

Regulatory Analysis Form		This space for use by IRRC
<p>(1) Agency</p> <p>Department of Conservation & Natural Resources</p>		<p>RECEIVED 10/15/02</p> <p>REGULATORY ANALYSIS SECTION</p> <p>IRRC Number: <u>2273</u></p>
<p>(2) I.D. Number (Governor's Office Use)</p> <p>7B-004</p>		
<p>(3) Short Title</p> <p>State Forest Picnic Areas</p>		
<p>(4) PA Code Cite</p> <p>17 Pa. Code Chapter 23</p>	<p>(5) Agency Contacts & Telephone Numbers</p> <p>Susan Wood, Assistant Counsel, Office of Chief Counsel, 772-4171, swood@state.pa.us</p>	
<p>(6) Type of Rulemaking (Check One)</p> <p><input type="checkbox"/> Proposed Rulemaking</p> <p><input checked="" type="checkbox"/> Final Order Adopting Regulation</p> <p><input type="checkbox"/> Final Order, Proposed Rulemaking Omitted</p>	<p>(7) Is a 120-Day Emergency Certification Attached?</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes: By the Attorney General</p> <p><input type="checkbox"/> Yes: By the Governor</p>	
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <p>The purpose of this rulemaking is to improve the protection of State Forest resources and to increase the safety and enjoyment of visitors to State Forest Picnic Areas. It adds several rules of conduct for picnic area visitors and liberalizes others. It shortens the chapter by eliminating unnecessary provisions.</p>		
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p>The Department is authorized to promulgate these regulations by Sections 302 (relating to forests) and 313 (relating to rulemaking authority) of the Conservation and Natural Resources Act, 71 P.S. §§ 1340.302, 1340.313; and Sections 7505 (relating to violation of governmental rules regarding traffic) and 7506 (relating to violation of rules regarding conduct on Commonwealth property) of the Crimes Code (18 Pa.C.S. §§ 7505, 7506).</p>		

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The Department is mandated by the Conservation and Natural Resources Act, 71 P.S. § 1340.313 (relating to rulemaking authority), to promulgate regulations for the control, management, protection, utilization, development, occupancy and use of the lands and resources of state parks and state forests as it may deem necessary or proper to conserve the interests of the Commonwealth.

The Department is also mandated by the Crimes Code, 18 Pa.C.S. § 7505 (relating to violation of governmental rules regarding traffic), to promulgate regulations governing all vehicular traffic on land under the jurisdiction of the Department.

The Department is not mandated by federal law or regulation or court order to promulgate these regulations.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Chapter 23 needs to be updated to address changing needs in State Forest Picnic Areas regarding visitor safety and protection of State Forest resources.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

Non-regulation would result in lack of protection of State Forest resources and visitors.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The revisions to Chapter 23 will improve the protection of the 27 State Forest Picnic Areas and visitors to these areas.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effect as completely as possible and approximate the number of people who will be adversely affected.)

No one will be adversely affected by the regulations.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All visitors to State Forest Picnic Areas are required to comply with Chapter 23.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Conservation and Natural Resources Advisory Council reviewed the rulemaking in its proposed form and offered several comments. The Department received comments from one person during the public comment period.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

This proposed rulemaking imposes no new costs or savings to the regulated community.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Not applicable.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting or consulting procedures which may be required.

The costs to the Department—new postings of Chapter 23 for the 27 State Forest Picnic Areas and new postings of camping permit conditions for Asaph and County Bridge State Forest Picnic Areas—will be minimal.

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(20) In the table below, provide an estimate of the fiscal savings and cost associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

Not applicable.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

Not applicable.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Not applicable.

Program	FY-3	FY-2	FY-1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Not applicable.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Nonregulatory alternatives would not be appropriate. See answer to #10.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Not applicable.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no federal standards.

(25) How does the regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

All state forest agencies have similar regulations. Adoption of these revisions will not put Pennsylvania at a competitive disadvantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No. Because this rulemaking is non-controversial and will have minimal impact on the public, hearings and informational meetings will not be held.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Not applicable.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The anticipated effective date of the regulation is January, 2003.

(31) Provide the schedule for continual review of the regulation.

The effectiveness of Chapter 23 will be monitored on an ongoing basis.

