



Washington State Department of
Labor & Industries

ESSB 5744: Report on the Development and Implementation of the Logger Safety Initiative

2013 Report to the Legislature

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Executive Summary

Engrossed Substitute Senate Bill 5744, passed in the 2013 Legislative Session, requires a report to the Legislature regarding the progress of the Washington State Logger Safety Initiative (LSI). The purpose of the LSI is to promote occupational safety, reduce fatalities, decrease the frequency and severity of workplace injuries, increase the proper reporting of worker hours for workers' compensation insurance premiums, and explore options for reducing costs in the logging industry.

To create a culture of safety that is pervasive throughout the logging industry in Washington State, a new Logger Safety Taskforce, comprised of industry participants including private land owners, logging industry employers, and the Department of Natural Resources along with Department of Labor & Industries (L&I), has been formed to ensure the Initiative is developed with experts in logging work, along with safety and health practices, resulting in a "safety first" culture for all logging employers and workers.

The LSI is a collaborative effort that provides voluntary improvements to worker protection and safety.

The LSI Taskforce believes it is critical that the safety culture in Washington's logging industry changes. To do this, workplace safety must be treated as a first priority and a shared responsibility throughout the industry. Workers must be trained and encouraged to work safely and there must be measures in place that support safety in the woods. To this end, an Employer Logger Safety program has been developed by the LSI Taskforce. The program establishes sector-wide standards for worker training, performance and supervision and reviews progress of logging operations through mandatory performance-based audits and consultation services from L&I's Division of Occupational Safety and Health (DOSH).

The LSI Taskforce recognized that when an individual business in the logging industry underpays its premium, it drives up workers' compensation rates for all logging businesses in Washington State. To help address these concerns, audits in the industry are being conducted to help make sure everyone in the manual logging industry group is reporting correctly, so that rates can be as low as possible for everyone, thereby creating a level playing field.

In September 2014, L&I proposed an average 2.7% rate increase for 2014 workers' compensation premiums. The information available for manual logging operations shows an increase of 3%, from \$19.61 per hour to \$20.18 per hour.

Employers that participate in the LSI Employer Logger Safety Program will be eligible for a proposed rate reduction of up to 20%, significantly reducing the base rate to \$16.17 per hour.

ESSB 5744: Logger Safety Initiative

INTRODUCTION

Logging is historically one of Washington’s most hazardous industries. In the logging industry, the workers compensation insurance risk class for non-mechanized or manual logging operations (5001 Logging Operations) has seen its rate escalate, while the number of companies reporting in that risk class has shrunk. Typical work in this class includes felling, skidding, yarding, delimiting, and bucking of trees into logs or block wood and loading them onto trucks or rail cars.

In recent years, risk class 5001 has experienced catastrophic and costly claims, but at the same time fewer hours have been reported by employers – a situation that has more than doubled the workers’ compensation premium base rate over the past five years. Trends indicate the rates could continue to increase further in the future, due to the number of severe injuries in the past few years. This rate significantly impacts costs for the industry and the ability for honest employers to stay in business.

In 2012, industry leaders from the Washington Contract Logger Association (WCLA), the Washington Forest Protection Association (WFPA), and the Washington State Commissioner of Public Lands, Peter Goldmark, began meeting with L&I to discuss the workers’ compensation rates, trends and injury statistics for non-mechanized or manual logging operations. From the beginning, a key focus has been on finding ways to improve the safety performance of the industry so both the frequency and severity of injuries could be reduced. L&I agreed to work with industry representatives to organize a Logger Safety Taskforce that would develop a Washington State Logger Safety Initiative. In January 2013, a letter confirming their commitment to providing the time and resources to build a successful safety program was finalized and signed by all of the parties. Governor Jay Inslee signed the commitment letter on May 21, 2013.

LOGGER SAFETY TASKFORCE

The Logger Safety Taskforce was initiated in March 2013, and is comprised of multiple logging and safety experts and leaders from the industry, and is co-chaired by the Chairman of the Board for WCLA and the Board President of WFPA.

The LSI goals are to:

- Promote a “safety first” culture for all logging-industry employers and workers.
- Reduce the frequency and severity of injuries and prevent deaths.
- Increase proper reporting of workers hours for premium payments.
- Explore options to reduce costs in the industry.

