



SPONSOR: Sen. Bunting  
Rep. Caulk

DELAWARE STATE SENATE

140th GENERAL ASSEMBLY

SENATE BILL NO.

AN ACT TO AMEND TITLE 7 AND TITLE 3 OF THE DELAWARE CODE RELATING TO FORESTRY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend Title 7 of the Delaware Code by striking Chapters 29, 30, 31, 33 and 35 as they appear  
2 therein as Part III of said Title, in their entireties.

3           Section 2. Amend Title 3 of the Delaware Code by adding a new Chapter 10 as follows:

4 "CHAPTER 10. STATE FORESTRY

5           Subchapter I. General Provisions

6           §1001. State agency to cooperate with individuals, public agencies and United States government.

7           The Department of Agriculture is the agency of the State assigned plenary authority and responsibility in  
8 public forestry functions, in the conduct of which it may cooperate with individuals and public agencies including  
9 agencies of the United States in programs concerned with:

10                   (1) The protection of forest lands from fire, disease and insect damage including the application of  
11 control measures therefor;

12                   (2) Establishing forest growth on denuded or nonforested lands;

13                   (3) Aiding private forest landowners, operators and processors of primary forest products in  
14 applying desirable woodland improvement, management and harvesting practices;

15                   (4) Forest resource research, education and surveys; and

16                   (5) Public recreation.

17           §1002. State Forestry Fund.

18           (a) The State Forestry Fund is continued, to which shall be credited all amounts appropriated by the  
19 General Assembly of the State for the administration of Chapters 10, 26 and 91 of this Title, all amounts  
20 received through cooperation with the United States government under the act of Congress known as the

21 Clarke-McNary Law [16 U.S.C. §471a et seq.], as well as all other moneys to which the Department of  
22 Agriculture or the State Forestry Fund is entitled.

23 (b) All revenue derived from the sale of products from state forests and from land under the administration  
24 of the Department of Agriculture, as well as all collected fees, shall be paid to the State Treasurer and  
25 credited by him to the State Forestry Fund for use in connection with state forests.

26 §1003. Disposition of fines; report by courts of forestry law cases.

27 (a) All moneys received from fines imposed under Chapter 10, 26 or 91 of this Title or any laws enacted  
28 for the protection of forest lands shall be paid to the Department of Agriculture and shall be deposited to  
29 the State of Delaware General Fund.

30 (b) Any court before which any prosecution under the forestry laws of this State is finally concluded shall  
31 within 20 days thereafter, report in writing to the Department of Agriculture the result thereof, the amount  
32 of fine or forfeit collected, if any, and the disposition thereof, and at the same time shall remit to the  
33 Department of Agriculture all moneys received from such fines and forfeitures.

34 §1004. Agreements for prevention of forest fires.

35 (a) The Department of Agriculture may enter into agreements for the prevention and suppression of forest  
36 fires with county, municipal and private agencies owning or controlling woodlots, forest or wild lands, or  
37 whose activities in whole or in part are directed toward the prevention and suppression of forest fires. All  
38 expenditures shall be presented to the Department of Agriculture in monthly statements, in form and  
39 manner prescribed by the Department. The Secretary of the Department of Agriculture shall audit the same  
40 and transmit such statements to the Secretary of Finance, in accordance with Chapter 65 of Title 29.

41 (b) The Secretary of the Department of Agriculture shall certify to the Secretary of Agriculture of the  
42 United States the amounts thus expended by the State and by private agencies and fulfill any other  
43 requirements to obtain the cooperation of the federal government toward forest protection.

44 §1005. Educational and research activities.

45 The Department of Agriculture may, so far as other duties will permit, carry on educational lectures and  
46 conduct exhibits on forestry within this State in the various colleges and schools of this State, and may also  
47 advance forestry education by publication. All colleges and schools supported in whole or in part by the  
48 State shall furnish such aid to the Department of Agriculture as the circumstances will permit. The  
49 Department of Agriculture may also conduct investigations on forestry matters and publish for distribution

50 literature of a scientific or general interest pertaining thereto which may promote the objects of Chapter 10,  
51 26 or 91 of this Title.

52 §1006. Distribution of tree seeds and seedlings.

53 The Department of Agriculture may procure, produce, sell, and distribute forest tree seeds and seedlings for  
54 the purpose of establishing windbreaks and forest growth upon denuded or nonforested lands within this  
55 State, in such quantities and under such regulations as are prescribed by the Department.

56 §1007. Sale of surplus trees.

57 The Department of Agriculture may sell to forestry departments, boards or commissions of neighboring  
58 states any surplus supply of young forest trees which it has on hand for which there is no demand within  
59 the State, under an understanding that the same shall be distributed under regulations substantially similar  
60 to those provided for in §1006 of this Title.

61 §1008. State forests, parks, experimental stations and demonstration areas.

62 The Department of Agriculture may:

- 63 (1) Acquire in the name of the State by purchase, gift or otherwise, lands for the establishment of state  
64 forests, state forest parks, experimental stations and demonstration areas, and to hold, manage, regulate,  
65 control, maintain and utilize the same, but the amount expended for the acquisition of such lands in any  
66 biennial period shall not exceed the amount appropriated for the purpose and not otherwise used;
- 67 (2) Sell or exchange such forest lands whenever it is of advantage to the state forest interests, if such sale or  
68 exchange is approved by the Governor of the State. Any deed or evidence of Title necessary to be given  
69 shall be executed on behalf of the State by the Governor, and shall be under the Great Seal of the State;
- 70 (3) Set aside within the state forests, unusual or historic groves of trees or natural features particularly  
71 worthy of permanent preservation, and may make the same accessible and convenient for public use, and  
72 may dedicate them in perpetuity to the people of the State for recreation and enjoyment;
- 73 (4) Lease or assign a right for any period not exceeding 10 years to any citizen, public service company,  
74 association, organization, public or private agency, on such terms and conditions as are approved by the  
75 Department, such portions of any state forest lands under the administrative control of the Department,  
76 together with such building, structure, or improvement thereon as shall be deemed advisable by the  
77 Department; and

78 (5) Establish a program for issuing permits for various activities on state forest land. Said program for  
79 issuing permits for various activities on state forest land shall include but is not limited to the authority to adopt  
80 standards and regulations for issuances of permits including fees for the use of state forest property by private  
81 parties by the Department of Agriculture. It is expressly provided that said fees collected by the Department shall be  
82 defined by Department rules and regulations and shall not affect the State appropriation or be deducted therefrom,  
83 but shall be so much additional moneys available for carrying out the provisions of this subsection, and said fees  
84 shall be paid to the State Treasurer and credited by him/her to the State Forestry Fund for carrying out the purposes  
85 of this subchapter.

86 §1009. Receipt of gifts; leases; expenditures.

