

65A-1-1. Definitions.

As used in this title:

- (1) "Division" means the Division of Forestry, Fire, and State Lands.
- (2) "Multiple use" means the management of various surface and subsurface resources in a manner that will best meet the present and future needs of the people of this state.
- (3) "Public trust assets" means those lands and resources, including sovereign lands, administered by the division.
- (4) "Sovereign lands" means those lands lying below the ordinary high water mark of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty.
- (5) "State lands" means all lands administered by the division.
- (6) "Sustained yield" means the achievement and maintenance of high level annual or periodic output of the various renewable resources of land without impairment of the productivity of the land.
- (7) "Wildland" means an area where:
 - (a) development is essentially non-existent, except for roads, railroads, powerlines, or similar transportation facilities; and
 - (b) structures, if any, are widely scattered.
- (8) "Wildland fire" means a fire that consumes:
 - (a) wildland; or
 - (b) wildland-urban interface, as defined in Section 65A-8a-102.

Amended by Chapter 413, 2013 General Session

65A-1-4. Division of Forestry, Fire, and State Lands -- Creation -- Power and authority.

- (1) (a) The Division of Forestry, Fire, and State Lands is created within the Department of Natural Resources under the administration and general supervision of the executive director of the department.
 - (b) The division is the executive authority for the management of sovereign lands, and the state's mineral estates on lands other than school and institutional trust lands, and shall provide for forestry and fire control activities as required in Section 65A-8-101.
- (2) The division shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to fulfill the purposes of this title.
- (3) The director of the Division of Forestry, Fire, and State Lands is the executive and administrative head of the division and shall be a person experienced in administration and management of natural resources.
- (4) (a) An aggrieved party to a final action by the director may appeal that action to the executive director of the Department of Natural Resources within 20 days after the action.
 - (b) The executive director shall rule on the director's action within 20 days after receipt of the appeal.

Amended by Chapter 413, 2013 General Session

65A-1-5. Attorney general -- Role in affairs of the council and division.

(1) (a) The attorney general shall represent the division in any legal action relating to state lands and, upon request by the director, may institute action to enforce the provisions of this title.

(b) Whenever an action is brought contesting a decision or act of the division, the division may be named a party in the case rather than the individuals that comprise the division.

(2) All leases, contracts, and agreements entered into by the division shall be approved as to form by the attorney general prior to execution.

(3) (a) All suits for the collection of rental and damages shall be instituted by the attorney general, upon request by the director, in the name of the state.

(b) The attorney general, upon request by the director, shall prosecute actions for suppression costs or other damage caused by fires on state lands.

Amended by Chapter 294, 1994 General Session

65A-1-6. Witnesses -- Subpoena and oaths.

(1) The director may issue subpoenas to compel the attendance of witnesses and the production of documents in adjudicative proceedings authorized by law.

(2) The director may administer oaths in the performance of the council's or division's official duties.

Amended by Chapter 294, 1994 General Session

65A-1-8. Council members and division employees -- Prohibited from acquiring an interest in state lands.

Division employees may not directly or indirectly acquire any interest in state lands.

Amended by Chapter 294, 1994 General Session

65A-1-9. Application of Public Officers' and Employees' Ethics Act.

Employees and agents of the division are subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Amended by Chapter 413, 2013 General Session

65A-1-10. Proprietary geologic or financial information -- Confidentiality -- Division to adopt rules.

(1) The division may keep geologic and financial information, which the provider and the division agree is of a proprietary nature, confidential unless the information is required by federal or state law to be of a nonproprietary nature.

(2) The division shall adopt rules to determine when to accept confidential information.

Amended by Chapter 294, 1994 General Session

65A-1-11. Division's authority to examine records and inspect premises.

(1) For the purpose of determining compliance with any rule or any performance or payment obligation under a lease, permit, or contract, the division may, at reasonable times, places, and intervals:

(a) require that the lessee, permittee, or contractor provide any pertinent books, records, or other documents of the lessee, permittee, or contractor; or

(b) inspect the property acquired, used, or developed under the lease, permit, or contract after reasonable notice or as provided in the lease, permit, or contract.

(2) Nothing in the section shall be construed to limit or invalidate audits conducted by the division prior to the effective date of this act.

Enacted by Chapter 325, 1990 General Session

65A-1-12. Filing date of applications and bids.

Any application or bid required for the lease, permitting, or sale of state lands in a competitive process shall be considered filed or made on the date received by the appropriate division office, whether transmitted by the United States mail or in any other manner.

Enacted by Chapter 283, 1991 General Session

65A-2-1. Administration of state lands -- Multiple-use sustained yield management.

The division shall administer state lands under comprehensive land management programs using multiple-use sustained yield principles.

Amended by Chapter 294, 1994 General Session

65A-2-2. State land management planning procedures for natural and cultural resources -- Assistance from other state agencies -- Division action.

The division:

(1) shall develop planning procedures for natural and cultural resources on state lands; and

(2) may request other state agencies to generate technical data or other management support services for the development and implementation of state land management plans.

Amended by Chapter 294, 1994 General Session

65A-2-3. Endangered or threatened plant species -- Division authorized to protect.

The division may make determinations concerning the management, protection, and conservation of plant species officially designated as endangered or threatened under the federal Endangered Species Act of 1973, as amended, on state lands.

Amended by Chapter 294, 1994 General Session

65A-2-4. State land management plans -- Division to adopt rules for notifying and consulting with interested parties.

(1) The division shall adopt rules for notifying and consulting with interested parties including the general public, resources users, and federal, state, and local agencies on state land management plans.

(2) Division rules shall provide:

(a) for reasonable notice and comment periods; and

(b) that the division respond to all commenting parties and give the rationale for the acceptance or nonacceptance of the comments.

Amended by Chapter 294, 1994 General Session

65A-2-5. Protection of leasehold interests.

The director of the Division of Forestry, Fire, and State Lands, in conjunction with the Wildlife Board, may restrict or limit public use of leased parcels of sovereign lands for hunting, trapping, or fishing:

(1) upon the petition of the affected lessee;

(2) after a public hearing; and

(3) upon a determination that unrestricted public use for hunting, trapping, or fishing substantially interferes with the primary activities authorized by the lease.

Enacted by Chapter 156, 2000 General Session

65A-2-6. Permitted areas at Bear Lake for launching and retrieving watercraft -- Rulemaking authority.

(1) If a person owns property adjacent to state lands surrounding Bear Lake, the division shall issue a permit that allows the person to launch or retrieve a vessel in an area adjacent to the person's property.

(2) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer Subsection (1).

Enacted by Chapter 370, 2013 General Session

65A-3-1. Trespassing on state lands -- Penalties.

(1) As used in this section:

(a) "Anchored" is as defined in Section 73-18-2.

(b) "Beached" is as defined in Section 73-18-2.

(c) "Vessel" is as defined in Section 73-18-2.

(2) A person is guilty of a class B misdemeanor and liable for the civil damages prescribed in Subsection (4) if, without written authorization from the division, the person:

(a) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand, soil, vegetation, or improvement on state lands;

(b) grazes livestock on state lands;

(c) uses, occupies, or constructs improvements or structures on state lands;

(d) uses or occupies state lands for more than 30 days after the cancellation or

expiration of written authorization;

(e) knowingly and willfully uses state lands for commercial gain;

(f) appropriates, alters, injures, or destroys any historical, prehistorical, archaeological, or paleontological resource on state lands;

(g) camps on the beds of navigable lakes or rivers except in posted and designated areas;

(h) camps on sovereign land for longer than 15 consecutive days at the same location or within one mile of the same location;

(i) camps on sovereign land for 15 consecutive days, and then returns to camp at the same location before 15 consecutive days have elapsed after the day on which the person left that location;

(j) leaves an anchored or beached vessel unattended for longer than 48 hours on sovereign land or navigable lakes or rivers;

(k) anchors or beaches a vessel for longer than 72 hours at the same location, on sovereign land or navigable lakes or rivers, and then fails to move the vessel at least two miles from that location; or

(l) parks or operates motor vehicles on the beds of navigable lakes and rivers except in those areas supervised by the Division of Parks and Recreation or other state or local enforcement entity and which are posted as open to vehicle use.

(3) A person is guilty of a class C misdemeanor and liable for civil damages described in Subsection (4) if, on state lands surrounding Bear Lake and without written authorization of the division, the person:

(a) parks or operates a motor vehicle in an area on the exposed lake bed that is not specifically posted by the division as open for usage;

(b) launches or retrieves a vessel in an area not specifically designated by the division as open for launching or retrieving a vessel;

(c) exceeds a speed limit of 15 miles per hour while operating a motor vehicle;

(d) except as necessary while launching or retrieving a vessel in an area where the person is permitted to launch or retrieve a vessel, parks or operates a motor vehicle within an area between the water's edge and a line posted by the division;

(e) except as allowed and posted by the division, travels in a motor vehicle parallel to the water's edge;

(f) parks or operates a motor vehicle between the hours of 10 p.m. and 7 a.m.;

or

(g) starts a campfire or uses fireworks.

