49 **10-9a-903**, Utah Code Annotated 1953

50 **10-9a-904**, Utah Code Annotated 1953

51 **10-9a-905**, Utah Code Annotated 1953

52 **17-27a-1001**, Utah Code Annotated 1953

53 **17-27a-1002**, Utah Code Annotated 1953

54 **17-27a-1003**, Utah Code Annotated 1953

55 **17-27a-1004**, Utah Code Annotated 1953

56 **17-27a-1005**, Utah Code Annotated 1953

57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87

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

Section 1. Section **10-9a-901** is enacted to read:

Part 9. Vested Critical Infrastructure Materials Operations

10-9a-901. Definitions.

As used in this part:

(1) "Critical infrastructure materials" means the same as that term is defined in Section 17-41-101.

(2) "Critical infrastructure materials operations" means the same as that term is defined in Section 17-41-101.

(3) "Critical infrastructure materials operator" means the same as that term is defined in Section 17-41-101.

(4) "Vested critical infrastructure materials operations" means critical infrastructure materials operations that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations.

(5) "Vested critical infrastructure materials protection area" means a geographic area where vested critical infrastructure materials operations occurs, including each surface or subsurface land that a critical infrastructure materials operator with a vested critical infrastructure materials operations owns or controls.

Section 2. Section **10-9a-902** is enacted to read:

10-9a-902. Vested critical infrastructure materials operations -- Conclusive presumption.

(1) (a) Critical infrastructure materials operations are conclusively presumed to be vested critical infrastructure materials operations if the critical infrastructure materials operations existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations.

(b) A person claiming that a vested critical infrastructure materials operations has been established has the burden of proof to show by the preponderance of the evidence that the vested critical infrastructure materials operations has been established.

(2) A vested critical infrastructure materials operations:

88 (a) runs with the land; and

89 (b) may be changed to another critical infrastructure materials operations without
90 losing its status as a vested critical infrastructure materials operations.

91 (3) (a) A critical infrastructure materials operator with vested critical infrastructure
92 materials operations shall file a declaration for recording in the office of the recorder of the
93 county in which the vested critical infrastructure materials operations is located.

94 (b) A declaration under Subsection (3)(a) shall:

95 (i) contain a legal description of the land included within the vested critical
96 infrastructure materials operations; and

97 (ii) provide notice of the vested critical infrastructure materials operations.

98 (4) A vested critical infrastructure materials operations protected area has the
99 protections found in Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure
100 Materials Protection Areas, for a critical infrastructure materials protection area, except that if
101 there is a conflict between Title 17, Chapter 41, Agriculture, Industrial, or Critical
102 Infrastructure Materials Protection Areas, and this part, this part governs.

103 Section 3. Section **10-9a-903** is enacted to read:

104 **10-9a-903. Rights of a critical infrastructure materials operator with a vested**
105 **critical infrastructure materials operations -- Expanding vested critical infrastructure**
106 **materials operations -- Notice.**

107 (1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation
108 on a critical infrastructure materials operations adopted after the establishment of the critical
109 infrastructure materials operations, the rights of a critical infrastructure materials operator with
110 vested critical infrastructure materials operations include the right to:

111 (a) progress, extend, enlarge, grow, or expand the vested critical infrastructure
112 materials operations to land that the critical infrastructure materials operator owns or controls;

113 (b) expand the vested critical infrastructure materials operations to any new land that is
114 contiguous and related in critical infrastructure materials to surface or subsurface land that the
115 critical infrastructure materials operator already owns or controls;

116 (c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter,
117 substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings on
118 any surface or subsurface land that the critical infrastructure materials operator owns or

119 controls;

120 (d) increase production or volume, alter the method of excavating or extracting, and
121 process a different or additional critical infrastructure material than previously owned on any
122 surface or subsurface land that the critical infrastructure materials operator owns or controls;
123 and

124 (e) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily
125 or permanently, all or any part of the critical infrastructure materials operations.

126 (2) Notwithstanding the other provisions of this section from May 14, 2019, to July 1,
127 2020, a vested critical infrastructure materials operator may expand a vested critical
128 infrastructure materials operator only if:

129 (a) the land to which the vested critical infrastructure materials operator expands is
130 contiguous with land that the vested critical infrastructure materials operator owns or controls;

131 (b) the vested critical infrastructure materials operator owns or leases the land to which
132 the vested critical infrastructure materials operator expands as of February 1, 2019; and

133 (c) the land is zoned for vested critical infrastructure materials operations.

134 Section 4. Section **10-9a-904** is enacted to read:

135 **10-9a-904. Notice.**

136 For any new subdivision development located in whole or in part within 1,000 feet of
137 the boundary of a vested critical infrastructure materials operations, the owner of the
138 development shall provide notice on any plat filed with the county recorder the following
139 notice:

140 "Vested Critical Infrastructure Materials Protection Area

141 This property is located in the vicinity of an established critical infrastructure materials
142 protection area in which critical infrastructure materials operations have been afforded the
143 highest priority use status. It can be anticipated that such operations may now or in the future
144 be conducted on property included in the critical infrastructure materials protection area. The
145 use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or
146 inconvenience that may result from such normal critical infrastructure materials operations."

147 Section 5. Section **10-9a-905** is enacted to read:

148 **10-9a-905. Abandonment of a vested critical infrastructure materials operations.**

149 (1) A critical infrastructure materials operator may abandon some or all of a vested

150 critical infrastructure materials operations use only as provided in this section.

151 (2) To abandon some or all of a vested critical infrastructure materials operations, a
152 critical infrastructure materials operator shall record a written declaration of abandonment with
153 the recorder of the county in which the vested critical infrastructure materials operations being
154 abandoned is located.

155 (3) The written declaration of abandonment under Subsection (2) shall specify the
156 vested critical infrastructure materials operations or the portion of the vested critical
157 infrastructure materials operations being abandoned.

158 Section 6. Section **17-27a-1001** is enacted to read:

159 **Part 10. Vested Critical Infrastructure Materials Operations**

160 **17-27a-1001. Definitions.**

161 As used in this part:

162 (1) "Critical infrastructure materials" means the same as that term is defined in Section
163 17-41-101.

164 (2) "Critical infrastructure materials operations" means the same as that term is defined
165 in Section 17-41-101.

166 (3) "Critical infrastructure materials operator" means the same as that term is defined
167 in Section 17-41-101.

