

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

**R657-70. Taking Utah Prairie Dogs**

**R657-70-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-1, 23-14-3, 23-14-18, and 23-14-19, this rule provides the standards and requirements for taking Utah prairie dogs.

(2) This rule will immediately go into effect if:

(a) the U.S. Fish and Wildlife Service delegates management of Utah prairie dogs to the State; or

(b) Utah prairie dogs are no longer listed as a threatened or endangered species under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1530, et seq.

(3) The division may transplant Utah prairie dogs under Section 23-14-21.

(4) A person capturing any live Utah prairie dog for personal, scientific, educational, or commercial use must comply with Rule R657-3.

**R657-70-2. Definitions.**

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

(2) Additional terms used in this rule are defined as follows:

(a) "Agricultural land" means any property that is used or has been used in the previous two years for production of a cultivated crop or irrigated pasture that is harvested or grazed.

(b) "Certificate of registration" means a document issued by the division authorizing a person or entity to take a Utah prairie dog.

(c) "Developed land" means any property that is:

(i) developed or improved for public use and where Utah prairie dogs threaten human health, safety or welfare, including parks, playgrounds, public facilities, sports fields, golf courses, school yards, churches, areas of cultural or religious significance, improved roads, transportation systems; or

(ii) within 50 feet of an occupied, residential or commercial structure where Utah prairie dogs threaten human health, safety or welfare on developed curtilage, including lawns, landscaping, gardens, and driveways.

(e) "Division" means the Utah Division of Wildlife Resources.

(f) "Federal land" means all lands in the State of Utah owned by the United States government including Forest Service, Bureau of Land Management, Bureau of Reclamation, Department of Defense, National Park Service, Bureau of Indian Affairs, National Monument, and National Recreation Area lands.

(g) "Immediate family" means a landowner's or lessee'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.

(h) "Landowner" means the person(s) or entity holding fee title to real property impacted by Utah prairie dogs.

(i) "Lessee" means the person(s) or entity leasing or renting under written contract real property impacted by Utah prairie dogs.

(j) "Major development areas" means non-federal lands identified by the division that are developed, adjacent to developed areas, in areas of dense human activity, or areas projected for development in the near future.

(k) "Management area" means one of the three geographic areas established for the protection and management of Utah prairie dogs.

(l) "Minor development areas" means non-federal lands identified by the division that are less likely than major development areas to experience large-scale development and are more likely to function as suitable habitat or to support habitat and population connectivity for Utah prairie dogs.

(m) "Productivity" means the segment of a population represented by pups born that year.

(n) "Protected land" means federal and non-federal property that is set aside specifically or primarily for the preservation of Utah prairie dogs.

(o) "Rangeland" means any property that is used or has been used in the previous two years for grazing livestock, and is neither cultivated nor irrigated.

(p) "Utah prairie dog" or "prairie dog" means the genus and species *Cynomys parvidens*.

### **R657-70-3. Certificate of Registration of Take of Utah Prairie Dog**

(1)(a) A person may not take a Utah prairie dog without first obtaining a certificate of registration from the division, except as provided in Sections R657-70-6; -7; and -8.

(b)(i) A certificate of registration for taking Utah prairie dogs consistent with the division management plan may be issued consistent with this rule when removal is required to mitigate conflict between Utah prairie dog populations and human development.

(ii) A certificate of registration for taking Utah prairie dogs are only valid within the management area specified on the certificate of registration.

(c) A person may apply for a certificate of registration at the division's southern regional office, 1470 North Airport Road, Cedar City, Utah 84721.

(d) A landowner or lessee may apply for a certificate of registration.

(e)(i) A person applying for a certificate of registration, may designate the following individuals to exercise the benefit of the certificate of registration:

(A) immediate family of landowner or lessee; or

(B) employee on a regular payroll who is not hired specifically to take Utah prairie dogs.

(ii) A maximum of four designee certificates of registration may be issued per landowner or lessee.

(iii) Each designee application shall be considered individually based upon the explanation and justification provided.

(f) An application for a certificate of registration must include:

(i) full name;

(ii) complete mailing address;

(iii) phone number;

(iv) date of birth;

(v) weight and height;

(vi) gender;

(vii) hair and eye color;

(viii) social security number;

- (ix) driver's license number, if issued;
- (x) explanation of the need for the certificate of registration to be issued;
- (xi) justification for any designees;
- (xii) landowner or lessee's signature;
- (xiv) proof of hunter education certification if the applicant was born after December 31, 1965; and
- (xv) the township, range, section and 1/4 section of the agricultural lands where the prairie dogs will be taken.