(4) A person who commits any act described in Subsection (2) or (3) is liable for damages in the amount of:

(a) three times the value of the mineral or other resource removed, destroyed, or extracted;

(b) three times the value of damage committed; or

(c) three times the consideration which would have been charged by the division for use of the land during the period of trespass.

(5) In addition to the damages described in Subsection (4), a person found guilty of a misdemeanor under Subsection (2) or (3) is subject to the penalties provided in Section 76-3-204.

(6) Money collected under this section shall be deposited in the fund in which similar revenues from that land would be deposited.

Amended by Chapter 370, 2013 General Session

65A-3-2. Wildland fire prevention -- Prohibited acts.

- (1) A person is guilty of a class B misdemeanor who:
- (a) throws or places any lighted cigarette, cigar, firecracker, ashes, or other flaming or glowing substance that may cause a fire on a highway or a wildland fire;
 - (b) obstructs the state forester, an employee of the division, or an agent of the division, in the performance of controlling a fire;
 - (c) refuses, on proper request of the state forester, an employee of the division, or an agent of the division, to assist in the controlling of a fire, without good and sufficient reason; or
 - (d) fires any tracer or incendiary ammunition anywhere except within the confines of established military reservations.
- (2) Fines assessed under this section are deposited in the General Fund.

Amended by Chapter 361, 2012 General Session

65A-3-3. Enforcement of laws -- County attorney or district attorney to prosecute.

- (1) It is the duty of the division, county sheriffs, their deputies, peace officers, and other law enforcement officers within the law enforcement jurisdiction to enforce the provisions of this chapter and to investigate and gather evidence that may indicate a violation under this chapter.
- (2) The county attorney or district attorney, as appropriate under Sections 17-18a-202 and 17-18a-203, shall:
- (a) prosecute any criminal violations of this chapter; and
 - (b) initiate a civil action to recover suppression costs incurred by the county or state for suppression of fire on private land.

Amended by Chapter 237, 2013 General Session

65A-3-4. Liability for causing wildland fires.

- (1) A person who negligently, recklessly, or intentionally causes or spreads a wildland fire shall be liable for the cost of suppressing that wildland fire, regardless of whether the fire begins on:
- (a) private land;
 - (b) land owned by the state;
 - (c) federal land; or
 - (d) tribal land.
- (2) The conduct described in Subsection (1) includes any negligent, reckless, or intentional conduct, and is not limited to conduct described in Section 65A-3-2.
- (3) A person who incurs costs to suppress a wildland fire may bring an action under this section to recover those costs.

(4) A person who suffers damage from a wildland fire may pursue all other legal remedies in addition to seeking damages under Subsection (3).

Repealed and Re-enacted by Chapter 361, 2012 General Session

65A-4-1. Acquisition and disposition of land by state agencies.

(1) All state agencies may acquire land by gift, devise, bequest, exchange, compensation for public resource value loss, or in satisfaction of a debt and are authorized to sell, lease, or otherwise dispose of land no longer needed for public purposes, unless otherwise provided by law.

(2) The proceeds from the sale, lease, or other disposition of land shall go to the state agency using or holding the land unless:

(a) the governor or the Legislature order its deposit in the fund from which the state agency receives its appropriations; or

(b) the use or disposition of the proceeds is specified elsewhere in law.

Enacted by Chapter 121, 1988 General Session

65A-4-2. Central index -- Division to maintain index of lands owned by agencies of the Department of Natural Resources -- Information to be furnished.

(1) The division shall maintain a central index of all lands owned by agencies of the Department of Natural Resources and shall make that index available for the public.

(2) All agencies of the Department of Natural Resources having any right, title, or interest in lands shall furnish the division with the following information:

(a) legal description of the land;

(b) when the land was acquired;

(c) where the abstracts, deeds, or other indicia of interest in the property may be found;

(d) name of agency acquiring or holding the mineral interest;

(e) name of the grantor; and

(f) nature of state's interest in the land including whether mineral interests were obtained.

(3) This section does not apply to Board of Water Resources lands that are subject to a repurchase agreement by the water project sponsor.

Enacted by Chapter 121, 1988 General Session

65A-4-3. Mineral leases -- Made exclusively by division -- Disposition of state mineral lease revenues.

(1) Mineral leases of all lands owned by the state, except school and institutional trust lands, shall be made exclusively through the division, pursuant to division rules, with the consent of the state agency using or holding the land.

(2) (a) All revenues from mineral leases of sovereign lands shall be deposited in the Sovereign Lands Management Account.

(b) That portion of all revenues from mineral leases on other lands managed by the division necessary to recover management costs shall be deposited in the

Sovereign Lands Management Account.

(c) The balance of state mineral lease revenues shall be utilized as directed by the agency or donor.

Amended by Chapter 294, 1994 General Session

65A-5-1. Sovereign Lands Management Account -- Creation -- Contents -- Appropriation to fund division expenses.

(1) There is created within the General Fund a restricted account known as the Sovereign Lands Management Account.

(2) The account shall consist of the following:

(a) all revenues derived from sovereign lands;

(b) that portion of all revenues derived from mineral leases on other lands managed by the division necessary to recover management costs; and

(c) any fees deposited by the division.

(3) All expenditures of the division relating directly to the management of state lands shall be funded by appropriation by the Legislature from the Sovereign Lands Management Account or other sources.

(4) The Legislature may appropriate funds in the account to reimburse one or more state government entities for money spent on the operation of national parks, national monuments, national forests, and national recreation areas in the state during a fiscal emergency, as defined in Section 79-4-1102.

Amended by Chapter 313, 2014 General Session

65A-5-2. Deposit and allocation of money received.

(1) (a) Subject to Subsection (3), the division shall pay to the state treasurer all money received, accompanied by a statement showing the respective sources of this money.

(b) Each source shall be classified as to sales, rentals, royalties, interest, fees, penalties, and forfeitures.

(2) (a) All money received by the division as a first or down payment on applications to purchase, permit, or lease state lands or minerals shall be paid to the state treasurer and held in suspense pending final action on those applications.

(b) After final action these payments shall either be credited to the appropriate fund or account, or refunded to the applicant in accordance with the action taken.

(3) The division shall provide a separate accounting for all fees received under Subsection 65A-5-1(4).

Amended by Chapter 313, 2014 General Session

65A-6-1. Coal and mineral deposits reserved -- Exceptions.

(1) (a) Except as otherwise expressly provided by law, coal and mineral deposits in state-owned lands are reserved to the state. Each certificate of sale and patent issued shall contain such a reservation.

(b) The purchaser of any lands belonging to the state:

(i) acquires no right, title, or interest in coal or mineral deposits; and
(ii) is subject to the conditions and limitations prescribed by law providing for the state and any person authorized by it to:

(A) prospect or mine;

(B) remove the deposits; and

(C) occupy and use as much of the surface of the lands as may be required for any purpose reasonably incident to the mining and removal of the deposits.

(c) Improved farm lands acquired by the state through foreclosure proceedings or conveyed to the state by deed in satisfaction of farm loan mortgages may be sold by the state without mineral reservations.

(d) Coal and mineral deposits in state-owned lands may not be sold but may be leased on a rental and royalty basis.

(2) Except as otherwise prohibited by the Jones Act of January 25, 1927, 43 U.S.C. Sections 870-871, mineral interests in state-owned lands may be exchanged for mineral interests of comparable value or otherwise disposed of, if their retention would create a liability exceeding their value.

(3) (a) Salts and other minerals in the waters of navigable lakes and streams are reserved to the state and may be sold by the division only upon a royalty basis.

(b) A contract for the recovery of salts or minerals from navigable waters shall be subject to the use of the waters for public purposes.

(c) Before a contract for the recovery of salts or minerals from navigable waters is executed, the applicant shall provide evidence that:

(i) an application for the appropriation of water for that purpose has been filed with the state engineer; and

(ii) the application is pending or accepted in that office.

(4) Common varieties of sand, gravel, and cinders are not considered to be minerals under this section. Common varieties do not include deposits which are valuable because the deposit contains other materials giving it distinct and special value.

Amended by Chapter 283, 1991 General Session

65A-6-2. Mineral leases -- Division to prescribe rules.

The division shall by rule prescribe:

(1) the term of the lease;

(2) the annual rental;

(3) the amount of royalty in addition to or in lieu of rental; and

(4) the basis upon which the royalty shall be computed.

Amended by Chapter 294, 1994 General Session

65A-6-3. Applications for mineral leases -- Compliance with business laws.

