

State of Utah
Administrative Rule Analysis
Revised May 2025

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or section number:

R64-4

Filing ID: OFFICE USE ONLY

Date of previous publication (only for CPRs): [Click or tap to enter a date.](#)

Agency Information

1. Title catchline:	Agriculture and Food, Conservation Commission	
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Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:	
R64-4. Agricultural Water Optimization Program.	
3. Are any changes in this filing because of state legislative action?	Changes are not because of legislative action.
If yes, any bill number and session:	HB 1 (2025 General Session), SB 25 (2024 3rd Special Session)
4. Purpose of the new rule or reason for the change:	
The department recently conducted a department-wide review of its administrative rules to remove redundant information already found in statute and ensure rules align with statutory authority.	
5. Summary of the new rule or change:	
The proposed changes to Rule R64-4, Agricultural Water Optimization Program, are primarily technical revisions aimed at enhancing clarity and aligning with the standards of the Utah Rulewriting Manual. Key changes streamline the rule by removing language that is redundant to existing statute, including certain definitions and detailed application requirements. The rule updates replace passive language with an active voice to clarify the requirements for both application submission and post-award reporting. Furthermore, the revisions simplify the program's administrative process by removing the pre-filing consultation with the State Engineer, which was found to be a redundant step, and by eliminating redundant and repetitive text within the criteria for awarding grants. Finally, the section on project requirements is updated to remove the use of the U.S. Environmental Protection Agency's spreadsheet tool for project evaluation, as the federal funding that mandated its use is no longer available.	

Fiscal Information

6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:	
A. State budget:	
The proposed changes will not have an impact on the state budget because the requirements are not changing.	
B. Local governments:	
The proposed changes will not have an impact on the local government's budget because they do not administer or participate in the program.	
C. Small businesses ("small business" means a business employing 1-49 persons):	
The proposed changes will not have an impact on a small business's budget because the requirements are not changing.	

D. Non-small businesses ("non-small business" means a business employing 50 or more persons):

The proposed changes will not have an impact on non-small businesses' budgets because the requirements are not changing.

E. Persons other than small businesses, non-small businesses, 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**):

The proposed changes will not have an impact on a person's budget because the requirements are not changing.

F. Compliance costs for affected persons:

The compliance costs are not changing.

G. Regulatory Impact Summary Table (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0	\$0	\$0
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0	\$0	\$0

H. Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Department of Agriculture and Food, Kelly Pehrson, has reviewed and approved this regulatory impact analysis.

Citation Information**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:**

Subsection 73-10g-205(6)	Subsection 63G-3-403(3)	

Incorporation by Reference Information**8. Incorporation by Reference** (if this rule incorporates more than two items by reference, please include additional tables):**A. This rule adds or updates the following title of material incorporated by reference** (a copy of the material 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 or updates the following title of material incorporated by reference (a copy of the material 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	

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1.

A. Comments will be accepted until:

05/01/2026

B. A public hearing (optional) will be held (The public may request a hearing by submitting a written request to the agency, as outlined in Section 63G-3-302 and Rule R15-1.):

Date:

Time (hh:mm AM/PM):

Place (physical address or URL):

Click or tap to enter a date.

To the agency: If more than one hearing is planned to take place, continue to add rows.

10. This rule change MAY become effective on:

05/08/2026

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. The office may return incomplete forms to the agency, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

Agency head or designee and title:

Commissioner, Kelly Pehrson

Date:

03/04/2026

R64. Agriculture and Food, Conservation Commission.

R64-4. Agricultural Water Optimization Program.

R64-4-1. Authority.

(1) Subsection 73-10g-205(6) authorizes this rule, ~~[-which]~~

(2) ~~It~~ requires the Agricultural Water Optimization Committee to establish eligibility requirements for grants issued under Section 73-10g-206, the process of applying for a grant issued under Section 73-10g-206, and preliminary screening criteria for be used by the department under Subsection 73-10g-206(2)(d).

R64-4-2. Definitions.

The terms defined in Section 73-10g-203.5 shall apply to ~~[For the purposes of]~~ this rule:

(1) "Agricultural Water" means irrigation water beneficially used pursuant to a water right established under Utah law to produce food, fiber, or fuel, or for other agricultural purposes.

~~[-(2) "Agricultural Water Optimization" means the implementation of agricultural and water management practices that maintain viable agriculture without increasing water depletion to enhance water availability and minimize impacts on water supply, water quality, and the environment.~~

~~[-(3) "Agricultural Water Optimization Committee" or "Committee" means the committee created in Section 73-10g-205.]~~

~~[(4)]~~ (2) "Funding Application" means an application filed under Section 73-10g-206.

~~[-(5) "Change application" means an application filed under Section 73-3-3, as further authorized by Section 73-10g-208.]~~

~~[(6)]~~ (3) "Commission" means the Utah Conservation Commission created by Section 4-18-104, ~~chaired by the Commissioner of the Utah Department of Agriculture and Food].~~

~~[(7)]~~ (4) "Department" means the Utah Department of Agriculture and Food.