168 (4) "Vested critical infrastructure materials operations" means critical infrastructure
169 materials operations that existed or was conducted or otherwise engaged in before a political
170 subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials
171 operations.

172 (5) "Vested critical infrastructure materials protection area" means a geographic area
173 where vested critical infrastructure materials operations occurs, including each surface or
174 subsurface land that a critical infrastructure materials operator with a vested critical
175 infrastructure materials operations owns or controls.

176 Section 7. Section **17-27a-1002** is enacted to read:

177 **17-27a-1002. Vested critical infrastructure materials operations -- Conclusive**
178 **presumption.**

179 (1) (a) Critical infrastructure materials operations are conclusively presumed to be
180 vested critical infrastructure materials operations if the critical infrastructure materials

181 operations existed or was conducted or otherwise engaged in before a political subdivision
182 prohibits, restricts, or otherwise limits the critical infrastructure materials operations.

183 (b) A person claiming that a vested critical infrastructure materials operations has been
184 established has the burden of proof to show by the preponderance of the evidence that the
185 vested critical infrastructure materials operations has been established.

186 (2) A vested critical infrastructure materials operations:

187 (a) runs with the land; and

188 (b) may be changed to another critical infrastructure materials operations without
189 losing its status as a vested critical infrastructure materials operations.

190 (3) (a) A critical infrastructure materials operator with vested critical infrastructure
191 materials operations shall file a declaration for recording in the office of the recorder of the
192 county in which the vested critical infrastructure materials operations is located.

193 (b) A declaration under Subsection (3)(a) shall:

194 (i) contain a legal description of the land included within the vested critical
195 infrastructure materials operations; and

196 (ii) provide notice of the vested critical infrastructure materials operations.

197 (4) A vested critical infrastructure materials operations protected area has the
198 protections found in Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure
199 Materials Protection Areas, for a critical infrastructure materials protection area, except that if
200 there is a conflict between Title 17, Chapter 41, Agriculture, Industrial, or Critical
201 Infrastructure Materials Protection Areas, and this part, this part governs.

202 Section 8. Section **17-27a-1003** is enacted to read:

203 **17-27a-1003. Rights of a critical infrastructure materials operator with a vested**
204 **critical infrastructure materials operations -- Expanding vested critical infrastructure**
205 **materials operations -- Notice.**

206 (1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation
207 on a critical infrastructure materials operations adopted after the establishment of the critical
208 infrastructure materials operations, the rights of a critical infrastructure materials operator with
209 vested critical infrastructure materials operations include the right to:

210 (a) progress, extend, enlarge, grow, or expand the vested critical infrastructure
211 materials operations to land that the critical infrastructure materials operator owns or controls;

212 (b) expand the vested critical infrastructure materials operations to any new land that is
213 contiguous and related in critical infrastructure materials to surface or subsurface land that the
214 critical infrastructure materials operator already owns or controls;

215 (c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter,
216 substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings on
217 any surface or subsurface land that the critical infrastructure materials operator owns or
218 controls;

219 (d) increase production or volume, alter the method of excavating or extracting, and
220 process a different or additional critical infrastructure material than previously owned on any
221 surface or subsurface land that the critical infrastructure materials operator owns or controls;
222 and

223 (e) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily
224 or permanently, all or any part of the critical infrastructure materials operations.

225 (2) Notwithstanding the other provisions of this section from May 14, 2019, to July 1,
226 2020, a vested critical infrastructure materials operator may expand a vested critical
227 infrastructure materials operator only if:

228 (a) the land to which the vested critical infrastructure materials operator expands is
229 contiguous with land that the vested critical infrastructure materials operator owns or controls;

230 (b) the vested critical infrastructure materials operator owns or leases the land to which
231 the vested critical infrastructure materials operator expands as of February 1, 2019; and

232 (c) the land is zoned for vested critical infrastructure materials operations.

233 Section 9. Section **17-27a-1004** is enacted to read:

234 **17-27a-1004. Notice.**

235 For any new subdivision development located in whole or in part within 1,000 feet of
236 the boundary of a vested critical infrastructure materials operations, the owner of the
237 development shall provide notice on any plat filed with the county recorder the following
238 notice:

239 "Vested Critical Infrastructure Materials Protection Area

240 This property is located in the vicinity of an established critical infrastructure materials
241 protection area in which critical infrastructure materials operations have been afforded the
242 highest priority use status. It can be anticipated that such operations may now or in the future

243 be conducted on property included in the critical infrastructure materials protection area. The
244 use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or
245 inconvenience that may result from such normal critical infrastructure materials operations."

246 Section 10. Section **17-27a-1005** is enacted to read:

247 **17-27a-1005. Abandonment of a vested critical infrastructure materials**
248 **operations.**

249 (1) A critical infrastructure materials operator may abandon some or all of a vested
250 critical infrastructure materials operations use only as provided in this section.

251 (2) To abandon some or all of a vested critical infrastructure materials operations, a
252 critical infrastructure materials operator shall record a written declaration of abandonment with
253 the recorder of the county in which the vested critical infrastructure materials operations being
254 abandoned is located.

255 (3) The written declaration of abandonment under Subsection (2) shall specify the
256 vested critical infrastructure materials operations or the portion of the vested critical
257 infrastructure materials operations being abandoned.

258 Section 11. Section **17-41-101** is amended to read:

259 **CHAPTER 41. AGRICULTURE, INDUSTRIAL, OR CRITICAL**
260 **INFRASTRUCTURE MATERIALS PROTECTION AREAS**

261 **17-41-101. Definitions.**

262 As used in this chapter:

263 (1) "Advisory board" means:

264 (a) for an agriculture protection area, the agriculture protection area advisory board
265 created as provided in Section [17-41-201](#); ~~and~~

266 (b) for an industrial protection area, the industrial protection area advisory board
267 created as provided in Section [17-41-201](#)~~[-]~~; and

268 (c) for a critical infrastructure materials protection area, the critical infrastructure
269 materials protection area advisory board created as provided in Section [17-41-201](#).

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

272 (b) "Agriculture production" includes the processing or retail marketing of any crops,
273 livestock, and livestock products when more than 50% of the processed or merchandised

274 products are produced by the farm operator.

