

**Virginia Department of Labor and Industry  
Virginia Occupational Safety and Health (VOSH) Compliance**

Brammer Village  
3013 Peters Creek Road  
Roanoke, VA 24019  
Phone: (540) 562-3580 FAX: (540) 562-3587



## Citation and Notification of Penalty

**To:**  
Virginia Department of Forestry  
and its successors  
900 Natural Resources Road  
Charlottesville, VA 22903

**Inspection Number:** 1656065  
**Inspection Date(s):** 03/10/2023-08/21/2023  
**Issuance Date:** 08/21/2023

**Inspection Site:**  
Off Route 642, turn at 1270 Roseann Road  
Big Rock, VA 24603

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

**Citation and Notification of Penalty.** Described herein are alleged violations of Virginia's Occupational Safety and Health (VOSH) laws, standards and/or regulations. Any penalty proposed is based on the corresponding violation. In accordance with Virginia Code §40.1-49.4(b)(4), you must abate all alleged violations by the dates listed and pay the penalties proposed, unless, within 15 working days (excluding weekends and State and Federal holidays) from the date you receive this citation, you submit a written notice of contest to the Virginia Department of Labor and Industry Regional Office at the address listed above. Issuance of this citation does not constitute a finding by the Commissioner that you have violated the law, standard or regulation described unless you fail to file a written notice of contest or this citation is affirmed by a court of law.

**Please read the enclosed booklet entitled *Employer Responsibilities and Courses of Action Following a VOSH Inspection* in conjunction with this citation to learn your rights and responsibilities.**

**Posting.** Virginia law requires you to immediately post a copy of this Citation in a prominent place at or near the location of the violation(s), or if it is not practicable because of the nature of your operations to do so, in a place where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) have been abated, or for 3 working days (excluding weekends, State and Federal holidays), whichever is longer. **The penalty amounts may be marked out or covered up prior to posting. Please note that these penalty amounts are releasable by the Department in response to a Freedom of Information Act (FOIA) request.**

**Informal Conference.** You have the right to an informal conference with the VOSH Regional Safety Director at which you may present evidence to support amending the citation, order of abatement or penalties proposed. An informal conference, which is normally held during the 15 working day contest period, is optional. If you wish to attend an informal conference, you must contact the VOSH Regional Safety Director at the Regional Office listed above.

**If you request an informal conference, you must notify your employees of the time and place.** Be sure to bring to the conference any documentation of existing conditions as well as abatement steps taken thus far. If conditions warrant, this matter may be resolved amicably without the need for litigation, by way of an Informal Settlement Agreement.

**Requesting an informal conference does not extend the 15 working day contest period.**

**Right to Contest.** You have the right to contest this Citation. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. This citation and the penalties proposed will become a final order of the Commissioner of Labor and Industry unless you notify VOSH in writing within 15 working days of receiving this citation that you contest the citation or any part thereof.

**Penalty Payment.** Penalties are due within 15 working days of receipt of this notification unless you contest. Make your check or money order payable to "Treasurer of Virginia ". **Please indicate the Inspection Number on the check or money order.**

The Virginia Department of Labor and Industry does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

**Notification of Corrective Action.** For violations which you do not contest, you must promptly notify the VOSH Regional Safety Director at the Regional Office listed above by completing the enclosed Report on Correction of Violations form and indicates that you have taken appropriate corrective action by the date(s) specified in this citation. The form must include abatement steps you have taken and the dates, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc.

**Employment Discrimination Unlawful.** Virginia Code §§40.1-51.2:1 and -51.2:2 prohibit discrimination against any employee who has filed a complaint or who has exercised any rights under the safety and health provisions of Title 40.1 of the Code of Virginia. An employee who believes that he/she has been discriminated against may file a complaint no later than 60 days after the discrimination occurred with the VOSH Office of Whistleblower Protection at Suite 207, 600 East Main Street, Richmond, Virginia 23219.

**Notice to Employees.** The law gives an employee or his/her representative the opportunity to contest in writing any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Regional Office at the address shown above and postmarked within 15 working days (excluding weekends and State and Federal holidays) of the employer's receipt of this Citation.