87 (a) The Department of Agriculture may, subject to the approval of the Governor:

88 (1) Receive gifts, donations, contributions or leases of land;

89 (2) Enter into long-term leases or cooperative agreements with private persons or groups of  
90 persons or with the federal government through any of its agencies or departments for desirable  
91 lands held by them or any of them;

92 (3) Make expenditures from any funds available to the Department, not otherwise allocated, for  
93 managing and developing such state forest areas as in the judgment of the Department further the  
94 forest interests of the State.

95 (b) All lands or rights appertaining thereto acquired in the name of the State by the Department of  
96 Agriculture and all lands turned over to the Department by gift, devise, grant, lease, agreement or otherwise  
97 shall be held, managed, regulated and controlled by the Department under Chapters 10, 26 and 91 of this  
98 Title, as state forest in accordance with law and such grant, devise, lease or agreement as is entered into by  
99 the Department as in its judgment will be to the best interest of the people of this State.

100 §1010. Qualifications and appointment of State Forester.

101 The Department of Agriculture shall employ a State Forester, who shall be a technically trained forester of  
102 not less than 2 years' experience in professional forestry work.

103 §1011. Powers and duties of Department generally.

104 The Department of Agriculture shall have direction of all forest interests and all matters pertaining to  
105 forestry and woodlands within the State. The Department of Agriculture shall execute all matters pertaining  
106 to forestry within the jurisdiction of the State; devise and promulgate rules and regulations for the

107 enforcement of the state forestry laws and for the protection of forest lands and impose fines in  
108 furtherance thereof; direct the improvement of state forest lands; collect data relative to forest conditions  
109 and become familiar with, and inquire into, the locations of all timberland and cutover lands, and prepare  
110 maps showing the locations and areas of state forests and privately owned forests, so far as available funds  
111 will permit; take such action as is authorized by law to prevent and suppress forest, brush and grass fires;  
112 enforce all laws pertaining to forest and brush covered lands and assist in the prosecution, in the name of  
113 the State, of violations of those laws; cooperate with the landowners, counties and others in forest  
114 production and reforestation; and publish information on forestry as seems conducive to promoting the  
115 objectives of Chapter 10, 26 or 91 of this title.

116 Subchapter II. State Forest Officers

117 §1021. Appointment; term; oath of office.

118 (a) The Department of Agriculture may appoint suitable persons to serve under its direction either  
119 voluntarily, or under compensation, as state forest officers. Each officer so appointed shall be issued a  
120 certificate of appointment under the hand of the Secretary, and shall be issued a badge as his insignia of  
121 authority. The appointee shall hold office until he resigns or his appointment is revoked by the Secretary.  
122 Upon termination of appointment, service or authority, the appointee shall surrender and deliver to the  
123 Department the certificate, badge and other Department property in his possession.

124 (b) Before entering upon the duties assigned him, each state forest officer shall take and subscribe the oath  
125 or affirmation as prescribed by the Constitution of the State for public officers, and the oath, subscribed by  
126 the officer, shall be kept in the files of the Department of Agriculture. Each person appointed and sworn as  
127 aforesaid shall be officially known as a state forest officer.

128 §1022. General powers and duties; Powers and duties within assigned district; duties of owners and lessees.

129 (a) State forest officers shall have police powers similar to sheriffs, constables and other police  
130 officers throughout the State for the serving of warrants, summons, writs or other legal papers  
131 issued by any justice of the peace or court having jurisdiction in offenses against any law enacted  
132 for the protection of forest, brush, grass or wild lands and they may arrest any person detected by  
133 them in the act of, or under such circumstances as warrant reasonable suspicion that such person is  
134 committing, or is about to commit an offense against any of the laws enacted for the protection of  
135 forest, brush, grass or wild lands in this State and of laws, rules and regulations relating to the

136 protection of any land, property, structure material or vegetation on lands under the administration  
137 or control of the Department. A state forest officer shall also have the power to make arrests of  
138 persons violating §518 of Title 17 in his presence or view or otherwise upon the issuance of an  
139 arrest warrant based on a showing of probable cause that the individual named in the warrant  
140 committed the violation.

141 (b) In addition to the powers and duties assigned in subsection (a) of this Section, each State  
142 forest officer may, in any part of the State:

143 (1) Enter upon any land at any time for the purpose of performing duties in accordance  
144 with this Title and no action for trespass shall lie against a State forest officer or others  
145 employed by him while working under his direction, if, in entering a property, they shall  
146 exercise due care to avoid doing unnecessary damage; and

147 (2) Arrest on sight, without first procuring a warrant, any person detected in the act of  
148 committing an offense against any of the laws enacted for the protection of forest, brush  
149 or wild lands from fire, or when he has a reasonable cause to suspect that any person is  
150 committing or is about to commit some such offense, and upon such arrest to take the  
151 accused before a justice of the peace of the county for hearing and trial.

152 (c) Each State forest officer shall have the control and direction of persons, material, equipment  
153 and property engaged in extinguishing forest fires within the district assigned to him, and such  
154 officer shall, when he discovers a fire on or approaching woodlands, forest or wild lands, or  
155 whenever such fire has been reported to him, take immediately such measures as are necessary to  
156 control and extinguish the same;

157 (d) Nothing in this Title shall be so construed as to relieve the owner or lessee of lands upon  
158 which fires burn or are started, from the duty of extinguishing such fires so far as it lies within his  
159 power, and no owner or lessee of land or anyone with a present vested interest in such land shall  
160 receive compensation from the State for helping or assisting in the extinguishment of fires upon  
161 the lands to which his interest is attached. No person who is responsible for starting a fire shall  
162 receive compensation for helping to extinguish such fire.

163 §1023. Fish and Wildlife Agents and police officers as ex officio State forest officers.

164 Fish and Wildlife Agents and state police officers shall be State forest officers ex officio and shall have the  
165 same powers and authority assigned to State forest officers appointed under this subchapter.

166 Subchapter III. Urban and Community Forestry Program

167 §1031. Findings and policy.

168 The General Assembly finds and declares that urban and community forests are a necessary and important  
169 part of community and urban environments, and are critical to the environmental, social and economic  
170 welfare of the State. The General Assembly also recognizes that the ability of all county and municipal  
171 governments to care for and manage their tree resources could be enhanced through technical and financial  
172 assistance from a State urban and community forestry program, and that properly planned and implemented  
173 local community forestry programs can provide the necessary basis for local governments to develop local  
174 tree care programs and improve quality of life. The General Assembly further declares that this chapter  
175 only addresses the tree resources on publicly owned lands, and shall in no way interfere with the ability of  
176 a landowner to manage and/or harvest his or her forested lands.

177 §1032. Definitions.

178 As used in this subchapter:

179 (1) 'Comprehensive Community Forestry Plan' is a document that describes how a government or other  
180 organization will manage the tree resources located on publicly owned lands within their jurisdiction. This plan  
181 should be based on an accurate inventory of both tree and other resources, such as existing roads and infrastructure,  
182 include a map of the publicly owned areas, the mission and objectives for these lands, and define the strategies and  
183 budget needed to achieve these objectives.

