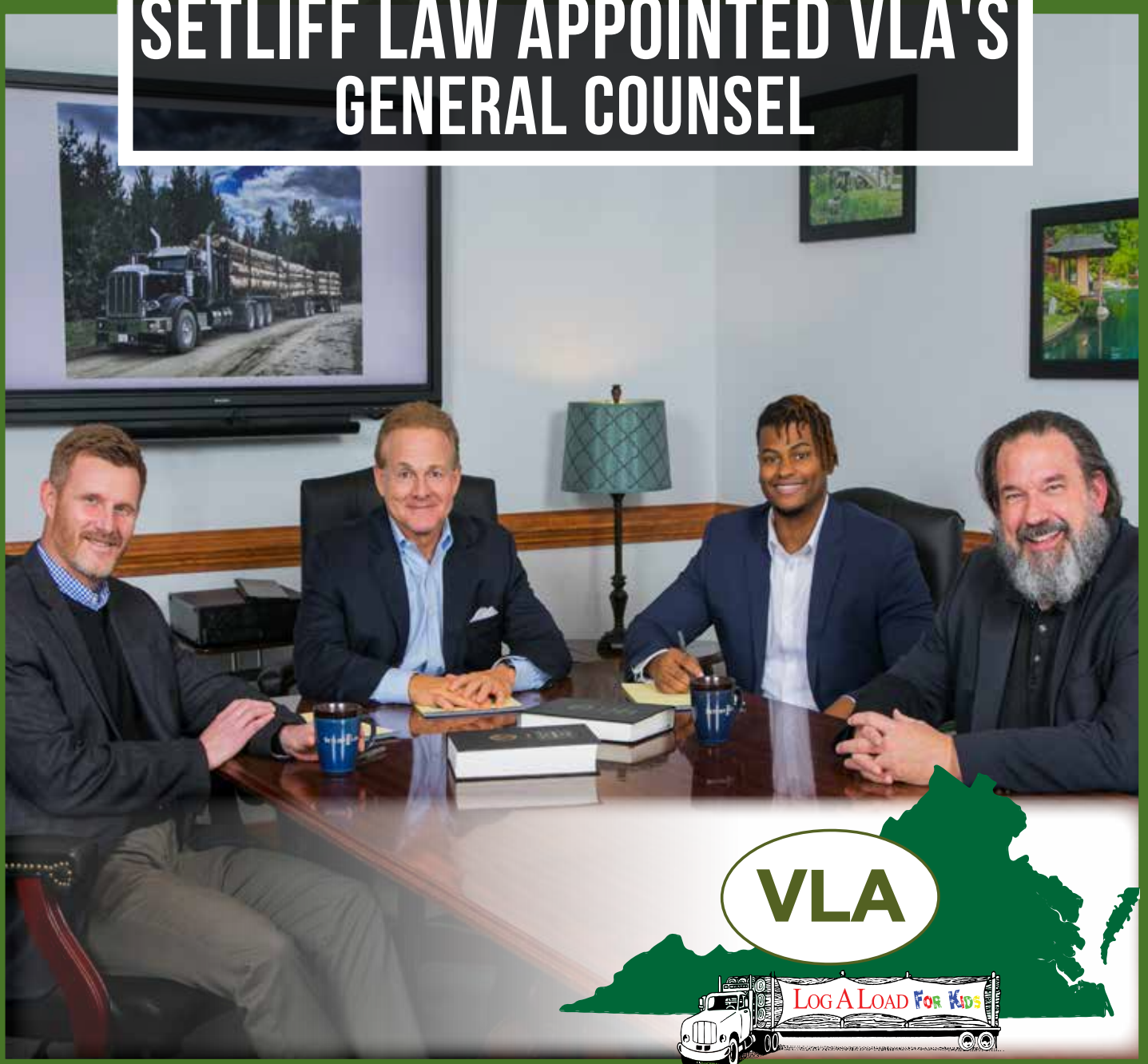


MARCH **2021** ISSUE

VA Loggers Association

**SETLIFF LAW APPOINTED VLA'S
GENERAL COUNSEL**



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Special thanks to Forestry Mutual and VLA Members for Bringing our New members!

Recruitment supports the heart & soul of our future!
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IMPORTANT 2021 DATES

MAR 14 Daylight Savings
MAR 17 St. Patty's day
APR 4 Easter
APR 30 & MAY 1 Mid - Atlantic Logging Expo, Laurenburg, NC
MAY 9 Mother's day
MAY 21-22 EXPO Richmond 2021
MAY 31 Memorial Day

***VLA BOD MEETINGS MONTHLY ZOOM MEETINGS
(CALL VLA FOR SPECIFIC DATES)**

AUG 5-8 VLA Annual Conference
AUG 6 Morning Legal Training
OCT 7-9 ALC Annual Meeting
NOV 5 Legal and Safety Training



March						
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30	31					

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This newsletter is published to keep members and friends of the Virginia Loggers Association informed.



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FROM THE PRESIDENT'S DESK | Frank Myers

As I write this, we are closing in on mid-February, 2021. It has been a very long and wet winter so far here in Southside Virginia, and the weather forecast seems to offer little relief. Sometimes it really makes you question your career choice, but it is not all bad.

I cannot tell you how fortunate the VLA is to have Stephen Setliff and his law firm as our general counsel. Stephen and his team have been attending our board meetings for several years now, and just about every meeting we have asked for their advice on a topic, or they have done research for us on the codes of Virginia. Lately, he has been assisting Ron on proposed bills in the General Assembly, giving the VLA a heads up on potential problems with worker compensation or transportation bills. This advice is invaluable to the mission of the VLA.

If you have not had the opportunity to hear Stephen speak at our conference or a Sharp logger class, I encourage each of you to do so. Grab his business card and get to know him. He is very knowledgeable about our industry and I can promise you when no one else will answer the phone, he will.

We had a truck wreck late one Friday afternoon and I tried calling several people, to no avail. The one that did call back and guide us through it was Stephen. His knowledge of the trucking industry could one day be very beneficial to your business as well.

Speaking of trucking, I had the opportunity to spend some time last week with Keith Biggs and Chris Huff with Forestry Mutual Insurance. I am not sure if anybody knows the answer, but trucking accidents and claims are still a major problem for our industry. If these trends continue, we are going to find it increasingly harder to obtain and afford insurance for our fleets. We will try to concentrate a newsletter on trucking in the near future. Until then, stay dry and log safely.

Frank Myers

FOREST PRO HAS NEW TEMPORARY LOCATION

Forest Pro has moved their Ashland location to 1056 Richmond Tappahannock HWY, Manquin, VA. Call them at the same phone number 804-752-7500. Service is working mainly out of their Scottsville location, but Forest Pro has a mechanic that stays in the new location area. Parts and sales are working from the new store normally!

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EXCLUSIVE MEMBER EVENTS & DISCOUNTS

EVENTS

APRIL 30 – MAY 1, 2021

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EXPO, LAURENBURG, NC.

MAY 21 - 22, 2021

EAST COAST LOGGING AND SAWMILL
EQUIPMENT EXPOSITION, RICHMOND,
VA.

AUGUST 5 -8, 2021

VLA ANNUAL CONFERENCE,
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OCTOBER 7 -9, 2021

2021 ANNUAL ALC MEMBERSHIP
MEETING, COUR D'ALENE RESORT,
IDAHO

MEMBER DISCOUNTS

INTERNATIONAL

MEMBERS RECEIVE A \$1,000 - \$4,000
REBATE ON CV, MV, HV & HX MODELS.
REBATE AMOUNT IS BASED ON TRUCK
MODEL & CONFIGURATION. NOV 2020 -
OCT 2021

PETERBELT

MEMBERS RECEIVE A \$2,000 CASH
REBATE ON MODELS 567, 367, OR 365.
LIMITED TO THREE (3) REBATES PER
MEMBER FOR CALENDAR YEAR 2020.

