

**~~R657. Natural Resources, Wildlife Resources.~~**

**~~R657-48. Wildlife Sensitive Species~~**

**~~R657-48-1. Authority and Purpose.~~**

- ~~(1) Pursuant to Section 23-14-19 of the Utah Code, this rule:~~
  - ~~(a) establishes the process for designating wildlife sensitive species as part of an effort to prevent further imperilment of wildlife species native to Utah and preclude additional listings under the ESA;~~
  - ~~(b) defines the Utah Sensitive Species List; and (c) defines the manner in which the Sensitive Species List is intended to be used.~~

**~~R657-48-2. Definitions.~~**

- ~~(1) The terms used in this rule are defined in Section 23-13-2.~~
- ~~(2) In addition:~~
  - ~~(a) "Committee" means the Wildlife Sensitive Species Advisory Committee.~~
  - ~~(b) "Department" means the Department of Natural Resources.~~
  - ~~(c) "Division" means the Division of Wildlife Resources within the Department.~~
  - ~~(d) "ESA" means the federal Endangered Species Act.~~
  - ~~(e) "Executive Director" means Executive Director of the Department.~~
  - ~~(f) "Interested Person" means an individual, firm, association, corporation, limited liability company, partnership, commercial or trade entity, any agency of the United States Government, the State of Utah, its departments, agencies and political subdivisions.~~
  - ~~(g) "Wildlife sensitive species" means a native wildlife species or subspecies within the state that is undergoing or is likely to undergo substantial declines in population size or distribution, throughout significant portions of its range within the state, without cooperative management intervention or mitigation of threats.~~
  - ~~(h) "Wildlife sensitive species designation" means the decision to bestow or remove wildlife sensitive species status on a wildlife species or subspecies, pursuant to this rule.~~
  - ~~(i) "Utah Sensitive Species List" means the list of all current state sensitive species.~~

**~~R657-48-3. Department Responsibilities.~~**

- ~~(1) There is established a Wildlife Sensitive Species Advisory Committee within the Department of Natural Resources.~~
- ~~(2) The Department shall provide staff support, arrange meetings, keep minutes, and prepare and distribute final recommendations.~~

**~~R657-48-4. Committee Membership and Procedure.~~**

- ~~(1) Committee membership shall consist of:~~
  - ~~(a) the Executive Director of the Department;~~
  - ~~(b) the Director of the Utah Public Lands Policy Coordinating Office or a designee;~~
  - ~~(c) the Director of the Division or a designee;~~
  - ~~(d) the Director of the Division of Oil, Gas and Mining or a designee;~~
  - ~~(e) the Director of the Division of Water Resources or a designee; and~~

- ~~(f) any other Department Division heads or designees as determined by the Executive Director of the Department.~~
- ~~(2) The Executive Director shall serve as chair.~~
- ~~(3) Three members, consisting of the Executive Director, the Division Director and the Director of the Division of Oil, Gas and Mining, shall constitute a quorum for meetings of the Committee.~~
- ~~(4) The Committee shall meet as specified by the Executive Director.~~
- ~~(5) The Division Director shall submit all proposed wildlife sensitive species designations to the Executive Director for Committee review.~~
  - ~~(i) The Division shall support its proposals for wildlife sensitive species designations with:
    - ~~(A) studies, investigations and research supporting the need for the designations;~~
    - ~~(B) field survey and observation data; and/or~~
    - ~~(C) federal, state, local and academic information on habitat, historical and current species distribution, threats to the species, population trends, and/or other data or information collected in accordance with generally accepted scientific techniques and practices, including findings expressed in the Utah Wildlife Action Plan.~~~~
- ~~(6) The Department will provide an assessment of potential impacts of the proposed designations and the existing social and economic needs of the affected communities and interests.~~