(g) An applicant must be at least 14 years of age at the time the application is filed and must abide by the provisions for children being accompanied by adults while hunting with a weapon pursuant to Section 23-20-20 up to the age of 16 years of age.

(h) After the division reviews an application, a certificate of registration may be issued specifying the number of Utah prairie dogs that may be taken under the certificate of registration.

(i) A maximum of four certificates of registration may be issued to any landowner or lessee, including those issued to the landowner or lessee's designees.

(j) A certificate of registration shall be issued on an individual basis and shall be valid only for the person to whom the certificate of registration is issued.

(k) A certificate of registration is not transferrable and must be signed by the holder prior to use.

(l) If the application and permitting process is accomplished by U.S. Mail, the certificate of registration shall only become valid after a copy of the signed certificate of registration is received by the division's southern regional office.

(3) Notwithstanding any other provision in this chapter authorizing take of prairie dogs, a person may not take a Utah prairie dog on protected land set aside by contractual agreement or law for the protection and conservation of Utah prairie dogs.

#### **R657-70-4. Methods of Take.**

(1)(a) A person authorized to take a Utah prairie dog under this chapter may lethally remove the animal using any means permitted by federal, state, and local, law.

(b) Environmental Protection Agency regulations currently prohibit the use of toxicants and fumigants on Utah prairie dogs.

(2) Notwithstanding Section 23-13-6 or as authorized by the division in a certificate of registration, a person may not:

- (a) capture or attempt to capture a live prairie dog;
- (b) possess a live prairie dog; or
- (c) release a prairie dog into the wild.

(3)(a) A person may take Utah prairie dogs with a firearm during daylight hours or by trapping as specified on a certificate of registration.

(b) In addition to the requirements of this rule, any person taking Utah prairie dogs must comply with all federal, state, and local laws.

(4) The following information must be reported every 30 days to the division's southern regional office at 1470 North Airport Road, Suite 1, Cedar City, Utah 84720, or online when available:

(a) the name and signature of the landowner, lessee, or certificate of registration holder;

(b) the person's certificate of registration number (where applicable);

(c) the number of prairie dogs taken; and

(d) the location and method of disposal of each prairie dog taken during the 30-day period.

(5) Failure to report the information required in Subsection (3), within 30 days, may result in the denial of future opportunity to take prairie dogs.

**R657-70-5. Adaptive Management Tiers.**

(1)(a) Utah prairie dog spring counts are conducted annually, and the most recent 3-year average of spring-counted Utah prairie dogs are used in trend analysis.

(b) The division will make management decisions regarding development and take allowances based on the 3-year average spring count.

(2)(a) Table 5-1 identifies spring count population tiers for triggering management actions within each management area on all lands.

(b) If annual spring counts for a management area are below the established population minimum identified in the Tier 1 Conditions, the division may attempt live capture before lethal control will be authorized, and Utah prairie dogs will be translocated to approved translocation sites on federal or other non-federal lands to help abate the conflicting land use activity.

| Tier | West Desert Management Area | Paunsaugunt Management Area | Awapa Plateau Management Area |
|------|-----------------------------|-----------------------------|-------------------------------|
| 1    | < 2,500                     | < 1,250                     | < 625                         |
| 2    | 2,500 - 3,000               | 1,250 - 1,500               | 625-750                       |
| 3    | 3,000 - 4,000               | 1,500 - 2,000               | 750 - 1,000                   |
| 4    | 4,000 - 5,000               | 2,000 - 2,500               | 1,000 - 1,250                 |
| 5    | > 5,000                     | > 2,500                     | > 1,250                       |

(c) Table 5-2 identifies the thresholds for development surveys for Management Areas.

| Tier | Survey Requirements   |
|------|---|
| 1    | Surveys required for all projects within Major and Minor Development Areas      |
| 2    | Surveys required for all projects within Major and Minor Development Areas      |
| 3    | Surveys required for all projects within Minor Development Areas                |
| 4    | Surveys required for all projects within Minor Development Areas                |
| 5    | No surveys required. Development impacts will be tracked with spring-count data |

(d) Table 5-3 identifies take allowances per colony.

| Tier | Number of Take Allowed              |
|------|-------------------------------------|
| 1    | Up to 25% Productivity              |
| 2    | Up to 50% Productivity              |
| 3    | Up to 75% Productivity              |
| 4    | Up to 100% Productivity             |
| 5    | Up to 100% Productivity + 50 Adults |

(3) The Division will calculate the yearly maximum take based on annual colony counts.