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

277 (4) "Applicable legislative body" means:

278 (a) with respect to a proposed agriculture protection area ~~[or]~~, industrial protection
279 area, or critical infrastructure materials protection area:

280 (i) the legislative body of the county in which the land proposed to be included in ~~[an~~
281 ~~agriculture protection area or industrial]~~ the relevant protection area is located, if the land is
282 within the unincorporated part of the county; or

283 (ii) the legislative body of the city or town in which the land proposed to be included in
284 ~~[an agriculture protection area or industrial]~~ the relevant protection area is located; and

285 (b) with respect to an existing agriculture protection area ~~[or]~~, industrial protection
286 area, or critical infrastructure materials protection area:

287 (i) the legislative body of the county in which the ~~[agriculture protection area or~~
288 ~~industrial]~~ relevant protection area is located, if the ~~[agriculture protection area or industrial]~~
289 relevant protection area is within the unincorporated part of the county; or

290 (ii) the legislative body of the city or town in which the ~~[agriculture protection area or~~
291 ~~industrial]~~ relevant protection area is located.

292 (5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

293 (6) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

294 (7) "Critical infrastructure materials operations" means the extraction, excavation,
295 processing, or reprocessing of critical infrastructure materials.

296 (8) "Critical infrastructure materials operator" means a natural person, corporation,
297 association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or
298 other organization or representative, either public or private, including a successor, assign,
299 affiliate, subsidiary, and related parent company, that:

300 (a) owns, controls, or manages a critical infrastructure materials operation; and

301 (b) has produced commercial quantities of critical infrastructure materials from the
302 critical infrastructure materials operations.

303 (9) "Critical infrastructure materials protection area" means a geographic area created
304 under the authority of this chapter on or after May 14, 2019, that is granted the specific legal

305 protections contained in this chapter.

306 [~~(6)~~] (10) "Crops, livestock, and livestock products" includes:

307 (a) land devoted to the raising of useful plants and animals with a reasonable
308 expectation of profit, including:

309 (i) forages and sod crops;

310 (ii) grains and feed crops;

311 (iii) livestock as defined in Section [59-2-102](#);

312 (iv) trees and fruits; or

313 (v) vegetables, nursery, floral, and ornamental stock; or

314 (b) land devoted to and meeting the requirements and qualifications for payments or
315 other compensation under a crop-land retirement program with an agency of the state or federal
316 government.

317 [~~(7)~~] (11) "Division" means the Division of Oil, Gas, and Mining created in Section
318 [40-6-15](#).

319 [~~(8)~~] (12) "Industrial protection area" means a geographic area created under the
320 authority of this chapter that is granted the specific legal protections contained in this chapter.

321 [~~(9)~~] (13) "Mine operator" means a natural person, corporation, association,
322 partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other
323 organization or representative, either public or private, including a successor, assign, affiliate,
324 subsidiary, and related parent company, that, as of January 1, 2009:

325 (a) owns, controls, or manages a mining use under a large mine permit issued by the
326 division or the board; and

327 (b) has produced commercial quantities of a mineral deposit from the mining use.

328 [~~(10)~~] (14) "Mineral deposit" has the same meaning as defined in Section [40-8-4](#), but
329 excludes:

330 (a) building stone, decorative rock, and landscaping rock; and

331 (b) consolidated rock that:

332 (i) is not associated with another deposit of minerals;

333 (ii) is or may be extracted from land; and

334 (iii) is put to uses similar to the uses of sand, gravel, and other aggregates.

335 [~~(11)~~] (15) "Mining protection area" means land where a vested mining use occurs,

336 including each surface or subsurface land or mineral estate that a mine operator with a vested
337 mining use owns or controls.

338 ~~[(12)]~~ (16) "Mining use":

339 (a) means:

340 (i) the full range of activities, from prospecting and exploration to reclamation and
341 closure, associated with the exploitation of a mineral deposit; and

342 (ii) the use of the surface and subsurface and groundwater and surface water of an area
343 in connection with the activities described in Subsection ~~[(12)]~~ (16)(a)(i) that have been, are
344 being, or will be conducted; and

345 (b) includes, whether conducted on-site or off-site:

346 (i) any sampling, staking, surveying, exploration, or development activity;

347 (ii) any drilling, blasting, excavating, or tunneling;

348 (iii) the removal, transport, treatment, deposition, and reclamation of overburden,
349 development rock, tailings, and other waste material;

350 (iv) any removal, transportation, extraction, beneficiation, or processing of ore;

351 (v) any smelting, refining, autoclaving, or other primary or secondary processing
352 operation;

353 (vi) the recovery of any mineral left in residue from a previous extraction or processing
354 operation;

355 (vii) a mining activity that is identified in a work plan or permitting document;

356 (viii) the use, operation, maintenance, repair, replacement, or alteration of a building,
357 structure, facility, equipment, machine, tool, or other material or property that results from or is
358 used in a surface or subsurface mining operation or activity;

359 (ix) any accessory, incidental, or ancillary activity or use, both active and passive,
360 including a utility, private way or road, pipeline, land excavation, working, embankment, pond,
361 gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use
362 area, buffer zone, and power production facility;

363 (x) the construction of a storage, factory, processing, or maintenance facility; and

364 (xi) any activity described in Subsection 40-8-4(14)(a).

365 ~~[(13)]~~ (17) (a) "Municipal" means of or relating to a city or town.

366 (b) "Municipality" means a city or town.

367 [~~(14)~~] (18) "New land" means surface or subsurface land or mineral estate that a mine
368 operator gains ownership or control of, whether [~~or not~~] that land or mineral estate is included
369 in the mine operator's large mine permit.

370 [~~(15)~~] (19) "Off-site" has the same meaning as provided in Section 40-8-4.

371 [~~(16)~~] (20) "On-site" has the same meaning as provided in Section 40-8-4.

372 [~~(17)~~] (21) "Planning commission" means:

373 (a) a countywide planning commission if the land proposed to be included in the
374 agriculture protection area [~~or~~], industrial protection area, or critical infrastructure materials
375 protection area is within the unincorporated part of the county and not within a planning
376 advisory area;

377 (b) a planning advisory area planning commission if the land proposed to be included
378 in the agriculture protection area [~~or~~], industrial protection area, or critical infrastructure
379 materials protection area is within a planning advisory area; or

380 (c) a planning commission of a city or town if the land proposed to be included in the
381 agriculture protection area [~~or~~], industrial protection area, or critical infrastructure materials
382 protection area is within a city or town.

383 [~~(18)~~] (22) "Political subdivision" means a county, city, town, school district, local
384 district, or special service district.

385 [~~(19)~~] (23) "Proposal sponsors" means the owners of land in agricultural production
386 [~~or~~], industrial use, or critical infrastructure materials operations who are sponsoring the
387 proposal for creating an agriculture protection area [~~or~~], industrial protection area[
388 respectively], or critical infrastructure materials protection area.