FACE SHEET
 FOR FILING DOCUMENTS
 WITH THE LEGISLATIVE REFERENCE BUREAU
 (Pursuant to Commonwealth Documents Law)

2273

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

 (DEPUTY ATTORNEY GENERAL)

 DATE OF APPROVAL

Check if applicable
 Copy not approved. Objections
 attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

DEPARTMENT OF
 CONSERVATION & NATURAL RESOURCES
 (AGENCY)

DOCUMENT/FISCAL NOTE NO. 7B-004

DATE OF ADOPTION: _____

BY: X *JH Phelan*

TITLE: John C. Oliver, Secretary
 (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

BY: *[Signature]*

10/23/02
 DATE OF APPROVAL

(Deputy General Counsel)
 (Chief Counsel, Independent Agency)
 (Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

FINAL RULEMAKING

17 PA CODE, CHAPTER 23

STATE FOREST PICNIC AREAS

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

[17 PA. CODE CH. 23]

State Forest Picnic Areas

The Department of Conservation and Natural Resources (Department), Bureau of Forestry, adopts amendments to Chapter 23 (relating to State forest picnic areas). This chapter has not been revised since it was promulgated in 1979. The amendments improve the protection of State forest resources and safety of visitors.

The amendments also eliminate provisions in Chapter 23 that duplicate provisions in Chapter 21 (relating to general provisions) or that would more appropriately be in the form of camping permit conditions.

A. *Effective Date*

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

B. *Contact Person*

For further information, contact William R. Slippey, Chief, Recreation Section, Operations and Recreation Division, Bureau of Forestry, DCNR, P. O. Box 8552, Harrisburg, PA 17105-8552; (717) 783-7941; fax (717) 783-5109; or e-mail at forestrecreation@state.pa.us.

Persons with disabilities may use the AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users).

This rulemaking is available electronically through the Department's website at www.dcnr.state.pa.us/forestry.

C. *Statutory Authority*

This rulemaking is made under the authority in §§ 302 and 313 of the Conservation and Natural Resources Act (71 P. S. §§ 1340.302 and 1340.313) and 18 Pa.C.S. §§ 7505 and 7506 (relating to violation of governmental rules regarding traffic; and violation of rules regarding conduct on Commonwealth property).

D. *Background and Purpose*

Under Executive Order 1996-1, "Regulatory Review and Promulgation," the Department reviewed Chapter 23 and determined that it needed to be updated and streamlined. This proposed rulemaking is intended to accomplish these objectives.

E. *Summary of Comments and Responses and Changes Made in the Final-Form Rulemaking*

This rulemaking was published as proposed on June 8, 2002 (32 Pa.B. 2851), with a 60-day public comment period. As a result of comments received from the public and from the Independent Regulatory Review Commission (IRRC), the Department made a number of changes to the proposed regulations. The comments and changes are discussed below.

Comment

Subsection 23.22(d) of the previous regulation that prohibited disorderly conduct and obscene or lewd acts or dress should not be deleted. Even though these activities are covered by the Crimes Code, it is more difficult for Department personnel to enforce the Crimes Code than to enforce its own regulations.

Response

The provision that was deleted from § 23.22(d) in the proposed regulation has been restored in the final regulation with a modification. The deleted provision prohibited disorderly conduct and obscene or lewd acts or dress. In the final regulation, that provision remains deleted from § 23.22, but a new section has been added which contains that provision. New § 23.24 (relating to disorderly, indecent, obscene, lewd conduct) adds indecent exposure to the activities that are prohibited. This provision is being retained in Chapter 23 because some State forest districts do not have DCNR Rangers on staff to patrol picnic areas and therefore must rely on non-commissioned State forest officers for enforcement activities. Non-commissioned State forest officers do not have the authority to enforce the Crimes Code but do have the authority to enforce State forest regulations.

Comment

Subsection 23.11(c)(1) (relating to schedule) and § 23.22 (relating to organized events) include the phrases "written permission of the Department" or "written authorization of the Department." Subsection 23.16 (relating to fires) references § 21.62(b) (relating to open fires), which includes the phrase "authorization from the District Forester or a designee." The final-form regulation should describe how to apply for "approval" or indicate where this information is available.

Response

In § 23.22, the word “authorization” has been replaced with “permission” to make it consistent with the language used in § 23.11(c)(1). “Permission of the Department” is defined in § 23.1 (relating to definitions) of the final regulation as “approval obtained from a district forester or designee.”

