

DEPARTMENT OF AGRICULTURE
DELAWARE FOREST SERVICE

Statutory Authority: 3 Delaware Code, Sections 1008 and 1011 (3 **Del.C.** §§1008 and 1011)
3 **DE Admin. Code** 402

FINAL

ORDER ADOPTING REGULATIONS
402 State Forest Regulations

I. Nature of Proceedings

Pursuant to its authority under 3 **Del.C.** §1008 and §1011, the Department proposed to amend the State Forest regulations to ensure that these publicly owned lands are conserved, protected, and maintained for the benefit of all. These proposals made the State Forest regulations more consistent with similar regulations for other land-managing Delaware agencies.

Notice of the Department's proposed amendments was published in the *Delaware Register of Regulations* for July 1, 2007 announcing a 30-day public comment period in accordance with 29 **Del.C.** §10115(a) and 29 **Del.C.** §10118(a). This is the Department's Decision and Order adopting the proposed amended regulations.

II. Evidence Submitted During Public Comment Period

The Department received no written comments in response to the notice of intention to adopt the proposed amended regulations.

III. Findings and Conclusions

The public was given the required notice of the Department's intention to adopt the proposed amended regulations and was given ample opportunity to provide the Department with comments opposing the Department's plan. Thus, the Department concludes that its consideration of the proposed amended regulations was entirely within its prerogatives and statutory authority and, having received no comments opposed to adoption, is now free to adopt them.

IV. Order

NOW THEREFORE, it is hereby ordered that:

1. The proposed amendments to the Department's State Forest Regulations are adopted;
2. The text of the regulations shall be in the form attached hereto;
3. The effective date of this Order is ten days from the date of its publication in the *Delaware Register of Regulations* in accordance with 29 **Del.C.** §10118(e); and
4. The Department reserves unto itself the authority to issue such other and further orders in this matter as may be just and proper.

Michael T. Scuse, Secretary
Delaware Department of Agriculture
Dated: August 7, 2007

402 State Forest Regulations

1.0 Authority

1.1 These regulations are promulgated pursuant to the delegation of authority to the Department of Agriculture by the General Assembly found in 3 **Del.C.** Sections 1008 and 1011.

6 DE Reg. 517 (10/1/02)

6 DE Reg. 1201 (3/1/03)

2.0 Purpose

2.1 The State Forests of Delaware are open to members of the public for their enjoyment. Most legal forms of non-motorized recreation are permitted. The following regulations were developed to ensure that these publicly owned lands are conserved, protected, and maintained for the benefit of all.

6 DE Reg. 517 (10/1/02)

6 DE Reg. 1201 (3/1/03)

10 DE Reg. 88 (7/1/06)

3.0 Construction

3.1 No regulation herein shall be interpreted or construed in such a manner as to prevent or delay authorized personnel of the Department or other state, county, or municipal agencies from completing official duties or emergency response.

3.2 In special circumstances, events, or emergencies, the Secretary or Forestry Administrator may, when it is deemed to be in the public interest, waive a specific regulation or fee.

3.3 Failure to enforce a specific regulation at a particular instance or instances shall not affect the validity of any other regulation or affect the validity of such regulation at any other time.

6 DE Reg. 517 (10/1/02)

6 DE Reg. 1201 (3/1/03)

10 DE Reg. 88 (7/1/06)

4.0 Definitions

4.1 “**Department**” is the Delaware Department of Agriculture

4.2 “**DFS**” is the Delaware Forest Service

4.3 “**DNREC**” is the Delaware Department of Natural Resources and Environmental Control

4.4 “**Secretary**” is the Secretary of the Delaware Department of Agriculture

4.5 “**State Business Hours**” are 8:00 a.m. to 4:30 p.m. on Monday through Friday, except for state holidays.

6 DE Reg. 517 (10/1/02)

6 DE Reg. 1201 (3/1/03)

10 DE Reg. 88 (7/1/06)

5.0 General Rules and Regulations

5.1 In order to promote the safety and welfare of State Forest visitors and protect and manage property in the State Forests, the Secretary and Forestry Administrator shall have the authority to develop reasonable policies for State Forests that are not in conflict with 3 **Del.C.** Ch. 10 and these regulations. These policies must be approved by the Secretary and posted in a conspicuous location in the State Forest prior to their becoming effective. Copies of all policies shall also be maintained in the State Forest office.