#### **~~R657-48-5. Public Participation and Setting of Meeting Agenda.~~**

- ~~(1)(a) All meetings of the Wildlife Sensitive Species Advisory Committee shall comply with the Utah Open and Public Meetings Act, Utah Code Ann. § 52-4-101 et seq.~~
- ~~(b) The meeting agenda shall consist of items determined by the Executive Director, and copies shall be sent to Committee members.~~
- ~~(c) The agenda shall be posted on the Division website and distributed to the Committee members at least 28 calendar days prior to the meeting.~~
- ~~(2) Any interested person may:
  - ~~(a) submit comments on proposed wildlife sensitive species designations;~~
  - ~~(i) comments must be submitted in writing to the Executive Director for review and must be submitted at least seven calendar days prior to the meeting; or~~
  - ~~(b) request to make an oral presentation before the Committee.~~
  - ~~(i) An interested person seeking to make a presentation before the Committee concerning any matter under review, must submit a written request and supporting documentation to the Executive Director at least seven calendar days prior to the meeting.~~~~

#### **~~R657-48-6. Committee Review Actions.~~**

- ~~(1) In conducting a review of issues, the Committee may:
  - ~~(a) require additional information from the Division, the Department or interested persons;~~~~

- ~~(b) require the Division or interested persons to make presentations before the Committee or provide additional documentation in support or opposition of the recommendation;~~
  - ~~(c) schedule additional meetings where public interest or agency concern merits additional discussion;~~
  - ~~(d) undertake additional review functions as needed; or~~
  - ~~(e) consider the need for involvement of other persons or agencies, or whether other action may be needed.~~
- ~~(2) Following the Committee's review and recommendation, the Executive Director shall make a final determination and, if warranted, recommend the approval of any or all proposed wildlife sensitive species designations to the Wildlife Board;~~
- ~~(3) The Executive Director's decision will be announced at that meeting, or the next formal meeting, on the proposed wildlife sensitive species designations, unless an alternative time is required by federal or state law, or rule.~~

**~~R657-48-7. Wildlife Sensitive Species Designation Process.~~**

- ~~(1) A wildlife sensitive species designation shall be made only after the Executive Director, following consideration of the Committee's recommendations, has made a formal written recommendation to the Wildlife Board, and after that Board has considered:~~
- ~~(a) the Executive Director's recommendation, and all comments on such recommendation; and~~
  - ~~(b) all data, testimony and other documentation presented to the Committee and the Wildlife Board pertaining to such proposed designation.~~
- ~~(2) All wildlife sensitive species designations shall be made pursuant to the procedures specified in this rule.~~
- ~~(3) The Wildlife Board may approve, deny or remand the proposed wildlife sensitive species designation recommendation to the Executive Director.~~
- ~~(4) Until a proposed wildlife sensitive species designation is finalized, the proposed designation may not be used or relied upon by any governmental agency, interested person, or entity as an official or unofficial statement of the state of Utah.~~
- ~~(5) The Division shall maintain all data collected and other information relied upon in developing proposed wildlife sensitive species designations as part of the administrative record and make such information available, subject to the Government Records Access and Management Act as defined in Section 62-2-101, for public review and copying upon request.~~
- ~~(6) The Division shall maintain the Utah Sensitive Species List and update the list as necessary to maintain up-to-date status information on sensitive species which change because of:~~
- ~~(a) wildlife species' name changes due to taxonomic revisions;~~
  - ~~(b) new wildlife sensitive species are designated pursuant to this rule; or~~
  - ~~(c) wildlife sensitive species status is removed from species pursuant to this rule.~~

**~~R657-48-8. Availability and Intended Uses.~~**

- ~~(1) The Division shall make available by common electronic means on its website the wildlife sensitive species which are designated by this rule.~~
- ~~(2) Wildlife sensitive species designations are intended to inform natural resource management practices across the state by highlighting which wildlife species may warrant increased conservation attention through such means as habitat restoration, active species management, and avoidance, reduction, and mitigation of impacts, with ultimate goals of reducing the likelihood of future listings under the Endangered Species Act, and conserving the diversity of wildlife species native to Utah.~~
- ~~(3) Wildlife sensitive species designations may not be used by governmental entities as a basis to involuntarily restrict the private property rights of landowners and their lessees or permittees.~~

**~~KEY: sensitive species~~**

**~~Date of Enactment or Last Substantive Amendment: December 31, 2018~~**

**~~Notice of Continuation: May 2, 2016~~**

**~~Authorizing, and Implemented or Interpreted Law: 23-14-19; 63-34-5(2)(a)~~**