

RAC AGENDA – December 2013



1. Welcome, RAC Introductions and RAC Procedure
- RAC Chair
2. Approval of Agenda and Minutes
- RAC Chair
3. Wildlife Board Meeting Update
- RAC Chair **INFORMATIONAL**
4. Regional Update
- DWR Regional Supervisor **INFORMATIONAL**
5. R657-27 License Agent Procedures Rule Amendments
- Phil Gray, Business Analyst **ACTION**
6. R657-60 Aquatic Invasive Species Rule Amendments
- Jordan Nielson, AIS Coordinator **ACTION**
8. R657-43 Landowner Permits Rule Amendments
- Regional Wildlife Biologist **ACTION**
9. R657-10 Cougar Rule Amendments
- John Shivik, Mammals Coordinator **ACTION**

Details of the specific recommendations can be found at www.wildlife.utah.gov

Region Specific Items – to be presented in the specified region only.

Meeting Locations

CR RAC – Dec. 3rd 6:30 PM
Springville Public Library
45 S. Main Street, Springville

SER RAC – Dec. 11th 6:30 PM
John Wesley Powell Museum
1765 E. Main St., Green River

NR RAC – Dec. 4th 6:00 PM
Brigham City Community Center
24 N. 300 W., Brigham City

NER RAC – Dec. 12th 6:30 PM
Wildlife Resources NER Office
318 North Vernal Ave, Vernal

SR RAC – Dec. 10th 7:00 PM
Beaver High School
195 E. Center St., Beaver

Board Meeting – Jan. 9th 9:00 am
DNR Boardroom
1594 West North Temple, SLC



GARY R. HERBERT
Governor

SPENCER COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Wildlife Resources

GREGORY SHEEHAN
Division Director

November 14, 2013

TO: Utah Wildlife Board/Regional RAC Members

FROM: Phillip Gray
Business Analyst

SUBJECT: Changes to Administrative Rule R657-27

The Division requests your consideration to the following changes to R657-27, License Agent Procedures.

Automated Clearing House (ACH) payments. ACH is an automatic, electronic payment method of money owed to the Division. We are requesting the authority to require license agents to use an ACH when the licensing coordinator deems it necessary in the best interests of the Division. The suggested wording added to the rule would be “The Division **may** require license agents to establish and maintain an account capable of utilizing and Automated Clearing House payment method in order to transfer monies due to the Division.” (R657-27-6(1) emphasis added). The licensing section in the Salt Lake office will work with license agents to establish the accounts and arrange a specific time of month when the money transfer would occur. The wording of the rule change still give the licensing section authority and discretion to work with a license agent in cases where an ACH may not be possible or practical. Currently the Division has just over 300 license agents, 127 of which use the ACH payment method, 3 regularly use a credit card payment each month and around 170 mail a check in each month. However, due to large corporate stores (Walmart, Sportsman’s Warehouse etc) utilizing ACH payments, the large majority of the license funds collected each month are automatically transferred to the Division via ACH.

Require license agents to have access to Utah.gov internet domain. The Division publishes a great deal of information regarding hunting and fishing both in print and online resources. Currently hunt boundary maps, fishing reports, emergency changes and some guidebooks are a few things can only be accessed through the Division website. Some license agent stores have internet restrictions that prohibit access to websites outside of the company’s control, thus employees at some stores are unable to get to the Division website to answer questions for customers that are in their stores to purchase licenses and permits. WE feel it is in the best interest of our customers that anyplace that is selling wildlife documents to have access to all the resources needed to best help the customers. Therefore we are requesting authority to require all license agents to have access to the Utah.gov internet domain to allow access to the Division’s web pages.



Remove language allowing the Division to provide computer equipment. When the Division first went to an electronic license issuing system it was felt that we might lose some agents who saw the investment of a computer system as cost prohibitive to remain a license agent, so in some cases the Division provided all of the computer equipment needed to sell licenses and then allowed agents to keep the equipment permanently if their license sales met certain criteria. In the intervening years the cost of computer equipment has decreased drastically and having a computer with internet access is widely considered a requirement in running a business. We are requesting the removal of all language from the rule that provides computer equipment, except the first printer, which the Division will still provide to new agents that request it.

Reduce the amount of time agents are required to retain audit copies of licenses & permits. In the past when a customer purchased a permit or license from an agent, the agents would remove and keep the bottom 1/3 of the license paper for their records (the “audit copy”). Agents then use this to reconcile their accounting and then were required to keep it for 12 months from the date of sale. This portion of the license had all the same personal, vital information that is found on the actual license/permit. There were concerns that having so much personal information sitting in stores all across the state posed a potential security risk to the Division. The license/permit templates have now been reformatted to remove all personal information from the audit copy, retaining only the information needed to reconcile license sales with funds collected. Since the purpose of reconciliation is now the primary function of this audit copy, it is unnecessary to require the license agents to retain it longer than as needed. The rule change would allow agents to destroy the audit copy as required by rule, after they have reconciled their own accounting.

Minor ‘housekeeping’ edits and changes.

- There are a number of minor changes in terms such as changing “license paper” to “wildlife documents” and “agents” to “license agents”.
- Currently the rule only allows the Division to charge a non-sufficient funds handling fee on returned checks, the rule change would allow the Division to charge this fee on any payment returned or denied due to non-sufficient funds.

The Division recommends these changes to R657-27 as they will improve the way we do business with our partner license agents, protect public funds, protect private customer information and improve the quality of service and information provided to the public.

R657. Natural Resources, Wildlife Resources.

R657-27. License Agent Procedures.

R657-27-1. Purpose and Authority.

Under Section 23-19-15, this rule provides the application procedures, standards, and requirements for wildlife license agents.

R657-27-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) [“Automated Clearing House or ACH” means a division approved method of payment of monies owed the division through an automatic electronic process.](#)

[\(b\)](#) "Agent hunting and fishing licenses online" means the web application that allows an license agent to ~~[print]~~[sell](#) wildlife documents~~[-on license paper]~~.

~~[(b)]~~[\(c\)](#) "Bond" means a surety bond to remain in full force and effect continuously and indefinitely, until canceled.

~~[(e)]~~[\(d\)](#) "Computer hardware" means electronic equipment the division deems necessary to perform the minimum required functions of the division's online license sales application system~~[-that may include a central processing unit, cables, or router]~~.

~~[(d)]~~[\(e\)](#) "Deactivated license agent or deactivated" means a license agent that holds license agent status but is temporarily precluded from selling wildlife documents for failure to comply with this rule or any other laws or agreements regulating license agent activity.

~~[(e)]~~[\(f\)](#) "License agent" means a person authorized by the division to sell wildlife documents.

~~[(f)]~~[\(g\)](#) "License Agent Application" means a written request to be authorized by the division to sell wildlife documents.

~~[(e)]~~[\(h\)](#) "License Agent Authorization" means an agreement between the division and a license agent, allowing a license agent to sell wildlife documents.

~~[(h)]~~[\(i\)](#) "License paper" means paper designated by the division for the sole purpose of printing specified licenses or permits through the agent hunting and fishing licenses online sales system.

~~[(i)]~~[\(j\)](#) "Location" means the building or structure from which a license agent is authorized to sell wildlife documents.

~~[(j)]~~[\(k\)](#) "Presiding officer" means the hearing officer designated by the director of the division.

~~[(k)]~~[\(l\)](#) "Remuneration" means money that a license agent receives for each wildlife document sold as provided in Section 23-19-15.

~~[(h)]~~[\(m\)](#) "Wildlife documents" means licenses, permits and tags ~~[preprinted]~~[issued](#) by the division or ~~[printed-]~~by [the](#)[a](#) license agent~~[-on license paper]~~.

R657-27-3. License Agent Application.

(1) License agent applications may be obtained from the Licensing Section in the Salt Lake Office or downloaded from the division's website.

(2) License agent applications shall be considered from any person located within Utah or in close proximity to Utah.

(3) Applications shall be processed within a reasonable timeframe.

(4) The applicant must:

(a) complete and return the application to the Licensing Section in the Salt Lake Office; and

(b) pay a non refundable application fee.

(5) A separate application and application fee must be submitted for each location where wildlife documents will be sold.

(6) The division may provide assistance to new and existing license agents as provided in Subsection R657-27-4(1)(b),(1)(c) or (1)(d).

R657-27-4. License Agent Eligibility - Reasons for Application Denial - Term of Authorization.