5.2 Violation of any State Forest policy shall be grounds for eviction from the State Forest and the denial, revocation, or suspension of any permit issued or privilege granted by the Department.

5.3 The Department shall have the authority to enforce safety rules and/or policies developed in accordance with 5.1 of these Regulations for the protection of visitors and property.

5.4 State Forests are open to ~~most forms~~ of lawful non-motorized recreational uses that do not violate any of the rules and regulations contained herein.

5.5 Unless otherwise indicated, State Forest access roads are closed to vehicular travel, unless otherwise indicated, to improve the quality of recreation and to reduce littering. It shall be unlawful for any person to drive or operate a motorized vehicle upon any lands of the DFS except on established roads or as otherwise authorized by the Forest Administrator. Where vehicular traffic is permitted, the speed limit is ~~ten (10)~~ twenty (20) miles per hour unless otherwise posted. ~~These roads and trails are open to pedestrian and non-vehicular travel only. Non-pedestrian traffic (horseback riding and mountain biking) is restricted to access roads and trails, unless otherwise noted. In addition, vehicle use of tax ditch right of ways is unlawful. Furthermore, no off-highway vehicles or all-terrain vehicles, either registered or non-registered, are permitted except those off-highway vehicles owned,~~

~~operated, and/or authorized by the Delaware Forest Service (DFS). Violators will be prosecuted for trespassing. Vehicular traffic on tax ditch rights of way is prohibited except for maintenance by authorized personnel and for law enforcement purposes. Non-pedestrian traffic (horseback riding and mountain biking) is restricted to access roads and trails unless otherwise noted. None registered vehicles and all-terrain vehicles are prohibited in all areas except those used by DFS employees or law enforcement in the application of their lawful duties. It shall be unlawful for any person to drive or operate any motorized vehicle upon any lands administered by the DFS, unless said vehicle is licensed for use upon public highways and roadways or the driver or operator of said vehicle has been issued a permit from the DFS.~~

5.6 ~~All Boundaries of State Forests boundaries are well are clearly marked with metal signs and/or yellow paint on boundary line trees, brushed out paths, or with a combination of all three features. State Forest visitors must not trespass upon adjoining private lands. Visitors crossing onto private property are subject to trespass laws governed by **Delaware Code**.~~

5.7 No living trees, shrubs, or other vegetation may be cut, felled, uprooted, removed, or otherwise injured or destroyed, unless written permission has first been obtained from the forest officer in charge.

5.8 No living animals shall be harassed, injured, destroyed, or collected and removed from State Forest lands unless written permission has first been obtained from the forest officer in charge. The only exception is lawful hunting as specified in the Division of Fish and Wildlife adopted regulations outlined in the annual **Hunting and Trapping Guide**.

5.89 ~~Fires are prohibited for any purpose on State Forest lands other than in designated areas unless written permission is obtained in advance from the forest officer in charge. Written permission must be obtained in advance for fires on State Forest lands outside of designated areas. Any such authorized fire must, at all times, be under the direct supervision and care of a competent adult, and must be thoroughly extinguished before the fire site is abandoned. All fires must be under the direct supervision of a competent adult. It shall be unlawful to leave any fires that have not been thoroughly extinguished.~~

5.910 ~~The dumping or depositing of rubbish, trash, paint, household items, or other debris, or any other materials and activities that could result in the depositing of such materials, such as paintball and geo-caching, are also prohibited. The placing placement of advertisement signs within State Forests is prohibited.~~

5.11 The placement of advertisement signs on State Forest property is prohibited.

5.1012 ~~Persons using public picnic sites are required to deposit all trash and other refuse in the proper containers, if provided. Where containers are not provided, users must properly dispose of all refuse off State Forest lands. It shall be unlawful to litter on State Forest lands.~~

5.1413 ~~Writing upon, mutilating, carving, and otherwise defacing trees, buildings, structures, signs, and official notices is prohibited.~~

5.14214 ~~With the exception of animals permitted under lawful hunting regulations, all animals must be under the continuous control of the owner(s) unless otherwise authorized in writing by the Forestry Administrator. All dogs must be leashed, unless covered by the exception above. State Forest visitors are responsible for the conduct and any damages, either personal or property, caused by their animals.~~

5.1315 ~~Dog training is permitted on State Forest lands; however, the dog owner(s) must notify DFS personnel in the local State Forest office prior to the training. It shall be unlawful to train dogs on DFS property unless prior permission is authorized by the State Forest office.~~

5.14416 ~~Entry to State Forest lands is prohibited from sunset to sunrise, except for lawful hunting, permitted camping, permitted Redden Lodge use, or as otherwise permitted in writing by the DFS.~~

5.14517 ~~Fishing on State Forest lands is limited to catch and release only. A state fishing license is required to fish on State Forest lands.~~

5.14618 ~~Visitors must shall park in designated areas only and within those designated areas, they must not block gates to State Forest access roads. It shall be unlawful for any person to park any vehicle on lands administered by the DFS in such a manner as to obstruct the use of State Forest access roads, gates, or trails. Any vehicle parked in such a manner shall be subject to removal and the owner of said vehicle shall pay for all costs involved in such removal.~~

5.14719 ~~Alcoholic beverages are prohibited on State Forest lands except within the Redden Lodge, if and only if, authorized in writing by the DFS.~~

6 DE Reg. 517 (10/1/02)

6 DE Reg. 1201 (3/1/03)

10 DE Reg. 88 (7/1/06)

6.0 Redden State Forest Lodge

6.1 ~~Maximum Lodge capacity is 45 persons (overnight use). It shall be unlawful to make use of the Lodge facility in any manner other than outlined in the Redden state Forest Lodge Lease Agreement.~~

6.2 ~~The organization or individual renting the Lodge must be at least 21 years of age and provide a minimum of one adult supervisor per ten youths. Youth are defined as persons under 18 years of age and adults as having reached the age of 21.~~

6.3 ~~The use or possession of illegal drugs is strictly prohibited. Alcoholic beverages are prohibited (unless approved in writing by the DFS). Smoking and the use of other tobacco products are prohibited inside the Lodge. Users must deposit tobacco products in the outside receptacles provided.~~

6.4 ~~Unauthorized heating or cooling equipment is prohibited in the Lodge. The fire alarm system is designed for the protection of all those who use the Lodge and the structure itself. Any misuse or intentional activation of this and other alarms is strictly prohibited and legal action(s) will be taken pursuant to **Delaware Code.**~~

6.5 ~~The use or possession of firearms or other weapons (except as permitted for legal hunting outside the safety zone, or as approved in writing by the DFS), is strictly prohibited.~~

6.6 ~~No outside fires may be started at any time in the vicinity of the Lodge, except in the permanent grills installed on site and the fire pit area, or as approved in writing by the DFS.~~

6.7 ~~Service dogs are permitted; no other pets shall be permitted within or near the Lodge.~~

6.8 ~~An adequate supply of firewood will be provided and placed on the back porch. Please do not retrieve additional wood from the shed/storage area. No charcoal, wax logs, or other materials shall be used in the fireplaces.~~

6.9 ~~No sleeping facilities are provided at the Lodge. There are cooking facilities and tables and chairs for eating. There are no pots, pans, dishes, or serving articles. Do not move any furniture or fixtures. Folding tables and chairs are not permitted outside the Lodge.~~

6.10 ~~The telephone at the Lodge is provided for emergencies, local calls, and credit card or collect long distance calls and are only for use by adults, except in emergencies. You must dial 9 before placing any call. The number for the Lodge phone is (302) 856-5939, and incoming calls can be received. Please remember this telephone is only to be used when necessary and are not for social calls. It is the responsibility of the applicant to honor these restrictions and inform all lodge users of the telephone restrictions. If the telephone restrictions are not honored, the DFS reserves the right to remove the telephone at any time.~~

6.11 ~~Any alteration of the Lodge is strictly prohibited, such as but not limited to moving the furniture, using nails, screws, tape, etc., or discharging fire extinguishers except in the case of fire.~~

6.12 ~~Lodge Rental Fees, Reservations, Deposits, and Cancellations~~

6.12.1 ~~Reservations shall be made on a first come, first served basis. To secure a reservation, a completed application and the full Lodge user fee must be received at least 120 days prior to the desired reservation date.~~

6.12.2 ~~A security damage deposit in the amount of \$100.00 must be received at the time of check in. If the security damage deposit is not paid prior to check in, the person/group/organization will not be permitted use of the lodge. The security damage deposit will be returned within 5 days after check out, if the lodge is found in good condition. If the lodge is not found in good condition, an itemized list of charges will be provided to the person/group/organization~~

6.12.3 ~~Cancellation policy: Reservations must be canceled at least fifteen (15) working days prior to the arrival date. If this cancellation policy is not followed, the reservation deposit will be forfeited. The security damage deposit will be refunded for all cancellations.~~

6.12.4 ~~Types of Use~~

6.12.4.1 ~~Daily: 9:00 a.m.—3:00 p.m.~~

6.12.4.2 ~~Evening: 4 p.m.—10 p.m.~~

6.12.4.3 ~~Weekend: Friday 4 p.m.—Sunday 10 p.m.~~

6.12.4.4 ~~Weekday Overnight: 4 p.m.—8 a.m.~~

6.12.5 ~~Lodge Rental Fees: Lodge user fees shall be as follows:~~

6.12.5.1 ~~May 1 to September 30~~

6.12.5.1.1 ~~\$90 Daily, Evening Use, and Weekday Overnight~~

6.12.5.1.2 ~~\$225 Weekend Use~~

- 6.12.5.2 October 1 to April 30 (Increased fees due to heating expenses)
- 6.12.5.2.1 \$100 Daily, Evening Use, and Weekday Overnight
- 6.12.5.2.2 \$250 Weekend Use
- 6.12.5.3 Checks should be made payable to: Department of Agriculture.
- 6.12.5.4 Payments and application should be mailed to:
 Redden State Forest
 18074 Redden Forest Drive
 Georgetown, DE 19947
 (302)856-2893
 Weekdays 8:00 a.m. – 4:30 p.m.

6 DE Reg. 517 (10/1/02)
6 DE Reg. 1201 (3/1/03)
10 DE Reg. 88 (7/1/06)

7.0 Camping Rules and Regulations

7.1 Camping is free-of-charge, year round, but restricted to map-designated campsites. A forest use permit is required for all camping on State Forest lands. Permits are available at State Forest offices during state business hours or from information boxes located at each State Forest office. Completed permits must be submitted during office hours to ensure campsite availability.

7.2 Campsites are on a first-come, first-served basis and reservations are required.

7.3 Campsites are of a primitive type, and are to be used ONLY for tent, van or pickup campers. Travel trailers and /or self-propelled motor homes are excluded due to access and parking limitations, unless otherwise noted.

7.4 There are a limited number of campsites, each is large enough to accommodate large families. These are equipped with tables, fire pits, charcoal grills and a trash barrel. Campsites are limited to a maximum number of ten (10) people per site, with a maximum stay of three nights per week. Camper(s) must remove their trash upon vacating their campsite.

7.5 Camping is at your own risk. State Forests are a public use area and there is no after-hours, nighttime or weekend security. Law enforcement is provided by the Delaware State Police and DNREC should the need arise.

7.6 State forests are “multiple-use facilities”, which means other activities will continue while you camp. These activities include: hunting, picnicking, hiking, nature study, horseback riding, firewood cutting (by permit only), and timber harvesting. The DFS reserves the right to limit or deny permits during times of conflicting use.

7.7 Firewood for camp use is available at the campsites. If more firewood is needed, it may be gathered locally from dead and downed trees. ~~No s~~Standing trees or shrubs ~~are to~~ shall not be cut. Using firewood located at the office complex is prohibited. Campfires ~~are to be in~~ shall be contained within established fire rings only.

7.8 Campsites are to be left clean and all fires are to be extinguished before departing from the area.

6 DE Reg. 517 (10/1/02)
6 DE Reg. 1201 (3/1/03)
10 DE Reg. 88 (7/1/06)

8.0 Hunting Rules and Regulations

8.1 State Forests are year-round multiple use areas. Hunters share the use of State Forest lands with other public users such as hikers, campers, horseback riders, firewood cutters, and loggers.

8.2 No special permits are required to hunt on State Forest lands, except as specified in the DNREC, Division of Fish and Wildlife ~~annual hunting manual~~ **Hunting and Trapping Guide**. Properly licensed hunters may hunt during any open season except on areas otherwise designated, such as those marked with Wildlife Sanctuary, NO HUNTING, or Safety Zone signs.

8.3 No permanent deer stands, platforms, ladders, or blinds may be constructed. No screw-in tree steps, spikes, screws, or nails are allowed.

8.4 Deer drives by any person or persons are not permitted on any State Forest land at any time.

- 8.5 Small game hunting is closed on State Forest lands during firearm deer seasons.
- 8.6 The DFS reserves the right to close specific State Forest tracts to hunting during specific hunting seasons. It shall be unlawful for any person to hunt on lands administered by the DFS, except as permitted by the Forestry Administrator in writing and specified on current State Forest area maps distributed by the DFS.
- 8.7 Trapping rights may be leased for State Forest lands. No other trapping is permitted on State Forest lands.
- 8.8 Target shooting is prohibited. Firearms are allowed for legal hunting only and are otherwise prohibited on State Forest lands.
- 8.9 Waterfowl hunting is not permitted on State Forest land or waters.
- 8.10 Squirrel hunting is not allowed with a rifle or muzzleloading rifle. Squirrel hunting with a shotgun is permitted.
- 8.11 The following hunting restrictions apply to those tracts of State Forest lands as specified in the DNREC, Division of Fish and Wildlife ~~annual hunting manual~~ **Hunting and Trapping Guide**. Maps delineating these areas are available at State Forest offices.
 - 8.11.1 All deer hunting is limited to numbered stands.
 - 8.11.2 For shotgun season stands will be chosen in a pre-season lottery. To apply for a stand during the shotgun season fill out the application in the Delaware Hunting and Trapping Guide. For leftover stands there will be a daily lottery held at the local State Forest office, 4-2 1 and 1/2 hours before legal hunting time.
 - 8.11.3 For Muzzleloader season there will be a daily lottery held at the local State Forest office, 4-2 1 and 1/2 hours before legal hunting time.
 - 8.11.4 All hunters on these tracts, during shotgun and muzzleloader season, must only hunt from their designated stand, as walk around hunting is not permitted.
 - 8.11.5 During Archery season bowhunters must be within 50 yards of their designated stand.
 - 8.11.6 Stands will be available during Archery season on a first-come, first-served basis.
 - 8.11.7 No more than one hunter may hunt from a stand at any one time.

6 DE Reg. 1201 (3/1/03)

10 DE Reg. 88 (7/1/06)

9.0 Forest Use Permits

9.1 Forest use permits on State Forests are issued on a first-come, first-served basis and are required for camping, firewood cutting, lodge rental (Redden State Forest), organized special events, and pavilion reservation. Facility users are required to submit a completed Forest Use Permit during state business hours. Facilities are to be reserved in advance.

9.2 ~~Items to be filled out by all applicants include:~~

- 9.2.1 ~~Date of application~~
- 9.2.2 ~~Date(s) of proposed use~~
- 9.2.3 ~~Applicants' full name~~
- 9.2.4 ~~Applicants' address, city, state, zip code~~
- 9.2.5 ~~Copy of valid driver's license~~

9.2 Firewood permits are required to harvest firewood on State Forest lands and are issued at the discretion of the State Forest staff. When available, these permits are issued on a first-come, first-served basis. There is a fee of \$100 for firewood permits, which allows the holder to cut for three days within areas designated and posted by State Forest staff. No trees are to be felled; only downed wood may be cut. Wood is not for resale.

9.3 ~~Camping:~~

- 9.3.1 ~~Individual or group permit~~
- 9.3.2 ~~Number of persons camping~~
- 9.3.3 ~~The name of organization (if applicable)~~
- 9.3.4 ~~Vehicle make, model, color, and license number~~
- 9.3.5 ~~Permit effective date & termination date~~
- 9.3.6 ~~Applicants' signature and date~~

9.4 ~~Group Users/Special Events:~~

- 9.4.1 The name of the person in charge
- 9.4.2 The name of organization
- 9.4.3 Number in the group
- 9.4.4 Permit effective date
- 9.4.5 Permit termination date
- 9.4.6 Facility used:
 - 9.4.6.1 Camping
 - 9.4.6.2 Picnic shelter
 - 9.4.6.3 Nature study area
 - 9.4.6.4 Other
 - 9.4.6.5 Applicants' signature

9.5 Firewood Permits:

9.5.1 Firewood permits are required to harvest firewood on State Forest lands and are issued at the discretion of the DFS staff. When available, these permits are issued on a first come, first served basis. There is a fee of \$100 for firewood permits, which allows the holder to cut firewood for three days within areas designated and posted by DFS staff. No trees are to be felled; only downed wood may be cut. Wood is not for resale.

6 DE Reg. 1201 (3/1/03)

10 DE Reg. 88 (7/1/06)

10.0 Department Enforcement Regulations

10.1 The violation of, or the refusal to obey, any law, these regulations, State Forest policies or the terms or conditions of any permit issued or privilege granted by the Department shall be grounds for the suspension or revocation of any permit issued or privilege granted by the Department, the removal or eviction from State Forest lands and/or the denial of future entry to, or the denial of future permits or privileges within State Forests. Any and all applicable permit fees shall be forfeited to, and retained by, the Department. Any such suspension, revocation, removal, eviction or the denial of entry, permit or privilege shall not preclude the prosecution of any person for violation of any law or these regulations.

10.2 Whoever violates any of the foregoing regulations shall be deemed to have committed an unclassified misdemeanor and shall be fined not less than \$25 nor more than \$250 and be required to pay all applicable court costs. For each subsequent violation, within three years of a previous conviction, the violator shall be fined not less than \$50 nor more than \$500 and be required to pay all applicable court costs. In addition to such fines and court costs, ~~a violator who is convicted of damaging, destroying, or removing property owned and maintained by the State Forest Service, shall be required to make restitution to the Department for the replacement or restoration of such property~~ State Forest Service may request the court to order restitution in an amount determined by it for the destruction or removal of property to those convicted of violating these regulations.

10.3 Justices of the Peace throughout the State shall have jurisdiction over alleged violations of these State Forest Regulations; however, any violator shall, upon arrest, be taken to the nearest available Justice of the Peace in the county where such violation is alleged to have occurred, or in lieu thereof, be provided with an assessment form for the voluntary payment of fines.

10.4 Notwithstanding the immediate preceding subsection, a duly authorized peace officer making an arrest for a violation of these regulations may issue a summons requiring the violator to appear in person at a subsequent date at the Justice of the Peace Court nearest to the place of arrest and during the regularly scheduled hours of the Court.

**Delaware Forest Service
Forest Use Permit Application**

Date(s) of use _____

Permit No. _____

Application For: Firewood Camping Other (explain) _____

Drivers license No. _____ Expiration Date _____ Issuing State _____

Location Blackbird State Forest No. in group _____
 Redden State Forest
 Taber State Forest

Name _____ First MI
Last

Address _____
Street/P.O. Box City State Zip Code

Phone No. () _____ Phone No. () _____
Home Work

Vehicle Information

_____ Year/Make/Model Color Tag No.

Effective Date _____ Expiration Date _____ Fee \$ _____

Comments _____

In exercising the above-described use, I agree to abide by all of the regulations of the Delaware Forest Service (DFS), including but not limited to, those attached to this application, as well as the instructions of the undersigned DFS personnel. I fully understand that the State has neither commercially-procured insurance nor self-insurance to cover any injury, risk or loss which occurs in the State Forest and that the State is immune from any and all liability from any such injury, risk or loss.

In consideration of the granting of the permit, I agree to waive any and all claims arising out of the above-described use which may accrue to myself and/or to anyone else in my custody and control, and I further agree to indemnify the State and save it harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damages to property arising out of any occurrence in the State Forest.

APPROVED: SIGNATURE OF DFS PERSONNEL _____ Date _____

SIGNATURE OF APPLICANT _____ Date _____

Note: Any violation of the State Forest rules and regulations will result not only cancellation of this permit, but may also result in possible arrest and fines. This permit is to be kept in applicant's vehicle or on his/her person and must be produced at the request of any forest officer. This permit is subject to cancellation by the state forester at any time for just cause. Authority: 3 Del.C. Ch. 10. Sections 1008 and 1011.

- 6 DE Reg. 517 (10/1/02)
- 6 DE Reg. 1201 (3/1/03)
- 10 DE Reg. 88 (7/1/06)
- 11 DE Reg. 307 (09/01/07) (Final)