WESTERN STAR

REBATE AMOUNT IS BASED ON TRUCK
MODEL & CONFIGURATION. \$3,000 FOR
4900 MODEL WITH VEHICLE SERVICE
CODE OF A85-012, LOGGING SERVICE
TRUCK

MICHELIN TIRES

DISCOUNTS ON QUALITY TIRES.

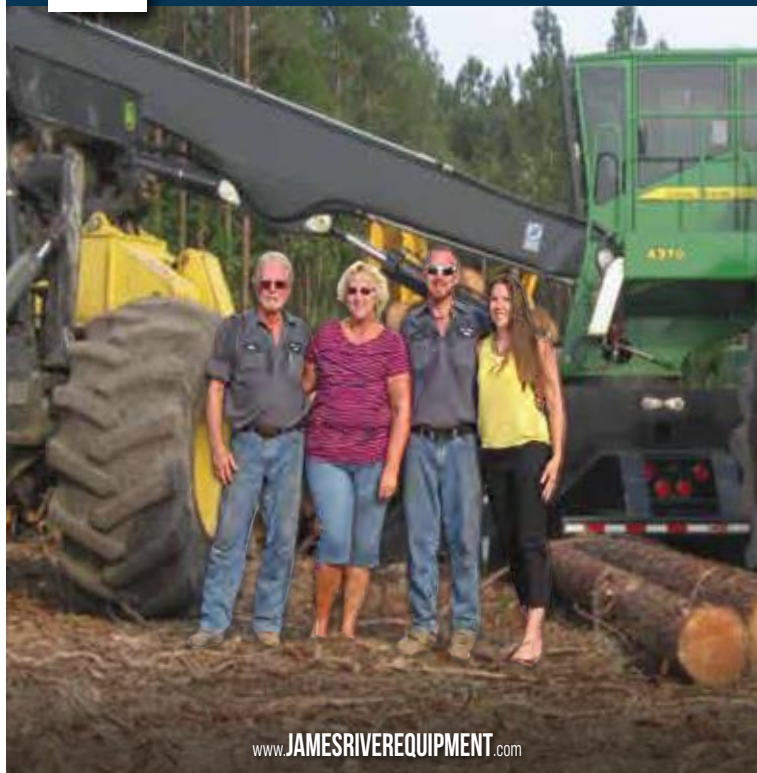
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COVID-19 VACCINATIONS IN THE WORKPLACE

On December 16, 2020, the EEOC released guidelines concerning COVID-19 vaccines in anticipation of their imminent availability. In general, the EEOC has advised that employers can require employees to receive a COVID-19 vaccine or provide proof of vaccination in order to return to or attend the workplace. In certain circumstances, an employer can bar an employee who refuses a COVID-19 vaccine from the workplace. The EEOC released answers to various questions regarding the workplace and COVID-19 vaccines, summarized below:

1. Is the administration of a COVID-19 vaccine by an employer to an employee a “medical examination” as defined by the ADA?

No. The administration of a COVID-19 vaccine does not constitute a “medical examination” under the ADA. The EEOC has previously clarified that a “medical examination” is, “a procedure or test usually given by a health care professional or in a medical setting that seeks information about an individual’s physical or mental impairments or health.” The mere administration of a vaccine does not rise to the level of a “medical examination” as the employer is not seeking information about the employee’s current health status. As the administration of a vaccine by an employer is NOT a medical examination under the ADA, the employer need not show that the administration is job-related and consistent with business necessity.

2. Are pre-vaccine screening questions subject to the ADA standard for disability-related inquiries?

Yes. If an employer requires that employees receive a COVID-19 vaccination administered by the employer, the employer must show that any pre-vaccine screening inquiries are job-related and consistent with business necessity. To meet this standard, an employer must have a reasonable belief that an employee’s refusal to answer the questions (and in turn, refusal to receive the vaccine) will pose a direct threat to the health and safety of themselves and others.

There are two situations in which the pre-vaccine inquiries can be asked without meeting the above-mentioned standard:

- 1) If the vaccine is offered on a voluntary basis – this would make the participation in the pre-vaccination screening voluntary.
- 2) If the employer requires that the vaccine be administered by a third-party, such as a pharmacy.

3. Is requiring an employee to show proof of vaccination a disability-related inquiry?

No. Requesting proof of vaccination is unlikely to elicit information about a disability. Questions about WHY an employee did not receive a vaccine may elicit such information and as such would be subject to the ADA standard that the questions be “job-related and consistent with business necessity.” In order to avoid the latter category of questioning, employers should be clear that they seek only a yes or no answer as to vaccination status and do not seek any further medical information.

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4. How should an employer respond to an employee who indicates they are unable to receive a vaccination due to a disability?

If a vaccination requirement screens out an employee with a disability, the employer must show that the unvaccinated employee poses a direct threat due to a “significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.” 29 CFR 1630.2(R). The following factors are helpful in determining if a direct threat exists:

- 1) The duration of the risk;
- 2) The nature and severity of the potential harm;
- 3) The likelihood that the potential harm will occur; and
- 4) The imminence of the potential harm.

If an employee cannot be vaccinated, they cannot be excluded from the workplace unless there is not a way to provide a reasonable accommodation that would reduce or eliminate the risk (i.e., remote working). If the direct threat cannot be reduced, the employer can exclude the employee from the workplace. This does NOT mean that the employer can terminate the employee.

5. How should an employer respond to an employee who indicates they are unable to receive a vaccination due to religious practices or beliefs?

If an employee cannot be vaccinated due to a sincerely held religious belief, practice, or observance, the employer must provide reasonable accommodations unless it poses undue hardship (more than a de minimis cost) on the employer. If the employer has an objective basis for questioning the sincerity of the alleged belief, practice, or observation, the employer would be justified in requesting additional supporting information.

If an accommodation (i.e., remote working) cannot be made, the employee can be excluded from the workplace. This does NOT mean that the employee can be terminated.

6. COVID-19 vaccines and GINA

Administering a COVID-19 vaccine to employees or requiring proof of vaccination does not implicate title II of GINA.

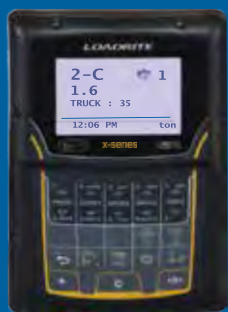
Pre-vaccination screening questions may involve genetic information such as:

- 1) Information about an individual’s genetic tests;
- 2) Information about the genetic tests of a family member;
- 3) Information about the manifestation of disease or disorder in a family member (i.e., family medical history);
- 4) Information about requests for, or receipt of, genetic services or the participation in clinical research that includes genetic services by the individual or a family member of the individual
- 5) Genetic information about a fetus carried by an individual or family member or of an embryo legally held by an individual or family member using assisted reproductive technology.

If the pre-vaccination screening does not illicit any genetic information, then the screening does not implicate title II of GINA. To avoid such an issue, employers can request proof of vaccination by a third-party. When making such a request, employers should clearly indicate that they are not seeking any genetic information as part of the response.

If you have any questions about this article, please contact Sean Mackin (smackin@setliffllaw.com) at 804-377-1272 or Steve Setliff (ssetliff@setliffllaw.com) at 804-377-1261.

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EXECUTIVE DIRECTOR'S CORNER

Ron Jenkins

2021 Goals for VLA

Looking ahead is much more fun than looking back, especially if 2020 is in the rear view! I suggest now is a great time to write down our goals while we are full of hope for a better year. After all, we have 12 months to accomplish them before we take count. VLA leadership wants to share our collective goals and ask for your support in achieving them. Like others we will be challenged to achieve them, yet VLA also remains optimistic that our industry and representative association will overcome the challenges. VLA continues to work for members and the industry regardless of the pandemic. We are grateful to our loggers, mills, supporters, advertisers, authors, local, state, and federal partners, and private sector businesses who kept us spot-on target.