~~[(8)]~~ (5) "Grantee" means a person who ~~[has]~~ received ~~[funding]~~ a grant award through the Agricultural Water Optimization Program.

~~[-(9) "Program Manager" means a department employee assigned to oversee the day-to-day activities of the Agricultural Water Optimization Program, or their staff.]~~

~~[(10)]~~ (6) "Project" means an undertaking proposed in an application to meet the objectives of Title 73, Chapter 10g, Part 2, "Agricultural Water Optimization" and then implemented consistent with Part 2.

~~[(11)]~~ (7) "Saved water" means the same as stated in Section 73-3-3 and as further defined in rules made by the state engineer.

~~[(12)]~~ (8) "Critical management area" means a groundwater basin meeting the definition stated in Subsection 73-5-15(1)(a).

R64-4-3. Purpose-Agricultural Water Optimization Program.

To increase agricultural water optimization, the Commission shall provide grants in accordance with Sections 73-10g-201 through 73-10g-208 that:

(1) maintain viable agriculture while reducing water depletion to enhance water availability and minimize impacts on water supply, water quality, and the environment;

(2) provide increased operational flexibility to agricultural water users;

(3) provide the opportunity for saved water to be considered a beneficial use if a change application is filed with the State Engineer;

- (4) provide additional nonuse protection if a change application is filed; and
- (5) improve water quantification through:
 - (a) showing accurate, real-time measurements of water use; and
 - (b) documenting actual water savings in cubic feet per second (CFS) or acre feet.

R64-4-4. Application Requirements.

- (1) Any person who uses agricultural water is eligible to apply for funding under the Agricultural Water Optimization Program.
- (2) An applicant shall include the following in a ~~an~~ funding application ~~for a grant under the Agricultural Water Optimization Program~~:
 - (a) a description of how the project will meet the purposes listed in Section R64-4-3;
 - ~~(b) the anticipated use of the saved water, if identified, under the project;~~
 - ~~(c)~~ (b) a description of the diversion reduction or depletion decrease that will be made available after the implementation of the project;
 - ~~(d)~~ (c) an estimate of the cost per acre foot of saved water;
 - ~~(e)~~ (d) a description of the project and project design, including the:
 - (i) project cost;
 - (ii) funding amount requested; and
 - (iii) estimated completion date;
 - ~~(f)~~ (e) a list of other funding sources and amounts provided ~~including an estimate of force account labor and equipment~~;
 - ~~(g)~~ (f) the project cost per acre ~~for the places of use for water rights used in the project~~;
 - ~~(h)~~ (g) the current method of water measurement used by the applicant;
 - ~~(i)~~ (h) acknowledgment that the applicant will install and maintain water measurement equipment required for the project;
 - ~~(j)~~ (i) a map of the project area, showing the county or counties in which ~~the~~ the proposed project will be located; and
 - ~~(k)~~ (j) acknowledgement that the proposed project complies with the applicants approved water rights associated with the project;
 - ~~(l) a description of any environmental benefits to be gained by funding the project; and~~
 - ~~(m) a description of any water quality benefit to be gained by implementing the project.~~
- (3) The committee may not consider or rank ~~(f)~~ incomplete applications ~~will not be considered or ranked~~.

R64-4-5. Preliminary Screening-Pre-filing Consultation.

- ~~(1) D~~ (1) ~~The department~~ The department ~~staff will~~ shall receive and screen each funding application to determine if ~~the application~~ it meets the following eligibility criteria:
 - ~~(a)~~ (1) the project uses agricultural water;
 - ~~(b)~~ (2) the project location is ~~located~~ in Utah;
 - ~~(c)~~ (3) the applicant has verified that they own or have the right to use the water rights that will be used for the project;
 - ~~(d)~~ (4) the project is reasonably feasible;
 - ~~(e)~~ (5) the project reasonably meets program goals;
 - ~~(f)~~ (6) the applicant is willing to install and maintain water measurement that meets state policy and rules set by the Division of Water Rights (DWR); and
 - ~~(g)~~ (7) the project meets funding requirements, listed in Subsection 73-10g-205(6)(a).
- ~~(2) After preliminary approval, each applicant shall meet with the State Engineer or the State Engineer's designee for a pre-filing consultation to determine if their project may benefit from a change application.~~
- ~~(3) Following the consultation with the State Engineer or the State Engineer's designee, pre-approved applications will be filed with the Agricultural Water Optimization Committee for ranking.~~

R64-4-6. Agricultural Water Optimization Committee.