Comment

Subsection 23.11(b) (relating to schedule) states: “A State forest picnic area may be closed by the Department to public use.” The final-form regulation should identify how the public will be notified of a closure.

Response

This subsection and § 23.11(c) have been deleted in the final regulation because they duplicate provisions in § 21.4 (relating to State Forests—closure). Section 21.4(b) states that the public will be informed of the closure by “any form of communication, which may include posted signs, or by fencing or other enclosure manifestly designed to exclude intruders.”

Comment

Section 23.15, which was entitled “litter” in the previous and proposed regulation, states that trash accumulated during the use of a picnic area may be placed in trash containers found in those areas. This revised section does not address litter. It addresses trash and garbage accumulated while in a picnic area. We recommend that the title of this section be changed to more accurately reflect the subject matter addressed.

Response

The title of § 23.15 has been changed in the final regulation to “trash and garbage disposal.”

Comment

Under § 23.16(a) (relating to fires), “open fires” are permitted in “designated facilities,” but neither term is defined. The Department should either define or provide examples of these terms in the final-form regulation.

Response

To clarify this subsection, the word “open” has been deleted, and the term “designated facilities” has been replaced with “fire rings and fireplaces provided by the Department.” In addition, in order to make it clear that visitors may bring gas grills and camp stoves to picnic areas, the final regulation states that fires will be permitted in these appliances.

Comment

Subsection 23.16(d) (relating to fires) refers to § 21.62(b) (relating to State Forests—open fires) that prohibits “open fires” in picnic areas from March 1 through May 25 and from October 1 through December 1 without authorization from a District Forester. Is this prohibition needed since § 23.16(a) only allows fires in designated facilities? If the reference is retained, the term “open fires” needs to be used consistently in both § 23.16 and § 21.62.

Response

As discussed in response to the previous comment, the words “open” and “designated facilities” have been deleted in § 23.16(a) for purposes of clarification. Consistent with this change, § 23.16(d) has been clarified in the final regulation to state that fires in fire rings and fireplaces are subject to the prohibitions in § 21.62(b).

Comment

Section 23.22 (relating to organized events) requires written authorization from the Department for an “instruction, exhibition, competition, demonstration or other organized or special event” but does not define these events or indicate a minimum number of participants. The section should clearly state what specific activities require a permit. It should also specify the minimum number of people that constitute a group or event.

Response

Because of the wide variety of events that could be covered by this section and because of the many factors that could affect the impact of a particular group or event in a particular picnic area at a particular time, it would be impossible to adequately define such events and to specify a minimum number of participants. Examples of events that are covered by this section are day camps, family reunions, church services, and archery instruction. Organized events for which picnic areas are used as staging areas are also covered by this section. Examples are ice skating, running, walking, bicycling events, motorcycle competitions, motorcycle rides, sports car rallies, orienteering competitions and fishing derbies.

The picnic area regulations have always included an organized event provision similar to this one. The provision has been understandable to the public and has provided the necessary flexibility for forest districts to work with the public in accommodating many kinds of activities. For these reasons, the Department has not added the specificity suggested by the comment.

In addition to the changes made in this final-form regulation in response to comments it received on the proposed rulemaking, the Department also made a change as a result of its own review of the proposed rulemaking. In the proposed rulemaking, § 23.12 (relating to motor vehicles) was deleted because it duplicated provisions in § 21.21 (relating to motor vehicles), which applies to all State forest land including picnic areas. In the final-form regulation, the provision that was in subsection (c) of § 23.12 has been restored (with a minor editorial modification) because it prohibits nuisance operation of motor vehicles. It has been useful for prosecuting persons who, for example, repeatedly cruise picnic loops, annoying picnickers.

F. *Benefits, Compliance Costs*

Executive Order 1996-1 requires a cost/benefit analysis of the final-form regulations.

Benefits

Visitors to the 27 State Forest Picnic Areas will benefit from the improved protection of, and recreational opportunities in, these areas.

Compliance Costs

The amendments to Chapter 23 impose no additional costs or paperwork requirements on the general public, local governments or the private sector. The amendments will result in the negligible cost to the Commonwealth of posting camping permit conditions for Asaph and County Bridge State forest picnic areas.