This new year 2021 is even better than the optical term "2020" vision because now we have hindsight as our friend. The new year is an opportunity for VLA. VLA's Board of Directors are already looking for ways to bring more opportunity to better serve members and our industry. VLA Board of Directors elected Frank Myers as its President and Chad Shelton as Vice President. Vance Wright will serve as the Past President. Judd Smith will serve on the American Loggers Council Board of Directors representing VLA. Donnie Reaves from Bedford County, VA will serve on the ALC Board of Directors representing Independent Loggers. VLA feels extremely fortunate that Setliff Law agreed to serve as General Counsel to Virginia Loggers Association. Association business will be improved and kept on proper legal tracking and individual VLA members benefit when legal counsel is needed. Please read the full announcement in this issue. Our collective goals are to work on areas of greatest importance and benefit to our industry.

Below are a few ways we plan to move forward in 2021.

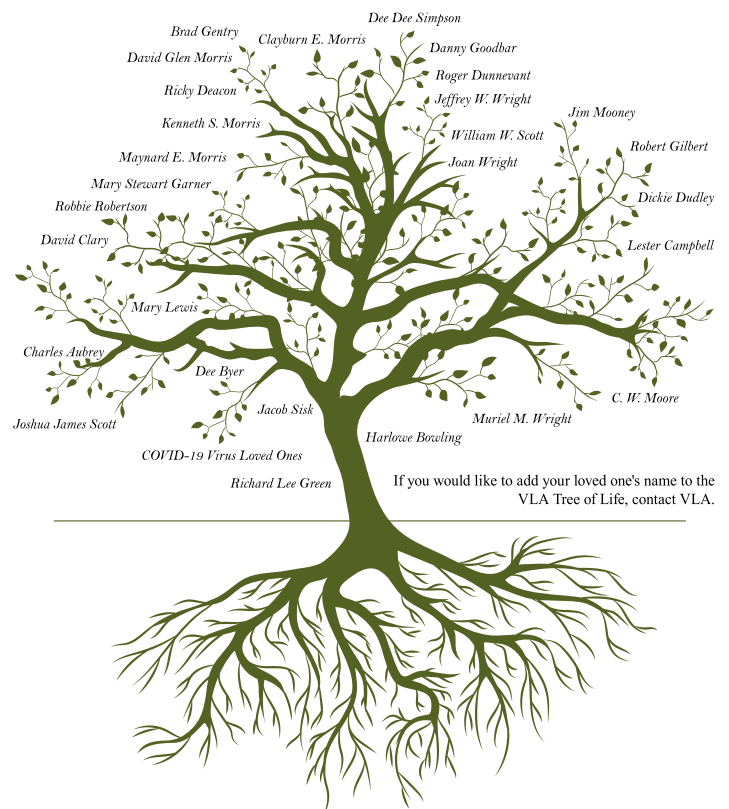
- Support our members and each other
- Seek new markets which complement the locality and existing business.
- Support common sense legislation which helps small business owners without adding burdensome administrative and costly financial consequences.

- Support candidates for Governor and House of Delegates who support small business owners and our forest products industry.
- Support policy and funding to ensure Virginia bridges and transportation are adequate for commercial hauling.
- Actively encourage all Virginia localities to adopt a tax ordinance which exempts personal property and machinery & tool taxes on forest harvesting equipment.
- Support congressional efforts to authorize state maximum legal weights on interstate highways.
- Promote safety training and awareness on COVID 19 virus and normal industry needs.
- Promote professionalism in all aspects of VLA work.

I am predicting that we achieve every one of our goals because failure is not an option. VLA asks you to join us now and be part of a great celebration of accomplishment in early 2022! Please commit today and begin by encouraging those non-members to join VLA.

TREE OF LIFE

*Love Lives On Even When Those We Love Go to Heaven
-Memories of Those Who are No Longer With Us Live On*



ACTIVATE
your voice as WE take on 2021!



NEWS AND UPDATES FROM VIRGINIA TECH FOREST OPERATIONS EXTENSION

Scott Barrett, PhD,
Extension Specialist,
Forest Operations

Coordinator for the VA
SHARP Logger Program

VA Tech Department of
Forest Resources &
Environmental
Conservation

VACCINE AND MORE ONLINE TRAINING OPPORTUNITIES

The Covid-19 pandemic turned a lot of things in our lives upside down and forced us one way or the other to change the way we do some things. With the recent arrival of vaccines there is a hope that we will be able to get back to a “new” normal sooner rather than later. In one of my previous articles last year I wrote that “it was good to be essential” when loggers were classified as essential workers and recognized for the important role they play in our economy and as a result were protected somewhat from business shutdowns. Now, that essential designation may also benefit loggers when it comes to Covid vaccinations as well. Virginia’s current 1B vaccination phase includes front line essential workers including “Food and Agriculture” workers. The documentation from the Virginia Department of Health (VDH) website (www.vdh.virginia.gov/coronavirus) provides clarification on job classifications that fall under the Agricultural worker category. Based on their guidelines, loggers would be included under “Workers who support sawmills and the manufacture and distribution of fiber and forestry products, including, but not limited to timber, paper, and other wood and fiber products, as well as manufacture and distribution of products using agricultural commodities”. If you are a logger that fits this description, then you should qualify for inclusion in category 1b based on current guidelines. The Virginia Department of Health (VDH) is the lead agency for COVID vaccinations in all localities across Virginia and you can find more information from them on their website (www.vdh.virginia.gov/coronavirus).

All local vaccination efforts are coordinated by the VDH. Some local Extension offices across Virginia may also be helping to provide additional information and assistance to other agricultural workers related to Covid-19 vaccinations. As more information on local Extension efforts becomes available we will post that on our SHARP logger website. The VDH reminds everyone that vaccine supplies remain limited, and there are not currently enough doses to vaccinate everyone in the current 1b category. So even if you fall in the 1b category it is important to remain patient as it may take weeks or months to get to everyone in this category that wants to be vaccinated.

Another update for you relates to more online training opportunities. While Covid-19 forced us into additional online trainings whether we wanted to or not, there are some advantages to online training. Online trainings can give you the flexibility to complete trainings when it suits your schedule. If you haven’t checked it out yet, one additional training resource is the TEAM SAFE Trucking Website (www.teamsafetrucking.com). TEAM SAFE trucking has a number of resources on their website, including online driver training modules. You do need to register to create an account to access the training modules. Some trainings require you to be affiliated with an educational sponsor, but others are available to everyone. While you are on the site you can also check out some of their training materials including sample safety manuals, safety meeting reports, safety posters and other safety resources. Their website is just one more resource that you may want to check out as you work to train your drivers and manage your trucking fleet.



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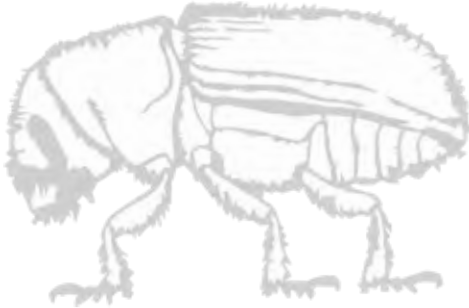




VIRGINIA DEPARTMENT OF FORESTRY

INFORM YOUR LANDOWNER AND VDOF IF YOU FIND A SOUTHERN PINE BEETLE

The southern pine beetle (SPB), *Dendroctonus frontalis*, is a small beetle that can cause major damage in pine stands. It is the most aggressive bark beetle in the south and the most



destructive insect pest of southern pine forests. This beetle is a cyclical native pest; it can persist at low numbers and often goes unnoticed for years, but populations can erupt rapidly and kill many pine trees. Initial attacks are generally on weakened trees, but when populations build, southern pine beetles are capable of overcoming healthy trees. Mature, dense stands of loblolly or Virginia pine are most susceptible to beetle attack in Virginia. The Virginia Department of Forestry (VDOF) surveys for SPB every spring to monitor populations in the Commonwealth.