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## **NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE**

An informal conference has been scheduled with VOSH to discuss the Citation(s) issued 08/21/2023. The conference will be held at the VOSH office located at Brammer Village, 3013 Peters Creek Road, Roanoke, VA 24019, on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.

**Virginia Department of Labor and Industry**  
**Virginia Occupational Safety and Health (VOSH)**  
**Compliance**

Brammer Village  
3013 Peters Creek Road  
Roanoke, VA 24019

**Citation and Notification of Penalty**

**Company Name:** Virginia Department of Forestry

**Inspection Site:** Off Route 642, turn at 1270 Roseann Road Big Rock, VA 24603

**Inspection Number:** 1656065  
**Inspection Date:** 03/10/2023-  
08/21/2023

**Issuance Date:** 08/21/2023



**Citation 1 Item 1**

Type of Violation: **Serious**

16VAC25-60.120: The occupational safety or health standards adopted as rules or regulations by the board either directly or by reference, from Part 1910 shall apply by their own terms to all employers and employees at places of employment covered by the Virginia State Plan for Occupational Safety and Health. The employer shall comply with the manufacturer's specifications and limitations applicable to the operation, training, use, installation, inspection, testing, repair and maintenance of all machinery, vehicles, tools, materials, and equipment, unless specifically superseded by a more stringent corresponding requirement in Part 1910.

The employer did not ensure that an approved ATV helmet was worn by an ATV operator. On March 9, 2023, a Virginia Department of Forestry employee operated a Can-Am Outlander Max 850 ATV [s/n 3JBLPAU4XPJ000871] to scout an area where a crew was fighting a wildfire in the Lester's Fork area of Buchanan County. The terrain was sloped and had some tree limbs lying on the ground where the ATV was being used. On page 53 of the Operator's Guide for the Can-Am ATV, under the heading "Riding Gear," the following instruction was given "It is important that the operator always wears the appropriate protective gear and apparel, including an approved helmet." Also, a warning label affixed to the ATV stated, "Always use an approved helmet and protective gear for driver and passenger." The employer had a written policy requiring the use of a helmet when operating an ATV or UTV, but the policy was not consistently enforced.

**Date by Which Violation Must Be Abated:**

**August 31, 2023**

**Proposed Penalty:**

**\$0.00**

**Citation 2 Item 1**

Type of Violation: **Other-than-Serious**

1904.32(b)(5): You must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the posted annual summary is not altered, defaced, or covered by other material.

The OSHA 300A summary of injuries/illnesses for 2022 was not posted for employees to review, during the months of February, March, and April 2023.

**Date by Which Violation Must Be Abated:**

**August 25, 2023**

**Proposed Penalty:**

**\$0.00**

A handwritten signature in black ink, appearing to read "Rusty Bambarger".

Russell "Rusty" Bambarger  
VOSH Regional Safety Director

**Virginia Department of Labor and Industry**  
**Virginia Occupational Safety and Health (VOSH) Enforcement**  
Brammer Village  
3013 Peters Creek Road  
Roanoke, VA 24019  
Phone: (540) 562-3580 FAX: (540) 562-3587



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## INVOICE/DEBT COLLECTION NOTICE

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**Company Name:** Virginia Department of Forestry  
**Inspection Site:** Off Route 642, turn at 1270 Roseann Road Big Rock, VA 24603  
**Issuance Date:** 08/21/2023  
**Inspection Number:** 1656065

**Summary of Proposed Penalties:**

Citation 1 Item 1, Serious	0.00
Citation 2 Item 1, Other-than-Serious	0.00
<b>TOTAL PROPOSED PENALTIES:</b>	<b>0.00</b>

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Pursuant to Virginia Code §40.1-49.4.A.4.(a), the Commissioner of the Department of Labor and Industry may assess interest on all past-due penalties as well as administrative costs incurred in the collection of the penalties for violations of Virginia Occupational Safety and Health (VOSH) laws, regulations, and standards. Interest charges are assessed at an annual rate in accordance with Virginia Code §2.2-4805.