The taskforce is responsible for developing a Logger Safety Program with sector-wide standards for worker training and effective supervision, developing criteria for company qualification, and a governance structure to ensure industry participation and commitment. After the program is created, the taskforce will meet regularly to review progress of the Initiative and recommend improvements.

In April 2013, the taskforce developed and approved the Washington State's Logger Safety Initiative Accord. In the accord, the taskforce agreed to the following core beliefs and shared responsibilities:

Core Beliefs:

- We believe that all fatalities and injuries are preventable.
- We believe in a culture where the health and safety of all workers is the highest priority.
- We believe that excellence in health and safety is possible and is important to our long-term success.

Shared Responsibilities:

- As an industry, we must embrace a culture of safety. We are collectively and individually responsible for the safety of all workers and all worksites.
- As individuals, we must assume responsibility for complying with all applicable safety rules, procedures and practices, refusing to perform unsafe work, and taking collective responsibility for the unsafe conduct of others.
- As employers and landowners, we must take a leadership role in ensuring worker health and safety is our number one priority and assuring accountability for safety on the worksite.

The accord also recognized the importance of safety performance and practice as well as the commitment to continual improvement:

Recognition of Safety Performance and Practices:

- The commitment to health and safety is to all workers, not just direct employees. When engaging contractors, sub-contractors and others to provide services, the selection process and administration of contracts will include recognition and support of good safety performance and practices.
- Employers will recognize and support the safety performance of their employees.
- All employers and landowners will give weight to the safety record and current practices of companies in the awarding of contracts.

Continual Improvement:

- We are committed to the ongoing improvement of our practices and support efforts to develop and implement new methods, procedures and technologies that have the potential to improve the health and safety of our industry.

The Logger Safety Taskforce is urgently working to accomplish these goals and create a workable and successful logging company certification program that will drastically improve logging safety, eliminate injuries and lower premium costs.

LOGGER SAFETY CERTIFICATION

A subcommittee of the Taskforce was established in March 2013, and has completed significant work over the past six months drafting the LSI Employer Safety Program requirements and developing the framework for ensuring participating employers meet standards for LSI certification. The LSI Employer Logger Safety program requirements have been approved by the LSI Taskforce. Extensive materials have been developed both for employers to use in their safety program and for use by the third-party auditors.

Below are some of the key requirements of the LSI Employer Logger Safety Program:

1. Undergo a comprehensive consultation of all conditions and operations, including a complete safety and health program review. Correct all identified safety and health hazards and provide DOSH Consultation with written confirmation that each identified hazard has been corrected within an agreed upon time frame.
2. Attend an L&I employer workshop for the logging industry (if available) and enroll in a voluntary compliance program premium audit.
3. To the extent possible, within 48 hours of starting work at a new logging/cutting site, notify L&I and provide the following details: site location from emergency medical plan, logging systems and cutting methods(s), and expected duration of the job.
4. Submit monthly supplemental reports that document hours and job duties for work done in risk classification 5001.
5. Implement an approved LSI accident prevention program and LSI safety training requirements that are effective in practice.
6. Obtain LSI program certification through independent third party safety audit verification of the LSI Logger Safety Program requirements.

WORKER TRAINING AND SUPERVISION

The Taskforce subcommittee developed LSI model accident prevention programs for cutting operations and other mechanized logging operations that contain all LSI certification requirements for safe work practices, worker training, and supervision specific to the hazards involved. Detailed curriculum has been developed for both the logging operations as well as cutters. In addition, there are specific training and supervision requirements for inexperienced cutters before they can work independently.

Below are some of the key requirements for worker training and supervision:

1. Designate a supervisor for each jobsite who is both competent and qualified to supervise all personnel and enforce the safety and health program requirements.
2. Implement a procedure for monthly safety inspections of all logging/cutting sites to identify and correct unsafe working conditions and unsafe work practices.
3. Ensure that all workers on a logging/cutting site have received safety orientation and training specific to their job.
4. Provide a worker with refresher training if a workplace observation, jobsite inspection or report from another employee reveals that a worker is not performing work tasks safely.
5. Close supervision for each employee who is receiving job safety and health instruction and training.
6. Require employees to demonstrate the ability to safely perform their work task before permitting them to work independently.
7. Ensure that training is provided by persons who are competent and qualified.
8. Ensure that training is conducted in a language and manner that the worker will understand.