389 [~~(20)~~] (24) "State agency" means each department, commission, board, council,
390 agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory,
391 library, unit, bureau, panel, or other administrative unit of the state.

392 [~~(21)~~] (25) "Unincorporated" means not within a city or town.

393 [~~(22)~~] (26) "Vested mining use" means a mining use:

394 (a) by a mine operator; and

395 (b) that existed or was conducted or otherwise engaged in before a political subdivision
396 prohibits, restricts, or otherwise limits a mining use.

397 Section 12. Section **17-41-201** is amended to read:

398 **17-41-201. Protection area advisory board.**

399 (1) (a) (i) ~~[Each]~~ A county legislative body shall appoint no more than five members
400 from the county's conservation district board of supervisors to serve as the ~~[Agriculture~~
401 ~~Protection Area Advisory Board]~~ agriculture protection area advisory board.

402 (ii) ~~[Each]~~ A county legislative body shall appoint an industrial protection area
403 advisory board.

404 (iii) Subject to Subsection (1)(b), a county legislative body shall form a critical
405 infrastructure materials protection area advisory board that consists of:

406 (A) the executive director of the Department of Transportation, or the executive
407 director's designee;

408 (B) a local government elected official appointed by the county legislative body;

409 (C) a representative of a local highway authority appointed by the county legislative
410 body;

411 (D) a representative of the critical infrastructure materials industry appointed by the
412 county legislative body; and

413 (E) a representative of the construction industry appointed by the county legislative
414 body.

415 (b) A county legislative body may appoint ~~[the]~~ an advisory board before or after a
416 proposal to create an agriculture protection area or industrial protection area is filed. A county
417 legislative body shall appoint a critical infrastructure materials protection area advisory board
418 only after a proposal to create a critical infrastructure materials protection area is filed.

419 (2) ~~[Each]~~ A member of an advisory board shall serve without salary, but a county
420 legislative body may reimburse members for expenses incurred in the performance of their
421 duties.

422 (3) ~~[Each]~~ An advisory board shall:

423 (a) evaluate proposals for the establishment of ~~[agriculture protection areas or~~
424 ~~industrial]~~ the relevant protection areas and make recommendations to the applicable
425 legislative body about whether ~~[or not]~~ the proposal should be accepted;

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

428 (i) the desirability of the proposal;

429 (ii) the nature of agricultural production [~~or~~], industrial use, or critical infrastructure
 430 materials operations, as the case may be, within the proposed area;

431 (iii) the relation of agricultural production [~~or~~], industrial use, or critical infrastructure
 432 materials operations, as the case may be, in the area to the county as a whole; and

433 (iv) which agriculture production [~~or~~], industrial use, or critical infrastructure materials
 434 operations, should be allowed within the [~~agriculture~~] relevant protection area [~~or industrial~~
 435 ~~protection area, respectively~~]; and

436 (c) perform [~~all~~] the other duties required by this chapter.

437 Section 13. Section **17-41-301** is amended to read:

438 **17-41-301. Proposal for creation of a protection area.**

439 (1) (a) A proposal to create an agriculture protection area [~~or~~], an industrial protection
 440 area, or critical infrastructure materials protection area may be filed with:

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

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

445 (b) (i) To be accepted for processing by the applicable legislative body, a proposal
 446 under Subsection (1)(a) shall be signed by a majority in number of all owners of real property
 447 and the owners of a majority of the land area in agricultural production [~~or~~], industrial use, or
 448 critical infrastructure materials operations within the proposed [~~agriculture protection area or~~
 449 ~~industrial~~] relevant protection area[~~, respectively~~].

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

452 (2) The proposal shall identify:

453 (a) the boundaries of the land proposed to become part of [~~an agriculture protection~~
 454 ~~area or industrial~~] the relevant protection area;

455 (b) any limits on the types of agriculture production [~~or~~], industrial use, or critical
 456 infrastructure materials operations to be allowed within the [~~agriculture protection area or~~
 457 ~~industrial~~] relevant protection area[~~, respectively~~]; and

458 (c) for each parcel of land:

459 (i) the names of the owners of record of the land proposed to be included within the

460 ~~[agriculture protection area or industrial]~~ relevant protection area;

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

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

463 (3) An agriculture protection area ~~[or]~~, industrial protection area, or critical
 464 infrastructure materials protection area may include within its boundaries land used for a
 465 roadway, dwelling site, park, or other nonagricultural ~~[or]~~ use, in the case of an industrial
 466 protection area, nonindustrial use, or in the case of a critical infrastructure materials protection
 467 area, use unrelated to critical infrastructure materials operations, if that land constitutes a
 468 minority of the total acreage within the ~~[agriculture protection area or industrial]~~ the relevant
 469 protection area~~[-, respectively]~~.

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

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

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

473 (5) ~~[Each]~~ A county and municipal legislative body shall establish the minimum
 474 number of continuous acres that shall be included in an agriculture protection area ~~[or]~~,
 475 industrial protection area, or critical infrastructure materials protection area.

476 Section 14. Section **17-41-302** is amended to read:

477 **17-41-302. Notice of proposal for creation of protection area -- Responses.**

478 (1) ~~[Each]~~ An applicable legislative body shall provide notice of the proposal by:

479 (a) (i) publishing notice~~[:(A)]~~ in a newspaper having general circulation within:

480 ~~[(H)]~~ (A) the same county as the land proposed for inclusion within an agriculture
 481 protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection
 482 area, as the case may be, if the land is within the unincorporated part of the county; or

483 ~~[(H)]~~ (B) the same city or town as the land proposed for inclusion within an agriculture
 484 protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection
 485 area, as the case may be, if the land is within a city or town; and

486 (ii) as required in Section [45-1-101](#);

487 (b) posting notice at five public places, designated by the county or municipal
 488 legislative body, within or near the proposed agriculture protection area ~~[or]~~, industrial
 489 protection area, or critical infrastructure materials protection area; and

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

491 for inclusion within an agriculture protection area [or], industrial protection area, or critical
492 infrastructure materials protection area.

