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ew life for old mill in Easley
 Mill to become mixed use development
 Page 5



op shelf
 State named the best place for warehousing
 Page 7

urman goes large with dorms
 University to build one and locate four others
 Page 8

refab soars
 Experts say 2022 could be a great year for prefabrication construction
 Page 11

INSIDE

- Ending Off 2
- Biz News Briefs 3
- Suite 4
- Focus: Architecture, Engineering and Construction** 11
- T: Engineering Companies** 16
- Work 21
- Workpoint 23



SC Ports prepares for influx with expanded chassis pool

By Molly Hulsey
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A flood is predicted for the Port of Charleston — not water, but ships. West Coast ports await July 1 with bated breath and weeks of delays: the day marks the deadline for the International Longshoremen's Worker Union labor contract. The last contract negotiations in 2014 shut ILWU ports down for four months, according to Jason Haith, manager of global freight forwarder OEC Group Louisville. At the time, 24 vessels waited for a chance to dock. A few weeks ago, Haith reported 180 cargo ships stalled off the West Coast, not including vessels waiting at the docks. It also doesn't take into account an annual slinky effect brought on by the Chinese New Year, "probably the largest human migration on the planet where hundreds of millions of people leave the cities and go back inland to visit their families," he said. Most of his clients have diverted imports to other parts of the country, to Houston, Savannah and Charleston.

Haith believes the Port of Charleston is primed for growth, but the West Coast fields typically 60% of volumes coming into the United States. He fears eastern ports like Charleston may soon look like Los Angeles as ILWU labor negotiations mount. "I definitely think there are volume increases headed their way, and their biggest challenge is probably going to be how to handle all the business that's coming now," he told GSA Business Report. Importers using eastern ports are seeing delays of more than a month just to get cargo to distributors and are paying up to \$25,000 in total import costs, said Haith. Four years ago, most East Coast importers paid around \$3,500. Some logistics companies can't pick up imports at the Port of Charleston for three or four weeks after containers are unloaded. "They've had a heck of a time getting containers out of the port and delivered," Haith said. "A lot of this has to do with chassis." There isn't a shortage of chassis in

See PORTS, Page 6 ▶

Experts share what omicron spells for SC employers

Prisma Health's Dr. Rachel Brown and Ogletree Deakin's Lucas Asper offer insight on what new public health guidance, the COVID-19 Liability Immunity Act and the defeat of Occupational Safety and Health Administration's vaccine mandate might translate to for Palmetto State employers.

By Molly Hulsey
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First, it was two weeks of leave. Now, six days after symptoms and no test. Following public health guidance during the COVID-19 era may seem like scaling a bootcamp obstacle course on an active construction site, but experts in the health care and legal realm argue it can be the linchpin for preventing outbreaks and lawsuits.

Six days from Sunday

Dr. Rachel Brown, medical director of Prisma's Business Health Solutions, cautions employers against instituting back-to-work tests for employees positive for COVID-19. Patients who contract the omicron variant of COVID-19 can test positive for the virus on a PCR test up to three months after they stop shedding the virus, she said, while the shortage of the tests presents another barrier to timely results. "This is so important for our supply chain and for our workforce, to get them back into the workplace as soon as they are feeling better: for someone who has COVID and who is in isolation, we do not recommend a test to return to work," she told GSA Business Report, calling such

See OMICRON, Page 6 ▶

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In Focus
Upstate Under Construction
 The Upstate's developers, engineers, architects and builders have been busy
 Page 13

PORTS, from Page 1 ▶

circulation. But there is a shortage in how many chassis are available for use at the terminal — and not waiting to be unloaded at a short-staffed warehouse or transported back to the terminal by a coronavirus-inundated fleet.

Solutions, not weather reports

The S.C. Ports Authority will be the second ports system in the nation to create its own chassis pool program to meet that demand, according to COO Barbara Melvin.

Once launched in 2023 through a \$200 million investment, the pool will house thousands of chassis able to be leased from the Port of Charleston's terminal. The seed money will be sourced from port revenue, she said.

"We're trying to utilize the latest technology to see how we can rethink the chassis pool model," said James Caudill, director of the ports authority's chassis pool. He added that the new chassis, built by Dorsey Intermodel will be wired with GPS tracking technology. "GPS technology sounds simple, but you can utilize something like that to forecast issues down the road."

The data could be used to help stream-

line inventory management or provide business insight for port customers.

Aside from Port of Virginia, the first port to develop its own chassis pool, many Eastern ports participated in the South Atlantic Chassis Pool.

The closed-loop Palmetto State pool is expected to enhance the efficiency and availability for logistics companies, and also open up chassis for other nearby ports systems.

"That really is the biggest benefit for the supply chain," said Melvin.

Leading up to the 2023 launch, the ports authority will phase out its use of chassis leased from the South Atlantic Pool with more than 11,000 purchased chassis that will be upfitted with smart tech.

On Jan. 24, the Port of Charleston received its first shipment of more than 700 chassis after a 40-day journey on the Liberty Promise from Vietnam, according to the ports system. An additional 1,600 are set to arrive in February as the ports authority builds out its inventory. These chassis will be available for long-term lease agreements until the April 2023 launch. After, they will be available for a daily rate.