(1) A new license agent must meet the criteria provided in Subsection (a), except as provided in Subsection (b)~~[-or-(c)].~~

(a) A license agent must:

(i) successfully complete a division-sponsored training session;

(ii) provide and maintain approved computer hardware capable of processing and printing licenses and permits in a permanent, clear, and a legible manner~~[-;and].~~

(b) The division may provide a printer as required in Subsection (a)(ii) provided the license agent's projected sales is estimated to be at least one-thousand dollars per year or a satisfactory volume per year as determined by the division.

~~[(c) The division may provide assistance up to one-thousand dollars for computer hardware required in Subsection (a)(ii) provided:]~~

~~[-(i) there is not a current, eligible license agent within 45 miles, or a convenient distance as determined by the division, of the proposed license agent location; and]~~

~~[-(ii) the estimated sales revenue from the proposed location will recover the cost of the computer hardware within six months of providing the computer hardware.]~~

~~[-(d) The division may provide assistance for a data line connection and the associated ongoing expense of the data line connection provided:]~~

~~[-(i) there is not a current, eligible license agent within 45 miles, or a convenient distance as determined by the division, of the proposed license agent location; and]~~

~~[-(ii) the division anticipates the monthly cost for the data line connection to be less than 20 percent of the estimated monthly collection from the license agent.]~~

~~[-(e) The division shall annually review the ongoing expenses for a data line connection to ensure the license agent is eligible for the assistance allowed in Subsection (d).]~~~~[-(f)]~~i

A license agent must remain a license agent for the division for at least six months to retain the ~~[computer hardware or]~~printer as provided in Subsections (b)~~[-or-(e)].~~

(2) Use of the agent hunting and fishing licenses online system must be used in compliance with the ~~[users]~~agent manual provided by the division.

(3) The division shall send the applicant a written notice stating the reason for denial.

(4) If the division approves the license agent application, a license agent authorization shall be sent to the applicant.

- (5) The license agent authorization is not effective until:
 - (a) it is signed by the applicant; and
 - (b) signed by the director or designee.
- (6)(a) The license agent authorization must be received by the Licensing Section in the Salt Lake Office within a reasonable timeframe of being mailed to the applicant.
- (b) A separate application, application fee, and license agent authorization is required for each location where wildlife documents will be sold.
- (7) Each license agent authorization shall be established for a term of ten years.
- (8) The division may deny a license agent application for any of the following reasons:
 - (a) A sufficient number of license agents already exist in the area;
 - (b) The applicant does not have adequate security including a safe or locking cabinet in which to store wildlife documents or license paper;
 - (c) The applicant has previously been authorized to sell wildlife documents or possess license paper and the applicant:
 - (i) failed to comply with the license agent authorization or any provision of statute or rule governing license agents; or
 - (ii) was deactivated or revoked by the division as a license agent;
 - (d) The applicant provided false information on the license agent application; or
 - (e) The applicant has been convicted, pleaded guilty, pleaded no contest, or entered into a plea in abeyance to a criminal offense that bears a reasonable relationship to the license agent's ability to competently and responsibly perform the functions of a license agent.

R657-27-5. Bond Requirement.

- (1) After approval, but before the license agent authorization is executed, the division may require the applicant to post a reasonable bond payable to the division in an amount determined by the division.
- (2) The division may require any existing license agent to obtain a reasonable bond in an amount determined by the division after providing the license agent 30 business days written notice.
- (3) The division may require a reasonable increase in the amount of the bond after providing the license agent 30 business days written notice.

R657-27-6. Automated Clearing House (ACH) Payments.

- (1) The division may require license agents to establish and maintain an account capable of utilizing an Automated Clearing House payment method in order to transfer monies due to the division.

R657-27-7. License Agent Obligations.

- (1) Each license agent must:
 - (a) comply with the requirement and provisions provided in Section 23-19-15;
 - (b) keep wildlife documents or license paper secure and out of the public view during business hours;

(c) keep wildlife documents or license paper in a safe or locked cabinet after business hours;

(d) display all signs and distribute [~~proclamations~~][guidebooks](#) provided by the division;

(e) have all sales clerks and management staff available for sales training;

(f) maintain a License Agent Manual provided by the division and make it available to the license agent's staff, including supplemental manuals and addendums; and

(g) retain agent copies of [~~licenses and permits for 12 months following the month of sale~~][wildlife documents issued for as long as is necessary for the purposes of the license agent account reconciliation](#), at which time agent copies of licenses and permits must be destroyed by burning, shredding or submitting to the division.

[\(h\) allow agent employees access to the Utah.gov internet domain from a place wildlife documents are sold in order to provide access to online resources pertinent to issuing wildlife documents and assisting customers with wildlife document related questions.](#)

(2) If a license agent becomes delinquent on reporting or remission of proceeds Subsection (2)(a), (2)(b) or (2)(c) shall apply.

(a) The license agent must immediately submit all reports when due along with the remission of required proceeds.

(b) If the license sales report is submitted in accordance with Subsection (1)(a) but funds are not submitted with the report then the following applies:

(i) A repayment plan may be structured in an agreement that will allow repayment in equal monthly installments for up to six months at a payment level that will provide repayment of the principal along with an annual percentage interest rate (APR) of 12 percent. This APR shall be calculated back to the date that the payment should have been received in accordance with Subsection (1)(a);

(ii) If the ongoing monthly report and proceed submissions are not received for the future months, from the month of the agreement in accordance with Subsection (1)(a), then any agreement made in Subsection (2)(b)(i) may be terminated and all outstanding balances and accrued interest shall become due immediately, along with a penalty of 20 percent of the unpaid balance. Interest shall continue to accumulate on any unpaid balance, including the penalty, at the APR;

(iii) Activate the bond and collect all remaining funds in accordance with Section R657-27-5 and hold any remaining unpaid balances of penalty, ongoing interest, and principle amounts as a receivable from the license agent; or

(iv) If the license agent enters into an agreement with the division as provided in Subsection (2)(b)(i), and then violates the terms of that agreement, the division may begin the revocation process in accordance with Section R657-27-~~14~~[12](#).

(c) Nothing in this rule shall be construed as requiring the division to offer a repayment agreement to a license agent delinquent on report submissions or proceeds remissions before taking action to revoke license agent status.

(d) If the license agent does not submit a monthly report as provided in Subsection (1)(a), or if the license agent does not immediately pay the delinquent funds or fails to execute and abide by the terms of a repayment agreement as provided in Subsection (2)(b), the division may:

- (i) change the license agent's status to deactivated;
 - (ii) withhold issuing additional wildlife document inventory;
 - (iii) withhold access to the agent hunting and fishing licenses online sales system;
 - (iv) collect the license agent's inventory of wildlife documents and license paper, and determine unaccounted inventory of wildlife documents and license paper;
 - (v) assess a monetary penalty for each wildlife document and piece of license paper unaccounted for as provided in Subsection R657-27-~~7~~8(2);
 - (vi) take action to revoke license agent status;
 - (vii) create a receivable from the license agent that equals the amount due as determined in Subsection (1)(a) and charge a 20 percent late penalty on the entire balance, and accumulate the unpaid balance, included penalties, at a 12 percent APR from the due date of the earliest date in which a license agent failed to submit a report in accordance with Subsection (1)(a); or
 - (viii) activate the bond and collect all available funds remaining in accordance with Section R657-27-5 and hold any remaining unpaid balances of penalty, ongoing interest, and principle amounts as a receivable from the license agent.
- (e) A deactivated license agent that has not been revoked may regain active status by paying all due balances in full, and providing a bond, provided the license agent is otherwise in compliance with this rule or any other laws or agreements regulating license agent activity.
- (f)(i) The division reserves the right to unilaterally and immediately modify monthly reporting or payment requirements when any License Agent is:
- (A) in bankruptcy;
 - (B) insolvent;
 - (C) financially distressed;
 - (D) unable to meet reporting or payment obligations; or
 - (E) otherwise experiencing events or conditions that may compromise their ability to comply with reporting and payment obligations.
- (ii) The division may require license funds to be transferred to the division more frequently than monthly, and may require the use of Automated Clearing House payments, Electronic Funds Transfer payments, or other expedited methods of payment.

R657-27-~~7~~8. Lost or Stolen Wildlife Documents or License Paper.

- (1) The license agent must act as bailee for purposes of safeguarding all wildlife documents or license paper issued to the license agent by the division.
- (2)(a) The license agent must remit full payment, less remuneration, to the division for any wildlife documents lost, stolen, or unaccounted for unless otherwise relieved for good cause by the director.
- (b) The license agent must remit full payment for lost, stolen, or unaccounted license paper in the amount of \$10 per sheet of license paper.