If you find southern pine beetle, contact the VDOF local area forester so that there is a record of the location. It is important to know when and where SPB is found so we can better understand their population dynamics and predict future outbreaks. When dealing with an active SPB spot, it is best to act quickly to prevent the beetles from spreading. The best control method is “cut and remove” in which all infested trees with yellow and red foliage are removed, as well as a buffer of green uninfested trees. The buffer should be at least as wide as the average tree height in the stand. If removing trees is not possible, “cut and leave” is the next best option. Simply fell infested and buffer trees towards the center of the spot and leave them on the ground.

The best management for southern pine beetle, however, is preventative thinning. Planting trees with wider spacing, or conducting pre-commercial and/or first commercial thinning, reduces competition for light and space and maintains forest health. Healthy trees can better defend themselves against a southern pine beetle attack, and spacing trees at least 20 feet apart decreases the beetle’s ability to spread to adjacent trees. VDOF’s Pine Bark Beetle Prevention Program offers cost-share assistance to landowners for pre-commercial thinning and to loggers for first commercial thinning on small tracts.

Signs and Symptoms of Southern Pine Beetle



- Small white pitch tubes (masses of resin) in bark crevices on the trunk of host pine trees. These popcorn-sized pitch tubes can be very high in the tree and may require binoculars to see.



- Pine needle discoloration, usually changing from green to yellow to red as the infestation progresses.



- S-shaped galleries (tunnels) underneath the bark that wind and cross over each other.
- Sawdust in bark crevices and the base of infested trees.

More information about this program can be found here:

<http://www.dof.virginia.gov/costshare/pbbp.htm>



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AS WE SEE IT

Kevin Smith- ALC Communications

We are pleased to report a surge in individual logger membership applications. ALC is the only national organization solely dedicated to representing the rights and interests of independent loggers and log truck contractors (members) on a national level. ALC combines the power of its members with state and regional logging associations across the country to impact our industry positively and pro-actively by sharing the benefits of education, training, networking, research, promotion, and legislative advocacy.



In addition to our exclusive member rebates, access to annual meetings, and being a part of the preservation of logging, log truck driver safety training is now included in your ALC membership. The words “safety training” is often a bit taboo for loggers, but the unfortunate reality is that most loggers are just one wreck and a billboard lawyer away from going out of business. That is why safety training for log truck drivers has never been more important. Thus, ALC members now have access to 30+ online safety training courses that focus specifically on transportation of forest products.

Members can access training courses at any time using a smart-device or computer with internet access. A detailed record of completed courses, the training material used for the training, the date and time completed, and a training certificate is available for each course completed through the online training platform. This information can be made available to insurance companies, business owners, and logger associations. The convenience of “on-demand” driver safety training will save time and money, allowing more time for productivity while complying with governmental and insurance carrier mandates. If you are already a member, please contact us and a link will be provided to you for access.

Lastly, we have had several inquiries regarding the logger relief application process, but we still do not have any new information. The ALC along with state/regional associations are working together to ensure that all affected logging and log hauling businesses, both big and small, are included in the logger relief package. The moment we have more information, we will immediately email out an update.

The American Loggers Council is an 501(c)(6) not for profit trade association representing professional timber harvesters throughout the United States. For more information please contact the American Loggers Council at 409-625-0206, or americanlogger@aol.com, or visit our website at www.amloggers.com





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The following paragraphs are from the Newsletter dated September 2020. The importance of these paragraphs is clear when you look at the fatal injuries in the logging industry. However, there are additional Struck By/Caught Between hazards that are not completely related to the felling of trees, but to truck drivers and helpers during loading and unloading operations. The newsletter will cover four separate cases in which truck drivers or helpers were killed by struck by/caught between accidents and recommendations to reduce exposure to such incidents.

Tree harvesting by manual felling is one of the most dangerous occupation according to Bureau of Labor Statistics. The majority of fatal injuries are due to contact with objects or equipment, with 79% of fatal injuries specifically being struck by falling objects in the logging industry. From 2006 – 2015 Virginia total fatal work injuries in the logging industry was 5.8%, third behind Oregon and Tennessee at 7.94%.

Falling object accidents account for nearly a quarter of all logging accidents, which include logs, limbs, and entire trees. These have the potential to be extremely serious injuries because of the impact from such great heights. These kinds of injuries statistically have required a recovery period of 90 days or longer, and generally fall into the worker's compensation area of insurance claim.

Statistics shows preliminary data for the top 10 occupations by fatal work injury deaths per 100,000 full-time equivalent workers in the U.S. in 2018. In 2018, the highest occupational injury death rate was to be found among logging workers with a rate of 97.6 deaths per 100,000 workers.

www.statista.com/statistics/284870/occupational-with-high-fatal-work-injury...

How can we reduce fatal injuries of truck drivers and other workers during loading and unloading operations?

Case Study 1

A 49-year-old male truck driver and a log shovel-loader operator began their usual task of loading and hauling logs. The victim drove to a designated wide spot on the unpaved logging road for the first load of the morning. After the victim and shovel-loader connected the trailer to the tractor, the victim returned to the truck cab and the shovel-loader began loading the logs onto the trailer thus far in accordance with standard operation procedures. The shovel-loader was approximately 12 feet behind and to the left of the trailer: he was loading the logs from this point.

The logs being loaded were hemlock, approximately 40 feet in length and averaging 18 inches in diameter. When the trailer was about 75% loaded, the center of the top logs nearly reached the top of the 4-foot high stakes at each corner of the trailer. The truck driver called the shovel-loader on the CB and asked if he could stretch his wrappers out. The shovel-loader answered affirmative, according to another truck driver listening to his CB. The truck driver then exited the truck cab, and walked around the front of the truck to the trailer's forward right side (shovel-loader was back left corner). The truck driver began laying out the first of two binders. The shovel-loader was unable to see the driver, who according to the shovel-loader

had used the same procedure several other times for securing a load of logs. The shovel-loader placed about five logs above the top of the stakes. As the shovel-loader topped off the load, the top log on the right side measuring 40 feet long and 20 inches in diameter at the base and 14 inches in diameter at the top-shifted, rolled off the trailer, and struck the driver, who suffered fatal injuries to his head and chest.

Case Study 2

A 54-year-old-male truck driver drove his logging truck to the loading deck area, parked, and dismounted the truck and moved to a safe position approximately 8 to 10 feet from the truck to observe the loading of the truck. Part way through the loading the truck driver noticed a piece of wire on the top of the load as well as two logs that still had limbs attached. He signaled the loader machine operator who stopped his machine and asked the driver what he wanted. After informing the loader operator of the wire and limb condition, the truck driver again walked to a safe position to observe the loader operator remove the wire and limbs with the loader's grappling device. After removing the wire and a limb from the first log, the loader operator began removing a limb from a second log. As the limb was being removed, it twisted, causing the log to buck and kick a 35-foot log over the trailer standards. When the loader turned the machine, he saw the truck driver 10 feet from the trailer lying on the ground with the log on top of him. The truck driver was pronounced dead upon arrival at the hospital.

Case Study 3

This accident happened in Virginia in 2016. A worker was kneeling down in front of the right rear tire of the logging truck. The driver did not realize the worker was so close to the truck and drove it forward, crushing and killing the worker.

