**R653. Natural Resources, Water Resources.**

**R653-11. Water Conservation Requirements and Incentives.**

**R653-11-1. Authority and Purpose.**

(1) This rule is promulgated to:

(a) define terms, identify exemptions, and further the objectives of Section 63A-5b-1108 in reducing outdoor water use at state government facilities;

(b) clarify terms and further the implementation and administration of the water conservation program created in Section 73-10-37 that financially incentivizes landowners to replace lawn with water efficient landscaping; and

(c) fulfill the legislative directives in Subsection 73-10-37(5).

**R653-11-2. Definitions.**

(1) Terms used in this rule and not otherwise defined in this section are defined in Subsections 63A-5b-1108(1) and 73-10-37(1).

(2) As used in this section:

(a) "District" means a water conservancy district, as that term is defined in Section 73-10-32.

(b) "Division" means the Division of Water Resources.

(c) "Landscaping conversion incentive program" means a program administered by a district that pays an owner a financial incentive to remove lawn from a project area on land owned by the owner.

(d) "Program guidelines" means guidelines adopted by a district for the district's landscaping conversion incentive program.

(e) "Outdoor water use" means water used for outdoor landscape irrigation and ornamental landscape water features.

(f) "Owner" means a person or entity that holds legal or rightful title, or a controlling interest in that title, to private or public nonagricultural land where a water end user is located.

(i) Applicant is an owner that applies to the division or a district for a financial incentive to convert lawn to water efficient landscaping.

(ii) Participant is an owner that executes a contract with the division or a district for a financial incentive to convert lawn to water efficient landscaping.

(g) "Drip irrigation system" means a system of narrow distribution tubes or pipes that deliver water from a dedicated low pressure supply valve to individual plants and trees through drip emitters. Drip emitters do not include micro spray, fogger, or bubbler emitters.

(h) "Lawn" means nonagricultural land planted in closely mowed, managed grasses, excluding golf courses, parks, athletic fields, and sod farms.

(i) "Nonagricultural land" means privately or publicly owned real property immediately surrounding a home, apartment, office building, or similar structure routinely occupied by people for dwelling, business, employment, or recreation; and that is not used to grow crops or to hold, house, or feed livestock.

(j) "Project area" means the area from which lawn is removed and replaced with water efficient landscaping under Sections 73-10-37, R653-11-7, and R653-11-8.

(k) "Water end user" means a person or entity that contracts with a retail water provider to obtain water for residential, commercial, industrial, or institutional use.

**R653-11-3. Lawn Limitations at State Government Facilities.**

(1) As provided in Subsection 63A-5b-1108(2), a state agency that owns or occupies a state government facility built or reconstructed on or after May 4, 2022, may not have more than 20% of the grounds of the state government facility be in lawn.

(2) The 20% lawn limitation in Subsection 63A-5b-1108(2) does not apply to state government facilities under construction or reconstruction and incomplete as of May 4, 2022.

(3) Upon written request to the division, the division may exempt a state government facility from the 20% lawn limitations in Subsection 63A-5b-1108(2) where it determines that the purpose of the requesting state agency that occupies the facility requires additional lawn.

**R653-11-4. Reductions in Outdoor Water Use at State Government Facilities.**

(1) As provided in Subsection 63A-5b-1108(3)(a), a state agency shall reduce its outdoor water use compared to the state agency's outdoor water use for fiscal year 2020:

(a) 5% or more by June 30, 2023; and

(b) 25% or more by June 30, 2026.

(2) The unit of measurement for outdoor water use under Subsection 63A-5b-1108(3) is gallons of use per fiscal year.

**R653-11-5. Timing of Landscape Irrigation at State Government Facilities.**

(1) As provided in Subsection 63A-5b-1108(4), a state agency may not water outdoor landscaping at a state government facility between the hours of 10 a.m. and 6 p.m.

(2) Upon written request to the division, the division may authorize a state agency to water landscapes at a state government facility between 10 a.m. and 6 p.m. where nighttime watering is:

(a) infeasible due to water availability, insufficient water pressure, landscape use patterns or events, or similar impediments; or

(b) detrimental to establishing and maintaining a landscape or landscape element in a condition that fulfills its fundamental purpose or ensures its perennial survival.

**R653-11-6. State Incentives for Water Efficient Landscaping.**

(1) The division may provide an incentive under Sections 73-10-37 and R653-11-7 to an owner to remove lawn from a project area on land owned by the owner in an area without a landscaping conversion incentive program.

(2) The division may award a grant under Sections 73-10-37 and R653-11-8 to a district to help fund financial incentives provided through a landscaping conversion incentive program administered by the district.