493 (2) The notice shall contain:

494 (a) a statement that a proposal for the creation of an agriculture protection area [or],
495 industrial protection area, or critical infrastructure materials protection area has been filed with
496 the applicable legislative body;

497 (b) a statement that the proposal will be open to public inspection in the office of the
498 applicable legislative body;

499 (c) a statement that any person [~~or entity~~] affected by the establishment of the area
500 may, within 15 days of the date of the notice, file with the applicable legislative body:

501 (i) written objections to the proposal; or

502 (ii) a written request to modify the proposal to exclude land from or add land to the
503 proposed [~~agriculture protection area or industrial~~] protection area[~~, as the case may be~~];

504 (d) a statement that the applicable legislative body will submit the proposal to the
505 advisory committee and to the planning commission for review and recommendations;

506 (e) a statement that the applicable legislative body will hold a public hearing to discuss
507 and hear public comment on:

508 (i) the proposal to create the agriculture protection area [or], industrial protection area,
509 or critical infrastructure materials protection area;

510 (ii) the recommendations of the advisory committee and planning commission; and

511 (iii) any requests for modification of the proposal and any objections to the proposal;

512 and

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

514 (3) (a) [~~Any~~] A person wishing to modify the proposal for the creation of the
515 agriculture protection area [or], industrial protection area, or critical infrastructure materials
516 protection area shall, within 15 days after the date of the notice, file a written request for
517 modification of the proposal, which identifies specifically the land that should be added to or
518 removed from the proposal.

519 (b) [~~Any~~] A person wishing to object to the proposal for the creation of the agriculture
520 protection area [or], industrial protection area, or critical infrastructure materials protection
521 area shall, within 15 days after the date of the notice, file a written objection to the creation of

522 the [~~agriculture protection area or industrial~~] relevant protection area.

523 Section 15. Section **17-41-303** is amended to read:

524 **17-41-303. Review of proposal for creation of protection area.**

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

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

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

532 (ii) analyzes and evaluates the proposal by applying the criteria contained in Section
533 [17-41-305](#);

534 (iii) recommends any modifications to the land to be included in the proposed
535 agriculture protection area [~~or~~], industrial protection area, or critical infrastructure materials
536 protection area;

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

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

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

542 (i) recommends any modifications to the land to be included in the proposed
543 agriculture protection area [~~or~~], industrial protection area, or critical infrastructure materials
544 protection area;

545 (ii) analyzes and evaluates the proposal by applying the criteria contained in Section
546 [17-41-305](#);

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

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

550 (c) The applicable legislative body shall consider a failure of the planning commission
551 or advisory committee to submit a written report within the 45 days under Subsection (2)(a) or

552 (b) as a recommendation of that committee to approve the proposal as submitted.

553 Section 16. Section **17-41-304** is amended to read:

554 **17-41-304. Public hearing -- Review and action on proposal.**

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

558 (a) schedule a public hearing;

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

560 (i) publishing notice:

561 (A) in a newspaper having general circulation within:

562 (I) the same county as the land proposed for inclusion within the agriculture protection
563 area [or], industrial protection area, or critical infrastructure materials protection area, if the
564 land is within the unincorporated part of the county; or

565 (II) the same city or town as the land proposed for inclusion within an agriculture
566 protection area [or], industrial protection area, or critical infrastructure materials protection
567 area, if the land is within a city or town; and

568 (B) on the Utah Public Notice Website created in Section [63F-1-701](#);

569 (ii) posting notice at five public places, designated by the applicable legislative body,
570 within or near the proposed agriculture protection area [or], industrial protection area, or
571 critical infrastructure materials protection area; and

572 (iii) mailing written notice to each owner of land within 1,000 feet of the land proposed
573 for inclusion within an agriculture protection area [or], industrial protection area, or critical
574 infrastructure materials protection area; and

575 (c) ensure that the notice includes:

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

577 (ii) a description of the proposed agriculture protection area [or], industrial protection
578 area, or critical infrastructure materials protection area;

579 (iii) any proposed modifications to the proposed agriculture protection area [or],
580 industrial protection area, or critical infrastructure materials protection area;

581 (iv) a summary of the recommendations of the advisory committee and planning
582 commission; and

583 (v) a statement that interested persons may appear at the public hearing and speak in

584 favor of or against the proposal, any proposed modifications to the proposal, or the
585 recommendations of the advisory committee and planning commission.

586 (2) The applicable legislative body shall:

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

588 (b) take [~~verbal~~] oral or written testimony from interested persons.

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

591 (b) The creation of an agriculture protection area [~~or~~], industrial protection area, or
592 critical infrastructure materials protection area is effective at the earlier of:

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

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

596 (c) Notwithstanding Subsection (3)(b), a critical infrastructure materials protection area
597 is effective only if the applicable legislative body, at its discretion, approves a proposal or
598 modified proposal.

599 (4) (a) [~~In order to~~] To give constructive notice of the existence of the agriculture
600 protection area [~~or~~], industrial protection area, or critical infrastructure materials protection
601 area to all persons who have, may acquire, or may seek to acquire an interest in land in or
602 adjacent to the [~~agriculture protection area or industrial~~] relevant protection area[;
603 ~~respectively,~~] within 10 days of the creation of [~~an agriculture protection area or industrial~~] the
604 relevant protection area, the applicable legislative body shall file an executed document
605 containing a legal description of the [~~agriculture protection area or industrial~~] relevant
606 protection area[~~, as the case may be,~~] with:

607 (i) the county recorder of deeds; and

608 (ii) the affected planning commission.

609 (b) If the legal description of the property to be included in the [~~agriculture protection~~
610 ~~area or industrial~~] relevant protection area is available through the county recorder's office, the
611 applicable legislative body shall use that legal description in its executed document required in
612 Subsection (4)(a).

613 (5) Within 10 days of the recording of the agriculture protection area, the applicable
614 legislative body shall:

615 (a) send written notification to the commissioner of agriculture and food that the
616 agriculture protection area has been created; and

617 (b) include in the notification:

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

619 (ii) the total acreage of the area;

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

621 (iv) the date of recording.

622 (6) The applicable legislative body's failure to record the notice required under
623 Subsection (4) or to send the written notification under Subsection (5) does not invalidate the
624 creation of an agriculture protection area.

625 (7) The applicable legislative body may consider the cost of recording notice under
626 Subsection (4) and the cost of sending notification under Subsection (5) in establishing a fee
627 under Subsection 17-41-301(4)(b).