G. *Sunset Review*

Chapter 23 will be monitored by the Department to determine whether the regulations effectively accomplish their intended goals.

H. *Regulatory Review*

Under § 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 22, 2002, the Department submitted a copy of this proposed rulemaking, published at 32 Pa.B. 2851, June 10, 2002, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment.

Under § 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), IRRC and the committees were provided with copies of the comment received during the public comment period. In preparing these final-form regulations, the Department has considered all comments from IRRC and the public. No comments were received from the legislative committees.

Under § 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), on _____, these final-form regulations were deemed approved by the House and Senate Committees. Under § 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)), IRRC met on _____ and approved the final-form regulations.

I. *Order of the Secretary*

Acting under the authorizing statutes, I hereby order that:

(1) The regulations of the Department of Conservation and Natural Resources, 17 Pa. Code, are amended by amending Chapter 23 to read as set forth in Annex A.

(2) The Department shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval and review as to legality and form, as required by law.

(3) The Department shall submit this order and Annex A to the Independent Regulatory Review Commission and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(4) The Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(5) This order shall take effect immediately.

BY:

John C. Oliver
Secretary
Department of Conservation and
Natural Resources

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

[17 PA. CODE CH. 23]

Annex A

TITLE 17. CONSERVATION AND NATURAL RESOURCES

PART I. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Subpart C. STATE FORESTS

CHAPTER 23. STATE FOREST PICNIC AREAS

PRELIMINARY PROVISIONS

§ 23.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*[Bureau--*The Bureau of Forestry of the Department.

*District Forester--*The Bureau of Forestry employe so designated.]

*PERMISSION OF THE DEPARTMENT--*APPROVAL OBTAINED FROM A DISTRICT FORESTER OR DESIGNEE.

*State forest picnic area or picnic area--*An area on State forest land designated by the Department as a State forest picnic area.

§ 23.2. [Scope] Application.

[This chapter applies to all State Forest Picnic Areas in the Commonwealth under the jurisdiction of the Bureau.] State forest picnic areas are subject to Chapter 21 (relating to general provisions) AND THIS CHAPTER.

§ 23.3. Violations.

(a) A person [is guilty of] who engages in an act which is prohibited by § 21.21 or § 21.25 (relating to State Forests--motor vehicles; and State Forests--parking) commits a summary offense under 18 Pa.C.S. § 7505 (relating to violation of

governmental rules regarding traffic) [if that person commits any act which is prohibited by § 23.12 (relating to motor vehicles)].

(b) A person [is guilty of] who engages in an act which is prohibited by this chapter, other than an act prohibited by § 21.21 or § 21.25, commits a summary offense under 18 Pa.C.S. § 7506 (relating to violation of rules regarding conduct on Commonwealth property) [if that person commits any act which is prohibited by any provision of this chapter other than those set forth in subsection (a)].

MISCELLANEOUS PROVISIONS

§ 23.11. Schedule.

(a) ~~Hours of use.~~ State [Forest Picnic Area day-use] forest picnic areas are open to the public between [8 a.m.] sunrise and sunset.

(b) ~~Closing [of State Forest Picnic Areas. Any]~~ ~~A State [Forest Picnic Area] forest picnic area may be closed by the Department to public use [at the discretion of the Director of the Bureau].~~

(e) ~~Entry.~~ [Entry by any person upon a State Forest Picnic Area during hours or times of closure shall be prohibited.]

~~(1) Except as provided in paragraph (2) SUBSECTION (C) OR EXCEPT WITH WRITTEN PERMISSION OF THE DEPARTMENT, entering, using or remaining in a State forest picnic area that WHEN IT is not open to the public UNDER SUBSECTION (A) is prohibited without written permission of the Department.~~

~~(2) (C) Entering a State forest picnic area WHEN IT IS NOT OPEN TO THE PUBLIC UNDER SUBSECTION (A) IS PERMITTED for the purpose of fishing or for the purpose of gaining access to another area of State forest land that is open for public use is permitted unless posted otherwise.~~

§ 23.12. [Motor vehicles] ~~(Reserved)~~ MOTOR VEHICLES.

[(a) Licensed vehicle operators shall use only the roads and parking areas open to public traffic, unless otherwise designated by the District Forester. Commercial traffic will be permitted on State Forest Picnic Area roads only when providing authorized service; all other commercial traffic is prohibited.