184 (2) 'Department' shall mean the Department of Agriculture.

185 (3) 'Local government' shall mean a municipality, county or other political subdivision of the State or any  
186 agency thereof.

187 (4) 'Secretary' shall mean the Secretary of Agriculture.

188 (5) 'Tree resources' are those trees located in street right-of-ways, parks and other publicly owned lands.

189 (6) 'Urban and community forestry' shall mean the planting, protection, care and management of trees and  
190 other related natural resources located on publicly owned lands within a city, town or municipality.

191 §1033. Powers and duties.

192 The Delaware Department of Agriculture Urban and Community Forestry Program, under the supervision  
193 of the State Forester, shall:

- 194 (1) Assist local governments and public organizations in establishing and maintaining urban and  
195 community forestry programs and in encouraging persons to engage in appropriate and approved practices  
196 with respect to tree management and care;
- 197 (2) Advise local governments and public organizations in the development and coordination of policies,  
198 programs and activities for the promotion of urban and community forestry;
- 199 (3) Provide grants to local governments and public organizations applying for assistance in tree planting,  
200 tree management and the development and implementation of a comprehensive community forestry plan on  
201 publicly owned lands to the extent moneys are appropriated or otherwise made available therefor;
- 202 (4) Educate citizens on the importance of trees and forests and their role in the maintenance of a healthy  
203 environment;
- 204 (5) Provide technical assistance, planning and analysis for projects related to urban and community  
205 forestry;
- 206 (6) Provide training assistance to local governments and public organizations regarding urban and  
207 community forestry issues such as tree diseases, insect programs, tree planting and tree maintenance; and
- 208 (7) Provide volunteer opportunities for the State's citizens and public organizations interested in urban and  
209 community forestry activities.

210 §1034. Community Forestry Council.

- 211 (a) There is established in the Department a Community Forestry Council, which shall consist of 13  
212 members, appointed by the Secretary. Membership shall include at least 1 representative from the USDA  
213 Cooperative Extension System, Governor's Forestry Advisory Council, the Master Gardener program,  
214 Delaware Association of Nurserymen, an arborist or similar tree care expert, county or municipal  
215 government official, a member of an institution of higher learning within the State who possesses urban  
216 forestry expertise, as well as a private citizen from each county. Each member shall be a citizen with  
217 expertise or interest in trees, forestry, or tree or forest management, maintenance or care. The Department's  
218 Urban Forestry Coordinator and State Forester shall serve as ex-officio members.
- 219 (b) Each member shall serve for a period of 3 years, and may succeed himself or herself for 1 additional  
220 term; provided however, that where a member was initially appointed to fill a vacancy, such member may



221 succeed himself or herself for only 1 additional full term. Any person appointed to fill a vacancy on the  
222 Council shall hold office for the remainder of the unexpired term of the former member. Each term of  
223 office shall expire on the date specified in the appointment, except that each member shall serve until a  
224 successor is duly appointed.

225 (c) A person who has never served on the Council may be appointed to the Council 2 consecutive times;  
226 but no such person shall thereafter be eligible for 2 consecutive appointments. No person who has been  
227 twice appointed to the Council, or who has served on the Council for 6 years within any 9 year period, shall  
228 again be appointed to the Board until an interim period of at least 1 term has expired since such person last  
229 served.

230 (d) Five members of Council shall be appointed each year for a 3 year term.

231 (e) A member of the Council shall be suspended or removed by the Secretary for misfeasance,  
232 nonfeasance, malfeasance or neglect of duty.

233 (f) The provisions set forth for employees in Chapter 58 of Title 29 shall apply to all members of the  
234 Council, and to all agents appointed or otherwise employed the Council.

235 (g) A majority of the membership of the council shall constitute a quorum for the transaction of council  
236 business. Action may be taken and motions and resolutions adopted by the council at any meeting thereof  
237 by the affirmative votes of a majority of the full membership of the council.

238 (h) Members of the council shall serve without compensation, but may be reimbursed for expenses  
239 necessarily incurred in the discharge of their official duties.

240 (i) The Council shall elect a chairperson, vice-chairperson and other officers as may be necessary.

241 (j) The Council shall advise the State Forester and the Department on issues concerning community  
242 forestry and assist with such functions.

243 §1035. Duties of State Forester.

244 The State Forester, with the advice and assistance of the Council, may establish minimum standards, and  
245 provide a training skills and voluntary accreditation program, for representatives of local governments and  
246 organizations, the content of which shall be the appropriate and approved methods for the planting,  
247 protection, care and management of trees and other related natural resources under their control.

248 §1036. Development, distribution of comprehensive community forestry plan; approval.

249 (a) The State Forester, with the advice and assistance of the Council, may develop and make available to  
250 local governments and organizations a list of elements found within a comprehensive community forestry  
251 plan. These guidelines shall establish, but not limit, the basic framework of an approved plan.

252 (b) The State Forester, with the advice and assistance of the Council, shall develop and make available to  
253 local governments and organizations a procedure for submitting for approval a comprehensive community  
254 forestry plan.

255 (c) A local government may develop and submit to the State Forester for approval a comprehensive  
256 community forestry plan according to procedures established by the Department.

257 (d) The State Forester, after review and comment by the Council, shall approve a comprehensive  
258 community forestry plan if the plan contains the basic elements of an approved plan and adequately  
259 addresses the needs of the community and the tree resource.

260 §1037. Annual report on the status of Delaware Urban and Community Forestry Program.

261 The State Forester's annual report shall contain a summary of the status of the Delaware Urban and  
262 Community Forestry Program including any recommendations for legislative or administrative action to  
263 improve implementation of that Act, and transmit that report to the Governor and the General Assembly.

264 §1038. Rules, regulations.

265 The Department shall adopt, pursuant to the Administrative Procedure Act, Chapter 101 of Title 29, such  
266 rules and regulations as may be necessary to implement this chapter, including establishment of:

- 267 (1) Guidelines for development of a comprehensive community forestry plan;
- 268 (2) Criteria for proper selection, planting and care of tree resources;
- 269 (3) Procedures to accept and evaluate submitted comprehensive community forestry plans;
- 270 (4) Procedures for the review and approval of training and voluntary accreditation programs in tree  
271 care and management for local officials;
- 272 (5) Criteria for ranking grant applications received from local governments and community  
273 organizations applying for assistance in tree planting, tree improvement and the development and  
274 implementation of comprehensive community forestry plans.

275 Subchapter IV. Offences and Penalties as They Relate to Fires or Damage and Removal of Trees or  
276 Shrubs.

277 §1041. Willfully or maliciously starting fires.

278 (a) Whoever willfully or maliciously sets fire to any woodlot, forest or wild land, or property,  
279 material or vegetation, being or growing upon the lands of another, shall be fined not less than  
280 \$200, nor more than \$5,000, or imprisoned not more than 2 years, or both.