Applicants for mineral leases shall fully comply with all of the laws of the state as to qualification to do business within this state and must not be in default under any such laws during the pendency of the application and throughout the duration of the

lease.

Amended by Chapter 294, 1994 General Session

65A-6-4. Mineral leases -- Multiple leases on same land -- Rentals and royalties -- Lease terms.

(1) (a) Mineral leases, including oil, gas, and hydrocarbon leases, may be issued for prospecting, exploring, developing, and producing minerals covering any portion of state lands or the reserved mineral interests of the state.

(b) (i) Leases may be issued for different types of minerals on the same land.

(ii) If leases are issued for different types of minerals on the same land, the leases shall include stipulations for simultaneous operations.

(c) No more than one lease may be issued for the same resource on the same land.

(2) (a) Each mineral lease issued by the division shall provide for an annual rental of not less than \$1 per acre per year.

(b) However, a lease may provide for a rental credit, minimum rental, or minimum royalty upon commencement of production, as prescribed by rule.

(3) The primary term of a mineral lease may not exceed:

(a) 20 years for oil shale and tar sands; and

(b) 10 years for oil and gas and any other mineral.

(4) The division shall make rules regarding the continuation of a mineral lease after the primary term has expired, which shall provide that a mineral lease shall continue so long as:

(a) the mineral covered by the lease is being produced in paying quantities from:

(i) the leased premises;

(ii) lands pooled, communitized, or unitized with the leased premises; or

(iii) lands constituting an approved mining or drilling unit with respect to the leased premises; or

(b) (i) the lessee is engaged in diligent operations, exploration, research, or development which is reasonably calculated to advance development or production of the mineral covered by the lease from:

(A) the leased premises;

(B) lands pooled, communitized, or unitized with the leased premises; or

(C) lands constituting an approved mining or drilling unit with respect to the leased premises; and

(ii) the lessee pays a minimum royalty.

(5) For the purposes of Subsection (4), diligent operations with respect to oil, gas, and other hydrocarbon leases may include cessation of operations not in excess of 90 days in duration.

Amended by Chapter 294, 1994 General Session

65A-6-5. Division may withdraw lands from leasing -- Mineral lease application procedures.

(1) The division may at any time withdraw state lands from leasing.

(2) Lands that are not encumbered by a current mineral lease for the same resource, a withdrawal order, or other division rule prohibiting the lease of the lands, shall be offered for lease as provided in this section.

(3) A notice of the land available for leasing shall be posted in the office of the division. The notice shall:

- (a) describe the land;
- (b) indicate what mineral interest in each tract is available for leasing; and
- (c) state the last date, which shall be no less than 15 days after the notice is posted, on which bids may be received.

(4) (a) Applications for the lease of lands filed before the closing date stated in the notice shall be considered to be filed simultaneously.

- (b) The applications shall be:
 - (i) submitted in sealed envelopes; and
 - (ii) opened in the office of the division at 10:00 a.m. of the first business day following the last day on which bids may be received.

(c) Leases shall be awarded to the highest responsible, qualified bidder, in terms of the bonus paid in addition to the first year's rental, who submitted a bid in the manner required.

(d) (i) In cases of identical bids of successful bidders, the right to lease shall be determined by drawing.

(ii) The drawing shall be held in public at the office of the division.

(5) (a) At the discretion of the division, mineral leases may be offered at an oral public auction.

(b) The division may set a minimum bid for a public auction.

(6) The division may award a mineral lease without following the competitive bidding procedures specified in Subsections (3) and (4) or conducting an oral public auction, if the mineral lessee waives or relinquishes to the state a prior mining claim, mineral lease, or other right which in the opinion of the division might otherwise cloud the title to any of those lands.

(7) Following the awarding of a lease to a successful bidder, deposits, except filing fees, made by unsuccessful bidders shall be returned.

(8) (a) Lands acquired through exchange from the federal government shall be subject to the vested rights of unpatented mining claimants under the Mining Law of 1872, as amended, and other federal vested rights, both surface and minerals.

(b) This provision does not prevent the state from negotiating the accommodation of vested rights through any method acceptable to the parties.

(9) The division may lease lands in the order in which applications are filed if:

(a) the division offers newly acquired or existing state lands for lease for mineral purposes according to the procedures in Subsections (3) through (6) and the lands are not leased; or

(b) a period of time of one year or more has elapsed following:

- (i) a revocation of a withdrawal; or
- (ii) the date an existing mineral lease is canceled, relinquished, surrendered, or for any reason terminated.

Amended by Chapter 294, 1994 General Session

65A-6-6. Mineral lease covenants.

Each mineral lease shall contain the following covenants:

- (1) the lessee shall promptly pay any rent annually in advance;
- (2) waste may not be committed on the land;
- (3) the premises shall be surrendered at the expiration of the term;
- (4) the lessee may not assign or sublet without the written authorization of the director; and
- (5) where improvements have been placed on the land by any person other than the lessee, the lessee will allow the owner of the improvements to remove them within 90 days.

Amended by Chapter 283, 1991 General Session

65A-6-7. Mineral information to be furnished -- Confidentiality.

(1) The division may require the lessee to furnish any information necessary to carry out the duties of this chapter, including geological and mine maps, well logs, and assays.

(2) Any information submitted to the division which the lessee and the division agree is of a proprietary nature shall be classified as protected and may not be released without written permission from the lessee.

Amended by Chapter 294, 1994 General Session

65A-6-8. Mineral leases -- Cancellation -- Use of surface land -- Liability for damage.

(1) Upon violation by the lessee of any lawful provision in a mineral lease, the division may cancel the lease after 30 days' notice by registered or certified return receipt mail, unless the lessee:

- (a) remedies the violation;
- (b) rectifies the condition; or
- (c) requests a hearing within:
 - (i) the 30 days; or
 - (ii) any extension of time the division grants.

(2) (a) A mineral lessee, subject to conditions required by the division, shall have:

- (i) the right at all times to enter upon the leasehold for prospecting, exploring, developing, and producing minerals; and
- (ii) reasonable use of the surface.

(b) The lessee shall not injure, damage, or destroy the improvements of the surface owner or lessee.

(c) The lessee is liable to the surface owner or lessee for all damage to the surface of the land and improvements, except for reasonable use.

(3) Any mineral lessee may occupy as much of the surface of the leased land as may be required for all purposes reasonably incident to the exercise of lessee's rights under the lease by:

- (a) securing the written consent or waiver of the surface owner or lessee;

(b) payment for the damage to the surface of the land and improvements to the surface owner or lessee where there is agreement as to the amount of the damage; or

(c) upon the execution of a good and sufficient bond to the state for the use and benefit of the surface owner or lessee of the land to secure the payment of damages as may be determined and fixed by agreement or in action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties of the bond.

(4) The bond required by Subsection (3)(c) shall be:

(a) in a form and amount as prescribed by the division; and

(b) filed with the division.

Amended by Chapter 136, 2007 General Session

65A-6-9. Shut-in gas wells.

(1) Under a mineral lease for oil and gas, gas is considered to be produced in paying quantities from a shut-in gas well if the shut-in gas well is capable of producing gas in paying quantities, but the gas cannot be marketed at a reasonable price due to existing marketing or transportation conditions.

(2) (a) The division shall make rules establishing:

(i) a minimum rental or minimum royalty for a shut-in gas well that is considered to be producing gas in paying quantities; and

(ii) the basis upon which the minimum rental or minimum royalty shall be paid.

(b) The minimum rental or minimum royalty may not be less than twice the annual lease rental.

Amended by Chapter 294, 1994 General Session

65A-6-10. Unitization of mineral leases.

(1) Mineral lessees, upon prior written authorization from the division, may commit leased state lands to unit, cooperative, or other plans of development with other lands.

(2) The division may, with the consent of the mineral lessee, modify any term of a mineral lease for lands that are committed to a unit, cooperative, or other plan of development.

(3) Production allocated to leased state lands under the terms of a unit, cooperative, or other plan of development shall be considered produced from the leased lands whether or not the point of production is located on the leased state lands.

Amended by Chapter 283, 1991 General Session

65A-6-11. Land subject to a federal mineral lease.

(1) With respect to any tract of land in which the state acquires or has acquired any interest subject to an outstanding federal mineral lease or prospecting permit, the lessee or permittee may submit a petition seeking extension of the permit or lease or any other action as may be necessary to give to the lessee or permittee any and all rights, privileges, and benefits which he would have had under the permit or lease had

the state not acquired its interest in the tract.

(2) In consideration of the voluntary termination by the federal lessee or permittee of his lease or permit as it relates to that tract, the division may issue to that lessee or permittee a lease of the acquired tract or any portion of that tract for recovery of the same mineral substances upon terms that the lessee shall have all the rights, privileges, and benefits with reference to that tract which he would have had by reason of his lease or permit from the United States had the state not acquired its interest in the tract.