Interest shall accrue from the date on which the citation, either as issued or as amended, becomes a final order of the Commissioner. A citation becomes a final order 15 working days after the date that the employer receives the citation unless the employer files a notice of contest with VOSH. **Interest is waived if the employer pays the full amount within 30 calendar days of the final order date.**

A debt is past-due 30 calendar days after the final order date unless the employer makes a satisfactory payment arrangement with the Commissioner. If the debt remains unpaid for more than 90 days, it is deemed delinquent and referred to the Office of the Attorney General or other collection agency for collection. Administrative costs incurred in collecting the debt will be added to the amount of the debt.

To avoid potential interest and collection costs, please send payment promptly for the total amount of the uncontested penalties shown on the citation to the Accounting Office, Virginia Department of Labor and Industry, Main Street Centre, 600 East Main Street, Suite 207, Richmond, VA 23219. You may use the enclosed self-addressed envelope. **Please make your check or money order payable to: "Treasurer of Virginia". Please indicate the Inspection Number on the payment. Do not send payment to the Regional Office.**

Handwritten signature of Russell "Rusty" Bambarger in black ink.

Russell "Rusty" Bambarger  
VOSH Regional Safety Director  
Ph: (540) 562-3580 Ext. 115  
russell.bambarger@doli.virginia.gov

8-21-23

Date



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## REPORT OF CORRECTIVE ACTIONS/ABATEMENT VERIFICATION

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**Company Name:**

Virginia Department of Forestry  
Off Route 642, turn at 1270 Roseann Road  
Big Rock, VA 24603

**RETURN FORM TO:**

Virginia Department of Labor and Industry  
Brammer Village  
3013 Peters Creek Road  
Roanoke, VA 24019  
Phone: (540) 562-3580 FAX: (540) 562-3587

**Inspection Number:** 1656065

Please provide the corrective action taken and date of completion by each numbered item as indicated on the attached form, along with adequate supporting documentation (e.g., copies of written programs (Safety, Lockout/Tagout, Hazard Communication, Respiratory Protection, Confined Spaces, etc.), drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results (such as air contaminants, noise monitoring, asbestos, lead, etc). For accuracy, please refer to the enclosed citations when completing this form.

Be sure to address all items on the citation, including any other-than-serious items. Failure to do so will delay documentation of your abatement efforts and may result in a follow-up inspection and could result in additional proposed penalties of \$1,000.00. Please be aware that Virginia Code §40.1-51.4:2 provides for a fine of not more than \$10,000.00, or imprisonment for not more than six (6) months, or both, for making false statements. Please type or print legibly. **Also, please be sure to sign and date this form.**

### Abatement Verification Statement:

Regarding the abatement actions on the following page(s), the undersigned certifies that:

1. All affected employees were promptly notified of all the hazards which were cited in this VOSH Citation.
2. For ALL items cited, a copy of the citation was posted at or near the location where each violation described in the citation occurred until each violation was abated or for a minimum of 3 working days (excluding weekends and State and Federal holidays), whichever is later; or
3. For all hand held or moveable equipment a warning tag or copy of the citation was attached to the equipment until the violation was abated, until the item was removed from service, or until such time as the item was no longer in the employer's control.
4. All items cited on the VOSH Citation were corrected and a copy of the Abatement Verification was made available for review to all affected employees by posting or other appropriate means on the date of the signing of this form.

**NOTE: PLEASE MARK ABATEMENT VERIFICATION WITH MATCHING VIOLATIONS.**

\_\_\_\_\_  
Employer Signature / Title

\_\_\_\_\_  
Date of Verification

\_\_\_\_\_  
Print Name and Title of Employee Representative



**REPORT OF CORRECTIVE ACTIONS/ABATEMENT VERIFICATION**

Citation #:			Item Number			Date Item Corrected	
1			1				
Corrective action taken: _____ _____ _____ List type of supporting documentation attached: _____							
Citation #:			Item Number			Date Item Corrected	
2			1				
Corrective action taken: _____ _____ _____ List type of supporting documentation attached: _____							