

Policy and Procedure 7-7 Timber Transaction Complaints

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Codes/Mandates: Code of Virginia [§10.1-1105](#) Additional powers and duties of State Forester
Code of Virginia [§55.1-2835](#) Damages recoverable for timber cutting
Code of Virginia [§55.1-2836](#) Procedure for determination of damage
Code of Virginia [§55.1-2837](#) When person damaged may proceed to court
Code of Virginia [§55.1-2838](#) Larceny of timber; penalty
Code of Virginia [§55.1-2839](#) Larceny of timber; failure to remit to payment to owner; penalty
Code of Virginia [§55.1-2840](#) Load tickets for sale for certain sales of timber; penalty
Code of Virginia [§55.1-2841](#) Effect of article

References: [VDOF Policy and Procedures 4-5 Commissioned Special Forest Wardens](#)
[VDOF Policy and Procedures 18-2 Harvest Inspection](#)
[VDOF Policy and Procedures 18-3 Water Quality Law Enforcement](#)
[Landowner Demand for Payment for Timber Transaction Letter Template](#)
[Landowner Load Ticket Request Letter Template](#)
[VDOF Scale Tickets Request Letter Template](#)

Forms: N/A

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PURPOSE

To provide guidance and direction for responding to, investigating and enforcing reports of timber transaction complaints.

POLICY

Virginia Department of Forestry Commissioned Special Forest Wardens shall assist landowners and law-enforcement agencies with regard to reported cases of timber theft and timber transaction complaints.

DEFINITIONS

“**Agency**” and “**VDOF**” means the Virginia Department of Forestry.

“**Commonwealth**” means the Commonwealth of Virginia.

“**CSFW**” means Commissioned Special Forest Warden.

“**Timber Transaction Complaint**” means any complaint of timber theft, failure to remit payment, failure to provide scale tickets, or any other potential criminal or civil complaint regarding the sale of timber.

PROCEDURES

The Virginia Department of Forestry offers assistance to landowners and law-enforcement agencies with regard to reported cases of timber theft and timber transaction complaints. For specific legal questions or legal advice, the complainant should contact their personal attorney or the Commonwealth’s Attorney’s Office.

Landowner Complaints

Failure to Pay

This scenario includes pay-as-cut or lump-sum sales where no payment is made or partial payment is made and failure to provide scale tickets as requested.

Person receiving complaint should forward complainants contact information to the appropriate regional personnel, including regional timber transaction specialist.

Work Area Staff Responsibility

- ◆ Verify harvest notification and landowner information.
 - Conduct a harvest inspection if not already in the system. If water quality concerns are found, follow Policy and Procedure 18-3 Water Quality Law Enforcement.
 - Verify land ownership to ensure all legal landowners are or have been notified of the timber harvest.
 - If the VDOF was not properly notified, follow Policy and Procedure 18-3 Water Quality Law Enforcement, failure to notify procedures.
 - Notify the regional timber transaction specialist via email with the following information:
 - Name of complainant
 - Additional landowners, if any
 - Contact information for complainant
 - Tract and harvest numbers
 - Timber buyer information, if known

Guidelines for Investigation

The regional timber transaction specialist should consider the following:

- ◆ Contact complainant to gather following information:
 - Contract if available
 - Start and end dates of harvest
 - Scale tickets, if available
 - Payment records, if available

- Suggest complainant request scale tickets from timber buyer/logger via certified mail with return receipt requested per [Virginia Code §55.1-2840](#) using Landowner Load Ticket Request letter template.
- Suggest the complainant request payment via certified mail with return receipt requested using Landowner Demand for Payment for Timber Transaction letter template.
- ◆ Attempt to contact the operator to:
 - Interview the operator to verify dates of harvest, contract information, etc.
 - Verify receiving facilities where wood was taken.
 - Ask if payments have been made as prescribed in the timber sale contract and if not, have arrangements been made for payment.
- ◆ Request scale tickets from receiving facility(ies) using the VDOF Scale Tickets Request letter template. (This step may not be necessary if payments are made to the landowner(s) within 10 days of request or if there is no clear reason to believe that discrepancies exist.)
- ◆ Receiving facilities may not turn over scale tickets without a warrant or subpoena.
 - To obtain a warrant or subpoena, prepare case information for presentation to the magistrate.
 - Communicate with County Commonwealth Attorney's Office and Sheriff's Office if a warrant is obtained so they can assist in the execution the warrant.
- ◆ If payment is not made, discrepancies are found or load tickets are not provided as requested:
 - Visit County Commonwealth Attorney to pursue possible charges.
 - Prepare a complete case record with all documentation, notes, timelines, etc. to present to the County Commonwealth Attorney.

Timber Theft

This scenario includes timber harvested without landowner permission. This does not include Timber trespass where boundary lines are in dispute or are not clearly marked or known. These cases will often be absentee or large landowners where properties are infrequently monitored.