Enacted by Chapter 121, 1988 General Session

65A-6-12. Agreements for the administration of mineral leases by a federal agency.

(1) If the state has succeeded or will succeed to the position of the United States under a federal mineral or prospecting permit in which only a portion of the lands are subject to the permit, agreements may be entered into with the federal agency having jurisdiction over the remaining portion providing for the continued administration by that agency of the entire lease or permit or any lease pursuant to that permit.

(2) Consideration for continued administration of the federal agency may not exceed 10% of the revenue allocable to the state's portion.

Amended by Chapter 294, 1994 General Session

65A-7-1. Division to make rules for the sale, exchange, or lease of state lands.

The division shall establish criteria by rule for the sale, exchange, lease, or other disposition or conveyance of state lands including procedures for determining fair market value of those lands.

Amended by Chapter 294, 1994 General Session

65A-7-5. Surface leases -- Procedures for issuing leases -- Leases for the construction of a highway facility.

(1) The division may issue surface leases of state lands for any period up to 99 years.

(2) This section does not apply to leases for oil and gas, grazing, or mining purposes.

(3) The division shall disclose any known geologic hazard affecting leased property.

(4) (a) (i) Surface leases may be entered into by negotiation, public auction, or other public competitive bidding process as determined by rules of the division.

(ii) Requests for proposals (RFP) on state lands may be offered by the division after public notice.

(b) (i) A notice of an invitation for bids or a public auction shall, prior to the auction or acceptance of a bid, be published at least once a week for three consecutive weeks in one or more newspapers of general circulation in the county in which the

lease is offered.

(ii) The notice shall be sent, by certified mail, at least 30 days prior to the auction or acceptance of a bid, to each person who owns property adjoining the state lands offered for lease.

(c) (i) Surface leases entered into through negotiation shall be published in the manner set forth in Subsection (4)(b) 30 days prior to final approval.

(ii) The notice shall include, at a minimum, a general description of the lands proposed for lease and the type of lease.

(5) (a) The division may not issue a lease for the construction of a highway facility over sovereign lakebed lands unless the applicant for the lease submits an approval for the construction of a highway facility over sovereign lakebed lands from the Transportation Commission in accordance with Section 72-6-303 with the application for the lease.

(b) The division shall consider the information and analysis provided by the Transportation Commission under Section 72-6-303 when making its determination as to whether to issue a lease for the construction of a highway facility over sovereign lakebed lands.

(c) A lease for the construction of a highway facility over sovereign lakebed lands:

(i) may include an option to renew the lease upon expiration; and

(ii) shall include a provision that requires that at the termination of the lease:

(A) the ownership of the highway facility shall revert to the state;

(B) the highway facility shall be in a state of proper maintenance as outlined in the agreement under Subsection 72-6-303(4)(e) and determined by the Department of Transportation; and

(C) the highway facility shall be returned to the Department of Transportation in satisfactory condition at no further cost to the Department of Transportation, in a condition of good repair.

(d) The requirements under this Subsection (5) apply to all pending and future applications for a lease for the construction of a highway facility over sovereign lakebed lands.

Amended by Chapter 256, 2011 General Session

65A-7-6. Lease covenants.

Each surface lease shall contain the following covenants:

(1) the lessee shall promptly pay the rent annually in advance;

(2) no waste shall be committed on the land;

(3) the premises shall be surrendered at the expiration of the term;

(4) the lessee may not sublet or assign without the written consent of the division;

(5) a failure to pay the agreed rent for a period of one month from the time rent is due shall result in a forfeiture of the lease after notice; and

(6) if improvements have been placed on the land by any person other than the lessee, the lessee shall allow the owner of the improvements to remove them within 90 days.

Amended by Chapter 294, 1994 General Session

65A-7-7. Exchanges of sovereign lands -- Based on equal value -- Lands encumbered by a lease.

(1) (a) In accordance with division rules and when in the best interest of the state, sovereign lands may be exchanged for other land or other assets within the state held by other proprietors.

(b) Upon request of the division, the governor shall execute and deliver the necessary patents to other proprietors and receive proper deeds of the lands so exchanged.

(c) An exchange may not be made by the division until a deed or patent for the land received in exchange has been issued by the proprietors.

(2) (a) If sovereign lands are encumbered by an existing lease, the division, upon approval of an exchange, may, with the consent of the lessee, terminate the existing lease and issue a lease of the same type, on lands of comparable acreage or value, which may be acquired in the same exchange in which the leased lands are used as base.

(b) Upon acceptance of exchanged lands, the state shall honor all vested rights.

Amended by Chapter 294, 1994 General Session

65A-7-8. Easements on state lands -- Division to make rules.

(1) The division shall establish rules for the issuance of easements on, through, and over any state land, and shall establish price schedules.

(2) A patent for state lands is subject to any existing easement or public right-of-way.

Repealed and Re-enacted by Chapter 294, 1994 General Session

65A-8-101. Division responsibilities for fire control and the preservation of forest, watershed, and other lands -- Reciprocal agreements for fire protection.

(1) The division shall determine and execute the best method for protecting private and public property by:

(a) except as provided by Subsection (1)(e), preventing the origin and spread of fire on nonfederal forest, range, or watershed land in an unincorporated area of the state;

(b) protecting a nonfederal forest or watershed area using conservation principles;

(c) encouraging a private landowner to preserve, protect, and manage forest or other land throughout the state;

(d) taking action the division considers appropriate to control wildland fire and protect life and property on the nonfederal forest, range, or watershed land within an unincorporated area of the state; and

(e) implementing a limited fire suppression strategy, including allowing a fire to burn with limited or modified suppression, if the division determines that the strategy is

appropriate for a specific area or circumstance.

(2) The division may:

(a) enter into an agreement with a public or private agency or individual:

(i) for the purpose of protecting, managing, or rehabilitating land owned or managed by the agency or individual; and

(ii) establishing a predetermined fire suppression plan, including a limited fire suppression strategy, for a specific fire management area; and

(b) enter into a reciprocal agreement with a fire protection organization, including a federal agency, to provide fire protection for land and an improvement for which the organization normally provides fire protection.

Amended by Chapter 20, 2008 General Session

65A-8-102. State forester.

(1) There is created the position of state forester to carry out the provisions of this chapter.

(2) The state forester shall be a graduate of an accredited school of forestry, technically and professionally competent, and experienced in administration.

(3) The state forester shall be responsible to the director of the division.

(4) In all matters pertaining to forestry and fire control in which the state recognizes a responsibility, the state forester shall be the official representative of the state.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-103. Forestry and fire control funds.

(1) The division shall use money available to it to meet the costs of:

(a) controlling forest, range, and watershed fires;

(b) controlling insect and disease epidemics;

(c) rehabilitating or reforesting nonfederal forest, range, and watershed lands;

and

(d) carrying on the purposes of this chapter.

(2) All money available to the division to meet the costs of Subsections (1)(a) through (d) is nonlapsing and available to the division until expended.

(3) (a) The collection and disbursement of all money made available to the division shall be in accordance with the rules of the Division of Finance.

(b) Money collected by the division from fees, rentals, sales, contributions, reimbursements, and other such sources shall be deposited in the appropriate account.

Amended by Chapter 342, 2011 General Session

65A-8-104. Leaf-It-To-Us Children's Crusade for Trees program created -- Purpose -- Matching funds.

(1) As used in this section, "program" means the Leaf-It-To-Us Children's Crusade for Trees program.

(2) (a) The Leaf-It-To-Us Children's Crusade for Trees program is created within

the division.

(b) The purpose of the program is to provide matching funds for the planting of trees on public lands or alongside curbs.

(3) (a) Any student group may submit an application to the division for funds available through the program.

(b) To be eligible for the funds, the student group must provide an equal amount of money.

(c) Both the program funds and the student group's funds shall be used to plant trees on public lands or alongside curbs.

(4) The division shall make rules to administer the program and place emphasis on post-planting care.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-105. Urban and community forestry program.

(1) An urban and community forestry program is created within the division.

(2) The purpose of the program is to encourage the planting and maintenance of trees within municipalities and unincorporated communities.

(3) The division may:

(a) advise and assist municipalities, counties, and other public and private entities in developing and coordinating policies, programs, and activities promoting urban and community forestry;

(b) receive, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures, federal funds for the urban and community forestry program; and

(c) provide grants to municipalities and counties for urban and community forestry programs and cooperative projects.

(4) The division shall:

(a) develop a public education program to inform tree care professionals and citizens of the hazards involved with the planting of new trees and the maintenance of existing trees near overhead power lines and highways; and

(b) develop and implement a program of public awareness to inform citizens about the benefits of planting trees in urban areas and how to maintain trees.