(c) Payments made to the division for any wildlife documents or license paper that are lost or unaccounted may be refunded if the wildlife documents or license paper are:

(i) [Approved by the division and](#)

(ii) returned to the Licensing Section in the Salt Lake office by ~~[June 30 of the current state fiscal year]~~ [within 12 months from the date of payment in subsection \(c\).](#)

R657-27-~~[8-]~~9. Audits.

(1) License agents are subject to an audit without prior notification anytime during normal business hours to assess financial and procedural compliance with statute, rule, and the terms of the license agent authorization.

(2) The division shall provide a written report to the license agent of any finding of noncompliance within five days of the completion of the audit.

R657-27-~~[9-]~~10. Checks Returned for Non-sufficient Funds.

If a check from a license agent is returned to the division for non-sufficient funds, the division may:

(1) require a license agent to remit payment for wildlife documents in the form of a cashiers check, [an automated clearing house payment](#) or money order;

(2) change the license agent status to deactivated;

(3) activate the bond; ~~[or]~~

(4) submit the license agent's account to the Utah Office of Debt Collection for collection activity~~[-]~~; [or](#)

[\(5\) Assess a Non Sufficient Funds \(NSF\) handling fee of \\$20.00.](#)

R657-27-~~[10-]~~11. Change of Business Ownership.

(1) License agent authorizations are nontransferable.

(2) The license agent must notify the division of any anticipated change of ownership of the license agent's business at least 30 business days prior to the change of ownership.

(3) Prior to change of ownership, unless otherwise directed by the division in writing, the license agent must:

(a) remit payment for all wildlife documents sold minus remuneration; and

(b) return all unsold wildlife documents or license paper to the division.

R657-27-~~[11-]~~12. Revocation of License Agent Authorization.

(1) The presiding officer may revoke a license agent authorization pursuant to Chapter 4, Title 63G, Utah Administrative Procedures Act, if the presiding officer determines that the license agent:

(a) violated the terms of the license agent authorization;

(b) fails to comply with reporting or payments obligations, becomes insolvent, declares bankruptcy, or shows indication of financial instability or any other sign that public funds are in jeopardy or potentially unrecoverable by the division.

(c) fails to maintain a bond in accordance with Section R657-27-5;

(d) is found to have committed fraud regarding wildlife documents or license paper;

- (e) violated any provision of Title 23, Wildlife Resources Code;
- (f) violated any rule promulgated under Title 23, Wildlife Resources Code; or
- (g) has been convicted, pleaded guilty, pleaded no contest, or entered into a plea in abeyance to a criminal offense that bears a reasonable relationship to the license agent's ability to competently and responsibly perform the functions of a license agent.

(2) The presiding officer may hold a hearing to determine matters relating to the license agent revocation if the license agent makes a written request for a hearing within 20 days after the notice of agency action is issued.

R657-27-~~12.~~13. Termination of License Agent Authorization by the License Agent.

(1) A license agent may terminate a license agent authorization by submitting a written request to the Licensing Section in the Salt Lake Office.

(2) Any request for termination must state the requested date of termination.

(3) On or before the effective date of termination the license agent must:

(a) discontinue selling wildlife documents;

(b) return all unsold wildlife documents or license paper to the division; and

(c) return to the division any signs, ~~proclamations~~ [guidebooks](#) or other information provided by the division.

(4) On or before the 10th day of the month following the date of termination the license agent must remit payment for all wildlife documents minus remuneration to the division.

R657-27-~~13.~~14. Renewal Application of a License Agent Authorization.

(1) At the end of the five-year term of authorization to sell wildlife documents, the division shall provide a renewal notice and renewal application to the license agent.

(2)(a) The license agent must complete and return the renewal application to the Licensing Section in the Salt Lake Office within 30 business days of being mailed to the license agent.

(b) The division will not charge a renewal application fee.

(3) If the license agent fails to return the renewal application within 30 business days of being mailed, the division may:

(a) confiscate wildlife document inventories;

(b) not provide new wildlife document inventories; or

(c) interrupt use of the agent hunting and fishing licenses online system.

(2) The division may deny a license agent renewal application for any of the reasons provided in Section R657-27-4(1).

R657-27-~~14.~~15. Violation.

(1) It is unlawful for a license agent to sell wildlife documents in violation of the License Agent Authorization.

R657-27-~~15.~~16. License Agent Authorization Subject to Change.

(1) A license agent authorization issued or renewed by the division under this rule is a privilege and not a right. The license agent authorization authorizes the license agent to sell wildlife documents subject to all present and future conditions, restrictions, and regulations imposed on such activities by the division, the Wildlife Board, or the State of Utah.

(2) A license agent authorization does not guarantee or otherwise legally entitle the license agent to any of the following:

- (a) a minimum number of wildlife documents;
- (b) a particular type or types of wildlife documents;
- (c) access to any particular wildlife document distribution system; or
- (d) any other right or opportunity advantageous to the license agent.

(3) The procedures, processes and opportunities outlined in this rule regulating license agents and the distribution of wildlife documents are all subject to future change, including discontinuation, by the division and the Wildlife Board.

KEY: licensing, wildlife, wildlife law, rules and procedures

Date of Enactment or Last Substantive Amendment: August 10, 2009

Notice of Continuation: April 2, 2012

Authorizing, and Implemented or Interpreted Law: 23-19-15



GARY R. HERBERT
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November 14, 2013

TO: Utah Wildlife Board/Regional RAC Members

FROM: Jordan Nielson
Aquatic Invasive Species Coordinator

SUBJECT: Changes to Administrative Rule R657-60

The Western Regional Panel (WRP) of the Aquatic Nuisance Species Task Force (ANSTF) recently completed work to achieve consensus among western states' aquatic invasive species programs. Among the first of the tasks was to arrive at common definitions for classification and declassification of aquatic invasive species affected waters. As such, changes to Administrative Rule R657-60 are needed to achieve commonality among western states regarding the aforementioned task.

Currently in Utah, a water body affected by *Dreissena* mussels may fall into two different categories requiring administrative action. The first classification is "detected or suspected," which is determined by sampling a water body and visually identifying one or more veligers (microscopic mussel larva) and confirming the identity as *Dreissena* in two independent polymerase chain reaction (PCR) tests. The second classification is "infested," which is determined by sampling a water body and visually identifying one or more adult or juvenile mussels and confirming the identity as *Dreissena* in two independent PCR tests. Both classifications require any boat or vessel leaving an "infested" or "detected or suspected" water to decontaminate before launching in any other water of the state. Currently, there is no legal mechanism or process in the Aquatic Invasive Species Interdiction Rule or elsewhere for a water body to be declassified once classified as "infested" or "detected or suspected." Although a water body may be classified upon detecting and confirming a single *Dreissena* mussel in any life stage, it cannot escape that classification despite years of successive sampling events with negative findings.

The WRP proposes another level of administrative classification to facilitate commonality among western states and to create a workable declassification system. The Division proposes that this three tiered classification system be adopted and incorporated into its Aquatic Invasive Species Interdiction Rule, R657-60. The classifications that require administrative action are proposed as follows: "suspected", "detected", and "infested". "Suspected" waters are those that have a single sampling event with mussels of any life stage that are visually identified and confirmed *Dreissena* by PCR at two independent laboratories. "Detected" waters are those that have two or more consecutive sampling events with one or more mussels of any life stage that are visually identified and confirmed *Dreissena* by PCR at two independent laboratories. "Infested" waters are those that have two or more consecutive sampling events that detect the presence of multiple age classes of attached mussels that are visually identified and confirmed *Dreissena* by PCR at two independent laboratories. "Suspected" and "detected" classifications will require action by the Division director for classification while infested will continue to require Board action. Regardless of the classification, administrative action will require: 1) any boat or vessel leaving the water body to decontaminate as currently required by



before launching in any other water body; and 2) the controlling entity of the water body to work in conjunction with the Division to create an approved control plan.