Work Area Staff Responsibility

Person receiving complaint should forward complainants contact information to the appropriate regional personnel and follow up by:

- ◆ Verify harvest notification and landowner information.
 - If the VDOF was not properly notified and the operator is known, follow Policy and Procedure 18-3 Water Quality Law Enforcement, failure to notify procedures.
 - If the operator is not known, interview neighboring landowners to ascertain possible operators and timelines of operation.
 - Conduct a harvest inspection if not already in the system. If water quality concerns are found, follow Policy and Procedure 18-3 Water Quality Law Enforcement.
 - Verify land ownership to ensure all legal landowners are notified.
- ◆ Attempt to contact the suspected operators for questioning.
- ◆ If it is determined that timber is being harvested from the landowner's property without their consent, the Commonwealth Attorney and Sheriffs' Office for that county should be contacted.
 - The Commissioned Special Forest Warden (CSFW) should compile a well-organized chronology of events and a packet of all evidence collected to date. This information may include:
 - Landowner's name, address, phone number, etc.
 - Logger's name, address, phone number, etc.
 - Include a description and location of the property in question.
 - Estimate of the timeframe that the logging occurred.
 - Provide an estimate of the number of acres affected.

- ◆ Landowners need to be notified early in the process that:
 - VDOF cannot provide volume or value estimates.
 - VDOF cannot determine property boundaries.
 - Be advised to contact an attorney and a consulting forester for legal advice and to obtain volume and value estimates.

Timber Trespass

This scenario includes disputed boundary lines, unmarked or poorly marked boundary lines where a timber buyer has a bona fide claim of right to harvest timber on an adjacent property but (accidentally) encroaches and cuts timber on the lands of another.

Timber trespass is a civil matter and could normally be handled by work area staff. Discerning between timber theft and timber trespass can be difficult. If work area staff cannot determine if an inquiry constitutes timber trespass, then the complaint could be referred to the regional timber transaction specialist for further investigation.

Work Area Staff Responsibility

Person receiving complaint should forward complainants contact information to the appropriate regional personnel.

- ◆ Verify harvest notification and landowner information.
 - If the VDOF was not properly notified and the operator is known, follow Policy and Procedure 18-3 Water Quality Law Enforcement, failure to notify procedures.
 - Conduct a harvest inspection if not already in the system. If water quality concerns are found then follow the Policy and Procedure 18-3 Water Quality Law Enforcement.
 - Verify land ownership to ensure all legal landowners are notified.
- ◆ Advise the affected landowner of the following:
 - Attempt to determine who cut the trees and notify them of the suspected trespass.
 - These situations will often be settled by reputable timber buyers when an honest mistake has been made and brought to their attention.
 - VDOF can provide the timber buyers contact information when known and requested.
 - Contact a consulting forester to determine the value of the lost timber.
 - Provide the affected landowner with a consulting foresters list.
 - Advise the landowner that VDOF cannot give volume or value estimations.
 - Hire a surveyor to locate the property line if it is in unknown or disputed. This may not be required in all cases.
 - Advise the landowner that VDOF cannot locate property lines.
 - Consult an attorney for legal advice. Virginia Code [§55.1-2835](#), [§55.1-2836](#) and [§55.1-2837](#) cover damages.

Letters and Mailings

All letters and mailing documents should be on standard VDOF letterhead and, when possible, begin with the standard forms and letters. These standard letters and forms can be obtained from the regional timber transaction specialist and are located on intranet as standard templates.

Documentation and Case File Retention

- ◆ All case file information should be maintained by the lead Commissioned Special Forest Warden (CSFW).
- ◆ All documents should be converted to electronic format and stored by the lead CSFW.
- ◆ Each CSFW should maintain a separate “Law Enforcement” electronic file folder within their documents.

- ◆ In the event of separation from the agency, this electronic folder should be shared with the regional timber transaction specialist to compile and maintain records and retention of timber theft cases.

Time and Accomplishments

Time spent investigating and working on complaint should be recorded as “Law Enforcement – Timber Theft Investigation” and each individual case should be recorded as an accomplishment.

A cases disposition should also be recorded as a “Law Enforcement – Timber Theft Court Action” accomplishment.

AUTHORITY

This policy and procedure is issued by the Virginia state forester.

INTERPRETATION

The director of fire and emergency response, water quality program manager and deputy state forester are responsible for the interpretation of this policy and procedure within their respective areas of responsibility.

APPROVAL

I certify that this policy and procedure is approved and ready for publication.

John Miller

Director of Fire and Emergency Response (Print)

Signature

Matthew Poirot

Water Quality Program Manager (Print)

Signature

Edward Zimmer

Deputy State Forester Name (Print)

Signature