**State of Utah**

**Administrative Rule Analysis**

Revised May 2023

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| **Notice of EXPEDITED Rule** | | |
| (Subsection 53C-1-201(3)(c) and Rule R850-10) | | |
| **Title No. - Rule No. - Section No.** | | |
| **Rule or Section Number:** | **R** | **Filing ID: Office Use Only** |
| **Effective Date:** | Click or tap to enter a date. | |

**Agency Information**

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| **1. Department:** |  | |
| **Agency:** |  | |
| **Room number:** |  | |
| **Building:** |  | |
| **Street address:** |  | |
| **City, state and zip:** |  | |
| **Mailing address:** |  | |
| **City, state and zip:** |  | |
| **Contact persons:** | | |
| **Name:** | **Phone:** | **Email:** |
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| **Please address questions regarding information on this notice to the persons listed above.** | | |

**General Information**

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| **2. Rule or section catchline:** |
| Ex: R15-1. Administrative Rule Hearings |
| **3. Purpose of the new rule or reason for the change:** |
| Why is the agency submitting this filing? Please include the findings required by Subsection 563C-1-201(3)(c). |
| **4. Summary of the new rule or change:** |
| What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule. |

**Fiscal Information**

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| **5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:** |
| **A) State budget:** |
|  |
| **B) Local governments:** |
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| **C) Small businesses** ("small business" means a business employing 1-49 persons)**:** |
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| **D) Non-small businesses** ("non-small business" means a business employing 50 or more persons)**:** |
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| **E) Persons other than small businesses, non-small businesses, or state or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:** |
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| **F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?)**:** |
|  |
| **G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head): |
|  |
| **6. Regulatory Impact:** Subsection 53C-1-201(3)(c) exempts the School and Institutional Trust Lands Administration from the requirement to conduct a thorough analysis, consistent with the criteria established by the Governor's Office of Management and Budget, of the fiscal impact a rule may have on businesses, as required in Subsection 63G-3-301(5). |

**Citation Information**

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| **7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:** | | |
| Ex 1: Section 63G-3-202 | Ex 2: Subsection 63G-3-403(3) |  |
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**Incorporations by Reference Information**

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| **8. Incorporations by Reference** (if this rule incorporates more than two items by reference, please include additional tables)**:** | |
| **A) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*)**:** | |
| **Official Title of Materials Incorporated (from title page)** |  |
| **Publisher** |  |
| **Issue Date** |  |
| **Issue or Version** |  |

|  |  |
| --- | --- |
| **B) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*)**:** | |
| **Official Title of Materials Incorporated (from title page)** |  |
| **Publisher** |  |
| **Issue Date** |  |
| **Issue or Version** |  |

**Agency Authorization Information**

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| Information requested on this form is required by Sections 63G-3-301 and 53C-1-201. | | | |
| **Agency head or designee and title:** |  | **Date:** | Click or tap to enter a date. |

*Rule Text Example (Delete this line after entering your rule text)*

**R15. Government Operations, Administrative Rules (Office of).**

**R15-3. Administrative Rules: Scope, Content, and When Required.**

**R15-3-1. Authority, Purpose, and Definitions.**

1. This rule is authorized under Subsection 63G-3-402(1) and (2).

2. This rule clarifies when rulemaking is required, and requirements for incorporation by reference within rules.

3. Terms used in this rule are defined in Section 63G-3-102.

**R15-3-2. Agency Discretion.**

1. A rule may restrict agency discretion to prevent agency personnel from exceeding their scope of employment, or committing arbitrary action or application of standards, or to provide due process for persons affected by agency actions.

2. A rule may authorize agency discretion that sets limits, standards, and scope of employment within which a range of actions may be applied by agency personnel. A rule may also establish criteria for granting exceptions to the standards or procedures of the rule when, in the judgment of authorized personnel, documented circumstances warrant.

3. An agency may have written policies which broadly prescribe goals and guidelines. Policies are not rules unless they meet the criteria for rules set forth under Section 63G-3-201(2).

4. Within the limits prescribed by Sections 63G-3-201 and 63G-3-602, an agency has full discretion regarding the substantive content of its rules. The office has authority over nonsubstantive content under Subsections 63G-3-402(3) and (4), and 63G-3-403(2) and (3), rulemaking procedures, and the physical format of rules for compilation in the Utah Administrative Code.

**R15-3-3. Use of Incorporation by Reference in Rules.**

1. An agency incorporating materials by reference as permitted under Subsection 63G-3-201(7) shall comply with the following standards:

a. The rule shall state specifically that the cited material is "incorporated by reference."

b. If the material contains options, or is modified in its application, the options selected and modifications made shall be stated in the rule.

c. If the incorporated material is substantively changed at a later time, and the agency intends to enforce the revised material, the agency shall amend its rule through rulemaking procedures to incorporate by reference any applicable changes as soon as practicable.

d. In accordance with Subsection 63G-3-201(7)(c), an agency shall describe substantive changes that appear in the materials incorporated by reference as part of the "summary of rule or change" in the rule analysis.

2. An agency shall comply with copyright requirements when providing the office a copy of material incorporated by reference.

**R15-3-4. Computer-Prohibited Material.**

1. All rules shall be in a format that permits their compatibility with the office's computer system and compilation into the Utah Administrative Code.

2. Rules may not contain maps, charts, graphs, diagrams, illustrations, forms, or similar material.

3. The office shall issue and provide to agencies instructions and standards for formatting rules.

**R15-3-5. Statutory Provisions that Require Rulemaking Pursuant to Subsection 63G-3-301(13).**

For the purposes of Subsection 63G-3-301(13), the phrase "statutory provision that requires the rulemaking" means a state statutory provision that explicitly mandates rulemaking.

**KEY: administrative law**

**Date of Last Change: April 30, 2007**

**Notice of Continuation: [~~September 10, 2020]~~2023**

**Authorizing, and Implemented or Interpreted Law: 63G-3-201; 63G-3-301; 63G-3-402**