**R657-70-6. Take of Utah Prairie Dogs in Inhabited or Occupied Structures.**

(1)(a) For purposes of this section, an inhabited or occupied structure means a building where people live, work, or visit, including a home, apartment, hotel, commercial or public office, public building, church, store, warehouse, business, work shop, restaurant.

(b) Notwithstanding Section R657-70-3, any person with the consent of the owner or lessee may take a Utah prairie dog that is within the interior of a structure inhabited or occupied by people.

(2) A certificate of registration or prior notice to the division is not required to take a prairie dog under this section.

(3) A person that takes a prairie dog under this section is required to submit a report to the division under Section R657-70-4(4).

**R657-70-7. Take of Utah Prairie Dogs on Developed Land.**

(1) A landowner or lessee of developed land may take a prairie dog on that land without a certificate of registration, provided:

(a) The division is notified prior to take and the property where take will occur is confirmed by the division to be developed land;

(b) Take is performed exclusively by the individuals and under the conditions set forth in Section R657-70-3;

(c) Take is restricted to the developed land owned by the landowner, or leased by the lessee; and

(d) The methods utilized to take prairie dogs are consistent with the limitations in Section R657-70-4;

**R657-70-8. Take of Utah Prairie Dogs During and Prior to Land Development Activities.**

(1) A person may not take a Utah prairie dog on developable land without first obtaining a certificate of registration from the division.

(2)(a)(i) A person may obtain a certificate of registration to take prairie dogs on developable land when:

(A) a construction project is proposed for a parcel of developable land; and

(B) construction on the project is imminent.

(ii) The project proponent must notify the division prior to disturbing the surface of the ground or building a structure on developable land.

(b) Upon receiving notice of the proposed construction project, the division will survey the subject property for the presence of prairie dogs.

(i) If the property is not occupied by prairie dogs, the division will issue a written notification to the project proponent authorizing the project to proceed.

(ii) If prairie dogs are discovered on the property, the division will first attempt to trap and relocate the animals to the extent feasible and in coordination with the project proponent.

(iii) If the project proponent declines to delay the project for trapping, or when trapping is determined complete, the division will issue a certificate of registration to the project proponent authorizing take of all prairie dogs present or remaining on the property.

(4) Take is allowed only on the property proposed for the project and identified in the certificate of registration.

(6) The division will survey for Utah prairie dogs in major and minor development areas according to Table 5-2.

#### **R657-70-9. Take of Utah Prairie Dogs on Agricultural Land and Range Land.**

(1) A person may not take a Utah prairie dog on agricultural land without first obtaining a certificate of registration from the division, except as provided in Section R657-70-7.

(2) The division will calculate the yearly maximum take based on the productivity of colonies measured on an annual basis.

(4)(a) Prairie dogs trapped on the property and relocated by the division between June 15 and October 1 – before lethal take – will not count against the property's maximum take limit identified on the certificate of registration

(b) Take is restricted to the agricultural land owned by the landowner, or leased by the lessee.

(c) Prairie dogs may be taken on agricultural land only with firearms, archery equipment, and kill traps.

(d) Utah prairie dogs may be taken under this section from June 15 to December 31, and in number not to exceed that identified on the certificate of registration.

(5) A person that takes a prairie dog under this section shall submit a monthly report to the division, as provided in Section R657-70-4(3).

#### **R657-70-10. Violations .**

(1) Any violation of this rule is a Class C misdemeanor as provided in Subsection 23-13-11(2).

(2) Pursuant to Section 23-19-9, the division may suspend a certificate of registration issued under this rule.

**KEY: wildlife, game laws**

**Date of Enactment or Last Substantive Amendment: New Rule**

**Notice of Continuation: New Rule**

**Authorizing, and Implemented or Interpreted Law: 23-14-1, 23-14-3, 23-14-18 and 23-14-19**