The employer is responsible for selecting trainers and ensuring that the trainers understand their roles and responsibilities. Trainers are required to do the following:

1. Determine the experience level of the trainees.
2. Serve as a positive role model for the trainees.
3. Provide training that, at a minimum, meets the training curriculum of the Logger Safety Program.
4. Effectively communicate the training curriculum.
5. Effectively demonstrate proper work practices as required in the training curriculum.
6. Observe and verify that the trainee can perform the proper work practices as required in the training curriculum.

MANDATORY PERFORMANCE-BASED SAFETY AUDITS

In order to obtain LSI program certification, an employer must pass an independent third party safety audit verification of the LSI Logger Safety Program requirements.

The LSI technical sub-committee has drafted external auditor qualifications and expectations which will be used as part of the request for proposal. Additionally, the technical sub-committee has drafted several audit forms and checklists that will be used by the auditor in completing the performance based audits.

L&I is currently working with the LSI Taskforce regarding the requirements for contracting with a third-party vendor to conduct the mandatory performance-based audits. The intention is to have a third-party vendor onboard in early 2014 to begin conducting performance-based audits in summer 2014.

INDUSTRIAL INSURANCE RATES

In September 2014, L&I proposed an average 2.7% rate increase for 2014 workers' compensation premiums; however, an individual employer's actual rate change may be more or less depending on the claims history for the company and for their industry. The proposed rates include premium base rates for all risk classifications, including the manual logging risk classification. The information available for manual logging operations shows an increase of 3%, from \$19.61 per hour to \$20.18 per hour. This is prior to any incentive that may be available under the LSI.

In the proposed rate rule, language was included that allows for a premium discount, to be determined by L&I, for eligible employers engaged in manual logging risk classification 5001 who participate in the LSI.

WAC 296-17-940 Logger Safety Initiative

The Logger Safety Initiative is a loss control initiative as authorized by WAC 296-17-900. The goal of the Logger Safety Initiative is to reduce the frequency and severity of injuries in the logging industry. The department and industry participants, including private land owners, timber industry employers, and the department of natural resources, have formed a Logger Safety Taskforce to develop and implement the Logger Safety Initiative. The Logger Safety Initiative will establish sector-wide standards for worker training and supervision; establish a certification process for individual company safety programs; and review the progress of logging operations through mandatory performance-based audits. Logging employers with workers involved in manual logging who

participate in the Logger Safety Initiative may be eligible for a premium discount as determined by the department.

L&I is proposing a tiered incentive approach for those employers enrolled in the LSI. Detailed information regarding the incentive was provided at the rate hearings in October 2013.

Employers that register between December 2013 and December 2014 will be allowed to enter into the program at the Tier 2 discount of 10%, but the same requirements are necessary to advance to Tier 3.

Below are the details regarding the approach:

| Tier Level & Rate Incentive | How it Works |
|--|---|
| Tier 1: Sign-up and Reporting Requirements (5% discount) | Employer agrees to the following criteria: <ul style="list-style-type: none"> • Complete registration and commitment letter. • Report to the Division of Occupational Safety and Health (DOSH) when starting work at new logging/cutting sites. • Submit monthly LSI manual logging supplemental reports regarding employee hours and job duties. • Begin activities to prepare for a third-party audit: • Implement the Employer Logging Safety Program (LSI accident prevention program and training). • Schedule L&I Premium Technical Audit. • Schedule DOSH Comprehensive consultation. |
| Tier 2: Premium & Safety Consultation (additional 5% discount; total 10% with combined Tier 1 & Tier 2) | LSI employer demonstrates the following: <ul style="list-style-type: none"> • Complete the L&I Premium Technical Audit and have an L&I workers' compensation account in good standing. • Complete the L&I DOSH comprehensive consultation and correct all finding. • History of reporting worksite location information. • Monthly supplemental reports (including zero hour reports) submitted since initial sign-up. • Status report re: implementing LSI employer safety program (LSI accident prevention program and training). |
| Tier 3: Third-Party Safety Audit (additional 10% discount; total 20% with combined Tier 1, Tier 2 and Tier 3 discounts) | Employer passes an independent third-party audit and achieves LSI certification. |
| Tier 4: Performance Based (TBD) | Tier 4 will be determined through ongoing collaboration with the LSI Taskforce. |

Employers will sign a LSI Memorandum of Participation at each new tier which has specific detailed requirements that must be met to be considered in good standing of LSI and eligible for the premium discount.