(b) The operation of unlicensed motor vehicles shall be prohibited on State Forest Picnic Area roads, trails and other areas except where specially designated.

(c) Excessive noise, nuisance and reckless or negligent operations of vehicles shall be prohibited.] OPERATION OF A MOTOR VEHICLE IN A MANNER

THAT IS RECKLESS OR NEGLIGENT OR THAT CREATES A NUISANCE OR EXCESSIVE NOISE IS PROHIBITED.

§ 23.13. [Soliciting] (Reserved).

[Soliciting for any purpose or posting of signs shall be prohibited.]

§ 23.14. Alcoholic beverages.

Possession or [use] consumption of alcoholic beverages [shall be] is prohibited.

§ 23.15. ~~Litter~~ TRASH AND GARBAGE DISPOSAL.

[Trash and garbage shall be placed in containers provided for this purpose and shall be limited to material accumulated during use of State Forest Picnic Areas. Littering of areas with garbage, paper or other waste shall be prohibited.] If containers for disposal of trash and garbage are provided by the Department, trash and garbage accumulated during use of a State forest picnic area may be placed in these containers. Disposing of any other material in these containers is prohibited.

§ 23.16. Fires.

[Open fires shall be permitted only in the facilities provided and shall be completely extinguished before being left. All other fires shall be prohibited.] (a) ~~Open fires~~ FIRES are permitted in designated facilities, FIRE RINGS AND FIREPLACES PROVIDED BY THE DEPARTMENT AND IN GAS GRILLS AND CAMP STOVES, and charcoal CHARCOAL fires are permitted in appliances designed for that purpose. All other fires are prohibited.

(b) Disposing of hot charcoal except in a facility designated by the Department for charcoal disposal is prohibited.

(c) Leaving a fire that has not been completely extinguished is prohibited.

(d) ~~This section is~~ FIRES IN FIRE RINGS AND FIREPLACES ARE subject to the prohibition in § 21.62(b) (relating to open fires).

§ 23.17. Hunting, trapping and shooting.

Hunting, trapping and the discharge of firearms [or], bows and arrows [shall be], or OTHER devices capable of launching projectiles are prohibited.

§ 23.18. [Fishing] (Reserved).

[Fishing shall be permitted in accordance with current Pennsylvania fish laws unless otherwise posted. Fishing in violation of posted closure or special restriction notices shall be prohibited.]

§ 23.19. [Swimming] (Reserved).

[Swimming shall be prohibited at all State Forest Picnic Areas.]

§ 23.20. Pets.

Pets are [permitted in State Forest Picnic Areas provided] prohibited unless they are on a leash not exceeding 6 feet [in length] and are attended at all times. [It is prohibited for a person to allow his pet to be unattended or improperly leashed in a State Forest Picnic Area.]

§ 23.21. [Camping] (Reserved).

[Camping in State Forest Picnic Areas is prohibited except at the Asaph and County Bridge State Forest Picnic Areas in Tioga County.]

§ 23.22. [Miscellaneous prohibitions] Organized events.

[(a) It is prohibited to remove, molest, injure or damage a natural or physical object within a State Forest Picnic Area.

(b) Unnecessary disturbances or excessive noise are prohibited.

(c) An instruction, exhibition, competition, demonstration or other organized ACTIVITY or special event is prohibited without [agreement and approval of the Bureau] written authorization PERMISSION of the Department.

[(d) Disorderly conduct and obscene or lewd acts or dress is prohibited.]

§ 23.23. Removal of facilities.

Removal from State forest picnic areas of picnic area facilities, including picnic tables, grills, fire rings, or containers for disposal of trash, garbage, or charcoal is prohibited.

§ 23.24. DISORDERLY, INDECENT, OBSCENE, LEWD CONDUCT.

DISORDERLY CONDUCT, INDECENT EXPOSURE, AND OBSCENE OR LEWD ACTS OR DRESS IS PROHIBITED.

[ASAPH AND COUNTY BRIDGE STATE FOREST PICNIC AREAS
CAMPING REGULATIONS]

§ 23.41. [Use] (Reserved).

[Camping at the Asaph and County Bridge State Forest Picnic Areas is restricted to designated campsites. Camping at undesignated campsites are prohibited.]

§ 23.42. [Occupancy] (Reserved).