628 Section 17. Section 17-41-305 is amended to read:

629 **17-41-305. Criteria to be applied in evaluating a proposal for the creation of a**
630 **protection area.**

631 In evaluating a proposal and in determining whether or not to create or recommend the
632 creation of an agriculture protection area [~~or~~], industrial protection area, or critical
633 infrastructure materials protection area, the advisory committee, planning commission, and
634 applicable legislative body shall apply the following criteria:

635 (1) whether or not the land is currently being used for agriculture production [~~or for~~
636 ~~an~~], industrial use, or critical infrastructure materials operations, as the case may be;

637 (2) whether or not the land is zoned for agriculture use [~~or~~], industrial use, or critical
638 infrastructure materials operations, as the case may be;

639 (3) whether or not the land is viable for agriculture production [~~or~~], industrial use, or
640 critical infrastructure materials operations, as the case may be;

641 (4) the extent and nature of existing or proposed farm improvements [~~or~~], the extent
642 and nature of existing or proposed improvements to or expansion of the industrial use, or the
643 extent and nature of existing or proposed improvements to or expansion of critical
644 infrastructure materials operations, as the case may be; and

645 (5) (a) in the case of an agriculture protection area, anticipated trends in agricultural

646 and technological conditions; ~~[or]~~

647 (b) in the case of an industrial protection area, anticipated trends in technological
648 conditions applicable to the industrial use of the land in question~~[-]; or~~

649 (c) in the case of a critical infrastructure materials protection area, anticipated trends in
650 technological conditions applicable to the critical infrastructure materials operations of the land
651 in question.

652 Section 18. Section ~~17-41-306~~ is amended to read:

653 **17-41-306. Adding land to or removing land from a protection area -- Removing**
654 **land from a mining protection area.**

655 (1) (a) Any owner may add land to an existing agriculture protection area ~~[or]~~,
656 industrial protection area, critical infrastructure materials protection area, as the case may be,
657 by:

658 (i) filing a proposal with:

659 (A) the county legislative body, if the ~~[agriculture protection area or industrial]~~ relevant
660 protection area and the land to be added are within the unincorporated part of the county; or

661 (B) the municipal legislative body, if the ~~[agriculture protection area or industrial]~~
662 relevant protection area and the land to be added are within a city or town; and

663 (ii) obtaining the approval of the applicable legislative body for the addition of the land
664 to the relevant protection area.

665 (b) The applicable legislative body shall:

666 (i) comply with the provisions for creating an agriculture protection area ~~[or]~~, industrial
667 protection area, critical infrastructure materials protection area, as the case may be, in
668 determining whether ~~[or not]~~ to accept the proposal~~[-]; and~~

669 (ii) for purposes of a critical infrastructure materials protection area, request a copy of
670 the applicable Division of Air Quality approval order.

671 (c) The applicable legislative body may deny the expansion if it is contrary to the
672 Division of Air Quality's approval order.

673 (2) (a) ~~[Any]~~ An owner of land within an agriculture protection area ~~[or]~~, industrial
674 protection area, or critical infrastructure materials protection area may remove any or all of the
675 land from the ~~[agriculture protection area or industrial]~~ relevant protection area, ~~[respectively,]~~
676 by filing a petition for removal with the applicable legislative body.

677 (b) (i) The applicable legislative body:

678 (A) shall:

679 (I) grant the petition for removal of land from~~[an agriculture protection area or~~
680 ~~industrial]~~ the relevant protection area, ~~[as the case may be,]~~ even if removal of the land would
681 result in an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure
682 materials protection area of less than the number of acres established by the applicable
683 legislative body as the minimum under Section 17-41-301; and

684 (II) ~~[in order]~~ to give constructive notice of the removal to all persons who have, may
685 acquire, or may seek to acquire an interest in land in or adjacent to the agriculture protection
686 area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area and the
687 land removed from the ~~[agriculture protection area or industrial]~~ relevant protection area, file a
688 legal description of the revised boundaries of the ~~[agriculture protection area or industrial]~~
689 relevant protection area with the county recorder of deeds and the affected planning
690 commission; and

691 (B) may not charge a fee in connection with a petition to remove land from an
692 agriculture protection area ~~[or]~~, an industrial protection area, or critical infrastructure materials
693 protection area.

694 (ii) The remaining land in the agriculture protection area ~~[or]~~, industrial protection
695 area, or critical infrastructure materials protection area is still an agriculture protection area
696 ~~[or]~~, industrial protection area~~[-, respectively]~~, or critical infrastructure materials protection
697 area.

698 (iii) (A) A critical infrastructure materials operator may abandon some or all of its
699 critical infrastructure materials operations use only as provided in this Subsection (2)(b)(iii).

700 (B) To abandon some or all of a critical infrastructure materials operations, a critical
701 infrastructure materials operator shall record a written declaration of abandonment with the
702 recorder of the county in which the critical infrastructure materials operations being abandoned
703 is located.

704 (C) The written declaration of abandonment under this Subsection (2)(b)(iii) shall
705 specify the critical infrastructure materials operations or the portion of the critical infrastructure
706 materials operations being abandoned.

707 (3) (a) If a municipality annexes any land that is part of an agriculture protection area

708 [~~or~~], industrial protection area, or critical infrastructure materials protection area located in the
709 unincorporated part of the county, the county legislative body shall, within 30 days after the
710 land is annexed, review the feasibility of that land remaining in the [~~agriculture protection area~~
711 ~~or industrial~~] relevant protection area according to the procedures and requirements of Section
712 17-41-307.

713 (b) The county legislative body shall remove the annexed land from the [~~agriculture~~
714 ~~protection area or industrial~~] relevant protection area[, as the case may be,] if:

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

717 (ii) the owners of all the annexed land that is within the [~~agriculture protection area or~~
718 ~~industrial~~] relevant protection area consent in writing to the removal.

719 (c) Removal of land from an agriculture protection area [~~or~~], industrial protection area,
720 or critical infrastructure materials protection area under this Subsection (3) does not affect
721 whether that land may be:

722 (i) included in a proposal under Section 17-41-301 to create an agriculture protection
723 area [~~or~~], industrial protection area, or critical infrastructure materials protection area within
724 the municipality; or

725 (ii) added to an existing agriculture protection area [~~or~~], industrial protection area, or
726 critical infrastructure materials protection area within the municipality under Subsection (1).

727 (4) A mine operator that owns or controls land within a mining protection area may
728 remove any or all of the land from the mining protection area by filing a notice of removal with
729 the legislative body of the county in which the land is located.

