

Why preserve our forests?

The Delaware Forestland Preservation Program preserves our state's working forests so they can continue to provide the wide range of benefits that Delawareans enjoy, such as clean air, fresh water, moderate temperatures, erosion control, recreational opportunities, and wildlife habitat. We also need sustainable, managed forests for the countless wood products we use everyday. Yet Delaware's forests are disappearing at an alarming rate due to land-use changes (primarily development). If we are to preserve the quality of life we enjoy in Delaware, we must all make an effort to protect our remaining forests.

How does the program help landowners?

- No property/school tax on the unimproved lands, except for ditch tax (landowner still pays property/school tax on lands for residential use)
- No realty transfer tax if the property is sold (unless the land is withdrawn from the FPA within five years of the sale)
- All new subdivisions that are within 300 feet of the FPA, either whole or in part, will have deed restrictions that state the property is in the vicinity of an FPA and that forest management activities are likely to occur
- No buildings associated with a new subdivision that require an occupancy permit are allowed within 50 feet of the FPA
- Substantial payment for permanent preservation
- Additional right-to-farm protection (if an owner is sued regarding a nuisance complaint related to normal agricultural activities, then he can recover legal fees incurred during his defense)

Who can participate?

Minimum requirements:

- 10 acres or more of forestland
- Outside Delaware's designated growth areas
- Zoned agricultural and no major subdivision recorded for the property
- Property must have a forest management plan prepared by a professional forester and updated every five years
- All of the woodland must be included in the FPA (a landowner cannot exclude a portion of the forest property from the FPA)

Delaware Forest Service

<http://dda.delaware.gov/forestry>



Delaware Department of Agriculture
2320 South DuPont Highway
Dover, DE 19901
(302) 698-4550

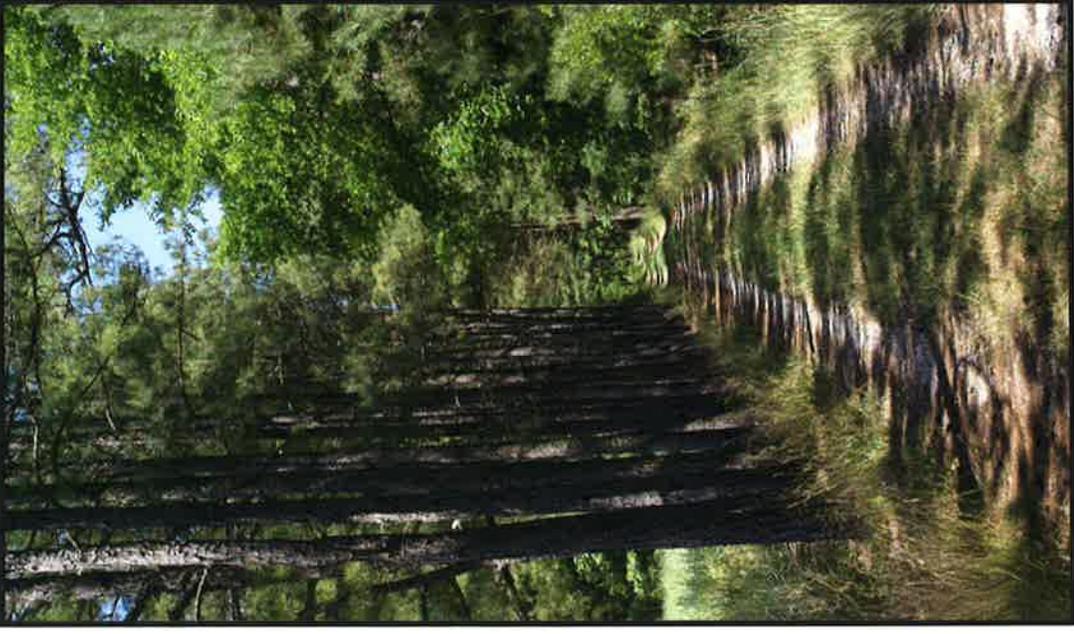
(800) 282-8685 (DE only)

Doc. #65-01-04/06/09/03

Updated March, 2014

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Delaware's Forestland Preservation Program



How does the program work?

Delaware's Forestland Preservation Program was designed to protect forestland through perpetual conservation easements, which are permanent deed restrictions whereby the landowner still owns the property but certain activities, such as development, are prohibited. The owner can sell the property, but all future owners must also follow the same restrictions.

This program is designed to protect working forests; therefore, the easements allow forest management activities, including timber harvests, to continue. Landowners can harvest timber at any time on their property as long as they follow a forest management plan that was prepared by a professional forester. The program also does not affect hunting activities on the property.

Phase I: Forest Preservation Area (FPA) Agreement

Landowners enroll their woodland into an FPA for 10 years. After the initial 10 years, the agreement automatically renews in five-year increments unless the landowner requests to withdraw the property from the FPA.

Property Restrictions:

- Landowners with at least 30 acres of woodland are allowed to have one seasonal structure (hunting/recreational cabin). The footprint of this structure and its surroundings (lawn, etc.) cannot exceed one acre.
- Landowners are allowed up to one acre of land for residential use (houses) for every 20 acres of land in the FPA, up to a maximum of 10 acres devoted to residential use. The acreage for the seasonal housing is included in this total.

- Furthermore, no more than three houses are allowed on the residential acreage. Any existing homes and the seasonal housing are counted in this total (e.g., if a landowner has two existing homes on the property and a hunting cabin, then he/she is not allowed any additional homes). The locations of future dwellings must be designated at the time the FPA is established. (*Note:* if a landowner has 200 or more acres in the FPA, they are allowed 10 acres for residential use; however, they are still only allowed three dwelling units.)

- During the life of the FPA, no rezoning or major subdivision are allowed. Only forest management and wildlife management activities, as outlined in the forest management plan, are permitted.

Phase II – Forest Preservation Easement (perpetual)

- Once landowners are enrolled in an FPA, at any time during the initial 10-year agreement or the subsequent five-year agreement terms, they can apply to sell their development rights.

- The State will pay for an appraisal of the property to determine the highest and best use (HBU) value.

- The forest-only value of the property will be based on the property's soil quality: the better the soil for timber production, the higher the property's value for forestland.

- The difference between the HBU and forest-only values is the full market value of the development rights and is the basis for the negotiated value.

- If selected for easement purchase, the state will also pay for a survey of the property prior to settlement.

Selection Process

Because funds, when available, will likely be less than the value of all the applications received, properties will be chosen for easement purchase based on four criteria:

- The amount of money the landowner is willing to accept for the easement versus the easement's full market value (i.e. how much the owner is willing to discount the value of the easement)
- The productivity of the soils on the property (based on timber production)
- If the property is located within a State Resource Area
- If the property is located within a state-designated Natural Area