[(a) Occupancy of a campsite is limited to living facilities to house one family unit or a nonfamily group limited to five persons per site. A responsible person of at least 18 years of age shall accompany each party.

(b) Maximum camping period is limited to 7 consecutive nights, provided campsites are available.

(c) Campsites are to be vacated by 4 p.m. unless the permit is renewed before 12 p.m. consistent with the 7-night limitation.

(d) Campsites left unattended overnight will be deemed abandoned and the permit will be revoked.]

§ 23.43. [Permits] (Reserved).

[(a) Campers shall have a current camping permit. Camping permits are issued on a first-come-first-served basis for all sites.

(b) The fee for camping is \$4.00 per night.

(c) Camping without a current valid permit is prohibited.

(d) Persons violating the provisions of this chapter may, in addition to other penalties, be denied future permits.]

§ 23.44. [Noise] (Reserved).

[Unnecessary disturbances and excessive noises are prohibited.]

§ 23.45. [Fires] (Reserved).

[Fires are permitted only in camp stoves or in the fireplaces provided and shall be completely extinguished before being left. Other fires are prohibited.]

§ 23.46. [Visitors] (Reserved).

[Visitors are allowed in the campground only between the hours of 8 a.m. and sunset daily. It is prohibited for a person to remain in the campground between the hours of sunset and 8 a.m. without a current camping permit.]

§ 23.47. [Miscellaneous prohibitions] (Reserved).

[(a) The use of water outlets, springs, lakes or waterways for washing purposes or the discharge of trailer sewage or sink waste on or into the groundwater or surface waters is prohibited.

(b) Removal of tables, fireplaces or other Commonwealth property is prohibited.]

DEPARTMENT OF CONSERVATION & NATURAL RESOURCES
17 Pa. Code Chapter 23 (State Forest Picnic Areas)
Final Rulemaking—7B-004

Names and Addresses of Commenters

During the 60-day public comment period, the Department received one comment on the proposed rulemaking. The commenter is identified below as commenter #1. In addition, the Department received comments from the Independent Regulatory Review Commission, which is identified below as commenter #2.

ID	Name/Address	Zip	Submitted 1 – Page Summary	Provided Testimony	Requested Final Rulemaking
01	George Wagner 2 Mill St. Danville, PA	17821			
02	IRRC 333 Market St. 14 th Fl. Harrisburg, PA	17101			

Comment and Response Document

1. **Comment:** Subsection 23.22(d) of the previous regulation that prohibited disorderly conduct and obscene or lewd acts or dress should not be deleted. Even though these activities are covered by the Crimes Code, it is more difficult for Department personnel to enforce the Crimes Code than to enforce its own regulations. (1)

Response: The provision that was deleted from Subsection 23.22(d) in the proposed regulation has been restored in the final regulation with a modification. The deleted provision prohibited disorderly conduct and obscene or lewd acts or dress. In the final regulation, that provision remains deleted from Section 23.22, but a new section has been added which contains that provision. New Section 23.24 (relating to disorderly, indecent, obscene, lewd conduct) adds indecent exposure to the activities that are prohibited. This provision is being retained in Chapter 23 because some State forest districts do not have DCNR Rangers on staff to patrol picnic areas and therefore must rely on non-commissioned State forest officers for enforcement activities. Non-commissioned State forest officers do not have the authority to enforce the Crimes Code but do have the authority to enforce State forest regulations.

2. **Comment:** Subsection 23.11(c)(1) (relating to schedule) and Section 23.22 (relating to organized events) include the phrases “written permission of the Department” or “written

authorization of the Department.” Subsection 23.16 (relating to fires) references Section 21.62(b) (relating to open fires), which includes the phrase “authorization from the District Forester or a designee.” The final-form regulation should describe how to apply for “approval” or indicate where this information is available. (2)

Response: In Section 23.22, the word “authorization” has been replaced with “permission” to make it consistent with the language used in Section 23.11(c)(1). “Permission of the Department” is defined in Section 23.1 (relating to definitions) of the final regulation as “approval obtained from a district forester or designee.”

3. **Comment:** Subsection 23.11(b) (relating to schedule) states: “A State forest picnic area may be closed by the Department to public use.” The final-form regulation should identify how the public will be notified of a closure. (2)

Response: This subsection and Subsection 23.11(c) have been deleted in the final regulation because they duplicate provisions in Section 21.4 (relating to State Forests—closure). Section 21.4(b) states that the public will be informed of the closure by “any form of communication, which may include posted signs, or by fencing or other enclosure manifestly designed to exclude intruders.”