**R653-11-7. Division Administered Water Efficient Landscaping Incentives.**

(1) In an area without an existing landscaping conversion incentive program, the division or its contractor may provide a financial incentive to an owner of private or public property to remove lawn from the property and replace it with water efficient landscaping, as described in Section R653-11-9.

(2) An owner may not receive an incentive under this rule if:

(a) the owner has previously received an incentive under this section for the same project area;

(b) the project area is less than 200 square feet, except as otherwise authorized by the division where all lawn is removed from a parking strip or another isolated area of lawn; or

(c) the project area is located within a municipality or unincorporated area of a county that has not adopted or imposed water use efficiency standards satisfying the minimum benchmarks in Section R653-11-10.

(3) To obtain an incentive under this section an applicant must submit an application to the division or its designated contractor that includes the following:

(a) the applicant's name, mailing address, email address, and phone number;

(b) a description of the property where the proposed lawn removal and replacement will occur;

(c) a description of the lawn area proposed for removal and replacement, including its dimensions and location on the property, such as a project area;

(d) the applicant's acknowledgment and verification that:

(i) they hold legal or rightful title or a controlling interest in the title to the project area;

(ii) the project area is nonagricultural land;

(iii) the project area consists of lawn that is living, mowed, and actively managed;

(iv) the project area is not part of or located on a golf course, park, athletic field, or sod farm;

(v) a water end user is located on the property where the project area is located;

(vi) the water end user contracts with a retail water provider for residential, commercial, industrial, or institutional use of water on the project area;

(vii) the project area is currently irrigated with water supplied by the retail water provider under contract with the water end user;

(viii) they have legal authority to authorize lawn removal and replacement on the project area;

(ix) they voluntarily seek to remove the lawn in the project area and replace it with water efficient landscaping, and are not required to do so by government code or policy;

(x) they have not previously received an incentive under Section 73-10-37 and this rule for the same project area;

(xi) they agree:

(A) to maintain the water efficient landscaping and drip irrigation system installed in the project area and not return it to lawn or overhead spray irrigation after receiving payment for converting the project area to water efficient landscaping; or

(B) return to the division or to a district the payments received for removal of lawn from the project area;

(xii) the lawn conversion project will not violate any applicable law, regulation, ordinance, zoning requirement, contractual obligation, or other legal limitation; and

(xiii) they understand and acknowledge that neither the lawn removal incentive program, its requirements, nor the award of an incentive by the division supersede applicable laws, regulations, ordinances, or contract terms to the contrary; and

(e) submission of the following documents:

(i) billing statement or other verifiable evidence showing that the water end user contracts with the retail water provider that services the project area; and

(ii) water efficient landscaping plan for the project area prepared by the applicant or a third party detailing the:

(A) location on the property and square footage of lawn planned for removal and conversion to water efficient landscaping, including drawings with dimensional measurements, aerial imagery, and photographs of the project area; and

(B) types and locations of the inorganic ground cover, weed barriers, plants, shrubs, trees, and irrigation systems satisfying the water efficient landscaping requirements in this rule.

(f) Upon request by the division, submission of documentation showing the applicant is the owner of the property and possesses legal authority to authorize the lawn removal and replacement.

(4)(a) The division or its contractors will receive and review lawn conversion incentive applications for completeness and compliance with the requirements of Section 73-10-37 and this rule.

(b) Before approving an incentive application, the division or its contractors will verify the location and eligibility of the project area for an incentive by:

(i) reviewing information submitted with the application; or

(ii) physically or virtually inspecting and verifying the project area.

(c)(i) The division or its contractors will approve incentives to qualified applicants under Section 73-10-37 and this rule in the order that eligible applications are filed.

(ii) The division may end an incentive application and corresponding contract where the owner has not completed the project, as prescribed in the application and contract, within 12 months of the date that the application is filed.

(d) An incentive authorized for any single application under Section 73-10-37 and this rule may not exceed:

(i) $50,000 in the aggregate, except as otherwise approved by the division in writing on a case-by-case basis; and

(ii) $2 for each square foot of lawn replaced with water efficient landscaping.

(e) Incentives offered under Section 73-10-37 and this rule are subject to the availability of funding as appropriated by the Legislature.

(5) Upon approval of an incentive and as a condition to receiving the incentive, the participant shall:

(a) provide the division the information required to complete a federal W-9 tax form; and

(b) execute a lawn conversion incentive contract with the division detailing the parties' mutual obligations and responsibilities, including:

(i) terms and conditions for receiving the incentive payment;

(ii) participant's commitment to:

(A) complete the project consistent with the approved water efficient landscaping plan within 365 days of approval of the application;

(B) maintain the water efficient landscaping and drip irrigation system installed in the project area and not return it to lawn or overhead spray irrigation after receiving payment for converting the project area to water efficient landscaping; and

(C) return to the division the payments received for removing lawn from the project area and replacing it with water efficient landscaping in the event of violating Subsection (B);

(iii) other matters determined by the division necessary to effectively administer the incentive program; and

(iv) participant's acknowledgment that incentive payments received may be subject to state and federal taxation.

(6) Before the division disburses any portion of an incentive to a participant, the division or its contractors will physically or virtually inspect the project area and verify the lawn conversion to water efficient landscaping is completed and consistent with:

(a) the requirements of Section 73-10-37 and this rule;

(b) the approved water efficient landscaping plan prepared by the participant or a third-party; and

(c) the lawn conversion incentive contract between the participant and the division.

(7)(a) Where a project fails to satisfy the requirements of this rule, the division may provide notice to cure that:

(i) identifies the deficiencies; and

(ii) provides the participant with 60 days to correct the deficiencies.

(b) Deficiencies must be corrected, and the project completed within:

(i) 60 days of the division's notice to cure; or

(ii) the remainder of the 365-day completion deadline in Subsection (5)(B)(ii)(A), whichever is greater.

(c) Failure to meet the applicable deadline in Subsection (b) will disqualify the project for a financial incentive.

**R653-11-8. Grants for District Administered Water Efficient Landscaping Incentives.**

(1) A district may obtain a grant from the division to help fund a financial incentive provided to an owner through a landscaping conversion incentive program administered by the district.

(2) To obtain a grant, a district shall file an application with the division that includes:

(a) the district's name, address, and contact information;

(b) verification that the district:

(i) has an operational landscaping conversion incentive program;

(ii) commits to implement the minimum requirements of Subsection 73-10-37(4)(c) and either this rule or program guidelines approved by the division under Subsection (3) in administering the program;

(iii) commits to use grant money exclusively to fund financial incentives provided to owners that remove lawn or turf from a project area in the district's landscaping conversion incentive program;

(iv) commits not pay an incentive amount with grant money that exceeds the maximum amounts established in Subsection R653-11-7(4)(d); and

(v) commits to provide an equal amount or more of matching funds for its landscaping conversion incentive program from sources other than the grant money the district receives under this rule;

(c) a detailed description of the landscaping conversion incentive program;

(d) a copy of the program guidelines governing the district's landscaping conversion incentive program;

(e) a request that the division approve the district's program guidelines under Subsection (3), if the district wants to be subject to program guidelines in lieu of rule requirements; and

(f) any additional information requested by the division.

(3)(a) The division may approve a district's request to use its program guidelines in lieu of requirements in this rule that are not specifically mandated in Section 73-10-37 when the program guidelines satisfy the criteria in Subsection (b).

(b) The district's program guidelines must:

(i) result in at least as much water use savings as the waived rule provisions; and

(ii) accomplish the same objectives as the waived rule provisions.

(4) To obtain a grant under this rule, a district shall enter in a contract with the division that:

(a) identifies the amount of grant funding provided by the division;

(b) confirms the district's contribution of matching funds from sources other than the grant, that equal or exceed the grant amount, for its landscaping conversion incentive program;

(c) restricts the district from paying an incentive amount with grant money that exceeds the maximum amounts established in Subsection R653-11-7(4)(d);

(d) confirms the district's commitment to comply with and ensure all grant funded landscaping conversion projects proposed, undertaken, and completed by participants under its landscaping conversion incentive program satisfy the requirements in Subsection 73-10-37(3) and the contract before using grant money for a financial incentive;

(e) enjoins the use of grant money for a financial incentive in any landscaping conversion project that fails to satisfy the requirements in Subsection 73-37-10(3) and either this rule or program guidelines approved by the division under Subsection (3);

(f) requires the district submit to the division quarterly reports on funding status;

(g) requires the district to prepare and submit an annual accounting to the division on the use of grant money for financial incentives in the district's landscaping conversion incentive program;

(h) directs return to the division of all grant funding not dispersed by the district pursuant to Section 73-10-37 and this rule within 24 months of receiving the grant; and

(i) includes other matters determined by the division necessary to effectively administer the grant award.

(5)(a) The quarterly report referenced in Subsection (4)(f) should include a summary detailing:

(i) grant funding status;

(ii) the division and district's cumulative contributions, respectively, to all incentive payments dispersed by the district over the reporting period; and

(iii) the estimated amount of grant funding needed to satisfy incentive payments for approved projects that are underway but not completed.

