

Proposed Rules
of the
Tennessee Department of Agriculture
Division of Forestry

Chapter 0080-07-01
Protection of State Forests

Presented herein are proposed amendments of Division of Forestry, Department of Agriculture submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Division of Forestry, Department of Agriculture to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Department of Agriculture, 440 Hogan Road, Nashville, Tennessee 37220, and the Department of State, 8th Floor, William R Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed amendments, contact: David Todd, Assistant State Forester, Department of Agriculture, P. O. Box 40627, Nashville, Tennessee, 37204, 615-837-5539.

The text of the proposed amendments is as follows:

Amendments

Rule 0080-07-01-.03 Natural Resources is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

0080-07-01-.03 Natural Resources.

- (1) The cutting, removal, gathering, planting, destruction or damaging of any natural resource is prohibited in any state forest without the written authorization of the district forester or under the district forester's supervision.
- (2) The collection of plants, rocks, minerals, animal life, botanical specimens or other natural objects in state forests is prohibited; provided however, persons officially representing a reputable scientific or educational institution(s), federal or state agencies may be permitted for such collecting by the district forester. Other state and/or federal permits and approvals may also be required as provided by law, rule or regulation.
- (3) The hunting, fishing, killing, taking or attempted taking of any species of wildlife in state forests is allowed only as provided by law, rule, or proclamation by the Tennessee Wildlife Resources Commission.
- (4) The district forester can restrict hunting, fishing, and the killing, taking or attempted taking of any species of wildlife in a state forest if the district forester determines that conditions in an area normally open to the public are such that they endanger resources or the public. The district forester's authority includes the right to limit the times and locations available for hunting and fishing. If the state forest is a designated or partially designated Wildlife Management Area, the district forester shall consult with the appropriate Tennessee Wildlife Resources Agency Region Manager prior to restricting hunting, fishing, killing, taking and/or attempted taking of any species of wildlife.

Authority: T.C.A. §§ 4-3-201 et seq., 11-1-101 et seq., 11-4-101 et seq., and Executive Order No. 41 (February 4, 1991).

Rule 0080-07-01-.04 Camping is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

0080-07-01-.04 Camping.

- (1) The district forester can restrict camping in any state forest, including the locations and the times camping is allowed. The district forester shall impose emergency restrictions whenever in the opinion of the district forester, conditions in an area normally open to the public are such as to endanger natural resources or the public.
- (2) Camping and the use of trailers or other camper units are allowed only at designated locations. The district forester will issue written permits to persons to camp in backcountry or other isolated sections of a forest area. The district forester can designate portions of a forest area in which such permits will not be required by posting appropriate signs or marking on a map, which shall be available for public inspection in the District Office.
- (3) Quiet will be maintained in all campgrounds between the hours of 10:00 p.m. and 6:00 a.m.
- (4) Unless it is prohibited by the district forester by the posting of appropriate signs, the gathering of wood for use as fuel in campgrounds or picnic areas is limited to dead material on the ground.
- (5) Campers must remove all camping equipment, clean camping sites and return them to their natural condition before leaving.

Authority: T.C.A. §§ 4-3-201 et seq., 11-1-101 et seq., 11-4-101 et seq., and Executive Order No. 41 (February 4, 1991).

Rule 0080-07-01-.05 Closing Roads, Trails and Other Areas is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

0080-07-01-.05 Closing Roads, Trails, and Other Areas.

- (1) The district forester shall establish a reasonable schedule of visiting hours for all portions of a state forest area.
- (2) The district forester shall temporarily close or restrict the public use of roads, trails and any or all portion of a state forest when necessary for the protection of the area or the safety and welfare of visitors or property. Temporary closures extending beyond one hundred twenty (120) days require the approval of the State Forester.
- (3) All persons shall abide by the officially posted signs designating closed areas and visiting hours.
- (4) Tampering with posted signs or barricades, traveling on closed or restricted use roads, driving around or through signs or barricades marking closed or restricted areas, is a Class A misdemeanor, punishable as provided by general law.
- (5) Unauthorized persons are prohibited from being in the wildlife management area portions

of Chuck Swan and Prentice Cooper State Forests during deer and turkey managed hunts. Authorized persons include: Department of Agriculture and Tennessee Wildlife Resources Agency employees, any law enforcement officer engaged in official duties, or other persons or organizations as permitted by the district forester.