Amended by Chapter 382, 2008 General Session

65A-8-201. Uncontrolled fire is a public nuisance.

Any fire on forest, range, or watershed land in the state burning uncontrolled and without proper and adequate action being taken to control or prevent its spread is a public nuisance.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-202. Fire control -- County responsibilities.

(1) Counties shall abate the public nuisance caused by uncontrolled fire on privately owned or county owned forest, range, and watershed lands.

(2) Counties, or other political subdivisions of the state as determined to be appropriate by the state forester, may participate in the wildland fire protection system of the division and become eligible for assistance from the state by agreement under the provisions of this chapter.

(3) The state forester shall make certain that appropriate action is taken to control wildland fires on nonfederal forest, range, and watershed lands.

(4) The actual costs of suppression action taken by the division on privately owned lands shall be a charge against the county in which the lands lie, unless otherwise provided by cooperative agreement.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-203. Cooperative fire protection agreements with counties.

(1) The county legislative body of any county may enter into a cooperative agreement with the division to receive financial and supervisory cooperation and assistance from the division.

(2) A county may not receive cooperation or assistance under Subsection (1) until a cooperative agreement is executed by the county legislative body and the division.

(3) In order to be eligible to enter into a cooperative agreement with the division, the county shall:

(a) adopt a wildland fire ordinance based upon minimum standards established by the division;

(b) require that the county fire department or equivalent private provider under contract with the county meet minimum standards for wildland fire training, certification, and wildland fire suppression equipment based upon nationally accepted standards as specified by the division; and

(c) file with the division a budget for fire suppression costs.

(4) A county that chooses not to enter into a cooperative agreement with the division may not be eligible to receive financial assistance from the division.

(5) The state forester may execute the agreements and may divide the state into fire protection districts.

(6) These districts shall provide efficient and economical fire protection within the area defined.

(7) The districts may comprise one or more counties, or portions of counties to be specified in the cooperative agreements.

(8) Under the terms of the cooperative agreements, the state forester shall file annual budgets for operation of the cooperative districts with each participating county.

(9) If the county approves a budget mutually acceptable to the county and the state forester, and budgets an amount for actual fire suppression costs determined to be normal by the state forester, the agreement shall commit the state to pay 1/2 of the actual suppression costs that exceed the stated normal costs.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-204. Wildland Fire Suppression Fund created.

(1) There is created a private-purpose trust fund known as the "Wildland Fire Suppression Fund."

(2) The fund shall be administered by the division to pay fire suppression and presuppression costs on eligible lands within unincorporated areas of counties.

(3) The contents of the fund shall include:

(a) payments by counties pursuant to written agreements made under Section 65A-8-205;

(b) interest and earnings from the investment of fund money; and

(c) money appropriated by the Legislature.

(4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the fund.

(5) (a) A maximum level of \$8,000,000 is established for the fund.

(b) (i) Except as provided in Subsection (5)(b)(ii), if the amount of money in the fund equals or exceeds \$8,000,000 on March 31, no assessments may be charged for the following year.

(ii) The waiver of assessments provided in Subsection (5)(b)(i) does not apply to any equity payment required by Section 65A-8-205.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-205. Agreements for coverage by the Wildland Fire Suppression Fund -- Eligible lands -- County and state obligations -- Termination -- Revocation.

(1) (a) A county legislative body may enter annually into a written agreement with the state forester to provide for payment from the Wildland Fire Suppression Fund of fire suppression costs incurred by the county in excess of the county's fire suppression budget.

(b) Fire suppression costs on forest, range, and watershed lands within the unincorporated area of a county, except federal or state lands, are eligible for coverage by the Wildland Fire Suppression Fund.

(2) (a) An agreement for payment of fire suppression costs from the Wildland Fire Suppression Fund shall provide that the county shall:

(i) except as provided by Subsection (2)(b), pay into the fund an amount equal to:

(A) .01 times the number of acres of privately- or county-owned land in the unincorporated area of the county; and

(B) .0001151 times the taxable value of real property in the unincorporated area of the county; and

(ii) budget an amount for fire suppression costs determined to be normal by the state forester in accordance with the formula specified by rule.

(b) A county is not required to pay for an acre or real property described in Subsection (2)(a)(i) if the acre or real property:

(i) is subject to concentrated residential, commercial, or industrial development;

(ii) would not be exposed to wildland fire; and

(iii) would not expose any wildland to fire spreading from it.

(3) (a) Any county that elects to initiate participation in the fund, or reestablish participation in the fund after participation was terminated, shall make an equity

payment, in addition to the assessment provided in Subsection (2)(a)(i).

(b) The equity payment shall represent what the county's equity in the fund would be if the county had made assessments into the fund for each of the previous three years.

(c) The equity payment shall be determined by the state forester in accordance with division rules.

(4) The agreement shall provide that:

(a) the state shall pay into the fund an amount equal to the county's payment, including any equity payment required under Subsection (3); and

(b) if money in the fund is insufficient to pay for all eligible fire suppression costs, the state shall pay for 1/2 of the county's remaining costs.

(5) The agreement shall provide for revocation of the agreement for failure to pay assessments when due.

(6) Any county that elects to withdraw from participation in the fund, or whose participation in the fund is revoked due to failure to pay its assessments when due, shall forfeit any right to any previously paid assessments by the county.

Amended by Chapter 342, 2011 General Session

65A-8-206. Disbursements from the Wildland Fire Suppression Fund.

(1) Disbursements from the fund shall be made only upon written order of the state forester or his authorized representative.

(2) If the state forester determines money in the fund may be insufficient to cover eligible costs in a program year, the state forester may delay making disbursements from the fund until the close of the program year, at which time available money shall be prorated among those entitled to payments at less than 100%.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-207. Division to administer Wildland Fire Suppression Fund -- Rulemaking -- Procedures.

(1) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to administer the Wildland Fire Suppression Fund, including rules:

(a) requiring documentation for:

(i) the number of acres of privately or county-owned land in the unincorporated area of a participating county; and

(ii) an acre or real property exempt in Subsection 65A-8-205(2)(b);

(b) describing the method or formula for determining:

(i) normal fire suppression costs; and

(ii) equity payments required by Section 65A-8-205; and

(c) specifying fire suppression and presuppression costs that may be paid with disbursements from the fund.

(2) By following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, the division shall determine whether an acre or real property is eligible for the exemption provided in Subsection 65A-8-205(2)(b).

Amended by Chapter 382, 2008 General Session

65A-8-208. Presuppression costs -- Disbursements from fund -- Credit against assessment -- Limited by appropriation.

(1) The state forester or the state forester's authorized representative may make disbursements from the Wildland Fire Suppression Fund to pay for costs of presuppression and fire management activities initiated by counties participating in the fund, subject to the limitations specified in this section.

(2) Payments to a county for costs of presuppression and fire management activities in any year may not exceed the county's assessment under Subsection 65A-8-205(2)(a).

(3) (a) In lieu of making a disbursement from the fund for a county's costs of presuppression and fire management activities, the county may be given a credit against its assessment under Subsection 65A-8-205(2)(a) equal to those costs.

(b) The credit may not exceed the county's assessment under Subsection 65A-8-205(2)(a).

(4) The total amount of money in the fund that may be allocated to cover costs of presuppression and fire management activities initiated by counties may not exceed the legislative appropriation to the fund for those costs.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-209. Responsibilities of county sheriffs and district fire wardens in controlling fires.

(1) In those counties not directly participating in the state wildland fire protection organization by cooperative agreement as provided in this chapter, the county sheriff shall take appropriate action to suppress uncontrolled fires on state or private lands.

(2) In all cases the sheriff shall:

(a) report, as prescribed by the state forester, on wildland fire control action;

(b) investigate and report fire causes; and

(c) enforce the provisions of this chapter either independently or in cooperation with the state forester.

(3) In those counties participating in the state wildland fire protection organization by cooperative agreement, the primary responsibility for fire control is delegated to the district fire warden, who is designated by the state forester.

(4) The county sheriff and his organization shall maintain cooperative support of the fire control organization.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-210. Fire control on state-owned lands -- Responsibilities of state agencies.

(1) The division shall abate the public nuisance caused by uncontrolled fire on state-owned forest, range, and watershed lands.

(2) (a) State agencies responsible for the administration of state-owned lands

shall recognize the need for providing wildland fire protection and the responsibility for sharing the costs.

(b) Those agencies shall annually allocate funds to the division in amounts as are determined to be fair and equitable proportionate costs for providing a basic level of fire protection.

(c) The amount of protection costs shall be negotiated by the respective land agencies and the division.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-211. Closed fire season -- Notice -- Violations -- Burning permits -- Personal liability -- Exemptions from burning permits.

(1) (a) The period from June 1 to October 31 of each year is a closed fire season throughout the state.

(b) The state forester may advance or extend the closed season wherever and whenever that action is necessary.

(c) The alteration of the closed season is done by posting the appropriate proclamation in the courthouse of each county seat for at least seven days in advance of the date the change is effective.

(2) During the closed season it is a class B misdemeanor to set on fire, or cause to be set on fire, any flammable material on any forest, brush, range, grass, grain, stubble, or hay land without:

(a) first securing a written permit from the state forester or a designated deputy; and

(b) complying fully with the terms and conditions prescribed by the permit.

(3) The district fire warden appointed by the state forester or the county sheriff in nonparticipating counties shall issue burning permits using the form prescribed by the division.

(4) (a) The burning permit does not relieve an individual from personal liability due to neglect or incompetence.

(b) A fire escaping control of the permittee that necessitates fire control action or does injury to the property of another is prima facie evidence that the fire was not safe.

(5) The state forester, his deputies, and the county sheriffs may refuse, revoke, postpone, or cancel permits when they find it necessary in the interest of public safety.

(6) (a) A burning permit is not required for the burning of fence lines on cultivated lands, canals, or irrigation ditches if:

(i) the burning does not pose a threat to forest, range, or watershed lands;

(ii) due care is used in the control of the burning; and

(iii) the individual notifies the nearest fire department of the approximate time the burning will occur.

(b) Failure to notify the nearest fire department of the burning as required by this section is a class B misdemeanor.

(7) A burning conducted in accordance with Subsection (6) is not a reckless burning under Section 76-6-104 unless the fire escapes control and requires fire control action.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-212. Power of state forester to close hazardous areas -- Violations of an order closing an area.

(1) (a) If the state forester finds conditions in a given area in the state to be extremely hazardous, "extremely hazardous" means categorized as "extreme" under a nationally recognized standard for rating fire danger, he shall close those areas to any forms of use by the public, or to limit that use.

(b) The closure shall include, for the period of time the state forester considers necessary, the prohibition of open fires, and may include restrictions and prohibitions on:

- (i) smoking;
- (ii) the use of vehicles or equipment;
- (iii) welding, cutting, or grinding of metals;
- (iv) fireworks;
- (v) explosives; or
- (vi) the use of firearms for target shooting.

(c) Any restriction or closure relating to firearms use:

(i) shall be done with support of the duly elected county sheriff of the affected county or counties;

(ii) shall undergo a formal review by the State Forester and County Sheriff every 14 days; and

(iii) may not prohibit a person from legally possessing a firearm or lawfully participating in a hunt.

(d) The State Forester and County Sheriff shall:

(i) agree to the terms of any restriction or closure relating to firearms use;

(ii) reduce the agreement to writing;

(iii) sign the agreement indicating approval of its terms and duration; and

(iv) complete the steps in Subsections (1)(d)(i) through (d)(iii) at each 14 day review and at termination of the restriction or closure.

(2) Nothing in this chapter prohibits any resident within the area from full and free access to his home or property, or any legitimate use by the owner or lessee of the property.

(3) The order or proclamation closing or limiting the use in the area shall set forth:

(a) the exact area coming under the order;

(b) the date when the order becomes effective; and

(c) if advisable, the authority from whom permits for entry into the area may be obtained.

(4) Any entry into or use of any area in violation of this section is a class B misdemeanor.

Amended by Chapter 307, 2013 General Session

65A-8-301. Legislative finding and purpose.

(1) The Legislature finds the health and welfare of the people of the state

require the preservation of certain rare, or threatened, or vanishing species of trees to preserve the state's scenic beauty and preserve its historic past as it relates to such trees.

(2) It is the intent of this part to retain as many heritage trees as possible consistent with the reasonable and economic enjoyment of private property.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-302. Definitions.

As used in this part:

(1) "Alter" means to change the configuration of a heritage tree by pruning, trimming, topping, cutting, or by any other means.

(2) "Committee" means the Heritage Trees Advisory Committee.

(3) "Division" means the Division of Forestry, Fire, and State Lands.

(4) "Heritage tree" means any tree or group of trees designated as such by the division, in accordance with the following criteria:

(a) any live tree or group of trees indigenous to the state, or which has adapted exceptionally well to the climatic conditions of the state, or is one of a kind;

(b) any tree or group of trees that has exceptional national, state, or local historic significance;

(c) any tree or group of trees which has an exceptional size or exceptional form for its species;

(d) any tree or group of trees which has an exceptional age for its species; or

(e) any tree or group of trees in the state which is the sole representative of its species.

(5) "Person" means any individual, partnership, corporation, or association.

Amended by Chapter 344, 2009 General Session

65A-8-303. Application to alter or remove trees.

(1) Any person that desires to alter or remove one or more heritage trees from any public property within this state shall before altering or removing any such tree make application to the division on forms prescribed by it.

(2) An application for alteration or removal shall be filed with the division at least 60 days before the actual alteration or removal of any such trees.

(3) The application shall state:

(a) the name of the applicant;

(b) the number, location, and species of the trees proposed to be altered or removed;

(c) the reason for alteration or removal; and

(d) other information as the division may reasonably require.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-304. Guidelines and standards for granting or denying applications to alter or remove trees.

(1) The committee shall develop published guidelines and standards to be used by the board in granting or denying applications for the alteration or removal of heritage trees.

(2) In addition to the guidelines and standards developed by the committee, the division shall consider the following criteria in granting or denying an application:

(a) the physical condition of the heritage tree or trees with respect to:

(i) insect infestation;

(ii) disease;

(iii) danger of falling;

(iv) proximity to existing or proposed structures; and

(v) interference with utility services;

(b) the necessity of alteration or removal of the heritage tree or trees in order to construct proposed improvements and allow economic enjoyment of property;

(c) the topography of the land and the effect of removal of the heritage tree or trees on:

(i) erosion;

(ii) soil retention; and

(iii) the diversion or increased flow of surface waters resultant upon alteration or removal;

(d) the number of heritage trees existing in the neighborhood on improved property;

(e) the effect alteration or removal would have on established standards and property values in the area; and

(f) the number of heritage trees the particular parcel can support according to good forestry practices.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-305. Powers of division.

The division may:

(1) grant or deny applications for designation of heritage trees from individuals, local shade tree commissions, or local governments;

(2) grant or deny applications for alteration or removal of heritage trees;

(3) acquire land if one or more heritage trees are located on the land;

(4) accept gifts, bequests, or donations; and

(5) determine policies necessary to carry out this part.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-306. Heritage Trees Advisory Committee -- Members -- Officers -- Expenses -- Functions.

(1) There is created a Heritage Trees Advisory Committee composed of five persons appointed by the division from among persons who are members of the Utah Community Forestry Council.

(2) (a) Except as required by Subsection (2)(b), as terms of current committee members expire, the division shall appoint each new member or reappointed member

to a four-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) The committee shall elect a chair who is responsible to call and conduct meetings.

(b) Three members present at a duly called meeting constitute a quorum for the transaction of official business.

(c) Members of the committee may meet as often as considered necessary.

(d) The urban forestry staff person of the division shall serve as secretary to the committee.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The committee shall:

(a) publish guidelines for division use in granting or denying applications for the designation of heritage trees;

(b) publish an annual register of designated heritage trees and distribute it to public utilities, tree service companies, municipal forestry and parks departments, and the public; and

(c) develop a system for visibly identifying designated heritage trees.

Amended by Chapter 286, 2010 General Session

65A-8-307. Exemption for emergency or permit.

This part shall not apply to any emergency when heritage trees constitute a danger to life or property, or to any person whose application for alteration or removal of a heritage tree has been granted by the division.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-308. Enforcement -- Prosecution of violations.

(1) County sheriffs, police, and other law enforcement officers within their respective jurisdictions are responsible for the enforcement of this part.

(2) The county attorney or district attorney shall prosecute any violation of this part.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-309. Injury -- Violation of part -- Misdemeanor.

Any person who intentionally or knowingly alters, injures, damages, or causes death of a heritage tree or who otherwise violates this part is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 136, 2007 General Session
Amended by Chapter 229, 2007 General Session

65A-8a-101. Title.

This chapter is known as the "Utah Forest Practices Act."

Enacted by Chapter 80, 2001 General Session

65A-8a-102. Definitions.

As used in this chapter:

- (1) "Commercial tree species" means:
 - (a) *Abies concolor* (white fir);
 - (b) *Abies lasiocarpa* (subalpine fir);
 - (c) *Juniperus osteosperma* (Utah juniper);
 - (d) *Juniperus scopulorum* (Rocky Mountain juniper);
 - (e) *Picea engelmannii* (Engelmann spruce);
 - (f) *Picea pungens* (blue spruce);
 - (g) *Pinus contorta* (lodgepole pine);
 - (h) *Pinus edulis* (piñon pine);
 - (i) *Pinus flexilis* (limber pine);
 - (j) *Pinus longaeva* (bristlecone pine);
 - (k) *Pinus monophylla* (singleleaf piñon);
 - (l) *Pinus ponderosa* (ponderosa pine);
 - (m) *Populus tremuloides* (quaking aspen);
 - (n) *Pseudotsuga menziesii* (Douglas fir); or
 - (o) *Quercus gambelii* (gambel oak).
- (2) (a) "Forest practice" means, except as provided in Subsection (2)(b):
 - (i) the harvesting of commercial tree species;
 - (ii) new road construction associated with harvesting or accessing trees;
 - (iii) site preparation for regeneration of a timber stand;
 - (iv) reforestation; or
 - (v) the management of logging slash.
- (b) "Forest practice" does not include:
 - (i) the operation of a nursery or Christmas tree farm;
 - (ii) the harvest of Christmas trees;
 - (iii) the harvest of trees for the noncommercial, personal use by the owner of forested land from which the trees are harvested;
 - (iv) a harvesting operation encompassing fewer than five contiguous acres of forested land;
 - (v) clearing land for defensible space in a wildland-urban interface; or
 - (vi) fuel reduction for a wildland-urban interface or hazardous fuel reduction project.

(3) "Forested land" means land, except land owned by the federal government or located within an incorporated city, growing commercial tree species that are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products.

(4) "Forest Water Quality Guidelines" means the field-applicable practice guidelines adopted by the division for use during forestry activities to protect water quality and contained within a nonpoint source management plan.

(5) "Landowner" means a person who holds an ownership interest in forested land.

(6) "Operator" means a person who:

(a) is responsible for conducting forest practices; or

(b) through a contractual agreement with the landowner, is obligated to or entitled to conduct forest practices or to carry out a timber sale.

(7) "Wildland-urban interface" means the zone where structures and other human development meets, or intermingles with, undeveloped wildland.

Amended by Chapter 40, 2010 General Session

65A-8a-103. Registration of operators.

(1) An operator intending to conduct forest practices in Utah, except a landowner conducting forest practices on the landowner's own land, shall register with the division.

(2) The operator shall submit the following information to the division:

(a) the name of the company;

(b) the name of the state where the company is incorporated; and

(c) the name, telephone number, and address of a company officer and an on-the-ground supervisor.

(3) In consultation with industry representatives, the division may establish, by rule, minimum requirements for registration of operators in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) The division shall make available to landowners a list of registered operators.

Amended by Chapter 382, 2008 General Session

65A-8a-104. Notification of intent to conduct forest practices.

(1) No later than 30 days before an operator commences forest practices, the operator shall notify the division of the operator's intent to conduct forest practices.

(2) The notification shall include:

(a) the name and address of the operator;

(b) the name, address, and other current contact information of the landowner;

(c) a legal description of the area in which the forest practices are to be conducted;

(d) a description of the proposed forest practices to be conducted, including the number of acres with timber to be harvested; and

(e) an agreement granting the state forestry personnel permission to enter the area in which the forest practices are to be conducted to conduct an inspection, when

the state forestry personnel reasonably consider an inspection necessary to ensure compliance with this chapter.

(3) Upon the receipt of notification, the division shall, within 10 days, mail to the landowner and the operator:

- (a) an acknowledgment of notification;
- (b) information on Forest Water Quality Guidelines; and
- (c) any other information the division believes would assist the landowner and operator in conducting forest practices.

(4) (a) Failure to notify the division in accordance with this section is a class B misdemeanor.

(b) The division may file an action in the district court of any county in which the area in which the forest practices are to be conducted is located to enjoin an operator engaged in conduct violating this chapter from operating until the operator complies with this chapter.

(c) In an action by the division in accordance with Subsection (4)(b), the operator shall pay reasonable attorney fees and all court costs incurred by the division because of the action.

Amended by Chapter 40, 2010 General Session

65A-8a-105. Division to promote implementation of Forest Water Quality Guidelines.

(1) The division shall promote implementation of Forest Water Quality Guidelines before, during, and after the conduct of forest practices on forested land in order to:

- (a) preserve water quality and soil stability;
- (b) prevent the hazard of fire and insect infestation;
- (c) minimize waste of timber resources; and
- (d) protect the regenerative and productive capacity of forested land.

(2) The division, in cooperation with Utah State University Extension Services:
(a) shall implement a program to develop demonstration areas, books, brochures, informational material, seminars and workshops, and other aids to display correct application of the Forest Water Quality Guidelines; and

(b) may aid private landowners by providing technical assistance to landowners and operators in implementing Forest Water Quality Guidelines.

Enacted by Chapter 80, 2001 General Session

65A-8a-106. Division to provide technical assistance -- Administrative rules.

- (1) The division may provide:
- (a) advice and technical assistance to landowners and operators by:
 - (i) developing forest stewardship plans;
 - (ii) developing harvest or forest management plans; and
 - (iii) developing programs and activities promoting stewardship of forest and other lands;

(b) information about tax incentives or other financial incentives designed to enhance the productive potential of forested land; or

(c) federal cost-share incentives to eligible nonindustrial, private forest landowners, if available.

(2) The division, in cooperation with Utah State University Extension Services, shall:

(a) develop and implement a public education and awareness program to inform citizens about the benefits of long-term stewardship of forest and other lands; and

(b) provide technical assistance to landowners in developing management plans that may be required for financial incentive programs.

(3) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the application, approval, implementation, and monitoring of a forest stewardship plan.

Amended by Chapter 40, 2010 General Session

65A-9-1. Responsibility of division to manage range resources.

(1) The division is responsible for the efficient management of all range resources on lands under its administration.

(2) Its management shall be based on sound conservation principles, including practices to improve range conditions.

Amended by Chapter 294, 1994 General Session

65A-9-2. Grazing leases -- Maximum term -- Treatment of leases on federal lands acquired by the state.

(1) The division may issue grazing leases on state lands under terms and conditions established by rule.

(2) Those terms shall be based on the fair market value of the lease.

(3) No lease may be for a term in excess of 15 years.

(4) The division shall determine the number and kind of stock that may be grazed each year on state land, and regulate the number of days that the land may be grazed.

(5) (a) Upon selecting, exchanging, or otherwise acquiring lands of the United States, the division shall honor all leases, permits, contracts, and terms and conditions of user agreements on United States' lands, including permitted stocking rates, grazing fee levels, access rights, and all existing activities that currently or historically have dictated an understanding of usage between the land user and the federal government.

(b) Improvements by the permittee or lessee to the land shall be honored by the state in the acquisition of federal lands.

Amended by Chapter 294, 1994 General Session

65A-9-3. Authority of division to control noxious weeds, plant species, and insects.

The division may enter into cooperative agreements with other public agencies

and private landowners for the control of noxious weeds, new and invading plant species, insects, and disease infestations on state-owned and adjacent lands.

Amended by Chapter 294, 1994 General Session

65A-10-1. Authority of division to manage sovereign lands.

(1) The division is the management authority for sovereign lands, and may exchange, sell, or lease sovereign lands but only in the quantities and for the purposes as serve the public interest and do not interfere with the public trust.

(2) Nothing in this section shall be construed as asserting state ownership of the beds of nonnavigable lakes, bays, rivers, or streams.

(3) A lease for the construction of a highway facility over sovereign lakebed lands shall comply with the requirements described in Subsection 65A-7-5(5).

Amended by Chapter 256, 2011 General Session

65A-10-2. Recreational use of sovereign lands.

(1) The division, with the approval of the executive director of the Department of Natural Resources and the governor, may set aside for public or recreational use any part of the lands claimed by the state as the beds of lakes or streams.

(2) Management of those lands may be delegated to the Division of Parks and Recreation, the Division of Wildlife Resources, or any other state agency.

Amended by Chapter 294, 1994 General Session

65A-10-3. Establishment of sovereign land boundaries.

(1) The division, after consultation with the attorney general and affected state agencies, shall develop plans for the resolution of disputes over the location of sovereign land boundaries.

(2) The division, after notice to affected state agencies and any person with an ownership interest in the land, may enter into agreements with owners of land adjoining navigable lakes and streams to establish sovereign land boundaries.

Amended by Chapter 294, 1994 General Session

65A-10-8. Great Salt Lake -- Management responsibilities of the division.