Case Study 4

An employee was troubleshooting the air-lift bags on a logging trailer. The air valve that supplies the air-lift bags was not working appropriately, causing all three of the rear axle air-lift bags to hold constant pressure. During troubleshooting, the force on both sides of the pivoting lifting axle caused the steel pivoting beam to break and contact the employee's head and was killed. Many other fatalities happen every year with truck drivers and other workers in the truck loading area. It is important to have a near miss/hit reporting system for all near miss incidents no matter how small. In the four case studies, if a near miss/hit would have been reported and investigated, could it have prevented any or all of the fatalities?

Standards/Recommendations

Only the loading or unloading machine operator and other personnel the employer demonstrates are essential shall be in the loading or unloading work area during this operation. 1910.266(h)(6)(ii)

A stake of sufficient strength to withstand the forces of shifting or moving logs shall be considered equivalent protection provided that the logs are not loaded higher than the stake. 1910.266(h)(6)(vii)

Recommendation 1: The employer should ensure that log truck driver and other workers stay clear of log loading operation until loads are stabilized.

Recommendation 2: The employer should ensure all logging employees receive adequate training in safe work practices and enforce safe work practices.

Recommendation 3: The employer should conduct periodic inspections to ensure that supervisors and workers are following company safety and health procedures.

Recommendation 4: Communication between drivers, yard workers and other helpers to ensure workers are clear before chains are thrown or truck are moved.

<https://www.osha.gov/SLTC/etools/logging/logsafe.html>

Sources: OSHA.gov/cdc.gov/NIOSH

<https://www.doli.virginia.gov/vosh-programs/consultation/>

Additional assistance please contact William Groce at william.groce@doli.virginia.gov

■ **INVESTIGATE, CHANGE, AND IMPROVE.** ■

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WHAT IS NOT CHANGED CANNOT BE **IMPROVED.**

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SETLIFF'S LAW



Congratulations to Steve Setliff, newly appointed General Counsel to the Virginia Loggers Association



Mr. Setliff, partner and owner of Setliff Law, has been elected general counsel to the Virginia Loggers Association (VLA). Mr. Setliff, who has been a member of the VLA for 4 years, says the appointment is an opportunity for him to further assist the VLA with the conduct of its operations, including pertinent anti-trust guidance, as well as helping identify and assess the impact of legislation important to the membership.

In addition, Mr. Setliff says Counsel will serve as a resource for members on a wide array of legal issues, including business formation, governmental investigations and compliance, labor and employment law, intellectual property, commercial transactions, and of course, preventing and defending workers' compensation and third-party casualty liability claims for property damages or personal injury.

According to Ron Jenkins, Executive Director of the VLA, "With the appointment of Steve Setliff, and his team at Setliff Law, as General Counsel to the VLA, we are confident knowing we have access to the some of the best legal expertise in the state. The Association is excited to announce this partnership, and to suggest now would be a great time to become of a member of the VLA."

Consistently recognized as one of America's Best Lawyers, Mr. Setliff represents clients in complex litigation at the trial and appellate level in state and federal courts across the United States. His multifaceted trial practice includes representation of clients across a broad array of industries, with a focus on transporta-

tion companies, including trucking companies and railroads, in claims of traumatic injury by employees and non-employees. His trucking practice includes the representation of trucking companies, their insurers and their drivers in a wide variety of claims, including catastrophic personal injury, property damage, and toxic cleanup. He also handles workers' compensation claims, negotiating, drafting and enforcement of commercial agreements, including brokerage and independent contractor agreements, traffic citations including felony charges, and employment claims under the Surface Transportation Assistance Act (STAA). His practice covers the gamut of trucking litigation, from first scene accident investigation to effectively and efficiently trying cases to verdict.



Mr. Setliff

If you have questions about this article, please contact Steve Setliff (ssetliff@setlifflaw.com) at 804-377-1261.

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★ LOCAL LEGISLATIVE EFFORTS ★

Local Legislative Efforts

VLA has worked very hard on implementing the 2020 state legislation giving localities the option to fully exempt personal property and machinery & tool taxes on forest harvesting equipment. As of December 31, 2020, ten counties had amended their tax ordinances to adopt this state law and fully exempted these taxes. Alleghany, Bath, Bedford, Brunswick, Campbell, Goochland, Highland, Pittsylvania, Rockbridge, and Wythe Counties now have ordinances providing this important tax relief for loggers.

In January 2021, VLA had already attended and presented before Greensville and New Kent Counties. We have also requested the opportunity to speak with other Virginia counties.

Your contacts are very beneficial. Please reach out to your representative on your County Board of Supervisor and ask for their support to put this matter before the entire board. Let them know how important this tax relief is for you, your business, and to the future generations who take over your business.

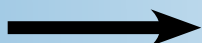
Virginia General Assembly 2021

Virginia Loggers Association did not have a bill in the 2021 General Assembly. However, VLA monitored, spoke for and against, and provided comments on bills impacting our businesses. The 2021 session was virtual, and one could view and participate in the meetings at the sub-committee and committee levels through their computer, tablet, and smartphone. The system appeared to work well with easy-to-follow instructions for submitting comments and to speak.

VLA followed bills that could have impacts on businesses and individuals. Bills of greatest interest in 2021 included those dealing with COVID-19, employment health & safety standards, unemployment compensation, essential workers, paid family & medical leave, paid sick leave, environmental justice, and green - new energy. In our next issue we will describe outcomes as the session should be over.

VLA is working with its members and representatives from the concrete and poultry industries to help bring a speedier response from VDOT regarding bridges which are posted because of structural issues. Our goal is to bring this matter before our administration and seek their help to get bridges on important commerce routes back up to speed in the fastest possible time.

**Most Frequently Accessed Bills at
VA General Assembly 2021**



- HB 961 Assault firearms, certain firearm magazines, etc.; prohibiting sale, transport, etc., penalties.
- HB 177 Presidential electors; National Popular Vote Compact.
- HB 87 Marijuana; legalization of simple possession, penalties.
- HB 1532 Corrections, Department of; earned sentence credits.
- SJ 6 Constitutional amendment; Governor's term of office, succession of terms (first reference).
- SB 91 Parole; application of statutes.
- SB 13 Capitol Square; possessing or transporting a weapon within Square, penalty.
- HB 32 Police and court records; expungement of records for misdemeanor and nonviolent felony convictions.
- SB 15 Weapons; carrying into building owned or leased by the Commonwealth, penalty.
- HB 7 Virginia Fair Housing Law; unlawful discriminatory housing practices.
- HB 40 Public schools; mental health break spaces, regulations.
- SJ 2 Constitutional amendment; personal reproductive liberty (first reference).
- HB 31 Charges and convictions, certain; expungement.
- SJ 8 Constitutional amendment; qualifications of voters and the right to vote.
- HB 11 Human Rights, Division of; duties.
- SB 32 Corporal punishment of a child with an object; penalty.
- HB 26 Voter registration; close of registration records.
- HB 39 Health benefit plans; enrollment by pregnant individuals.
- HB 269 Marijuana; legalization of simple marijuana possession, penalty.
- HB 49 Students with disabilities, certain; feasibility of educational placement transition.
- HB 93 Flavored tobacco products; sale or distribution prohibited, civil penalty.
- HB 50 Police and court records; expungement of records if granted a simple pardon for the crime.
- HB 128 Prostitution; expungement of convictions.
- HB 332 Reading diagnostic tests; DOE to develop and implement a pilot program.
- SB 97 Virginia Fair Housing Law; unlawful discriminatory housing practices, effective clause.

Federal Level Legislation



VLA worked on behalf of loggers and haulers to achieve Logger Relief and Safe Routes legislation in the 116th Congress. Every other state association also worked towards these goals for American loggers. The Logger Relief Act was passed as part of the stimulus package approved in December 2020. As a result, loggers will be able to apply for direct payments to help cover losses from the COVID 19. As of this writing, the rules regarding application are not available.

We continue to work with our state association partners for federal legislation authorizing state legal maximum weights on interstate highways. As you know, the current federal laws prohibit log trucks from carrying over 80,000 pounds on interstates even though Virginia law allows up to 90,000 pounds gross weight on non-interstates. Funny thing is that if we were hauling logs inside of a container headed to the Port of Virginia, our maximum weight would be higher!

VLA will help you find a bill of interest to you - just let us know!



Ten Most Viewed Congressional Bills		
1	H.R.127 [117th]	To provide for the licensing of firearm and ammunition possession and the registration of firearms, and to prohibit the possession of certain ammunition.
2	H.R.5717 [116th]	Gun Violence Prevention and Community Safety Act of 2020
3	H.R.1 [117th]	For the People Act of 2021
4	H.R.1 [116th]	For the People Act of 2019
5	H.R.133 [116th]	Consolidated Appropriations Act, 2021
6	H.Res.57 [117th]	Impeaching Joseph R. Biden, President of the United States, for abuse of power by enabling bribery and other high crimes and misdemeanors.
7	H.R.350 [117th]	To authorize dedicated domestic terrorism offices within the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation to analyze and monitor domestic terrorist activity and require the Federal Government to take steps to prevent domestic terrorism.
8	H.R.6395 [116th]	National Defense Authorization Act for Fiscal Year 2021
9	H.Res.24 [117th]	Impeaching Donald John Trump, President of the United States, for high crimes and misdemeanors.
10	H.R.748 [116th]	CARES Act



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CAN LEAN MANUFACTURING WORK IN A POST COVID-19 WORLD?*

**This article was published in the September 2020 edition of Pallet Enterprise and it was authored by Chaille Brindley.*



FOREST PRODUCTS AND MARKETS VIRGINIA WOOD PRODUCTS UPDATE

Henry Quesada

Associate Professor
and Extension
Specialist

Department of
Sustainable
Biomaterials,
Virginia Tech

If you have any
questions about this
topic, please contact
Dr. Henry Quesada at
quesada@vt.edu.

For years, lean was it. Every company wanted to remove as much waste out of their manufacturing processes and supply chain as possible. Lean makes sense until it doesn't. Shortages and concerns about key supply chain components as well as sourcing from foreign countries combined with growth in e-commerce and JIT delivery are changing how companies look at customer service and inventory management. If your company loses a sale and customers because you can't supply when needed, it may not matter how much money your lean operations save the company. Sales are the growth driver for business not cost reductions. So, how has the shortages and supply concerns brought about by the pandemic changed how companies look at lean strategies?

Henry Quesada, a lean thinking and business process expert at Virginia Tech, proposed, "If there's a lot of uncertainty in the supply chains, the first thing you do is you go out and buy more. Just look at how the first five minutes of COVID-19, consumers went out and bought as much toilet paper as they could to have a safety stock. Companies do the same thing." Quesada recommended, "This is a time you have to re-evaluate your purchasing policies. Should you find more suppliers? Should you buy more safety stock or build up larger inventories? Does a company need to rethink lean initiatives that value cost reduction over having extra supply?"

With every business decision, there will be an impact. If you increase your safety stock, you have to buy more insurance, your capital investments in goods goes up, you may face having too much on hand and have to sell it off later at a discount. Extra inventory means more warehouse space, more goods movement and possibly even more product damage or spoilage. Quesada admitted, "There's a lot of costs associated with keeping extra inventory that a company may not document or consider. They just go out and buy it."

Extra costs include: more warehouse space, higher insurance requirements, more spoilage, increase capital requirements, more labor needed, extra equipment (such as forklifts).

"You have to remember that the highest cost product is one that is already made but you can't sell for your target price."

Whenever you make these decisions, there will be uncertainty, and you will make mistakes from time to time. The most important thing is to be right a lot more than you are wrong. There is a value in always having a product in stock because you can easily become the go-to source for a product, particularly when the market is tight. But this comes at a cost. It all depends on your corporate goals and strategies.

It sounds like communication is a key when dealing with tight markets. Quesada suggested, "You need to keep clear lines of communication open up and down your supply chain from sawmills and core sources through to shipping companies and customers. I try to always present this conversation in a manner that seeks to understand the customer. This allows the supplier to better respond to market changes and meet customer needs. If you try to be helpful, you will find plenty of people willing to talk about what they need."

How do you know if you have enough safety stock? Quesada said that you can use the Economic Order Quantity formula. This looks at how much it costs to place an order and versus holding inventory. Another approach he likes to use is the probability model, which seeks to answer what is the likelihood that you run out of inventory. Not all products are created equal and are something that customers are willing to pay more to get them in an emergency. Pallets are the kind of thing though you must have to get products to market. That can put the pallet provider in the driver seat

Quesada advised, "You don't have to ditch all lean manufacturing principles just because you may need to increase safety stock and change inventory practices. You can focus on things like optimizing your work flow and plant design, reducing downtime and improve maintenance practices, eliminating wasted motion, etc."

Quesada added that "some industries will still be seeking cost reduction above everything else, which means you have to get lean to remove costs."



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INTERSTATE ACCESS FOR LOG TRUCKS – HOW MUCH WOULD IT HELP?

Introduction

Technically, there is no law prohibiting log trucks from using interstate highways. However, federal law limits tractor-trailers to 80,000 lbs. gross vehicle weight (GVW) and 34,000 lbs. per tandem axle. This means loggers must give up 10,000+ lbs. of payload in order to remain legal on interstate highways – an unprofitable proposition.

Loggers have known for a long time that allowing state-legal, loaded log trucks to operate on interstate highways would reduce hauling costs and improve safety. Unfortunately, there was limited data to support the claim, which is where research can help. The Georgia Forestry Foundation and Forest Resources Association supported my research to estimate how much interstate access would improve timber transportation safety and efficiency in the South. I analyzed data from more than 900 haul routes from 250 harvest sites in eight wood baskets: Augusta, Brunswick, Macon, and Savannah, GA; Brewton and Prattville, AL; Eastover, SC; and Roanoke Rapids, NC. Initial analysis determined which timber deliveries would benefit from interstate access. For those deliveries benefitting from interstate access, detailed analysis was conducted on the current route that avoids interstate highways and an interstate route that would utilize an interstate highway for part of the trip. The results presented below are from the Roanoke Rapids, NC wood basket, which includes southcentral Virginia (Fig. 1).

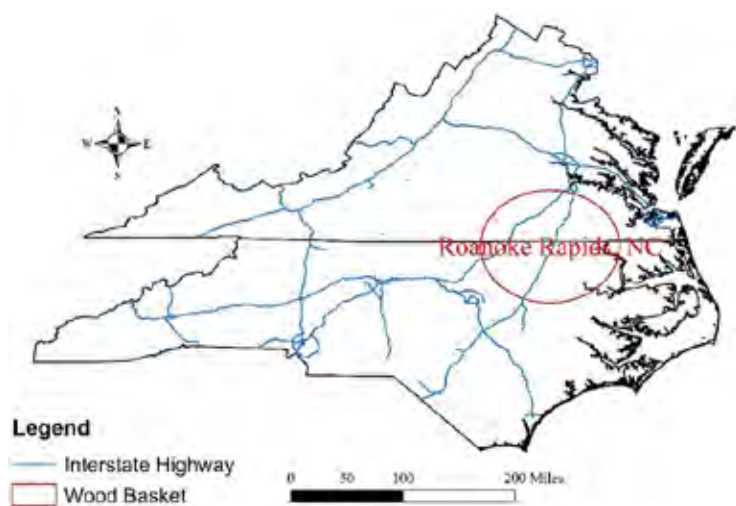


Fig. 1: Roanoke Rapids, NC wood basket.