SAFETY FIRST CULTURE

The injury rate and the severity of those injuries in non-mechanized logging are high. The Washington State Fund compensable claims' rate in non-mechanized logging is more than 13 times that of mechanized logging and nearly 15 times that of all the other State Fund risk classes combined. The acute inpatient hospitalization rate for non-mechanized logging is 50 times that of the overall State Fund.

According to L&I claims data, the most common injuries in logging occur when workers are struck by an object or fall:

- Over 70% of acute inpatient hospitalizations result from being struck by an object, usually a tree, branch or log.
- Approximately 60% of compensable claims result from either being struck by an object or falling during work in the non-mechanized logging industry.
- Severe injuries resulting in acute inpatient hospitalization occur in all non-mechanized logging occupations: fellers/cutters, choker setters, rigging slingers, hook tenders, chasers, and others.
- The workers in the logging workforce, including both mechanized and non-mechanized loggers, tend to have injuries during the early part of their employment tenure with a company.
- One-half of inpatient hospitalizations occur to employees within six months of their employment with a firm.

The injury data enforces the critical need to provide resources that ensure workers are trained and encouraged to work safely and that there are measures in place that support safety in the woods.

The Logger Safety Initiative Taskforce is working on ways to create a culture in which workplace safety is treated as a first priority and a shared responsibility through the industry. The taskforce members believe it is critical for workers to be trained and encouraged to work safely – and that there are measures in place that support safety in the woods, including regular third-party inspection and certification on a voluntary basis.

Landowners recognize the critical role that they play in improving the safety culture. As part of this process, LSI Landowner Requirements are being developed to be considered an LSI Landowner and eligible for recognition by L&I as such.

INCREASE PROPER REPORTING

From 2006 through 2010, L&I conducted 403 logging audits and assessed \$3.5 million in additional premiums. Unregistered firms represented 8.4% of the industry audits during this time-period but about 25% of the additional premiums. The most common reporting errors during this time-period were under-reported hours (47%), reporting hours in a different risk class or misclassification (29%), independent contractor issues (11%), over-reported hours (5%), and other (8%).

The LSI Taskforce recognized that when an individual business in the logging industry underpays its premium, it drives up workers' compensation rates for all logging businesses in Washington State. By working with the industry to ensure proper reporting, we can help ensure that everyone pays their fair share and that premium rates will start to accurately reflect the amount of work being conducted in the logging industry.

To help address reporting concerns, in May 2013, employers in the manual logging risk classification received a letter, offering the opportunity to participate in a workshop that explains reporting requirements. The letter informed employers that audits were planned for the industry to ensure premiums are reported correctly. For example, an employer could inadvertently consider a worker to be an independent contractor rather than a covered worker who needs workers' comp coverage, or could be reporting employee hours in the wrong "risk class" with a different rate. The goal of the audits is to help make sure everyone in the manual logging industry group is reporting correctly, so that rates can be as low as possible for everyone, thereby creating a level playing field.

The industry workshops and audits help educate both contract loggers and landowners regarding safety, recordkeeping requirements, independent contractor rules, classification definitions, prime contractor liability, risk management, return to work, and stay at work programs. Through the end of September of 2013, 159 people have attended the workshops across the state.

Employers were offered the option of attending a workshop and volunteering for an audit "technical visit" which limited the review of books and records to a six-month period and receive clear future reporting instructions. If an employer chose not to enroll in a voluntary audit, they would more than likely be contacted for a full compliance audit that covers a minimum of one year. Additionally, one of the requirements of the LSI Employer Logger Safety Program is to enroll in a voluntary compliance program premium audit.

As of November 4, 2013, logging premium audits have increased hours in the manual logging risk classification by just over 21,800 hours:

- 27 voluntary audits produced 5,368 hours.
- 5 compliance full-year audits produced 16,498 hours.
- 7 voluntary audits are still in process.