(b) The annual accounting referenced in Subsection (4)(g) should include the:

(i) division and district's cumulative contributions, respectively, to all incentive payments dispersed by the district over the reporting period; and

(ii) following information pertaining to each incentive payment:

(A) an identifying number or participant name for the landscape conversion project;

(B) landscape conversion project location;

(C) total square feet of lawn converted to water efficient landscaping;

(D) date of project approval;

(E) date of project completion;

(F) date of incentive payment;

(G) photographs of the project area before lawn removal and after conversion to water efficient landscaping;

(H) total amount paid as an incentive; and

(I) division and district's respective contributions to the incentive payment.

(6)(a) Upon verification of expending 70% of the total grant award and an annual accounting on the use of that grant money, a district may apply for additional grant money in accordance with Subsections (2) and (4).

(b) The division may award a district an additional grant based on the:

(i) availability of grant money;

(ii) priority or importance of the grant proposal in relation to the availability of grant money for:

(A) the division's landscaping conversion incentive program under Section R653-11-7;

(B) other landscaping conversion incentive program grant requests; and

(C) regional needs and goals;

(iii) effectiveness of the district's landscaping conversion incentive program in incentivizing owners to convert lawn or turf to water efficient landscaping;

(iv) district's past compliance with Section 73-10-37, this rule, and contract terms and conditions; and

(v) any matter bearing on the district's ability to responsibly handle and disperse grant money consistent with the requirements in Section 73-10-37, this rule, and contract terms and conditions.

**R653-11-9. Water Efficient Landscaping.**

(1)(a) Except as otherwise determined by the division under Subsection (2), water efficient landscaping, for purposes of Sections R653-11-7 and R653-11-8, is a mixture of inorganic and organic ground cover that:

(i) controls the invasion of common weeds and grasses;

(ii) includes perennial, water efficient plants, shrubs, or trees; and

(iii) water efficient plants and shrubs, excluding tree canopy, cover 50% or more of the project area at maturity;

(iv) has a drip irrigation system that:

(A) replaces the existing irrigation system servicing the project area;

(B) minimizes evapotranspiration losses; and

(C) maintains the water efficient plants, shrubs, and trees in the project area in a healthy state; and

(v) is officially approved by the division, its contractors, or a district.

(b) All treatment locations in the project area, not otherwise covered in brick, or stone shall be covered in 2-4 inches of permeable gravel, rock, bark, compost mulch, or similar material to control weeds and improve the appearance of the landscaping.

(c) Water efficient landscaping may include permeable:

(i) weed barrier fabric; and

(ii) configurations of pavers, brick, stone, and similar hard surfaced materials, provided the project area satisfies the 50% plant and shrub cover requirement with the treated area counted as contributing nothing toward that cover.

(d) Water efficient landscaping does not include:

(i) a swimming pool, pond, fountain, waterfall, rivulet, or similar above ground landscape water feature;

(ii) concrete or artificial turf; and

(iii) a project area configuration that leaves adjacent strips of lawn less than eight feet in width.

(2) The division may approve a district's request to use or partially use its program guidelines definition of "water efficient landscaping" in lieu of the definition in Subsection (1), if the division determines that application of the program guidelines' definition will:

(a) conserve as much or more water as the definition in Subsection (1);

(b) satisfy environmental needs; and

(c) further the water conservation objectives in Section 73-10-37.

**R653-11-10. Water Use Efficiency Standards.**

(1) For purposes of Sections R653-11-7 and R653-11-8, water use efficiency standards for counties and municipalities within a county consist of the following outdoor lawn limitations on new residential development.

(a) Statewide requirements are as follows:

(i) No lawn on parking strips or areas less than eight feet in width in new development.

(ii)(A) Except as provided in Subsection (ii)(B), no lawn exceeding 20% of total landscaped area in new commercial, industrial, and institutional development.

(B) The 20% limitation does not apply to lawn areas developed and used for outdoor recreation activities that require lawn in an outdoor environment.

(b) Regional requirements are as follows:

(i) Washington County - no more than 15% of the lot size in new residential development is lawn;

(ii) Salt Lake, Utah, Weber, and Davis counties - no more than 35% of the front and side yard landscaped area in new residential development is lawn; and

(iii) All other counties in Utah - no more than 50% of the front and side yard landscaped area in new residential development is lawn.

(c) The lawn limitations in Subsections (a) and (b) do not apply to small lots with less than 250 square feet in landscaped area.

(2)(a) A municipality or county may adopt more aggressive water use efficiency standards, provided the new standards increase water conservation and efficiency over the standards in Subsection (1).

(b) A municipality or county that adopts more aggressive water use efficiency standards in compliance with Subsection (2)(a) shall be deemed compliant with the requirements of Subsection (1).

**KEY: water conservation measures**

**Date of Last Change: June 21, 2024**

**Authorizing, and Implemented or Interpreted Law: 63A-5b-1108; 73-10-37**