Results

This study found that many timber deliveries could access interstate highways if state weight laws were applied to interstate highways.

- 46% of haul routes would be more efficient with interstate access.
- 82% of harvest sites had at least one load that would benefit from interstate access.
- 38% of miles could be traveled on interstate highways, on those routes benefiting from interstate access.

Interstate access improved the safety of timber transportation. Relative to current routes, interstate routes:

- Included 40% fewer intersections per trip (61 vs. 101),
- Avoided one school zone per trip,
- Bypassed one city or town per trip, and
- Had a 19% lower estimated fatal crash risk.

In the US, approximately 40% of all crashes occur at intersections, meaning the reduction in intersections encountered reduces log truck crash risk significantly. Likewise, avoiding school zones is important because of the risk of high-profile and deadly crashes associated with the presence of school buses, pedestrian traffic, and children.

The strongest argument for interstate access is undoubtedly the safety benefits. However, for loggers, the time and hauling cost savings are also compelling. Compared to current routes, interstate routes:

- Saved 9 minutes per trip (52 min. vs 61 min.),
- Reduced one-way hauling costs by \$8 per trip,
- Would save a typical logger approximately \$9,700 per year, and
- Would reduce cumulative transportation costs by approximately \$935,000 per year in the Roanoke Rapids, NC wood basket.

These travel cost savings are probably conservative estimates. These estimates are based on reduced travel time and the hourly cost of owning and operating a log truck. Loggers would experience the biggest savings when reduced travel time allowed them to deliver extra loads during a day or week. This is difficult to quantify because of variables such as mill quotas, truck dispatching practices, turn-times, etc.

Of course, not every haul route is similar to this example (Table 1). There are plenty of harvest sites and mills that are not located near an interstate highway. Furthermore, log trucks would still have to drive from harvest sites to interstate highways and from interstate highways to mills on state and local roads. In other words, interstate access will help, but will not solve every problem.

Allowing interstate access for state-legal, loaded log trucks will require a bill to be passed by both the US House and US Senate, and then be signed by the President of the United States. Hopefully, data from this study will inform discussions of the best path forward.

I would like to thank the Georgia Forestry Foundation Center for Forest Competitiveness and the Forest Resources Association for sponsoring this research. Thanks to the VLA members and others that provided data for the analysis. If you would like to learn more about study results, please consult the following resources.

Conrad, J.L., IV. 2020. Would weight parity on interstate highways improve safety and efficiency of timber transportation in the US South? International Journal of Forest Engineering 31:242–252. <https://www.tandfonline.com/doi/full/10.1080/14942119.2020.1806638>.

Conrad, J.L., IV. 2020. Access to interstate highways would improve timber transportation in the US South. Forest Resources Association Technical Release. Rockville, MD.

Variable	I-95	US Hwy 301	Interstate Benefit
Travel Time	36 min	50 min	28%
Number of Intersections	31	85	64%
Number of Stop Signs/Lights	3	9	67%
School Zones	1	2	50%
Fatal Crash Risk (per 100 million miles)	1.94	4.06	52%
Travel Cost (one-way)	\$49	\$65	25%
Fuel Consumption	5.9 gallons	7.2 gallons	17%

Table 1: Comparison of an interstate route and current route from a harvest site, 10 miles north of Emporia, VA to the pulp mill in the Roanoke.

Joe Conrad

Assistant Professor of Forest Operations
Harley Langdale Jr. Center for Forest Business
Warnell School of Forestry & Natural Resources
University of Georgia, Athens, GA
jlconrad@uga.edu



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THE FOREST INDUSTRY'S FUTURE IS LABORING



Welcome all, pick out a bucket and have a seat.

Let's discuss the world's problems and figure out some solutions.

It is not hard to find something to discuss these days and to discuss with strong opinionated passion. The forest industry, in all of its sectors, continues to be at the mercy of a rollercoaster domestic and export market ride. A ride that has evolved over the decades from more predictable climbs and drops, curves and rolls, speed ups and slow downs to today's ride, the rollercoaster ride of the 21st century, into one of the scariest scream rollercoasters in the world. Unpredictable speed ups and slow downs, some of the fiercest roll overs and climbs ever, creates a rollercoaster that has many riders jumping off vowing never to ride again!

The last few years have really been challenging to the industry. The scars will never let us forget the 2007-2008 housing bubble bust, sending the forest products industry to its knees. Being as strong as we are, company reorganization began and operational analysis were done all to make our industry more flexible for such economic events in the future. We started to dig our way out of the ash and rubble only to be hit with Diesel #2 prices reaching all-time highs. U.S. Energy Information Administration reports an all-time high was reached in July 2008 at \$4.703 / gal; compared to July 2003

at \$1.435 / gal and to July 2007 at \$2.868 / gal. The exploited diesel prices continued to plague all diesel users with \$4 + / gal expenses for 6 more years with prices dropping to \$3.411 / gal at the end of 2014. The last 6 years has diesel maintaining a cost range of \$2.40 to \$3.10 / gal.

In 2018, the year in which we all thought of Noah and building our own ark, weather conditions swamped logging operations causing log inventories and in-the-woods productions to be daily battles. In the same year, US tariffs on Chinese imports and exports began. The Trump administration's goal was to level the trading landscape for greater fairness for American goods and services in the foreign marketplace. These tariffs virtually shut down previous years' raw US log export highs of greater than 30%, with some specie sectors exceeding 40% of hardwood log volumes. Many saw this loss in the export market as a short term business deficit that would result in greater long term US Hardwood value. The Trump administration also renegotiated the North American Free Trade Agreement (NAFTA) by establishing a more mutually beneficial and balanced United States-Mexico-Canada Agreement (USMCA). This agreement helped to aid the US pine and construction material markets reducing US import volumes of these materials from Canada.

BUCKET CONFERENCE

Scott Reigel

Forestry Program Head

540-863-2894
rreigel@dslcc.edu

Dabney S. Lancaster
Community College
Clifton Forge, VA 24422

"I spent 16 years in the forest products and consulting forestry sectors before joining DSLCC in 2015. We strive for student success in a curriculum that emphasizes hands-on experiences in forestry field applications. We are proud members of the Virginia Loggers Association."

Could the forest industry survive almost doubling their payroll expenses and still make a profit? Can the logging industry significantly increase their logging rates to compensate for such an increase, delivering raw forest products to market at much higher costs?

The unforgettable year of 2020, though deemed essential (whatever that means) under a COVID-19 locked down society, the industry faced continued market demand shortages. The COVID pandemic limited wood product manufacturing and shipments all around the world, causing a ripple affect throughout the US forest industry. The January 15, 2021 Hardwood Market Report illustrated this impact via the graphic above showing the number of working days to total lumber production. The silver lining to the 2020 year was in the black storm clouds of a volatile hurricane and tornado season. United States OSB and pine construction timber markets really stepped up their productions to heal broken homes in the paths of these storms.

Now, with January 20, 2021 behind us, the next 4 years is expected to be more of a radical ride on this forest products market rollercoaster. The last 3 or 4 weeks of Hardwood Market Reports did show optimism in many valued species and across the majority of lumber grades. Commentary is stating that the new expectations of relaxed pressures on Chinese trade relations have increased market demands for US exports ahead of the Chinese New Year. BUT, with all of this market ride talk, what REALLY is concerning for the industry?

“the logging workforce may be the weakest link in the supply chain today.”