4. **Comment:** Section 23.15, which was entitled “litter” in the previous and proposed regulation, states that trash accumulated during the use of a picnic area may be placed in trash containers found in those areas. This revised section does not address litter. It addresses trash and garbage accumulated while in a picnic area. We recommend that the title of this section be changed to more accurately reflect the subject matter addressed. (2)

Response: The title of Section 23.15 has been changed in the final regulation to “trash and garbage disposal.”

5. **Comment:** Under Subsection 23.16(a) (relating to fires), “open fires” are permitted in “designated facilities,” but neither term is defined. The Department should either define or provide examples of these terms in the final-form regulation. (2)

Response: To clarify this subsection, the word “open” has been deleted, and the term “designated facilities” has been replaced with “fire rings and fireplaces provided by the Department.” In addition, in order to make it clear that visitors may bring gas grills and camp stoves to picnic areas, the final regulation states that fires will be permitted in these appliances.

6. **Comment:** Subsection 23.16(d) (relating to fires) refers to Section 21.62(b) (relating to State Forests—open fires) that prohibits “open fires” in picnic areas from March 1 through May 25 and from October 1 through December 1 without authorization from a District Forester. Is this prohibition needed since Subsection 23.16(a) only allows fires in designated facilities? If the reference is retained, the term “open fires” needs to be used consistently in both Sections 23.16 and 21.62. (2)

Response: As discussed in response to the previous comment, the words “open” and “designated facilities” have been deleted in Section 23.16(a) for purposes of clarification. Consistent with this change, Subsection 23.16(d) has been clarified in the final regulation to state that fires in fire rings and fireplaces are subject to the prohibitions in Section 21.62(b).

7. **Comment:** Section 23.22 (relating to organized events) requires written authorization from the Department for an “instruction, exhibition, competition, demonstration or other organized or special event” but does not define these events or indicate a minimum number of participants. The section should clearly state what specific activities require a permit. It should also specify the minimum number of people that constitute a group or event. (2)

Response: Because of the wide variety of events that could be covered by this provision and because of the many factors that could affect the impact of a particular group or event in a particular picnic area at a particular time, it would be impossible to adequately define such events and to specify a minimum number of participants. Examples of events that are covered by this section are day camps, family reunions, church services, and archery instruction. Organized events for which picnic areas are used as staging areas are also covered by this section. Examples are ice skating, running, walking, bicycling events, motorcycle competitions, motorcycle rides, sports car rallies, orienteering competitions and fishing derbies.

The picnic area regulations have always included an organized event provision similar to this one. The provision has been understandable to the public and has provided the necessary flexibility for forest districts to work with the public in accommodating many kinds of activities. For these reasons, the Department has not added the specificity suggested by the comment.



Pennsylvania Department of Conservation and Natural Resources

Rachel Carson State Office Building, P.O. Box 8767, Harrisburg, PA 17105-8767
Office of the Secretary

October 25, 2002

Mr. Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor, Harrisstown II
333 Market Street
Harrisburg, PA 17101

RE: Final Rulemaking: State Forest Picnic Areas (7B-004)

Dear Mr. Nyce: *Bob*

Enclosed is a copy of the above final-form regulation (face sheet, preamble, Annex A showing changes from proposed regulation, comment/response document, regulatory analysis form) for review by the Commission pursuant to the Regulatory Review Act.

The Department will provide the Commission with any assistance it may require to facilitate the review of this final regulation. If you have any questions regarding this proposal, please contact Susan Wood, Assistant Counsel, Office of Chief Counsel, at 772-4171.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'John C. Oliver'.

John C. Oliver
Secretary

Enclosure

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 7B-004
 SUBJECT: State Forest Picnic Areas
 AGENCY: DEPARTMENT OF CONSERVATION & NATURAL RESOURCES

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
12/1/02	<i>D. Newton</i>	HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
10-25-02	<i>Cindy Zerin</i>	
10-25-02	<i>Diana Castelli</i>	SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
10-25-02	<i>A. Reparuzzi</i>	
10/25/02	<i>E. Pasquin</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU