**State of Utah**

**Administrative Rule Analysis**

Revised May 2023

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| **Five-Year Notice of Review and Statement of Continuation** |
| **Title No. - Rule No.** |
| **Rule Number:** | **R** | **Filing ID: Office Use Only** |
| **Effective Date:** | **Office Use Only** |

**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 catchline:** |
| Ex: R15-1. Administrative Rule Hearings |
| **3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:** |
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| **4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:** |
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| **5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:** |
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**Agency Authorization Information**

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| **To the agency:** Information requested on this form is required by Section 63G-3-305. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*. |
| **Agency head or designee and title:** |  | **Date:** | Click or tap to enter a date. |
| **Reminder:** Text changes cannot be made with this type of rule filing. To change any text, please file an amendment or a nonsubstantive change. |

*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**