Authority: T.C.A. §§ 4-3-201 et seq., 11-1-101 et seq., 11-4-101 et seq., 39-17-108, and Executive Order No. 41 (February 4, 1991).

Rule 0080-07-01-.06 Transportation is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

0080-07-01-.06 Transportation: Saddle and Pack Animals and Off-Road Vehicles.

- (1) The district forester shall designate areas for use by certain types of transportation. Unauthorized off road travel by any means of transportation is prohibited.
- (2) Riders of saddle and pack animals are:
 - (a) Allowed only on those trails or routes designated for their use, unless the district forester has issued a permit authorizing cross-county travel.
 - (b) Not allowed on paved or main-traveled roadways except where necessary for ingress to and egress from trails or privately owned property.
 - (c) Required to have, in their possession, evidence of a negative test for Equine Infectious Anemia.
- (3) Riders of motorcycles, trail bikes, all-terrain vehicles, bicycles and other off-road vehicles:
 - (a) Only allowed to use the unpaved roadways and not the public roadways maintained by the Forestry Division designated for their use.
 - (b) Must have properly functioning spark arresters.
 - (c) Must have properly functioning mufflers. No person shall operate a motorized vehicle on any roadway unless such motorized vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise.
 - (d) Must use the unpaved roadways and not the public roadways in accordance to speed limits or other notices that may be posted.
- (4) The district forester shall designate certain roadways and areas for the use by motorcycles, trail bikes, all-terrain vehicles, bicycles and other off-road vehicles provided:
 - (a) These areas are posted for such use and may be used only during daylight hours.
 - (b) The use of unlicensed motorcycles, trail bikes, all-terrain vehicles, bicycles and other off-road vehicles in any area of a state forest is strictly prohibited, except on roadways or trails maintained by the Forestry Division designated and/or posted for specified use(s). The prohibition does not apply to state employees, agents or contactors engaged in official duties or as allowed by the district forester or any permitted use by the district forester for handicapped persons.

- (5) Motorized vehicle races, motorized vehicle racing or timed motorized vehicle competitions are prohibited in state forests.
- (6) The operation or riding of any form of transportation in a state forest in a reckless or otherwise unsafe manner is prohibited. Reckless means operating or riding of any form of transportation in a manner to endanger life, limb or safety of others or the property of the state or others.

Authority: T.C.A. §§ 4-3-201 et seq., 11-1-101 et seq., 11-4-101 et seq., 44-2-1302, 55-9-202, 55-9-302, and Executive Order No. 41 (February 4, 1991).

Rule 0080-07-01-.11 Penalties and Assistance is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

0080-07-01-.11 Penalties and Assistance.

- (1) Violation of these rules may be a misdemeanor and punishable under the general law relating to misdemeanors.
- (2) The district forester can call upon any law enforcement officer or agencies and state departments and agencies for assistance in enforcing these rules and regulations.
- (3) All incidents resulting in the injury to persons or damage to property must be reported by the person or persons involved as soon as possible, but not to exceed seven (7) working days, to the district forester. This report does not relieve persons from the responsibility of making any other accident reports which may be required under state law.

Authority: T.C.A. §§ 4-3-201 et seq., 11-1-101 et seq., 11-4-101 et seq., and Executive Order No. 41 (February 4, 1991).

The proposed rules set out herein were properly filed in the Department of State on the 17th day of August, 2007, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of december, 2007. (FS 08-11-07; DBID 2654)

ADDENDUM
AS REQUIRED BY PUBLIC CHAPTER NO. 464
ECONOMIC IMPACT STATEMENT

Tennessee Department of Agriculture
Amendments/New Rules
Chapter No. 0080-7-1
Protection of State Forests

The proposed amendments of The Division of Forestry, Department of Agriculture submitted herein have been reviewed by the agency according to the guidelines of Public Chapter No. 464, Public Acts 2007 and are anticipated to have no economic impact affecting small businesses.