- (1) The Agricultural Water Optimization Committee shall: ~~consist of the members stated in Section 73-10g-205;~~
- ~~(2) The Committee shall have the following responsibilities:~~
 - ~~(a)~~ (a) ~~to~~ establish funding application periods for the Agricultural Water Optimization Program ~~;~~;
 - ~~(b)~~ (b) ~~the Committee shall~~ establish at least one application period per year; ~~and~~
 - ~~(c)~~ (c) ensure that each funding period ~~may have~~ has a unique application, eligibility criteria, and description of what is required in the application, and ranking criteria used to evaluate the applications submitted;
 - ~~(d)~~ (d) ~~to~~ review and rank pre-approved applications based on criteria set by the Committee under Section R64-4-7; and
 - ~~(e)~~ (e) ~~to~~ make funding recommendations to the Commission.
- ~~(3)~~ (2) The Committee may designate different funding pools to ensure that similar projects are ranked against each other.
- ~~(4)~~ (3) The Commission may award grants based on the recommendations of the Committee.
- ~~(5) The Commission may delegate its duties under this rule to a Commission subcommittee.~~

R64-4-7. Criteria for Awarding Grants.

- (1) The Committee shall adopt ranking criteria for each application cycle.
- (2) The Committee may consider the following in adopting ranking criteria:
 - (a) how closely proposed projects meets the Agricultural Water Optimization Program ~~goals~~ purposes listed in Section R64-4-3;
 - ~~(b) who will benefit from the project;~~
 - ~~(c)~~ (b) the type of project;
 - ~~(d)~~ (c) funding sources of the project;
 - ~~(e)~~ (d) matching funds available for the project;
 - ~~(f)~~ (e) saved water that will result from the project;
 - ~~(g)~~ (f) how the water savings will be quantified;
 - ~~(h)~~ (g) whether the project area has baseline water use data available;
 - ~~(i)~~ (h) the projected project cost per acre;
 - ~~(j)~~ (i) whether the project ~~is located in a water right~~ location is a groundwater Critical Management Area; and
 - ~~(k)~~ (j) when the applicant will be ready to begin construction on the project ~~;~~ and

~~_____ (1) the water quality benefits of the project.~~

~~_____ (3) Ranking criteria adopted by the Committee may prioritize projects that lead to greater depletion reduction.]~~

~~[(4)3] The Committee shall adopt ranking criteria that require the award of federal funding before state funding, [If] provided federal funding has been appropriated for the Agricultural Water Optimization Program[, ranking criteria adopted by the Committee shall require that federal funding be awarded prior to state funding].~~

R64-4-8. Contracting and Project Requirements.

(1) Following a grant award by the Commission, the department shall ~~[work with each grantee to determine whether there are other funding sources available to fund the project and]~~ assist each grantee[s] in identifying sources and securing additional funding for the project, as outlined in Subsection 73-10g-206(5)(c).

(2) Before receiving funds, a grantee[s] shall fulfill the following requirements, consistent with Subsection 73-10g-206(3) by:

(a) entering ~~[into]~~ a contract with the department that includes the following:

(i) the expectations for the grantee;

(ii) the life expectancy of the project;

(iii) the process to certify completion of the project;

(iv) any applicable ~~[project]~~ design requirements; and

(v) metering and reporting requirements consistent with rules established by DWRi, including specifications for the type of meter to be installed;

(b) ~~[file]~~ filing any necessary change application with DWRi;

(c) if applicable, obtaining a final order from the State Engineer approving the change application; and

(d) if applicable, ~~[demonstrate]~~ demonstrating ~~[how they will comply]~~ compliance with the requirements of the final order.

(3)(a) Before project implementation, grantees shall submit a Utah State Historical Preservation Office Cultural Resource Review report to the ~~[program manager]~~ department, pursuant to Section 9-8a-404.

~~(b) The department may not process a [No] payment reimbursement [will be processed] until the [program manager] department [has received] receives the report.~~

(4) The department may issue a notice to proceed to a grantee before project construction.

(5) During the life of the project, the department shall:

(a) monitor grant related activities; and

(b) certify project completion.

(6) The ~~[program manager]~~ department may conduct on-site or virtual project "spot checks" at any time during the life of the project.

~~_____ (7) Projects may be evaluated through the U.S. Environmental Protection Agency's Spreadsheet Tool for Implementing Pollutant Loads module (STEPL) or Pollutant Load Estimation Tool (PLET), photo monitoring, or other monitoring depending on the type of project.]~~

R64-4-9. Reporting Requirements.

(1) For three years after ~~[construction of]~~ a project's construction is complete~~[d]~~, a grantee[s] shall submit reports to the ~~[program manager]~~ department, per Subsection 73-10g-206(4), at least annually, or more often if ~~the department requests[ed]~~ it in writing~~[by the program manager]~~.

(2) A grantee who ~~[Failure]~~ fails to submit the required reports~~[ing]~~ may ~~[result in a requirement]~~ be required to return Agricultural Water Optimization Program funds~~[-]~~ or ~~may become [ineligibility]~~ ineligible to receive funds in the future from the department.

KEY: agriculture, water optimization, grants, reporting, ranking criteria, agricultural water

Date of Last Change: December 17, 2024

Authorizing, and Implemented or Interpreted Law: 73-10g-205; 73-10g-206