NEXT STEPS

Information will be sent to potential participants later this year, including those employers that have had one or more job fatalities in the last five years, and invite them to participate in the LSI Employer Logger Safety program. There is also a new website managed by L&I, **www.LoggerSafety.org**, to ensure current information regarding the LSI program is available.

The Logger Safety Initiative is a collaborative effort of L&I and the LSI Taskforce. After the program is operational, the taskforce and L&I will continue to work together to review progress and recommend improvements.

Conclusion

The industry has shown incredible dedication to the Initiative and has made significant progress in meeting the goals of the Initiative. More work is needed to start up a third-party safety audit program; however, the work by the Taskforce over the past year ensures a program will be available to employers that will increase safety and reduce costs.

The 2013 – 2015 final operating budget bill included a proviso, 3ESSB 5034 (217)(6), requiring L&I to submit a report by December 31, 2014, on the approach of the third-party vendor, accomplishments of the LSI Taskforce, work to date, and future plans. The report will also identify options for future funding of the program and will provide a permanent funding recommendation.

Appendix

LSI Policy Taskforce Members

| Name | Representation | Company |
|--------------------------|--|---|
| Ed Bryant | Washington Contract Loggers Association | ENB Logging & Construction |
| Frank Chandler Jr | Washington Contract Loggers Association | C&C Logging |
| Craig Chilton | Washington Contract Loggers Association | Chilton Logging, Inc |
| Bruce Valentine | Washington Contract Loggers Association | Black Lake Timber, Inc |
| Jerry Bonagofsky | Washington Contract Loggers Association | WCLA Executive Director |
| Norm Schaaf | Washington Forest Protection Association | VP Timberlands & WFPA President; Merrill & Ring Co |
| Anthony Chavez | Washington Forest Protection Association | Weyerhaeuser Company; Public Affairs |
| Dave Nunes | Washington Forest Protection Association | Olympic Resource Management LLC |
| Court Stanley | Washington Forest Protection Association | Port Blakely Tree Farms, LP |
| Patti Case | Washington Forest Protection Association | Green Diamond Resource Co; Public Affairs Administrator |
| Jason Spadaro | Washington Forest Protection Association | Stevenson Land Company |
| Scott Ketchum | Washington Forest Protection Association | Hancock Forest Management |
| Mark Doumit | Washington Forest Protection Association | WFPA Executive Director |
| Chris Lipton | Washington Forest Protection Association | Longview Timberlands LLC Manager |
| Vickie Kennedy | Dept. of Labor & Industries | Dept. of Labor & Industries |
| David Bonauto | Dept. of Labor & Industries | Dept. of Labor & Industries |
| David Puente | Dept. of Labor & Industries | Dept. of Labor & Industries |
| Julie Sackett | Dept. of Natural Resources | Dept. of Natural Resources |

LSI Technical Sub-Committee Members

| Name | Representation | Company |
|--------------------------|--|--|
| Ed Bryant | Washington Contract Loggers Association | ENB Logging & Construction |
| Frank Chandler Jr | Washington Contract Loggers Association | C&C Logging |
| Craig Chilton | Washington Contract Loggers Association | Chilton Logging, Inc |
| Bruce Valentine | Washington Contract Loggers Association | Black Lake Timber, Inc |
| Jerry Bonagofsky | Washington Contract Loggers Association | WCLA Executive Director |
| Travis Keatley | Washington Forest Protection Association | Weyerhaeuser Company |
| John Ison | Washington Forest Protection Association | Green Diamond Resource, Logging Manager |
| Duane Evans | Washington Forest Protection Association | Port Blakely Tree Farms, VP US Forest Operations |
| Matt Roscoe | Washington Forest Protection Association | Longview Timber, SW WA Tree Farm Manager |
| Tim Raschko | Washington Forest Protection Association | Olympic Resource Management, Director of Timberland Management |
| Brian Wesemann | Dept. of Natural Resources | Natural Resources Specialist 2 |
| David Bonauto | Dept. of Labor & Industries | Associate Research Director, SHARP |
| Travis Naillon | Dept. of Labor & Industries | Safety& Health Specialist, DOSH |
| Larry Markee | Dept. of Labor & Industries | Safety& Health Specialist, DOSH |