Based on the WRP's recommended declassification schedule for the three levels of classification, the Division proposes the following declassification protocols. A water body classified as "infested" will retain that classification until: 1) there has been seven consecutive years of consistent sampling efforts with no evidence of *Dreissena* mussel presence; and 2) the Wildlife Board affirmatively removes the classification. Likewise, a water body classified as "detected" or "suspected" will retain that classification until there has been five consecutive years for "detected" or three consecutive years for "suspected" of consistent sampling with no evidence of *Dreissena* mussel presence. "Detected" and "suspected" classifications may be removed by the Division director upon satisfactory evidence that the mussel-free sampling requirements have been met for the requisite period of time. If a control plan and the subsequent actions of the controlling entity of a classified water body completely eradicate the presence of *Dreissena* mussels through chemical or biological treatments, desiccation, or freezing, declassification may be evaluated and considered by the Board or the director, notwithstanding the mussel-free sampling periods otherwise applicable.

Currently, Lake Powell and Sand Hollow Reservoir are the only two water bodies in Utah listed as "infested." Lake Powell has had several sampling events with PCR confirmed evidence of multiple age classes of quagga mussels. Under the proposed classification system, Lake Powell will remain classified as an "infested" water. Sand Hollow Reservoir, on the other hand, was classified "infested" based solely on a single adult quagga mussel discovered in the reservoir in 2010. Since that time, continuous sample efforts have failed to detect the presence of *Dreissena* mussels in the water body. Under the proposed classification/declassification system, Sand Hollow Reservoir will be reclassified as "suspected" and reviewed by the Division director for declassification based on the past three years of sampling without detecting the presence of *Dreissena* mussels.

The Division recommends these changes to Rule 657-60, as they will significantly aid in the management of *Dreissena* mussels on infested water bodies. Furthermore it will aid in the communication with western states and further the work of the WRP to try to reach program reciprocity among states.

R657. Natural Resources, Wildlife Resources.
R657-60. Aquatic Invasive Species Interdiction.

R657-60-1. Purpose and Authority.

(1) The purpose of this rule is to define procedures and regulations designed to prevent and control the spread of aquatic invasive species within the State of Utah.

(2) This rule is promulgated pursuant to authority granted to the Wildlife Board in Sections 23-27-401, 23-14-18, and 23-14-19.

R657-60-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2 and 23-27-101.

(2) In addition:

(a) "Conveyance" means a terrestrial or aquatic vehicle, including a vessel, or a vehicle part that may carry or contain a Dreissena mussel.

(b) "Decontaminate" means to:

(i) Self-decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) removing all plants, fish, mussels and mud from the equipment or conveyance;

(B) draining all water from the equipment or conveyance, including water held in ballast tanks, bilges, livewells, and motors; and

(C) drying the equipment or conveyance for no less than 7 days in June, July and August; 18 days in September, October, November, March, April and May; 30 days in December, January and February; or expose the equipment or conveyance to sub-freezing temperatures for 72 consecutive hours; or

(ii) Professionally decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) Using a professional decontamination service approved by the division to apply scalding water (140 degrees Fahrenheit) to completely wash the equipment or conveyance and flush any areas where water is held, including ballast tanks, bilges, livewells, and motors.

(c) "[~~Detects~~]Detected Water" or [~~suspects~~]"Detected" means [~~visually identifying:~~][(i) a veliger]a water body, facility, or water supply system where the presence of a Dreissena mussel [through]is indicated in two consecutive sampling events using visual identification or microscopy and [~~confirming the identity of the organism as a Dreissena mussel through two independent]~~the results of each sampling event is confirmed in two polymerase chain reaction [~~(PCR) tests; or~~]tests, each conducted at independent laboratories.

[~~—(ii) a juvenile or adult Dreissena mussel.~~]

(d) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage, including a zebra mussel, a quagga mussel and a Conrad's false mussel.

(e) "Controlling entity" means the owner, operator, or manager of a water body, facility, or a water supply system.

(f) "Equipment" means an article, tool, implement, or device capable of carrying or containing water or Dreissena mussel.

(g) "Facility" means a structure that is located within or adjacent to a water body.

(h) “Infested [~~water~~ ~~includes all the following~~];Water” or “Infested” means a water body, facility, water supply system, or geographic region where the presence of multiple age classes of attached Dreissena mussels is indicated in two or more consecutive sampling events using visual detection or microscopy and the result of each sampling event is confirmed in two polymerase chain reaction tests, each conducted at independent laboratories.

~~[(i) all coastal and inland waters in:]~~

~~[(A) Colorado;]~~

~~[(B) California;]~~

~~[(C) Nevada;]~~

~~[(D) Arizona;]~~

~~[(E) all states east of Montana, Wyoming, Colorado, and New Mexico;]~~

~~[(F) the provinces of Ontario and Quebec Canada; and]~~

~~[(G) Mexico;]~~

~~[(ii) Sand Hollow Reservoir in Washington County, Utah;]~~

~~[(iii) Lake Powell and that portion of the:]~~

~~[(A) Colorado River between Lake Powell and Spanish Bottom in Canyonlands National Park;]~~

~~[(B) Escalante River between Lake Powell and the Coyote Creek confluence;]~~

~~[(C) Dirty Devil River between Lake Powell and the Highway 95 bridge; and]~~

~~[(D) San Juan River between Lake Powell and Clay Hills Crossing.]~~

~~[(iv) other waters established by the Wildlife Board and published on the DWR website.]~~

(i) “Juvenile or adult Dreissena mussel” means a macroscopic Dreissena mussel that is not a veliger.

(j) “Suspected Water” or “Suspected” means a water body, facility, or water supply system where the presence of a Dreissena mussel is indicated through a single sampling event using visual identification or microscopy and the result of that sampling event is confirmed in two independent polymerase chain reaction tests, each conducted at independent laboratories.

(k) “Veliger” means a microscopic, planktonic larva of Dreissena mussel.

~~[(k)]~~ “Vessel” means every type of watercraft used or capable of being used as a means of transportation on water.

~~[(h)]~~m “Water body” means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.

~~[(m)]~~n “Water supply system” means a system that treats, conveys, or distributes water for irrigation, industrial, wastewater treatment, or culinary use, including a pump, canal, ditch or, pipeline.

~~[(n)]~~o “Water supply system” does not ~~included~~include a water body.

R657-60-3. Possession of Dreissena Mussels.

(1) Except as provided in Subsections R657-60-3(2) and R657-60-5(2), a person may not possess, import, ship, or transport any Dreissena mussel.

(2) Dreissena mussels may be imported into and possessed within the state of Utah with prior written approval of the Director of the Division of Wildlife Resources or a designee.

R657-60-4. Reporting of invasive species required.

(1) A person who discovers a Dreissena mussel within this state or has reason to believe a Dreissena mussel may exist at a specific location shall immediately report the discovery to the division.

(2) The report shall include the following information: (a) location of the ~~Driessena~~Dreissena mussels;

(b) date of discovery;

(c) identification of any conveyance or equipment in which mussels may be held or attached; and

(d) identification of the reporting party with their contact information. (3) The report shall be made in person or in writing:

~~(a)~~ (a) at any division regional or headquarters office or;

~~(b)~~ (b) to the division's toll free hotline at 1-800-662-3337; or

~~(c)~~ (c) on the division's website at www.wildlife.utah.gov/law/hsp/pf.php.

R657-60-5. Transportation of equipment and conveyances that have been in [~~infested~~] waters containing Dreissena mussels.

(1) The owner, operator, or possessor of any equipment or conveyance that has been in an infested water or in any other water subject to a closure order under R657-60-8 or control plan under R657-60-9 that requires decontamination of conveyances and equipment upon leaving the water shall:

(a) immediately drain all water from the equipment or conveyance at the take out site, including water held in ballast tanks, bilges, livewells, motors, and other areas of containment; and

(b) immediately inspect the interior and exterior of the equipment or conveyance at the take out site for the presence of Dreissena mussels.

(2) If all water in the equipment or conveyance is drained and the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment and conveyance are free from mussels or shelled organisms, fish, plants and mud, the equipment and conveyance may be transported in or through the state directly from the take out site to the location where it will be:

(a)(i) professionally decontaminated; or

(ii) stored and self-decontaminated; or

(b) temporarily stored and subsequently returned to the same water body and take out site as provided in Subsection (5).

(3) If all the water in the equipment or conveyance is not drained or the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment or conveyance has attached mussels or shelled organisms, fish, plants, or mud, the equipment and conveyance shall not be moved from the take out site until the division is contacted and written or electronic authorization received to move the equipment or conveyance to a designated location for professional decontamination.

(4) Except as provided in Subsection (5), a person shall not place any equipment or conveyance into a water body or water supply system in the state without first decontaminating the equipment and conveyance when the equipment or conveyance in the previous 30 days has been in:

- (a) an infested water; or
- (b) other water body or water supply system subject to a closure order under R657-60-8 or control plan under R657-60-9 that requires decontamination of conveyances and equipment upon leaving the water.