The division has the following powers and duties:

(1) Prepare and maintain a comprehensive plan for the lake which recognizes the following policies:

(a) develop strategies to deal with a fluctuating lake level;

(b) encourage development of the lake in a manner which will preserve the lake, encourage availability of brines to lake extraction industries, protect wildlife, and protect recreational facilities;

(c) maintain the lake's flood plain as a hazard zone;

(d) promote water quality management for the lake and its tributary streams;

(e) promote the development of lake brines, minerals, chemicals, and

petro-chemicals to aid the state's economy;

(f) encourage the use of appropriate areas for extraction of brine, minerals, chemicals, and petro-chemicals;

(g) maintain the lake and the marshes as important to the waterfowl flyway system;

(h) encourage the development of an integrated industrial complex;

(i) promote and maintain recreation areas on and surrounding the lake;

(j) encourage safe boating use of the lake;

(k) maintain and protect state, federal, and private marshlands, rookeries, and wildlife refuges;

(l) provide public access to the lake for recreation, hunting, and fishing.

(2) Employ personnel and purchase equipment and supplies which the Legislature authorizes through appropriations for the purposes of this chapter.

(3) Initiate studies of the lake and its related resources.

(4) Publish scientific and technical information concerning the lake.

(5) Define the lake's flood plain.

(6) Qualify for, accept, and administer grants, gifts, or other funds from the federal government and other sources, for carrying out any functions under this chapter.

(7) Determine the need for public works and utilities for the lake area.

(8) Implement the comprehensive plan through state and local entities or agencies.

(9) Coordinate the activities of the various divisions within the Department of Natural Resources with respect to the lake.

(10) Perform all other acts reasonably necessary to carry out the purposes and provisions of this chapter.

(11) Retain and encourage the continued activity of the Great Salt Lake technical team.

Enacted by Chapter 121, 1988 General Session

65A-11-1. Authority of division to control and prevent floods.

(1) The division may authorize surveys of any state lands or other areas of the state for the purpose of controlling and preventing floods.

(2) If after a survey the division concludes that floods are likely to affect any state lands, and will endanger life, health, or property, then the division shall take action necessary to control or to prevent the occurrence of those floods.

(3) For the purpose of controlling and preventing floods, the division may cooperate with public and private entities.

(4) The division may authorize construction of necessary control works on a basis of equitable participation and for these purposes may acquire any additional lands, necessary for the control or the prevention of the floods, either by purchase, exchange, lease, condemnation, or gift.

(5) The division may transfer these lands to any existing agencies or agencies created to maintain prevention or control works.

(6) The division may cooperate with the federal government in acquiring

watershed lands becoming barren and susceptible to flooding.

Repealed and Re-enacted by Chapter 294, 1994 General Session

65A-12-1. Authority of division to manage lands granted under the Carey Act.

The selection, management, and disposal of lands granted by Congress under the Carey Act is vested in the division, which is authorized to make rules and contracts necessary to carry out the provisions of this chapter.

Repealed and Re-enacted by Chapter 294, 1994 General Session

65A-12-2. Reclamation Trust Fund -- Carey Act Expense Fund.

(1) (a) All money received by the division from the sale of lands selected under this chapter shall be deposited with the state treasurer.

(b) Any sums necessary shall be available for the payment of the expenses of the division in carrying out the provisions of this chapter.

(2) (a) Any balance remaining over and above the expenses necessary to carry out the provisions of this chapter shall constitute a trust fund to be used only for the reclamation of other arid lands.

(b) (i) Until there is sufficient money in the Reclamation Trust Fund, the expenses of the division in carrying out the provisions of this chapter may be paid from a Carey Act Expense Fund to be appropriated by the Legislature.

(ii) The Division of Finance shall register claims paid out of the expense fund in the order of their presentation.

(c) Whenever, except as provided in this chapter, money in the reclamation trust fund equals a claim which has been paid out of the Carey Act Expense Fund, the Division of Finance shall draw a warrant on the reclamation fund to reimburse the state for sums that have been paid out of the Carey Act Expense Fund.

(3) (a) The division shall draw by requisition on the Division of Finance the sums necessary to pay the United States in order to obtain patent to lands accepted in this chapter.

(b) The Division of Finance shall draw this warrant on the Reclamation Trust Fund giving precedence to sums to be paid to the United States over warrants to reimburse the state for expenses.

Renumbered and Amended by Chapter 294, 1994 General Session

65A-12-3. Water rights to be appurtenant to land -- Lien for purchase price -- Foreclosure and redemption.

(1) (a) The water rights to all lands acquired under this chapter shall attach to and become appurtenant to the land as soon as the title passes from the United States to the state.

(b) Any person furnishing water for any tract of land so acquired shall have a first and prior lien on those water rights and land upon which the water is used for all deferred payments for such water rights.

(c) The lien is to be in all respects prior to any and all other liens created or attempted to be created by the owner and possessor of the land.

(d) The lien shall remain in force and effect until the last deferred payment for the water rights is fully paid and settled according to the terms of the contract under which such water rights were acquired.

(2) (a) The contract for the water rights upon which the lien is founded shall be recorded in the office of the county recorder of the county where the land is situated.

(b) Upon default of any deferred payments secured by any lien under this chapter, the person holding the lien may foreclose the lien according to the terms and conditions of the contract granting and selling to the settler the water rights.

(c) Foreclosure shall be in the manner in which mortgages are foreclosed in this state.

(d) The settler shall have the right, within one year from the date of foreclosure as provided in this section, to redeem the land and water rights, by payment of the sum of deferred payment with interest at not to exceed 12% per annum, with accrued cost of maintenance.

Renumbered and Amended by Chapter 294, 1994 General Session

65A-14-101. Title.

This chapter is known as the "Utah Bioprospecting Act."

Enacted by Chapter 21, 2010 General Session

65A-14-102. Definitions.

As used in this chapter:

(1) (a) "Bioprospecting" means the removal from a natural environment for research or commercial use of:

(i) a naturally occurring microorganism, plant, or fungus; or

(ii) information concerning a naturally occurring microorganism's, plant's, or fungus' physical or genetic properties.

(b) "Bioprospecting" does not include:

(i) horticultural cultivation, except for horticultural genetic engineering conducted in a manner otherwise constituting bioprospecting;

(ii) an agricultural enterprise;

(iii) a forest and range management practice;

(iv) invasive weed management;

(v) Christmas tree and related sales; or

(vi) incidental removal of a microorganism, plant, or fungus while engaged in bona fide research or commercial enterprises.

(2) "Nonfederal public land" means land in the state that:

(a) is not owned, controlled, or held in trust by the federal government; and

(b) (i) is owned or controlled by:

(A) the state;

(B) a county, city, or town; or

(C) a governmental entity other than the federal government; or

(ii) is school and institutional trust lands, as defined in Section 53C-1-103.

Enacted by Chapter 21, 2010 General Session

65A-14-103. Scope of chapter.

(1) This chapter does not modify or replace any other requirement under federal, state, or local law related to an act that under this chapter is considered bioprospecting, including any requirement to obtain the permission of a landowner.

(2) This chapter applies only to non-federal public land.

Enacted by Chapter 21, 2010 General Session

65A-14-104. Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules necessary to fulfill the purposes of this chapter.

Enacted by Chapter 21, 2010 General Session

65A-14-201. Registration for bioprospecting.

(1) (a) On and after July 1, 2011, before engaging in an act of bioprospecting, a person shall register with the division.

(b) A registration under this chapter expires on June 30 of each year.

(2) To register with the division or renew a registration, a person shall:

(a) submit a registration form created by the division in accordance with

Subsection (3); and

(b) pay a fee established by the division in accordance with Section 63J-1-504.

(3) The division shall create, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a registration form for purposes of this chapter that includes:

(a) notice of the state's reservation of economic interests provided in Section 65A-14-202;

(b) a statement to be signed by a person who registers that states that the person agrees to negotiate as described in Section 65A-14-202; and

(c) a requirement that the person lists the locations at which the person anticipates bioprospecting during the 12-month period of the registration.

Enacted by Chapter 21, 2010 General Session

65A-14-202. Reservation of economic interests -- Agreement to negotiate in good faith.

(1) The right of a person to engage in an act of bioprospecting in this state is subject to the state's reservation of any right the state may have to an economic benefit derived from:

(a) the act of bioprospecting;

(b) a microorganism, plant, or fungus removed from a natural environment in the state; or

(c) information concerning a microorganism's, plant's, or fungus' physical or genetic properties removed from a natural environment in the state.

(2) A person may not engage in an act of bioprospecting in this state if the person, as part of the registration required under Section 65A-14-201, does not agree in writing to negotiate in good faith with the state if the state asserts an economic interest described in Subsection (1).

Enacted by Chapter 21, 2010 General Session

65A-14-301. Economic benefits of bioprospecting denied.

(1) A person who engages in an act of bioprospecting in violation of this chapter is guilty of criminal trespass punishable in accordance with Section 76-6-206.

(2) If found guilty of a violation under this chapter, a court may in addition to a penalty imposed under Section 76-6-206, order restitution that is proportional to the economic interests the state may have under Section 65A-14-202.

Enacted by Chapter 21, 2010 General Session