730 Section 19. Section 17-41-307 is amended to read:

731 **17-41-307. Review of protection areas.**

732 (1) In the 20th calendar year after its creation under this part, [~~each~~] an agriculture
733 protection area [~~or~~], industrial protection area, or critical infrastructure materials protection
734 area, as the case may be, shall be reviewed, under the provisions of this section, by:

735 (a) the county legislative body, if the [~~agriculture protection area or industrial~~] relevant
736 protection area is within the unincorporated part of the county; or

737 (b) the municipal legislative body, if the [~~agriculture protection area or industrial~~]
738 relevant protection area is within the municipality.

739 (2) (a) In the 20th year, the applicable legislative body may:

740 (i) request the planning commission and advisory board to submit recommendations
741 about whether the agriculture protection area [~~or~~], industrial protection area, or critical
742 infrastructure materials protection area, as the case may be, should be continued, modified, or
743 terminated;

744 (ii) at least 120 days before the end of the calendar year, hold a public hearing to
745 discuss whether the [~~agriculture protection area or industrial~~] relevant protection area, [~~as the~~
746 ~~case may be,~~] should be continued, modified, or terminated;

747 (iii) give notice of the hearing using the same procedures required by Section
748 [17-41-302](#); and

749 (iv) after the public hearing, continue, modify, or terminate the [~~agriculture protection~~
750 ~~area or industrial~~] relevant protection area.

751 (b) If the applicable legislative body modifies or terminates the agriculture protection
752 area [~~or~~], industrial protection area, or critical infrastructure materials protection area, [~~it~~] the
753 applicable legislative body shall file an executed document containing the legal description of
754 the [~~agriculture protection area or industrial~~] relevant protection area, [~~respectively,~~] with the
755 county recorder of deeds.

756 (3) If the applicable legislative body fails affirmatively to continue, modify, or
757 terminate the agriculture protection area [~~or~~], industrial protection area, or critical infrastructure
758 materials protection area, as the case may be, in the 20th calendar year, the [~~agriculture~~
759 ~~protection area or industrial~~] relevant protection area is considered to be reauthorized for
760 another 20 years.

761 Section 20. Section **17-41-402** is amended to read:

762 **17-41-402. Limitations on local regulations.**

763 (1) A political subdivision within which an agriculture protection area [~~or~~], industrial
764 protection area, or critical infrastructure materials protection area is created or with a mining
765 protection area within its boundary shall encourage the continuity, development, and viability
766 of agriculture use, industrial use, critical infrastructure materials operations, or mining use,
767 [~~respectively,~~] within the relevant protection area by not enacting a local law, ordinance, or
768 regulation that, unless the law, ordinance, or regulation bears a direct relationship to public
769 health or safety, would unreasonably restrict:

770 (a) in the case of an agriculture protection area, a farm structure or farm practice [or];

771 (b) in the case of an industrial protection area, an industrial use of the land within the
772 area [or];

773 (c) in the case of a critical infrastructure materials protection area, critical infrastructure
774 materials operations; or

775 (d) in the case of a mining protection area, a mining use within the protection area
776 [unless the law, ordinance, or regulation bears a direct relationship to public health or safety].

777 (2) A political subdivision may not change the zoning designation of or a zoning
778 regulation affecting land within an agriculture protection area unless the political subdivision
779 receives written approval for the change from all the landowners within the agriculture
780 protection area affected by the change.

781 (3) Except as provided by Section 19-4-113, a political subdivision may not change the
782 zoning designation of or a zoning regulation affecting land within an industrial protection area
783 unless the political subdivision receives written approval for the change from all the
784 landowners within the industrial protection area affected by the change.

785 (4) A political subdivision may not change the zoning designation of or a zoning
786 regulation affecting land within a critical infrastructure materials protection area unless the
787 political subdivision receives written approval for the change from each critical infrastructure
788 materials operator within the relevant area.

789 ~~[(4)]~~ (5) A political subdivision may not change the zoning designation of or a zoning
790 regulation affecting land within a mining protection area unless the political subdivision
791 receives written approval for the change from each mine operator within the area.

792 (6) From May 14, 2019, to July 1, 2020, a county, city, or town may not:

793 (a) adopt, enact, or amend an existing land use regulation, ordinance, or regulation that
794 would prohibit, restrict, regulate, or otherwise limit critical infrastructure materials operations,
795 including vested critical infrastructure materials operations as defined in Section 10-9a-901 or
796 17-27a-1001; or

797 (b) initiate proceedings to amend the county's, city's, or town's land use ordinances as
798 described in Subsection 10-9a-509(1)(a)(ii) or 17-27a-508(1)(a)(ii).

799 Section 21. Section 17-41-403 is amended to read:

800 **17-41-403. Nuisances.**

801 (1) [~~Each~~] A political subdivision shall ensure that any of [~~its~~] the political
802 subdivision's laws or ordinances that define or prohibit a public nuisance exclude from the
803 definition or prohibition:

804 (a) for an agriculture protection area, any agricultural activity or operation within an
805 agriculture protection area conducted using sound agricultural practices unless that activity or
806 operation bears a direct relationship to public health or safety; [~~or~~]

807 (b) for an industrial protection area, any industrial use of the land within the industrial
808 protection area that is consistent with sound practices applicable to the industrial use, unless
809 that use bears a direct relationship to public health or safety[~~;~~]; or

810 (c) for a critical infrastructure materials protection area, any critical infrastructure
811 materials operations on the land within the critical infrastructure materials protection area that
812 is consistent with sound practices applicable to the critical infrastructure materials operations,
813 unless that use bears a direct relationship to public health or safety.

814 (2) In a civil action for nuisance or a criminal action for public nuisance under Section
815 [76-10-803](#), it is a complete defense if the action involves agricultural activities and those
816 agricultural activities were:

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

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

820 (3) (a) A vested mining use undertaken in conformity with applicable federal and state
821 law and regulations is presumed to be operating within sound mining practices.

822 (b) A vested mining use that is consistent with sound mining practices:

823 (i) is presumed to be reasonable; and

824 (ii) may not constitute a private or public nuisance under Section [76-10-803](#).

825 (c) A vested mining use in operation for more than three years may not be considered
826 to have become a private or public nuisance because of a subsequent change in the condition of
827 land within the vicinity of the vested mining use.

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

831 "Agriculture Protection Area

832 This property is located in the vicinity of an established agriculture protection area in
833 which normal agricultural uses and activities have been afforded the highest priority use
834 status. It can be anticipated that such agricultural uses and activities may now or in the
835 future be conducted on property included in the agriculture protection area. The use
836 and enjoyment of this property is expressly conditioned on acceptance of any
837 annoyance or inconvenience which may result from such normal agricultural uses and
838 activities."