(5) Decontamination is not required when a conveyance or equipment is removed from an infested water or other water body subject to decontamination requirements, provided the conveyance and equipment is:

(a) inspected and drained at the take out site, and is free from attached mussels, shelled organisms, fish, plants, and mud as required in Subsections (1) and (2);

(b) returned to the same water body and launched at the same take out site; and

(c) not placed in or on any other Utah water body in the interim without first being decontaminated.

R657-60-6. Certification of Decontamination

(1) The owner, operator or possessor of a vessel desiring to launch on a water body in Utah must:

(a) verify the vessel and any launching device, in the previous 30 days, have not been in an infested water or in any other water subject to closure order under R657-60-8 or control plan under R656-60-9 that requires decontamination of conveyances and equipment upon leaving the water; or

(b) certify the vessel and launching device have been decontaminated.

(2) Certification of decontamination is satisfied by:

(a) previously completing self-decontamination since the vessel and launching device were last in a water described in Subsection (1)(a) and completely filling out and dating a decontamination certification form which can be obtained from the division; or

(b) providing a signed and dated certificate by a division approved professional decontamination service verifying the vessel and launching device were professionally decontaminated since the vessel and launching device were last in a water described in Subsection (1)(a).

(3) Both the decontamination certification form and the professional decontamination certificate, where applicable, must be signed and placed in open view in the window of the launching vehicle prior to launching or placing the vessel in a body of water.

(4) It is unlawful under Section 76-8-504 to knowingly falsify a decontamination certification form.

R657-60-7. Wildlife Board designations of ~~infested waters~~ Infested Waters.

(1) The Wildlife Board may designate a geographic area, water body, facility, or water supply system as ~~infested~~ Infested with Dreissena mussels pursuant to Section 23-27-102 and 23-27-401 without taking the proposal to or receiving recommendations from the regional advisory councils.

(a) The Wildlife Board may designate a particular water body, facility,

or water supply system within the state as ~~[infested]~~Infested with Dreissena mussels when ~~[a juvenile or adult mussel from the subject water is visually identified as a Dreissena mussel and that identity is confirmed by two independent positive-polymerase chain reaction (PCR) tests]~~sampling indicates the water body, facility, or water supply system meets the minimum criteria for an Infested Water as defined in this rule.

(~~[b]~~3) The Wildlife Board may designate a particular water body, facility, or water supply system outside the state as ~~[infested]~~Infested with Dreissena mussels when ~~[a veliger, juvenile or adult Dreissena mussel is detected by the state having jurisdiction over the water or when the Wildlife Board]~~it has credible evidence suggesting the presence of a ~~[Dreissna mussel.]~~Dreissena mussel in that water body, facility, or water supply system.

(~~[c]~~4) Where the number of ~~[infested waters]~~Infested Waters in a particular area is numerous or growing, or where surveillance activities or infestation containment actions are deficient, the Wildlife Board may designate geographic areas as ~~[infested]~~Infested with Dreissena mussels.

(5) The following water bodies and geographic areas are classified as infested:

(a) all coastal and inland waters in:

(i) Colorado;

(ii) California;

(iii) Nevada;

(iv) Arizona;

(v) all states east of Montana, Wyoming, Colorado, and New Mexico;

(vi) the provinces of Ontario and Quebec Canada; and

(vii) Mexico;

(b) Lake Powell and that portion of the:

(i) Colorado River between Lake Powell and Spanish Bottoms in Canyonlands National Park;

(ii) Escalante River between Lake Powell and the Coyote Creek confluence;

(iii) Dirty Devil River between Lake Powell and the Highway 95 bridge; and

(iv) San Juan River between Lake Powell and Clay Hills Crossing; and

(c) other waters established by the Wildlife Board and published on the DWR website.

(6) The Wildlife Board may remove an infested classification if:

(a) the division samples the affected water body for seven (7) consecutive years without a single sampling event producing evidence sufficient to satisfy the criteria for a "suspected" classification, as defined in this rule; or

(b) the controlling entity eradicates all Dreissena mussels at the water body, facility, or water supply system through chemical or biological treatments, desiccation, or freezing, and the division verifies in writing that Dreissena mussels are no longer present.

R657-60-8. Closure Order for a Water Body, Facility, or Water Supply System.

(1)(a) The division may classify a water body, facility, or water supply system as suspected or detected if it meets the minimum criteria for suspected or detected, as defined in this rule.

(b) If the division [~~detects or suspects a Dreissena mussel is present in~~classifies a water body, facility, or water supply system [~~in the state~~as either suspected or detected], the division director or designee may, with the concurrence of the executive director, issue an order closing the water body, facility, or water supply system to the introduction or removal of conveyances or equipment.

(~~b~~c) The director shall consult with the controlling entity of the water body, facility, or water supply system when determining the scope, duration, level and type of closure that will be imposed in order to avoid or minimize disruption of economic and recreational activities.

(d) A closure order may:

~~(e) A closure order may;~~

- (i) close the water entirely to conveyances and equipment;
- (ii) authorize the introduction and removal of conveyances and equipment subject to the decontamination requirements in R657-60-2(2)(b) and R657-60-5; or
- (iii) impose any other condition or restriction necessary to prevent the movement of Dreissena mussels into or out of the subject water.
- (iv) a closure order may not restrict the flow of water without the approval of the controlling entity.

(2)(a) A closure order issued pursuant to Subsection (1) shall be in writing and identify the:

- (i) water body, facility, or water supply system subject to the closure order;
- (ii) nature and scope of the closure or restrictions;
- (iii) reasons for the closure or restrictions;
- (iv) conditions upon which the order may be terminated or modified; and
- (v) sources for receiving updated information on the [~~status of~~infestation]presence of Dreissena mussels and closure order.

(b) The closure order shall be mailed, electronically transmitted, or hand delivered to:

- (i) the controlling entity of the water body, facility, or water supply system;
- and
- (ii) any governmental agency or private entity known to have economic, political, or recreational interests significantly impacted by the closure order; and
 - (iii) any person or entity requesting a copy of the order.
- (c) The closure order or its substance shall further be:
- (i) posted on the division's web page; and
 - (ii) published in a newspaper of general circulation in the state of Utah or the affected area.

(3)(a) If a closure order lasts longer than seven days, the division shall provide the controlling entity and post on its web page a written update every 10 days on its efforts to address the Dreissena mussel infestation.

(~~a~~b) The 10 day update notice cycle will continue for the duration of the closure order.

(4)(a) Notwithstanding the closure authority in Subsection (1), the division

may not unilaterally close or restrict a suspected or detected water supply system [~~infested with Dreissena mussels~~] where the controlling entity has prepared and implemented a control plan in cooperation with the division that effectively [~~eradicates or~~] controls the spread of Dreissena mussels from the water supply system.

(b) The control plan shall comply with the requirements in R657-60-9.

(5) Except as authorized by the Division in writing, a person may not violate any provision of a closure order.

(6) A closure order or control plan shall remain effective so long as the water body, water supply system, or facility remains classified as suspected or detected.

(7) The director or his designee may remove a Suspected classification if:

(a) the division samples the affected water body for three (3) consecutive years without a single sampling event producing evidence sufficient to satisfy the criteria for a "suspected" classification, as defined in this rule; or

(b) the controlling entity eradicates all Dreissena mussels at the water body, facility, or water supply system through chemical or biological treatments, desiccation, or freezing, and the division verifies that Dreissena mussels are no longer present.

; or

(8) The director or his designee may remove a detected classification if:

(a) the division samples the affected water body for five (5) consecutive years without a single sampling event producing evidence sufficient to satisfy the criteria for a "suspected" classification, as defined in this rule; or

(b) the controlling entity eradicates all Dreissena mussels at the water body, facility, or water supply system through chemical or biological treatments, desiccation, or freezing, and the division verifies that Dreissena mussels are no longer present.

R657-60-9. Control plan required.

(1) The controlling entity of a water body, facility, or water supply system may develop and implement a control plan in cooperation with the division prior to infestation designed to:

~~[(a)]~~ (a) avoid the infestation of Dreissena mussels; and

(b) control or eradicate an infestation of Dreissena mussels that might occur in the future.

(2) A pre-infestation control plan developed consistent with the requirements in Subsection (3) and approved by the division will eliminate or minimize the duration and impact of a closure order issued pursuant to Section 23-27-303 and R657-60-8.

(3) If [~~the division detects or suspects a Dreissena mussel is present in~~] a water body, facility, or water supply system [~~in~~] within the state [~~that~~] is classified as infested, detected, or suspected, and it does not have an approved control plan [~~and issues a closure order~~], the controlling entity shall cooperate with the division in developing and implementing a control plan to address the:

(a) scope and extent of the [~~infestation~~] presence of Dreissena mussels;

(b) actions proposed to control the pathways of spread of [~~the infestation;~~] Dreissena mussels;

(c) actions proposed to control the spread or eradicate the [~~infestation~~] presence of Dreissena mussels;

(d) methods to decontaminate the water body, facility, or water supply system, if possible;

(e) actions required to systematically monitor the ~~[level and extent of the infestation]~~presence of Dreissena mussels; and

(f) requirements and methods to update and revise the plan with scientific advances.

(4) ~~[Any post-infestation]~~All control ~~[plan]~~plans prepared pursuant to Subsection (3) shall be approved by the Division before implementation.

(5) A control plan prepared pursuant to this Section may require that all conveyances and equipment entering or leaving the subject water to comply with the decontamination requirements in R657-60-2(2)(b) and R657-60-5.

(6) Except as authorized by the Division and the controlling entity in writing, a person may not violate any provision of a control plan.

R657-60-10. Procedure for Establishing a Memorandum of Understanding with the Utah Department of Transportation.

(1) The division director or designee shall negotiate an agreement with the Utah Department of Transportation for use of ports of entry for detection and interdiction of Dreissena Mussels illegally transported into and within the state. Both the Division of Wildlife Resources and the Department of Transportation must agree upon all aspects of Dreissena Mussel interdiction at ports of entry.

(2) The Memorandum shall include the following:

(a) methods and protocols for reimbursing the department for costs associated with Dreissena Mussel interdiction;

~~[(b)]~~(b) identification of ports of entry suitable for interdiction operations;

(c) identification of locations at a specific port of entry suitable for interdiction operations;

(d) methods and protocols for disposing of wastewater associated with decontamination of equipment and conveyances;

(e) dates and time periods suitable for interdiction efforts at specific ports of entry;

(f) signage notifying motorists of the vehicles that must stop at the port of entry for inspection;

(g) priorities of use during congested periods between the department's port responsibilities and the division's interdiction activities;

(h) methods for determining the length, location and dates of interdiction;

(i) training responsibilities for personnel involved in interdiction activities; and

(j) methods for division regional personnel to establish interdiction efforts at ports within each region.

R657-60-11. Conveyance or Equipment Detainment.

~~[(1)]~~(1) To eradicate and prevent the infestation of a Dreissena mussel, the division may:

(a) temporary stop, detain, inspect, and impound a conveyance or

equipment that the division reasonably believes is in violation of Section 23-27-201 or R657-60-5;

(b) order a person to decontaminate a conveyance or equipment that the division reasonably believes is in violation of Section 23-227-201 or R657-60-~~5~~5.

(2) The division, a port-of-entry agent or a peace officer may detain or impound a conveyance or equipment if~~;~~:

(a) the division, agent, or peace officer reasonably believes that the person transporting the conveyance or equipment is in violation of Section 23-27-201 or R657-60-5.

(3) The detainment or impoundment authorized by Subsection (2) may continue for~~;~~:

(a) up to five days; or

(b) the period of time necessary to:

(i) decontaminate the conveyance or equipment; and

(ii) ensure that a Dreissena mussel is not living on or in the conveyance or equipment.

R657-60-12. Penalty for Violation.

(1) A violation of any provision of this rule is punishable as provided in Section 23-13-11.

(2) A violation of any provision of a closure order issued under R657-60-8 or a control plan created under R657-60-9 is punishable as a criminal infraction as provided in Section 23-13-11.

KEY: fish, wildlife, wildlife law

Date of Enactment or Last Substantive Amendment: August 9, 2010

Notice of Continuation: [~~August 5, 2013~~ [New Rule](#)]

Authorizing, and Implemented or Interpreted Law: 23-27-401; 23-14-18; 23-14-19



GARY R. HERBERT
Governor

SPENCER R COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Wildlife Resources

GREGORY SHEEHAN
Division Director

MEMORANDUM

Date: November 14, 2013

To: Wildlife Board and Regional Advisory Council Members

From: Scott McFarlane, Private Lands – Public Wildlife Coordinator

Subject: **PROPOSED CHANGES TO RULE R657-43 LANDOWNER PERMITS.**

The Division is proposing a change to the Landowner Permit Rule to make it consistent with other rules to have applications, Certificates of Registrations for Landowner Associations and associated variances valid for a three year period instead of the current annual application process. The rule change would allow Landowner Associations to make amendments annually to allow for property ownership, and other changes to the original application, and also for the Division to adjust permit numbers if limited entry permit numbers should change annually. This should help ease the process of Landowner Associations having to acquire each individual landowner's signature annually.



R657. Natural Resources, Wildlife Resources.

R657-43. Landowner Permits.

R657-43-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, this rule provides the standards and procedures for private landowners to obtain landowner permits for:

(a) taking buck deer within the general unit hunt boundary area where the landowner's property is located during the general deer hunt only; and

(b) taking bull elk, buck deer or buck pronghorn within a limited entry unit.

(2) In addition to this rule, any person who receives a landowner permit must abide by Rule R657-5 and the guidebook of the Wildlife Board for taking big game.

(3) The intent of the general landowner buck deer permit is to provide an opportunity for landowners, lessees, or their immediate family, whose property provides habitat for deer, to purchase a general deer permit for the general unit hunt boundary area where the landowner's property is located.

(4) The intent of the limited entry landowner permit is to provide an opportunity for landowners, whose property provides habitat for deer, elk, or pronghorn, to be allocated a restricted number of permits for a limited entry bull elk, buck deer, or buck pronghorn unit, where the landowner's property is located.

Allowing landowners a restricted number of permits:

(a) encourages landowners to manage their land for wildlife;

(b) compensates the landowner for providing private land as habitat for wildlife; and

(c) allows the division to increase big game numbers on specific units.

R657-43-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Eligible property" means:

(i) private land that provides habitat for deer, elk or pronghorn as determined by the division of Wildlife Resources;

(ii) private land that is not used in the operation of a Cooperative Wildlife Management Unit;

(iii) private land that is not used in the operation of an elk farm or elk hunting park;

(iv) land in agricultural use as provided in Section 59-2-502 and eligible for agricultural use valuation as provided in Sections 59-2-503 and 59-2-504; and

(v) for the purpose of receiving general buck deer permits, a minimum of 640 acres of private land owned or leased by one landowner within the general unit hunt boundary; or

(vi) private land, including crop land owned by members of a landowner association for limited entry permits.

(b) “Immediate family” means the landowner’s or lessee’s spouse, children, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchildren, and grandchildren.

(c) “Landowner” means any person, partnership, or corporation who owns property in Utah and whose name appears on a deed as the owner of eligible property or whose name appears as the purchaser on a contract for sale of eligible property.

(d) “Landowner association” means an organization of private landowners who own property within a limited entry unit, organized for the purpose of working with the division.

(e) “Lessee” means any person, partnership, or corporation whose name appears as the Lessee on a written lease, for at least a one-year period, for eligible property used for farming or ranching purposes, and who is in actual physical control of the eligible property.

(f) “Limited entry unit” means a specified geographical area that is closed to hunting deer, elk or pronghorn to any person who has not obtained a valid permit to hunt in that unit.

(g) “Voucher” means a document issued by the division to a landowner, landowner association, or Cooperative Wildlife Management Unit operator, allowing a landowner, landowner association, or Cooperative Wildlife Management Unit operator to designate who may purchase a landowner big game hunting permit from a division office.

R657-43-3. Qualifications for General Landowner Buck Deer Permits.

(1) The director, upon approval of the Wildlife Board, may establish a number of general landowner buck deer permits within each region to be offered to eligible landowners or lessees for the general deer hunting season only.

(2) Only private lands will be considered in qualifying for general landowner buck deer permits. Public or state lands are not eligible.

(3) Crop lands will be considered in qualifying for general landowner buck deer permits if the crop lands provide habitat for deer and contribute to meeting unit management plan objectives.

(4) General landowner buck deer permits are limited to resident or nonresident landowners or lessees, and members of their immediate family.

R657-43-4. Qualifications for Limited Entry Permits.