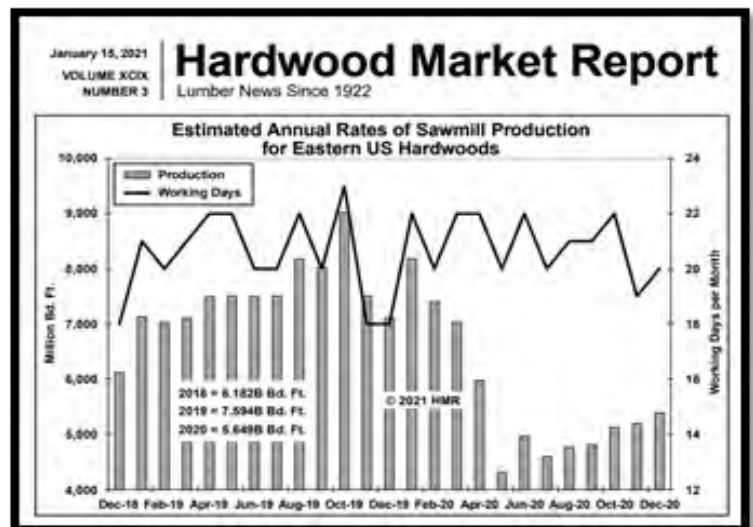
“The Forest Industry’s Future Is Laboring”: I will talk about something you already know. In fact, there are fewer of us sitting here on the buckets talking and many of us sitting on these buckets will need a hand getting up as our bodies are not young any more. The continued labor shortage has caused significant production loss and ultimately has been the reason for several business closures. This is not a new issue. It is an issue that continues to plague operations, and the forest industry’s future is truly in jeopardy if a resolution is not determined.)

“Based upon available economic and production data, the logging workforce may be the weakest link in the supply chain today.” “Essentially, one hundred percent of the Logging workforce is employed by small, independent logging companies. These companies are family owned, with the median age of employees having risen to 54 years of age.” The 2013 report continues on to talk about the manufacturing workforce: “The ability of the industry to respond to increased product demand will be a workforce challenge. Manufacturers will find it difficult to find new workers for highly and moderately skilled positions

due to the aging nature of the forest products manufacturing workforce, as well as competition from other industries and employers who are offering more attractive career opportunities, and/or richer compensation packages.” The Endowment’s report was in 2013; that was 7 years ago! What about today?

The COVID-19 lock-down of 2020 exposed a known enemy to the US working labor force; that is Unemployment. Setting unemployment benefits at \$600 per week put much of the working class employees at home drawing unemployment. If you were making less than \$15 per hour on a 40 hour work week, then you received a pay raise to stay at home and not work leaving potential employers struggling to fill vacancies and not meeting operational needs!

How long can you stay at home receiving this government supplied pay raise? In many states, it is 26 weeks or 6.5 months. I do not want to brush over the fact that there are defined obligations of the recipient, but there is no denial that the system is worked. Unemployment mixed with the societal cancer known as the drug epidemic and add in the fact that the forest industry is traditionally a heavy labor career in an often unforgiving outdoor environment; you have a recipe for workforce shortages. The January 8, 2021 Hardwood Market Report, Appalachian Region commentary states the following, after a positive market analysis message: “However, since hardwood lumber production remains low and labor shortages persist, companies throughout the supply chain are unable to fully capitalize on these positive market conditions.” In October 2020, I was asked to present the DSLCC Forestry training program to the attendees at the Appalachian Hardwood Manufacturers, Inc (AHMI) annual conference. After presenting our message, the over 100 in attendance consistently expressed their urgency in “unskilled” labor such that having enough to operate is an uncertain day to day decision. labor needs and increasing our production.



Could the forest industry survive almost doubling their payroll expenses and still make a profit? Can the logging industry significantly increase their logging rates to compensate for such an increase, delivering raw forest products to market at much higher costs?

If so, then can forest products manufacturing afford to purchase these higher cost raw materials? Is the landowner willing to have their forest land investment significantly devalued because of increased labor costs for the timber harvesting and the forest products manufacturing operations? Last, but certainly not least, will bank lenders, real-estate appraisers, homeowners, and the construction trades be willing and able to accept home construction rates that could push \$300 per square foot for standard home construction? What if the \$15 minimum wage legislation is rejected? What is the forest industry's solution to continued workforce woes? Can we "offer more attractive career opportunities, and/or richer compensation packages"? We've made our operations as efficient as we can. We have purchased more efficient machines reducing our labor needs and increasing our production. Even with that, the future of the forest industry will be based on solving these labor questions and concerns.

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THE STATE AND FUTURE OF U.S. FORESTRY AND THE FOREST INDUSTRY

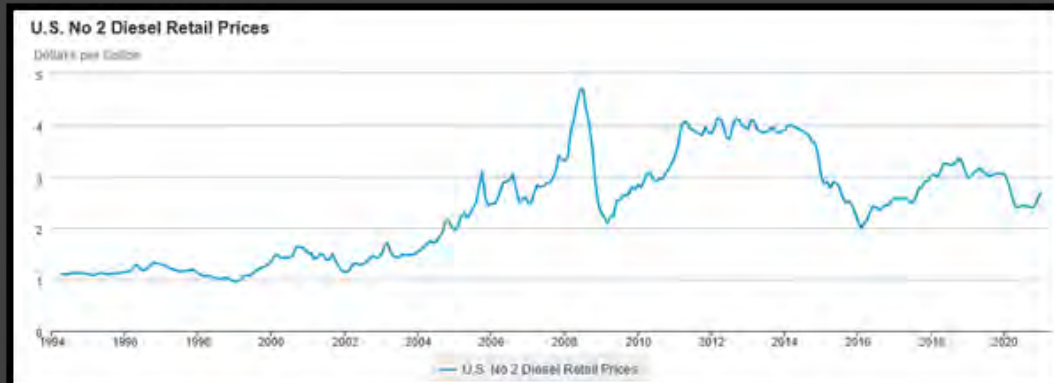
U.S. ENDOWMENT FOR FORESTRY AND COMMUNITIES

"Based upon available economic and production data, the logging workforce may be the weakest link in the supply chain today. Logging capacity has been reduced by 25 percent just since 2009. The reasons are many and significant. Operating costs have soared with increased fuel, parts, and equipment costs (the cost of new logging equipment has risen 50 percent in the last decade). Due to the increased expense of new equipment, the lack of long-term contracts and other factors, financing has been harder to secure. Logging markets contracted during the recession as landowners deferred

harvests due to low stumpage rates and as mills were shuttered. These factors and more have led to squeezing of rates for their employees, such that 71 percent of U.S. logging... companies report difficulty in attracting new employees (Timber Harvesting magazine, 2013). In 2010, 51 percent of logging companies reported a loss or were simply breaking even. Essentially, one hundred percent of the logging workforce is employed by small, independent logging companies. These companies are family owned, with the median age of employees having risen to 54 years of age. Considerable

evidence suggests that, over the last decade, this link has been economically squeezed between forest owners and manufacturers, jeopardizing the entire chain."

(https://www.usendowment.org/wp-content/uploads/2018/10/forest_sector_report_-_final_9.5.13.pdf)



U.S. Energy Information Administration:

https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMD_EPD2D_PTE_NUS_DPG&f=M

HAVE A MOMENT?

HELP US OUT, FILL OUT A SURVEY!

There is currently a lack of information regarding machine longevity in the southeastern United States. Responses to this survey will be used to evaluate how used equipment loses value over the life of the machine and will provide some reasoning behind equipment replacement decisions. This information will allow loggers and equipment manufacturers to make more informed decisions regarding the timing of equipment replacement and how depreciation influences that decision.

A **detailed report** of the findings will be compiled and ready by late May 2021. If you would like a copy of this report, please feel free to reach out to Emily Cook at barrett9@vt.edu at that time. On behalf of the Department of Forest Resources and Environmental Conservation at Virginia Tech, thank you for your participation in our research! Please let us know if you have questions. https://virginiatech.qualtrics.com/jfe/form/SV_9pKKjreG3oFJQyi



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