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

842 "Industrial Protection Area

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

849 (c) For any new subdivision development located in whole or in part within 1,000 feet
850 of the boundary of a critical infrastructure materials protection area, the owner of the
851 development shall provide notice on any plat filed with the county recorder the following
852 notice:

853 "Critical Infrastructure Materials Protection Area

854 This property is located in the vicinity of an established critical infrastructure materials
855 protection area in which critical infrastructure materials operations have been afforded
856 the highest priority use status. It can be anticipated that such operations may now or in
857 the future be conducted on property included in the critical infrastructure materials
858 protection area. The use and enjoyment of this property is expressly conditioned on
859 acceptance of any annoyance or inconvenience which may result from such normal
860 critical infrastructure materials operations."

861 [~~e~~] (d) For any new subdivision development located in whole or in part within 1,000
862 feet of the boundary of a mining protection area, the owner of the development shall provide

863 notice on any plat filed with the county recorder the following notice:

864 "This property is located within the vicinity of an established mining protection area in
865 which normal mining uses and activities have been afforded the highest priority use
866 status. It can be anticipated that the mining uses and activities may now or in the future
867 be conducted on property included in the mining protection area. The use and
868 enjoyment of this property is expressly conditioned on acceptance of any annoyance or
869 inconvenience that may result from the normal mining uses and activities."

870 Section 22. Section **17-41-404** is amended to read:

871 **17-41-404. Policy of state agencies.**

872 [~~Each~~] A state agency shall encourage the continuity, development, and viability of
873 agriculture within agriculture protection areas [~~and~~], industrial uses with industrial protection
874 areas, and critical infrastructure materials operations within critical infrastructure protection
875 areas by:

876 (1) not enacting rules that would impose unreasonable restrictions on farm structures or
877 farm practices within the agriculture protection area [~~or~~], on industrial uses and practices
878 within the industrial protection area, or on critical infrastructure materials operations with a
879 critical infrastructure materials protection area, unless those laws, ordinances, or regulations
880 bear a direct relationship to public health or safety or are required by federal law; and

881 (2) modifying existing rules that would impose unreasonable restrictions on farm
882 structures or farm practices within the agriculture protection area [~~or~~], on industrial uses and
883 activities within the industrial protection area, or on critical infrastructure materials operations
884 within a critical infrastructure materials protection area, unless those laws, ordinances, or
885 regulations bear a direct relationship to public health or safety or are required by federal law.

886 Section 23. Section **17-41-405** is amended to read:

887 **17-41-405. Eminent domain restrictions.**

888 (1) A political subdivision having or exercising eminent domain powers may not
889 condemn for any purpose any land within an agriculture protection area that is being used for
890 agricultural production [~~or any~~], land within an industrial protection area that is being put to an
891 industrial use, or land within a critical infrastructure materials protection area, unless [~~it has~~
892 ~~obtained~~] the political subdivision obtains approval, according to the procedures and
893 requirements of this section, from the applicable legislative body and the advisory board.

894 (2) Any condemnor wishing to condemn property within an agriculture protection area
895 [~~or~~], industrial protection area, or critical infrastructure materials protection area shall file a
896 notice of condemnation with the applicable legislative body and the [~~agriculture protection area~~
897 ~~or industrial~~] relevant protection area's advisory board at least 30 days before filing an eminent
898 domain complaint.

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

900 (a) hold a joint public hearing on the proposed condemnation at a location within the
901 county in which the [~~agriculture protection area or industrial~~] relevant protection area is
902 located;

903 (b) publish notice of the time, date, place, and purpose of the public hearing:

904 (i) in a newspaper of general circulation within the [~~agriculture protection area or~~
905 ~~industrial~~] relevant protection area~~[, as the case may be]~~; and

906 (ii) on the Utah Public Notice Website created in Section [63F-1-701](#); and

907 (c) post notice of the time, date, place, and purpose of the public hearing in five
908 conspicuous public places, designated by the applicable legislative body, within or near the
909 [~~agriculture protection area or industrial~~] relevant protection area~~[, as the case may be]~~.

910 (4) (a) If the condemnation is for highway purposes or for the disposal of solid or
911 liquid waste materials, the applicable legislative body and the advisory board may approve the
912 condemnation only if there is no reasonable and prudent alternative to the use of the land
913 within the agriculture protection area [~~or~~], industrial protection area, or critical infrastructure
914 materials protection area for the project.

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

917 (i) the proposed condemnation would not have an unreasonably adverse effect upon the
918 preservation and enhancement of:

919 (A) agriculture within the agriculture protection area [~~or of~~];

920 (B) the industrial use within the industrial protection area; or

921 (C) critical infrastructure materials operations within the critical infrastructure
922 materials protection area; or

923 (ii) there is no reasonable and prudent alternative to the use of the land within the
924 [~~agriculture protection area or industrial~~] the relevant protection area for the project.

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

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

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

933 Section 24. Section ~~17-41-406~~ is amended to read:

934 **17-41-406. Restrictions on state development projects.**

935 (1) ~~[Each]~~ A state agency that plans any development project that might affect land
936 within an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure
937 materials protection area, shall submit ~~[its]~~ the state agency's development plan to:

938 (a) the advisory board of the ~~[agriculture protection area or industrial]~~ relevant
939 protection area~~[-respectively]~~; and

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

942 (2) The commissioner of agriculture and food, in the case of an agriculture protection
943 area, and the advisory board shall:

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

945 (b) recommend any modifications to the development project that would protect the
946 integrity of the agriculture protection area ~~[or]~~, industrial protection area, or critical
947 infrastructure materials protection area, as the case may be, or that would protect the
948 agriculture protection area from nonfarm encroachment ~~[or]~~, the industrial protection area from
949 nonindustrial encroachment, or the critical infrastructure materials protection area from
950 encroachment of uses unrelated to critical infrastructure materials operations.

951 (3) ~~[Each]~~ A state agency and political subdivision of the state that designates or
952 proposes to designate a transportation corridor shall:

953 (a) consider:

954 (i) whether the transportation corridor would:

955 (A) be located on land that is included within an agriculture protection area; or

956 (B) interfere with agriculture production activities on land within an agriculture
957 protection area; and
958 (ii) each other reasonably comparable alternative to the placement of the corridor on
959 land within an agriculture protection area; and
960 (b) make reasonable efforts to minimize or eliminate any detrimental impact on
961 agriculture that may result from the designation of a transportation corridor.