(1) The Director, upon approval of the Wildlife Board, may establish a number of bull elk, buck deer and buck pronghorn limited entry permits to be offered to an eligible landowner association.

(2) Limited entry landowner permits are available for taking buck deer, bull elk or buck pronghorn, and may only be used on designated limited entry units.

(3) Only private lands that do not qualify for Cooperative Wildlife Management Units will be considered for limited entry landowner permits. Public or state lands are not eligible.

(4) Only private lands that qualify as eligible property will be considered for limited entry landowner permits.

(5) Applications for limited entry landowner permits will be received from landowner associations only.

(6) Only one landowner association, per species, may be formed for each limited entry unit as follows:

(a) A landowner association may be formed only if a simple majority of landowners, representing 51 percent of the eligible private lands within the herd unit, enter into a written agreement to form the association.

(b) The association may not unreasonably restrict membership to other qualified landowners in the unit.

(c) Each landowner association must elect a chairperson to represent the landowner association.

(d) The landowner association chairperson shall act as liaison with the division and the Wildlife Board.

(e) A landowner or landowner association may not restrict legal established passage through private land to access public lands for the purpose of hunting.

R657-43-5. Application for General Landowner Buck Deer Permits.

(1) Applications for general landowner buck deer permits are available from division offices.

(2) Only one eligible landowner or lessee may submit an application for the same parcel of land within the respective general unit hunt boundary area.

(3) In cases where more than one application is received for the same parcel of land, all applications will be rejected.

- (4) Applications must include:
 - (a) total acres owned within the respective general unit hunt boundary area;
 - (b) signature of the landowner; and
 - (c) location of the private lands, acres owned, county and region.
- (5) In cases where the landowner's or lessee's land is in more than one general unit hunt boundary area, the landowner or lessee may select one of those units from which to receive the permit.
- (6) a non-refundable handling fee must accompany each application.
- (7) a landowner may not apply for or obtain a general landowner buck deer permit without possessing a Utah hunting or combination license.
- (8) Applications will be available by January 7.
- (9) Applications must be completed and returned to the regional division office.
- (10) The signature on the application will serve as an affidavit certifying ownership.

R657-43-6. Application for Limited Entry Permits.

- (1) Applications for limited entry landowner permits are available from division offices and from division wildlife biologists.
- (2) Applications to receive limited entry landowner permits must be submitted by a landowner association for lands within the limited entry hunt unit where the private lands are located.
- (3) Applications must include:
 - (a) total acres owned by the association within the limited entry hunting unit and a map indicating the privately owned big game habitat;
 - (b) signature of each of the landowners within the association including acres owned, with said signature serving as an affidavit certifying ownership;
 - (c) a distribution plan for the allocation of limited entry permits by the association;
 - (d) a copy of the association by-laws; and
 - (e) a non-refundable handling fee.
- (4) The division shall, upon request of the applicant, provide assistance in preparing the application.
- (5) Applications must be completed and returned to the appropriate division office by September 1 [~~annually~~ st of the year prior to when hunting is to occur].

(6) The division shall forward the application, its recommendation, and other related documentation to the Regional Wildlife Advisory Councils for public review and consideration.

(7) Recommendations by the Councils will then be forwarded to the Wildlife Board for review and action.

(8) Upon [~~approval by~~ receiving the application, and recommendations from the Regional Advisory Councils and the division, the Wildlife Board [~~, a Certificate of Registration will be issued to the landowner association.~~] may:

(a) authorize the issuance of a three year certificate of registration allowing the landowner association to operate; or

(b) deny or partially deny the application and provide the landowner association with reasons for the decision.

(9)(a) A landowner association certificate of registration, including any variance granted under R657-43-8(6), must be renewed every three years. (b)(i) Notwithstanding Subsection (9)(a), the Wildlife Board may annually modify permit types, numbers, and associated seasons authorized in a certificate of registration when necessary to achieve unit management objectives or otherwise comply with applicable law.

(ii) The division shall annually review the permit types, numbers, and seasons authorized by a certificate of registration issued under this Section and recommend modifications when necessary to achieve unit management objectives or otherwise comply with applicable law.

(iii) The division's recommendation and accompanying justification will be forwarded to the affected landowner association and the Regional Advisory Councils for review and recommendation.

(iv) The Wildlife Board shall consider the recommendations made by the division, Regional Advisory Councils, and landowner association and make a final decision on the proposed modifications consistent with the requirements in Subsection (9)(b).

(10)(a) A landowner association may petition to amend a certificate of registration upon submitting a written request to the regional division office where the landowner association is located.

(b) Amendment of the certificate of registration is required for changes in:

(i) permit numbers;

(ii) landowner association's:

(A) by-laws; or

(B) distribution plan for the allocation of limited entry permits among its members;

(iii) acreage;

(iv) land ownership; or

(v) any other matter related to the management and operation of the landowner association not originally included in the certificate of registration.

(c) Requests for amendments dealing with permit numbers or permit allocation among association members:

(i) may be initiated by the landowner association or the division;

(ii) are due on September 1st of the year prior to when hunting is to occur; and

(iii) shall be forwarded to the Regional Advisory Councils and Wildlife Board for consideration and approval.

(A) Upon approval by the Wildlife Board, an amendment to the original certificate of registration shall be issued in writing.

(d) All other requests for amendments shall be reviewed by the region and Wildlife Section and, upon approval by the division director, an amendment to the original certificate of registration shall be issued in writing.

R657-43-7. General Permits and Season Dates.

(1) The following number of general landowner buck deer permits may be available to a landowner or lessee:

(a) one general landowner buck deer permit may be issued for eligible property of 640 acres; and

(b) one additional general landowner buck deer permit may be issued for each additional 640 acres of eligible property.

(c) If an individual has both owned and leased eligible property, the acreage may be combined in determining the number of permits to be issued.

(2) Permittees may select only one general landowner buck deer permit (archery, rifle or muzzleloader) as provided in the guidebook of the Wildlife Board for taking big game.

(3)(a) General landowner buck deer permits are for personal use only and may not be transferred to any other person.

(b) If the landowner or lessee is a corporation, the person eligible for the permit must be a shareholder, or immediate family member of a shareholder, designated by the corporation.

(4) Any person who is issued a general landowner buck deer permit under this rule is subject to all season dates, weapon restrictions and any other regulations as provided in the guidebook of the Wildlife Board for taking big game.

(5) The fee for a general landowner buck deer permit is the same as the fee for a general season, general archery or general muzzleloader buck deer permit.

(6) Nothing in this rule shall be construed to allow any person to obtain more than one general buck deer permit from any source or take more than one buck deer during any one year.

(7) Permits will be issued beginning in June, in the order that applications are received, and permits will continue to be issued until all permits for each region have been issued.

(8) To receive a general landowner buck deer permit, the eligible person must possess or obtain a Utah hunting or combination license.

R657-43-8. Limited Entry Permits and Season Dates.

(1) Only bull elk, buck deer or buck pronghorn limited entry permits may be applied for by the landowner association.

(2)(a) The division and landowner chairperson shall jointly recommend the number of permits to be issued to the landowner association.

(b) When consensus between the landowner chairperson and the division is not reached, applications shall include justification for permit numbers for review by the Wildlife Regional Advisory Councils and the Wildlife Board.

(3) Permit numbers shall fall within the herd unit management guidelines. Permit numbers will be based on:

(a) the percent of private land big game habitat within the unit that is used by wildlife; or

(b) the percentage of use by wildlife on the private lands.

(4) Landowners receiving vouchers may personally use the vouchers or reassign the vouchers to any legal hunter.

(5) All landowners who receive vouchers, and transfer the vouchers to other hunters must:

(a) allow those hunters receiving the vouchers access to their private lands for hunting; and

(b) allow the same number of public hunters with valid permits, equal to the number of vouchers transferred, to access the landowner association's private land for hunting during the appropriate limited entry bull elk, buck deer or buck pronghorn hunting season, except as provided in Subsection (6).

(6)(a) Landowners who transfer vouchers to other hunters may deny public hunters access to the landowner association's private land for hunting by requesting, through the landowner association, a variance to Subsection (5)(b) from the Wildlife Board.

(b) The requested variance must be provided by the landowner association in writing to the division 30 days prior to the appropriate Regional Advisory Council meeting scheduled to review Rule R657-5 and the guidebook of the Wildlife Board for taking big game.

(c) The variance request must be presented by the landowner association to the appropriate local Regional Wildlife Advisory Council. The local Regional Wildlife Advisory Council shall forward a recommendation to the Wildlife Board for consideration and action.

(7)(a) Any person who is issued a limited entry landowner permit must follow the season dates, weapon restrictions and any other regulations governing the taking of big game as specified in Rule R657-5 and the guidebook of the Wildlife Board for taking big game.

(b) to receive a limited entry landowner permit, the person designated on the voucher must possess or obtain a Utah hunting or combination license.

(8) A limited entry landowner permit authorizes the permittee to hunt within the limited entry unit where the eligible property is located.

(9) Nothing in this rule shall be construed to allow any person, including a landowner, to take more than one buck deer, one bull elk or one buck pronghorn during any one year.

R657-43-9. Limited Entry Permit Allocation and Fees

(1) Upon approval of the Wildlife Board, the division shall issue vouchers to landowner associations that may be used to purchase limited entry permits from division offices.

(2) The fee for any limited entry landowner permit is the same as the cost of similar limited entry buck deer, bull elk or buck pronghorn limited entry permits.

R657-43-10. Limited Entry Permit Conflict Resolution.

(1)(a) If landowners representing a simple majority of the private land within a landowner association are not able to resolve any dispute or conflict arising from the distribution of permits or other disagreement within its discretion and arising from the operation of the landowner association, the permits allocated to the landowner association shall be made available to the general public by the division.

(b) Landowner associations may be eligible to receive landowner permits in subsequent years if the landowner association resolves the conflict or dispute by a simple majority of the landowners.

(2) The division shall not issue landowner permits to a landowner association that has not complied with the provisions of this rule.

KEY: wildlife, landowner permits, big game seasons

Date of Enactment or Last Substantive Change: January 10, 2012

Notice of Continuation: March 05, 2012

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19



GARY R. HERBERT
Governor

SPENCER R COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Wildlife Resources

GREGORY SHEEHAN
Division Director

MEMORANDUM

Date: November 12, 2013
To: Wildlife Board and Regional Advisory Council Members
From: John Shivik, Mammal Coordinator
Subject: 2013 Cougar Rule Revision

The Division recommends the following regarding the management of cougars in Utah:

I. Rule Clarifications, R657-10-2.

The word "Immediate Family" had not been defined in the rule. This insertion corrects that omission.

Language regarding the use firearms is revised to be consistent with other rules and code regarding the carrying of firearms.

II. Chronic Cougar Depredation Permit, R657-10-21

The Division recommends creation of a depredation permit that allows cougar take on specified private lands and public land grazing allotments with chronic depredation. The Division will determine the place, timing, and means of take. The permit holder will not be able to retain the cougar carcass.



R657. Natural Resources, Wildlife Resources.

R657-10. Taking Cougar.

R657-10-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19 of the Utah Code, the Wildlife Board has established this rule for taking and pursuing cougar.

(2) Specific dates, areas, number of permits, limits, and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking cougar.

R657-10-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Canned hunt" means that a cougar is treed, cornered, held at bay or its ability to escape is otherwise restricted for the purpose of allowing a person who was not a member of the initial hunting party to arrive and take the cougar.

(b) "Compensation" means anything of economic value in excess of \$100 that is paid, loaned, granted, given, donated, or transferred to a dog handler for or in consideration of pursuing cougar for any purpose.

(c) "Cougar" means *Puma concolor*, commonly known as mountain lion, lion, puma, panther or catamount.

(d) "Cougar pursuit permit" means a permit that authorizes a person to pursue cougar during designated seasons.

(e) "Cougar Management Area" means a group of units under the same cougar harvest quota.

(f) "Dog handler" means the person in the field that is responsible for transporting, releasing, tracking, controlling, managing, training, commanding and retrieving the dogs involved in the pursuit. The owner of the dogs is presumed the dog handler when the owner is in the field during pursuit.

(g) "Evidence of sex" means the sex organs of a cougar, including a penis, scrotum or vulva.

(h) "Green pelt" means the untanned hide or skin of any cougar.

(i) "Harvest-objective hunt" means any hunt that is identified as harvest-objective in the hunt table of the guidebook for taking cougar.

(j) "Harvest-objective permit" means any permit valid on harvest-objective units, including limited-entry permits for split units after the split-unit transition date.

(k) "Immediate family member" means a livestock owner's spouse, child, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchild and grandchild.

(l) "Kitten" means a cougar less than one year of age.

(m) "Kitten with spots" means a cougar that has obvious spots on its sides or its back.

(n) "Limited entry hunt" means any hunt listed in the hunt tables of the guidebook of the Wildlife Board for taking cougar, which is identified as limited entry and does not include harvest objective hunts.

(o) "Limited entry permit" means any permit obtained for a limited entry hunt by any means, including conservation permits and sportsman permits.

([e]p) "Private lands" means any lands that are not public lands, excluding Indian trust lands.

([p]g) "Public lands" means any lands owned by the state, a political subdivision or independent entity of the state, or the United States, excluding Indian trust lands, that are open to the public for purposes of engaging in pursuit.

([e]r) "Pursue" means to chase, tree, corner or hold a cougar at bay.

([r]s) "Split unit" means a cougar hunting unit that begins as a limited entry unit then transitions into a harvest objective unit.

([s]t) "Waiting period" means a specified period of time that a person who has obtained a cougar permit must wait before applying for any other cougar permit.

([t]u) "Written permission" means written authorization from the owner or person in charge to enter upon private lands and must include:

- (i) the name and signature of the owner or person in charge;
- (ii) the address and phone number of the owner or person in charge;
- (iii) the name of the dog handler given permission to enter the private lands;
- (iv) a brief description of the pursuit activity authorized;
- (v) the appropriate dates; and
- (vi) a general description of the property.

R657-10-21. Livestock Depredation and Human Health and Safety.

(1) If a cougar is harassing, chasing, disturbing, harming, attacking or killing livestock, or has committed such an act within the past 72 hours:

(a) in depredation cases, the livestock owner, an immediate family member or an employee of the owner on a regular payroll, and not hired specifically to take cougar, may kill the cougar;

(b) a landowner or livestock owner may notify the division of the depredation or human health and safety concerns, who shall authorize a local hunter to take the offending cougar or notify a USDA, Wildlife Services specialist; or

(c) the livestock owner may notify a USDA, Wildlife Services specialist of the depredation who may take the depredating cougar.

(2) Depredating cougar may be taken at any time by a USDA, Wildlife Services specialist, supervised by the Wildlife Services program, while acting in the performance of the person's assigned duties and in accordance with procedures approved by the division.

(3) A depredating cougar may be taken by those persons authorized in Subsection (1)(a) with:

(a) any weapon authorized for taking cougar; or

(b) with the use of snares only with written authorization from the director of the division and subject to all the conditions and restrictions set out in the written authorization.

(i) The option in Subsection (3)(b) may only be authorized in the case of a chronic depredation situation where numerous livestock have been killed by a depredating cougar and must be verified by Wildlife Services or division personnel.

(4)(a) [The Division may issue depredation permits to take cougar on specified private lands and public land grazing allotments with a chronic depredation situation where numerous livestock have been killed by cougar.](#)

[\(b\) The Division may:](#)

(i) issue one or more depredation permits to the affected livestock owner or a designee, provided the livestock owner does not receive monetary consideration from the designee for the opportunity to use the depredation permit;

(ii) determine the legal weapons and methods of take allowed; and

(iii) specify the area and season that the permit is valid.

(5)(a) Any cougar taken [pursuant to this section] under Subsection (1)(a) or (4)(a) shall remain the property of the state and must be delivered to a division office or employee within 72 hours.

(b) [~~In accordance with Subsection (1)(a) the cougar shall remain the property of the state, except the~~] The division may issue a cougar damage permit to a person who has killed a depredating cougar [~~in accordance with this section, if that person wishes to maintain possession of the cougar.~~] under Subsection (1)(a) that authorizes the person to keep the carcass, provided no more than one cougar is retained annually.

(c) A person [~~may acquire only~~] that takes a cougar under Subsection (1)(a) or (4)(a) may acquire and use a limited entry or harvest objective cougar permit in the same year, provided no more than one cougar is retained annually.

~~(5)~~6(a) Hunters interested in taking depredating cougar as provided in Subsection (1)(b) may contact the division.

(b) Hunters will be contacted by the division to take depredating cougar as needed.

KEY: wildlife, cougar, game laws

Date of Enactment or Last Substantive Amendment: November 7, 2013

Notice of Continuation: August 16, 2011

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19