281 (b) This section shall not apply to the setting of a backfire under the direction of a State forest  
282 officer to extinguish a fire then burning; nor to persons setting fire under §3102 and §3103 of this  
283 Title.

284 §1042. Carelessly starting fires; penalty.

285 Whoever carelessly sets on fire any forest land, brush land, grain stubble, grass or other combustible  
286 material being or growing on lands not his own or in his possession or control, or for any purpose  
287 whatsoever sets a fire on his own land or lands in his possession or control, and negligently allows said fire  
288 to escape from his control, to the damage of the property of another, shall be fined not less than \$100, nor  
289 more than \$1000. Nothing in this Title shall prohibit an owner from setting a backfire on his own land to  
290 prevent the progress of a fire then burning.

291 §1043. Setting fire to woodland; unseasonable marsh burning; penalty.

292 Whoever sets any woodland on fire, or, after the 1st of April, sets on fire any marsh, shall be fined not less  
293 than \$200, nor more than \$2000, and shall also be liable in damages to property owners for injury done by  
294 such fire. The burning of wood cut down, or of brush in clearing land, shall not, unless there be negligence,  
295 fall within this section.

296 §1044. Obstructing person in performance of duty; penalty.

297 Whoever obstructs or prevents or attempts to obstruct or prevent any forest officer or ex officio forest  
298 officer or any person employed under the direction of the above-mentioned officers while in the  
299 performance of the duty assigned to him, or required by Chapter 10, 26 or 91 of this Title or in the exercise  
300 of the right of entry, access or examination by any officer, shall be fined not less than \$100, nor more than  
301 \$1000, or in default of payment of such fine and costs, shall be imprisoned not more than 30 days.

302 §1045 Trees and shrubs of state forests; penalty.

303 (a) Notwithstanding any other provision of this Title, whoever without the consent of the Department of  
304 Agriculture willfully, negligently or maliciously cuts bark from or cuts down, injures, destroys or removes  
305 trees, or shrubs, or any part thereof, growing on a state forest, or willfully, negligently or maliciously does

306 or causes to be done any other act to the damage of such forest, shall be fined not more than \$1,000, or  
307 imprisoned not more than 3 months, or both.

308 (b) Any constable, police officer, forest officer or state officer may arrest without warrant any person  
309 found violating this section.

310 §1046. Liability to State for expenses.

311 Notwithstanding any other provision of this Title, whoever willfully, maliciously or carelessly sets fire to  
312 forest lands, in addition to the penalties provided for such violation and the liability for damages to persons  
313 suffering loss thereby, shall be liable to the State for all expenses incurred in combating and extinguishing  
314 such fire.

315 §1047. Jurisdiction of offenses.

316 The justices of the peace shall have jurisdiction of offenses under this subchapter, except where jurisdiction  
317 of any such offenses is vested exclusively in another court.

318 Subchapter V. Pine and Yellow-Poplar Tree Conservation and Reforestation

319 §1051. Findings; policy; purpose.

320 The General Assembly finds and declares that the pine and yellow-poplar forest resource of the State  
321 provides significant recreational, aesthetic, wildlife and environmental benefits as well as wood fiber  
322 essential to commerce and industry for the citizens of the State. The General Assembly has also determined  
323 that the pine and hardwood forest resources are being harvested at a greater rate than they are being  
324 replanted or reproduced and unless measures are instituted to ensure that the forest resources are sustained,  
325 this natural resource will be depleted to the detriment of the citizens of the State. It is, therefore, the  
326 declared public policy of this State to preserve and protect the pine and yellow-poplar forest resources of  
327 the State. The purpose of this subchapter is to regulate the maintenance and reproduction of the pine and  
328 yellow-poplar forest resources of the State in the public interest.

329 §1052. Definitions.

330 As used in this subchapter:

331 (1) 'Cutting operation' shall mean the cutting of timber for commercial purposes from 10 acres or more of  
332 land on which loblolly pine (*Pinus taeda*), shortleaf pine (*Pinus echinata*), pond pine (*Pinus serotina*) or  
333 yellow-poplar (*Liriodendron tulipifera*), singly or together occur and constitute 25 percent or more of the  
334 live trees on each acre.

335 (2) 'Live tree' shall mean trees that have their crowns in the uppermost layers of the canopy (dominant and  
336 co-dominant trees), are largely free growing, free of insect and disease infestation, windfirm and old  
337 enough to produce fertile seed crops.

338 (3) 'Diameter' shall mean the diameter outside bark of a standing tree measured 4.5 feet above the ground.

339 (4) 'Landowner' shall mean any person holding title to the land or possessing the right to contract for the  
340 cutting operation thereon.

341 (5) 'Operator' shall mean any person, including a landowner, who conducts any cutting operation.

342 (6) 'Person' shall mean the State, any county, municipality, corporation or other political subdivision of the  
343 State, or any of their units, or an individual receiver, trustee, guardian, executor, administrator, fiduciary, or  
344 representative of any kind, or any partnership, firm, association, public or private corporation or any other  
345 entity, or principal(s) in business ventures operating under more than 1 name.

346 (7) 'Pine' shall mean any loblolly pine (*Pinus taeda*), shortleaf pine (*Pinus echinata*) or pond pine (*Pinus*  
347 *serotina*).

348 (8) 'Secretary' shall mean the Secretary of the Department of Agriculture.

349 (9) 'Seedling' shall mean a young pine or yellow-poplar plant less than 1 inch in diameter.

350 (10) 'Tree' or 'timber' shall mean any tree of a currently commercially valuable species which is 6 inches  
351 or more in diameter.

352 (11) 'Free to grow' shall mean to increase stem and crown diameter, basal area, height, volume and quality  
353 of individual tree.

354 §1053. Conservation or reforestation plan required; applicability; regulations.

355 (a) No person shall commence a cutting operation unless seed trees have been reserved pursuant to the  
356 natural regeneration method set forth herein or pursuant to an alternate management plan approved by the  
357 State Forester or his designee.

358 (b) This subchapter shall not apply to cutting operations of timber from land being cleared for reservoirs,  
359 military installations, agriculture, residential, ditch and utility right-of-ways, industrial sites, railroads or to  
360 cutting operations undertaken pursuant to a contract executed prior to January 1,1989.

361 (c) The Department of Agriculture shall have the authority to adopt, amend, modify or repeal such rules  
362 and regulations as it deems necessary to effectuate the policies and the purposes of this subchapter.

363 §1054. Natural regeneration; notice required upon transfer.

364 (a) Operators and landowners shall leave uncut and uninjured at least 6 seed-bearing pine or yellow-poplar  
365 trees, 14 inches in diameter or larger on each acre involved in a cutting operation. If an acre lacks 1 or  
366 more of the required seedtrees, then 2 seed-bearing pines or yellow-poplars of the next smallest diameter  
367 shall be chosen to replace each missing tree.

368 (b) Trees reserved pursuant to subsection (a) of this section for the purpose of reseeding shall be healthy,  
369 windfirm, well-distributed throughout each acre and have well developed crowns possessing viable cones.

370 (c) Seed-bearing pine or yellow-poplar trees need not be reserved, if at least 400 pine or yellow-poplar  
371 seedlings exist on each acre which are vigorous, well distributed throughout, and free to grow upon  
372 completion of the cutting operation.

373 (d) Any operators or landowners proposing to utilize the natural regeneration method shall notify the State  
374 Forester at the Delaware Department of Agriculture Forest Service of the proposed natural regeneration  
375 plan at least 10 working days prior to initiation of a cutting operation.

376 (1) Operators or landowners shall be responsible for having seed trees physically marked prior to  
377 notification of the State Forester.

378 (2) Within 10 working days, the State Forester or his designated agent shall inspect the proposed  
379 site and provide the operator or landowner with approval, approval with modifications or rejection  
380 of the natural regeneration plan.

381 (e) Once approval is given, but before the cutting operation begins, the landowner will agree, on a form  
382 furnished by the Department of Agriculture Forest Service, that he will not cut or permit to be cut any pine  
383 or yellow-poplar tree required to be reserved for reseeding for 2 years after completion of the cutting  
384 operation. The provisions of this subsection do not apply if the landowner places the land in any of the  
385 uses enumerated in §1053(b) of this Title.

386 (f) Prior to the sale or other transfer of rights of the land or perpetual timber rights subject to the obligation  
387 to reserve the trees, the transferor shall notify the transferee of the existence and nature of the obligation  
388 and the transferee shall sign a notice of the obligation indicating the transferee's knowledge thereof.

389 (1) The notice shall be on a form furnished by the Department of Agriculture Forest Service and  
390 shall be sent to the Department of Agriculture by the transferor at the time of sale or transfer of  
391 rights of the land or perpetual timber rights.

392 (2) If the transferor fails to notify the transferee about the obligation to reserve the trees, the  
393 transferor shall pay the transferee's costs related to fulfilling the obligation to reserve the trees or  
394 reforest all trees cut, including all legal costs and reasonable attorneys' fees incurred by the  
395 transferee in enforcing the obligation against the transferor.

396 (3) Failure by the transferor to send the required notice to the Department of Agriculture Forest  
397 Service at the time of transfer shall be prima facie evidence, in any action by the transferee against  
398 the transferor for costs related to reserving the trees or reforesting all trees cut, that the transferor  
399 did not notify the transferee of the obligation to reserve the trees prior to transfer.

400 §1055. Reforestation method; notice required upon transfer.

401 (a) The land involved in a cutting operation may be reforested pursuant to an approved reforestation plan  
402 in lieu of the natural regeneration method. The plan shall be prepared by the landowner or his agent and  
403 shall be designed to assure the reproduction and maintenance of growth of young, vigorous pine or yellow-  
404 poplar trees.

405 (b) The reforestation plan shall be accompanied by a statement of the landowner, on a form furnished by  
406 the Department of Agriculture Forest Service, that the landowner will not perform any act or permit any act  
407 to be performed which prevents reforestation. This provision does not apply if the landowner places the  
408 land in any of the uses enumerated in §1053(b) of this Title.

409 (c) Ten working days prior to the initiation of the cutting operation, the landowner, his agent or operator  
410 shall notify the State Forester of the intention to reforest and shall submit a reforestation plan.

411 (d) The landowner, his agent or operator shall submit the reforestation plan to the State Forester at the  
412 Department of Agriculture Forest Service for approval.

413 (1) The Department of Agriculture Forest Service shall approve, approve with modifications or  
414 reject any reforestation plan submitted within 10 working days.

415 (2) The determination of the Department of Agriculture Forest Service shall be in writing, setting  
416 forth the reasons for approval with modifications or rejection and shall be forwarded to the  
417 operator or landowner.

418 (3) In cases where a reforestation plan has been rejected by the State Forester, the landowner, his  
419 agent or operator shall be required to submit another reforestation plan for approval. Under no

420 circumstances, shall a cutting operation begin prior to approval of a reforestation plan by the DDA  
421 Forest Service.

422 (e) Prior to the sale or other transfer of rights of land or perpetual timber rights subject to a reforestation  
423 obligation, the transferor of land shall notify the transferee of the existence and nature of the obligation and  
424 the transferee shall sign a notice of reforestation obligation indicating the transferee's knowledge thereof.

425 (1) The notice shall be on a form furnished by the Department of Agriculture Forest Service and  
426 shall be sent to the Department of Agriculture by the transferor at the time of sale or transfer of  
427 rights of land or perpetual timber rights.

428 (2) If the transferor fails to notify the transferee about the reforestation obligation, the transferor  
429 shall pay the transferee's costs related to reforestation including all legal costs and reasonable  
430 attorneys' fees incurred by the transferee in enforcing the reforestation obligation against the  
431 transferor.

432 (3) Failure by the transferor to send the required notice to the Department of Agriculture at the  
433 time of the sale shall be prima facie evidence, in any action by the transferee against the transferor  
434 for costs related to reforestation, that the transferor did not notify the buyer of the reforestation  
435 obligation prior to sale.

436 §1056. Prohibitions.

437 No person shall cut or permit to be cut any pine or yellow-poplar tree or seedling required to be reserved  
438 for reseeded or planted under a reforestation plan or perform any act or permit any act to be performed  
439 which prevents reseeded or reforestation of any area in which a cutting operation has been conducted.

440 §1057. Right of entry.

441 The State Forester or his duly authorized representative may enter, at reasonable times, upon any public or  
442 private property for the purpose of determining whether a violation of the provisions of this subchapter or  
443 any of the regulations promulgated thereunder exists upon giving verbal notice and after presenting official  
444 identification to the landowner, operator, custodian or agent of said property.

445 §1058. Cease and desist orders.

446 The State Forester shall have the power to issue a cease and desist order to any person violating any  
447 provision of this subchapter or rules or regulations promulgated thereunder. Any such cease and desist



448 order shall remain in effect until withdrawal of said order by the State Forester, or until the order is  
449 superseded by an injunction, whichever occurs first.

450 §1059. Injunctive relief.

451 Whenever it appears that any person has engaged or is about to engage in any act or practice constituting a  
452 violation of any provisions of this subchapter or rules or regulations adopted pursuant to it, the State  
453 Forester may bring an action in the Court of Chancery to restrain or to enjoin the acts or practices and to  
454 enforce compliance with this subchapter. The Court shall not require the Department of Agriculture to post  
455 a bond.

456 §1060. Appeals.

457 (a) Any person whose interest is substantially affected by an action of the State Forester or his  
458 designee may request a hearing to demonstrate compliance with this subchapter or any  
459 regulations promulgated thereunder.

460 (b) (b) Such hearing shall be scheduled within 15 days of the request and shall be held by the  
461 Secretary or his designee. The decision of the Secretary or his designee may be appealed to  
462 Superior Court on the record within 30 days of the decision.

463 (c) No appeal shall operate to automatically stay any action of the Secretary.

464 §1061. Penalties.

465 (a) Any person who violates any provision of this subchapter or associated rules and regulations  
466 shall, upon conviction, be subject to a fine not exceeding \$2,000, or imprisonment not exceeding 3  
467 months, or both.

468 (b) Any person found guilty of a second or subsequent violation of any provision of this  
469 subchapter is subject to a fine not exceeding \$4,000, or imprisonment not exceeding 1 year, or  
470 both. For the purposes of this subsection, a second or subsequent violation is one which has  
471 occurred within 2 years of any prior violation of this subchapter.

472 (c) The Justices of the Peace Court shall have original jurisdiction to hear and determine  
473 violations of this subchapter.

474 Subchapter VI. Water Quality as It Relates to Silvicultural Systems and Sedimentation and Erosion Control

475 §1071. Findings; policy; purpose.

476 The State Forester shall provide for the protection of the waters of the State from pollution by sediment  
477 deposits resulting from silvicultural activities as provided in §1078 of this Title. Through the adoption of this  
478 subchapter, the State recognizes that water quality protection techniques for silvicultural practices are an integral  
479 component of properly managed forests. Further, the State recognizes the positive benefits that properly managed  
480 forest systems have on the environment, water quality and quality of life in Delaware.

481 §1072. Definitions.

482 The following words, terms and phrases, as used in this subchapter, shall have the following meaning  
483 ascribed to them except where the context clearly indicates a different meaning:

484 (1) 'Owner' shall mean any person that (a) owns or leases land on which silvicultural activity occurs or (b)  
485 owns timber on land which silvicultural activity occurs.

486 (2) 'Operator' shall mean any person that operates or exercises control over any silvicultural activity.

487 (3) 'Pollution' shall mean such alteration of the physical, chemical or biological properties of any waters of  
488 the State resulting from sediment deposition that will or is likely to create a nuisance or render such waters

489 (a) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals,  
490 fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future source of  
491 public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural or other  
492 reasonable uses.

493 (4) 'Silvicultural activity' shall mean any forest management activity, including but not limited to the  
494 harvesting of timber, the construction of roads and trails for forest management purposes and the  
495 preparation of property for reforestation.

496 (5) 'Reforestation' is the establishment of a tree crop on forest land.

497 §1073. Conduct of silvicultural activities.

498 If the State Forester or the State Forester's designee determines that an owner or operator is conducting or  
499 allowing the conduct of any silvicultural activity in a manner which is causing or is likely to cause pollution, the  
500 State Forester or the State Forester's designee may advise the owner or operator of corrective measures needed to  
501 prevent or cease the pollution. Failure of the State Forester, or the State Forester's designee, to advise an owner or  
502 operator of such corrective measures shall not impair the State Forester's authority to issue cease and desist orders.

503 §1074. Cease and desist orders.

504           The State Forester shall have the power to issue a cease and desist order to any person violating any  
505 provision of this subchapter or rules or regulations promulgated thereunder. Any such cease and desist order shall  
506 remain in effect until withdrawal of said order by the State Forester, or until the order is superseded by an  
507 injunction, whichever occurs first.

508 §1075. Injunctive relief.

509           Whenever it appears that any person has engaged or is about to engage in any act or practice constituting a  
510 violation of any provisions of this subchapter or rules or regulations adopted pursuant to it, the State Forester may  
511 bring an action in the Court of Chancery to restrain or to enjoin the acts or practices and to enforce compliance with  
512 this subchapter. The Court shall not require the Department of Agriculture to post a bond.

513 §1076. Appeals.

514           (a) Any person whose interest is substantially affected by an action of the State Forester or his designee  
515 may request a hearing to demonstrate compliance with this subchapter or any regulations promulgated  
516 thereunder.

517           (b) Such hearing shall be scheduled within 15 days of the request and shall be held by the State Forester or  
518 his designee. The decision of the State Forester or his designee may be appealed to Superior Court on the  
519 record within 30 days of the decision.

520           (c) No appeal shall operate to automatically stay any action of the State Forester.

521 §1077. Penalties.

522           (a) Any person who violates any provision of this subchapter or associated rules and regulations shall,  
523 upon conviction, be subject to a fine not exceeding \$2,000, or imprisonment not exceeding 3 months, or  
524 both.

525           (b) Any person found guilty of a second or subsequent violation of any provision of this subchapter is  
526 subject to a fine not exceeding \$4,000, or imprisonment not exceeding 1 year, or both. For the purposes of  
527 this subsection, a second or subsequent violation is one which has occurred within 2 years of any prior  
528 violation of this subchapter.

529           (c) The Justices of the Peace Court shall have original jurisdiction to hear and determine violations of this  
530 subchapter.

531 §1078. Hearings, notices.

532 Any hearing required under this subchapter shall follow Chapter 101 of Title 29, of the Administrative  
533 Procedures Act.

534 §1079. Civil penalties.

535 Any owner or operator who violates, fails or refuses to obey any special order, rule, or regulation may be  
536 assessed a civil penalty by the State Forester. Such penalty shall not be less than \$200 or more than \$2,000 for each  
537 violation. Each day of a continuing violation may be deemed a separate violation for purposes of assessing penalties.  
538 The Superior Court shall have jurisdiction of the offenses brought under this subchapter. In determining the amount  
539 of the penalty, consideration shall be given to the owner's or operator's history of noncompliance, the seriousness of  
540 the violation, including any irreparable harm to the environment, any hazards to the health or safety of the public,  
541 whether the owner or operator was negligent and the demonstrated good faith of the owner or operator in reporting  
542 and remedying the pollution. A civil penalty may be assessed by the Superior Court only after the owner or operator  
543 has been given an opportunity for a hearing as specified under in §2981 of this Title. Any person who intentionally,  
544 knowingly and after written notice to comply, violates or refuses to comply with any notice issued pursuant to this  
545 chapter shall be fined not less than \$500 or more than \$10,000 for each offense. Each day the violation continues  
546 shall constitute a separate offense. The Superior Court shall have jurisdiction of offenses brought under this  
547 subchapter.

548 §1080. State program.

549 In carrying out this chapter, the State Forester may, in cooperation with appropriate municipal, county, state  
550 and federal agencies, and with representatives from operators and owners groups:

551 (1) Develop and publish sediment control and stormwater management techniques and guidelines for use  
552 by owners and operators;

553 (2) Provide technical and other assistance to owners and operators in the implementation of techniques and  
554 guidelines;

555 (3) Conduct and supervise educational programs for owners and operators with respect to sediment control  
556 and stormwater management techniques and guidelines;

557 (4) Conduct studies and research and publish the results regarding the causes, effects and hazards of  
558 sediment and stormwater originating from silvicultural activities;

559 (5) Cooperate with appropriate agencies of the United States or other states or any interstate agency with  
560 respect to silvicultural activities; and

561 (6) Establish a means of communication, such as a newsletter, so that information regarding program  
562 development and implementation can be distributed to interested owners and operators.

563 (7) Establish a notification system whereby owners and/or operators inform the Delaware department of  
564 Agriculture Forest Service of planned silvicultural activities prior to commencing the activities.

565 Section 3. Amend Title 3 of the Delaware Code by adding a new Chapter 26 as follows:

566 "CHAPTER 26. COMMERCIAL FOREST PLANTATIONS

567 §2601. Commercial forest plantation.

568 (a) A commercial forest plantation within the meaning and purpose of this chapter is a  
569 contiguous area of land of not less than 10 acres upon which the owner proposes to develop and maintain a forest  
570 either through planting or natural reproduction or both, to produce timber, pulpwood, poles, sawtimber, or other  
571 wood products. Such land shall at the time of listing as a commercial forest plantation actually carry sufficient forest  
572 growth of suitable character and so distributed as to give reasonable assurance that a stand of merchantable timber  
573 will develop therefrom, as determined by the State Forester. The intent and purpose of this section is to exclude from  
574 classification as a commercial forest plantation, land planted as a nursery, orchard or for ornamental purposes.

575 (b) Any landowner who establishes a commercial forest plantation, as defined in this chapter, and otherwise  
576 complies with this chapter shall be entitled to a 30-year exemption from county property taxes on such plantation.

577 §2603. Application for exemption; requirements; examination.

578 Any owner of a commercial forest plantation may make application to the Department of Agriculture to  
579 have such land listed for tax exemption. In making such application, he shall file with the Department of Agriculture  
580 a sworn statement of compliance with this chapter together with the location, description and acreage of the planted  
581 lands or the naturally reforested lands. Additionally, all applications for tax exemption must be accompanied by a  
582 forest management plan approved by the State Forester. The Department of Agriculture upon receipt of such  
583 application shall direct the State Forester to make or cause to be made a thorough examination of the property  
584 described in the application and report his findings to the Department of Agriculture.

585 §2604. Removal of exempt commercial forest plantation from county assessment books.

586 If the Department determines from the report of the State Forester that the owner has complied with the  
587 purpose of this chapter, namely, to develop and maintain upon his land a commercial forest, the Department shall  
588 recommend to the assessment board in the county wherein the lands are situated that the enrolled forested lands be  
589 removed from the list of assessable property for the period of 30 years, and thereupon the enrolled forested property

590 shall be removed from the list of assessable property for the exemption period except as provided in this chapter. An  
591 owner that maintains a commercial forest plantation in compliance with this chapter for 30 years may re-apply for  
592 county tax exemption on the plantation in accordance with Section 2603 of this Title. This will constitute a new 30  
593 year period of tax exemption on the plantation.

594 §2605. Voluntary withdrawal of land from exempt status; requirements.

595 Any owner of land listed as commercial forest plantation desiring to withdraw said land from operation of  
596 this chapter shall make written application to the Department of Agriculture for such withdrawal. Such application  
597 shall be granted only upon evidence that the owner has paid to the county treasurer the amount of tax due on said  
598 land as determined by the county board of assessment. The board of assessment shall determine the average value  
599 per year of the lands, notwithstanding Title 9, Chapter 83 of the Delaware Code, during the current period of  
600 exemption from taxation, and, further, shall determine the amount of tax due on the lands calculated according to the  
601 several yearly tax rates at the average valuation. Upon presentation to the Department of Agriculture of the  
602 application as provided in this section, the Department of Agriculture shall at once notify the county board of  
603 assessment of such action and thereupon the property described in the application shall be removed from  
604 classification and thereafter taxed as other property.

605 §2606. Restrictions on use of timber.

606 The owner of any land listed under this chapter may fell and use any dead or injured timber, and also cut  
607 and remove any live trees when such have been marked for removal with the approval and under the supervision of  
608 the Department of Agriculture.

609 §2607. Inspections.

610 The State Forester shall make periodic inspections of classified forest plantations, and shall report his  
611 findings in writing to the Department of Agriculture. If he finds that the owner of listed lands has violated this  
612 chapter, or has neglected or refused to take proper precautions against damage by fire, grazing or otherwise, he shall  
613 recommend to the Department the removal of said property from classification as commercial forest plantation land.

614 §2608. Removal of lands from exempt status by Department; notice; hearing; appeal.

615 (a) In case the State Forester recommends the removal of any lands from classification as commercial  
616 forest land, the Department of Agriculture shall notify the owner of the time and place of hearing upon such  
617 recommendation, which shall not be less than 10 days from the date of notice. The owner of the lands shall be  
618 entitled to be heard before the Department in person or by attorney, and shall be allowed to present any pertinent

619 evidence. The Department shall thereupon determine the matter and shall either approve or disapprove the  
620 recommendation of the State Forester. If the recommendation of the State Forester is approved by the Department, it  
621 shall notify in writing the county board of assessment thereof, and the board of assessment shall immediately restore  
622 the lands to the assessment lists. The board shall also determine the amount of tax due upon the lands,  
623 notwithstanding Title 9, Chapter 83 of the Delaware Code, according to the average valuation of the lands at the tax  
624 rates prevailing during the current period of exemption. The total amount of taxes as calculated shall be certified to  
625 the receiver of taxes and county treasurer of the county for collection as other taxes are collected, but with no  
626 penalty attached thereto.

627 (b) The owner of such lands may appeal from the decision of the Department to the Superior Court of the  
628 county by filing with the Prothonotary a certified copy of the recommendation of the State Forester as filed with the  
629 Department and the determination of said Department with respect thereto. The certification shall be made by the  
630 State Forester. Such appeal shall be filed within 2 terms next after the determination of the matter by the  
631 Department, or the right of appeal shall be lost.

632 (c) Prior to the sale or other transfer of rights of land or perpetual timber rights subject to an approved  
633 forest management plan, the transferor of land shall notify the transferee of the existence and nature of the plan and  
634 the transferee shall sign a notice of forest management obligation indicating the transferee's knowledge thereof.

635 (1) The notice shall be on a form furnished by the Department of Agriculture Forest Service and  
636 shall be sent to the Department of Agriculture by the transferor at the time of sale or transfer of rights of  
637 land or perpetual timber rights.

638 (2) If the transferor fails to notify the transferee about the forest management obligation, the board  
639 of assessment shall immediately restore the lands to the assessment lists. The board shall also determine the  
640 amount of tax due upon the lands according to the average valuation of the lands at the tax rates prevailing  
641 during the period of exemption. The total amount of taxes as calculated shall be certified to the receiver of  
642 taxes and county treasurer of the county for collection as other taxes are collected, but with no penalty  
643 attached thereto. All taxes due for the period of exemption shall be assessed to the transferor.

644 (3) Failure by the transferor to send the required notice to the Department of Agriculture at the  
645 time of the sale shall be prima facie evidence that the transferor did not notify the buyer of the forest  
646 management obligation prior to sale.”

647 Section 4. Amend Title 3 of the Delaware Code by adding a new Chapter 91 as follows:

648 "CHAPTER 91. MIDDLE ATLANTIC INTERSTATE FOREST FIRE PROTECTION  
649 COMPACT.

650 §9101. Approval of compact; text.

651 The Governor of Delaware may execute a compact on behalf of the State with any 1 or more of the States  
652 of Maryland, New Jersey, Ohio, Pennsylvania, Virginia and West Virginia, who may, by their legislative bodies  
653 authorize a compact, in form substantially as follows:

654 Middle Atlantic Interstate Forest Fire Protection Compact

655 Article I. The purpose of this compact is to promote effective prevention and control of forest fires in the  
656 Middle Atlantic region of the United States by the development of integrated forest fire plans, by the maintenance of  
657 adequate forest fire fighting services by the member States, and by providing for mutual aid in fighting forest fires  
658 among the compacting States of the region and with States which are party to other regional forest fire protection  
659 compacts or agreements.

660 Article II. This compact shall become operative immediately as to those States ratifying it whenever any  
661 two or more of the States of Delaware, Maryland, New Jersey, Ohio, Pennsylvania, Virginia and West Virginia  
662 which are contiguous have ratified it and Congress has given consent thereto.

663 Article III. In each State the State forester or officer holding the equivalent position who is responsible for  
664 forest fire control shall act as compact administrator for that State and shall consult with like officials of the other  
665 member States and shall implement cooperation between such States in forest fire prevention and control. The  
666 compact administrators of the member States shall organize to coordinate the services of the member States and  
667 provide administrative integration in carrying out the purposes of this compact. The compact administrators shall  
668 formulate and, in accordance with need, from time to time revise a regional forest fire plan for the member States. It  
669 shall be the duty of each member State to formulate and put in effect a forest fire plan for that State and take such  
670 measures as may be necessary to integrate such forest fire plan with the regional forest fire plan formulated by the  
671 compact administrators.

672 Article IV. Whenever the State forest fire control agency of a member State requests aid from the State  
673 forest fire control agency of any other member State in combating, controlling or preventing forest fires, it shall be  
674 the duty of the State forest fire control agency of that State to render all possible aid to the requesting agency which  
675 is consonant with the maintenance of protection at home.



676 Article V. Whenever the forces of any member State are rendering outside aid pursuant to the request of  
677 another member State under this compact, the employees of such State shall, under the direction of the officers of  
678 the State to which they are rendering aid, have the same powers (except the power of arrest), duties, rights,  
679 privileges and immunities as comparable employees of the State to which they are rendering aid. No member State  
680 or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or  
681 omission on the part of such forces while so engaged or on account of the maintenance or use of any equipment or  
682 supplies in connection therewith. All liability, except as otherwise provided hereinafter, that may arise either under  
683 the laws of the requesting State or under the laws of the aiding State or under the laws of a third State on account of  
684 or in connection with a request for aid shall be assumed and borne by the requesting State. Any member State  
685 rendering outside aid pursuant to this compact shall be reimbursed by the member State receiving such aid for any  
686 loss or damage to or expense incurred in the operation of any equipment answering a request for aid, and for the cost  
687 of all materials, transportation, wages, salaries and maintenance of employees and equipment incurred in connection  
688 with such request: Provided, That nothing herein contained shall prevent any assisting member State from assuming  
689 such loss, damage, expense or other cost, or from loaning such equipment, or from donating such services to the  
690 receiving member State without charge or cost. Each member State shall provide for the payment of compensation  
691 and death benefits to injured employees and the representatives of deceased employees in case employees sustain  
692 injuries or are killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms  
693 as if the injury or death were sustained within such State. For the purposes of this compact, the term employee shall  
694 include any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding State under the  
695 laws thereof. The compact administrators shall formulate procedure for claims and reimbursement under the  
696 provisions of this article in accordance with the laws of the member States.

697 Article VI. Nothing in this compact shall be construed to authorize or permit any member State to curtail  
698 or diminish its forest fire fighting forces, equipment, services or facilities, and it shall be the duty and responsibility  
699 of each member State to maintain adequate forest fire fighting forces and equipment to meet demands for forest fire  
700 protection within its borders in the same manner and to the same extent as if this compact were not operative.  
701 Nothing in this compact shall be construed to limit or restrict the powers of any State ratifying the same to provide  
702 for the prevention, control and extinguishment of forest fires, or to prohibit the enactment or enforcement of State  
703 laws, rules or regulations intended to aid in such prevention, control and extinguishment in such State. Nothing in

704 this compact shall be construed to affect any existing or future cooperative relationship or arrangement between the  
705 United States Forest Service and a member State or States.

706 Article VII. The compact administrators may request the United States Forest Service to act as the primary  
707 research and coordinating agency of the Middle Atlantic Interstate Forest Fire Protection Compact in cooperation  
708 with the appropriate agencies in each State, and the United States Forest Service may accept the initial responsibility  
709 in preparing and presenting to the compact administrators its recommendations with respect to the regional fire plan.  
710 Representatives of the United States Forest Service may attend meetings of the compact administrators.

711 Article VIII. The provisions of Articles IV and V of this compact which relate to mutual aid in combating,  
712 controlling or preventing forest fires shall be operative as between any State party to this compact and any other  
713 State which is party to a regional forest fire protection compact in another region: Provided, That the Legislature of  
714 such other State shall have given its assent to such mutual aid provisions of this compact.

715 Article IX. This compact shall continue in force and remain binding on each State ratifying it until the  
716 Legislature or the Governor of such State takes action to withdraw therefrom. Such action shall not be effective until  
717 six months after notice thereof has been sent by the chief executive of the State desiring to withdraw to the chief  
718 executives of all States then parties to the compact.

719 §9102. Effective date of compact.

720 The above compact shall be effective immediately as between the State and such other state or states as  
721 have already approved the compact. As to other states it shall become effective when approved by them. The  
722 Governor may take such action as may be necessary to complete the exchange of official documents between this  
723 State and any other state authorizing the compact.

724 §9103. Compact administrator.

725 The State Forester, or someone designated by him shall act as compact  
726 administrator for this State."

#### SYNOPSIS

This Bill will move all Delaware Department of Agriculture (DDA) Forest Service legislation from Title 7 to Title 3. It will additionally empower the DDA Forest Service to impose fines for infractions of its rules and regulations as well as issue cease and desist orders to operators in violation of the department's erosion and sedimentation rules and regulations. All fines collected will go into the general fund. The Fire Warden System, which has not been used for many years in Delaware, will be eliminated additionally, the DDA Forest Service will no longer have the authority to forcibly enlist the general public to help fight wildland fires.

Finally, this Bill better defines tax exemptions and liabilities associated with the Commercial Forest Plantation Act.

Author: Sen. Bunting