Rates will soon be made public, according to the ports authority.

"Even when we hit supply chain challenges like we're seeing today, we have to keep working through those with our maritime partners, keep putting forward solutions instead of just having weather reports on the problem."

Barbara Melvin
COO and future CEO
S.C. Ports Authority

"We're going through all the steps of making them ready for providing [for] the people who have a need early on right now for 20-foot equipment," Caudill said. "And then, as we go throughout this year, we'll step-by-step transition areas like Greer and Dillon. That will provide relief to the South Atlantic chassis pool."

The chassis pool is just one of the places the ports authority sees room for growth

as more ships redirect from clogged West Coast ports to Charleston.

"We see others along with the chassis, whether that be ample warehouse space, a labor force that is available for working in logistics, motor carrier driver availability," as well as the ability to move containers off marine terminals, said Melvin.

State support to build a dual-served rail facility will go a long way for helping the port keep pace, she said. Once finished, it will bring port capacity to more than 1 million rail lifts. The port deepening project, set to make the Port of Charleston the deepest in the Southeast, is expected to reach completion in September.

"Even when we hit supply chain challenges like we're seeing today, we have to keep working through those with our maritime partners, keep putting forward solutions instead of just having weather reports on the problem," she said. "You have to bite the bullet sometimes and do what we're doing with the chassis pool. You have to not get scared when you're making investments like a billion dollars into a new terminal. You have to have a long view of what is needed in the supply chain to be successful." ⁵⁵⁴

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OMICRON, from Page 1 ▶

policies a "nightmare for HR."

That also includes rapid antigen tests, which, even as they have become more available, continue to be much less sensitive than the PCR test. One can trust a positive rapid result accompanied by symptoms most of the time, according to Brown, but a negative with symptoms or without symptoms, such as a rapid test used to screen employees each week, is suspect. Prisma does not accept a rapid antigen negative as grounds for returning to work. It takes into account the result of a positive antigen test if it is accompanied by symptoms. If the rapid test comes back negative and employees continue to have symptoms, Prisma requires them to get a PCR test.

In line with Centers for Disease Control and Prevention guidance, Brown advised employers to allow employees who are positive with the virus or show symptoms to return to work six days after the last 24-hours of symptoms. They should also wear a mask for five days after returning, she said.

Employees who are asymptomatic but have been in direct contact with an infected person should be asked to quarantine for five days following exposure and return with a negative PCR test taken on day four after, according to Brown.

"This is a phenomenal oversimplification," she said, adding that additional measures like encouraging vaccination, the use of surgical or higher-grade masks for the vaccinated and unvaccinated,

rescheduled events and social distancing for those unable to mask can go a long way in mitigating COVID-19 related absences.

Especially as test shortages have been so severe that she — and many of her clients — doubted that the OSHA Emergency Temporary Standard for weekly testing could have been carried out if it had not been shot down by the U.S. Supreme Court.

"We are trying so hard to get organizations to understand that ordering those return-to-work tests for folks who have been out with COVID — they clog up the health care system, they use up coveted tests, and they will complicate the return-to-work picture," said Brown. "So just use the clinical guidelines to bring people back to work."

Obstacle after obstacle

S.C. employer protections will keep businesses covered from most pandemic-related lawsuits if they roll out COVID-19 policies in line with CDC guidance, according to Lucas Asper, an employment law shareholder of Ogletree Deakins and a spokesperson for the Greenville Society for Human Resource Management.

South Carolina's COVID-19 Liability Immunity Act signed into law last summer offers liability protections for a limited amount of time to health care providers and businesses that follow COVID-19 public health guidance.

"The only claims that I think would be truly viable would be based on alleged OSHA violations. Tort claims against

employers will likely be limited to situations where employers thumb their nose at public health guidance — where they know there's a problem or a lack of compliance and they're just sticking their heads in the sand," said Asper.

Ogletree Deakins has been involved in 39 COVID-19 related cases in South Carolina. The manufacturing, public and hospitality sectors are the most likely to see legal action, according to the company's COVID-19 litigation tracker.

In one case, a shop foreman at a manufacturing facility alleged his company failed to enforce social distancing or provide proper personal protective equipment. He claimed he was fired and left uncompensated after calling in sick to receive a COVID-19 test and then entering the hospital for another illness.

At another facility, an employee claims he was fired in retaliation for reporting that his supervisor had remained at work after exposure to a known COVID-19 case.

Other cases involved claimed termination, discipline or lack of promised sick pay following quarantine, a workplace-based exposure, demands for Emergency Family Leave or requests from employees with an alleged autoimmune disorder to work from home.

"With the OSHA piece of this, even with the ETS getting stayed and now put out to pasture permanently, all employers that are subject to OSHA are subject to the general duty clause, and what that says is: you have to make sure you're providing a safe and healthy workplace and avoiding

any recognizable hazards for employees," he said. "Because of that, if we are following CDC guidelines, we should be in pretty good shape."

That means not just creating policies on paper but to communicate them on the day-to-day and stay aware. Asper also advises employers to install masking policies for employees that engage with the public where social distancing isn't possible, regardless of vaccination status, to prevent both infection and legal action.

"I have not been encouraging anyone to institute a testing policy at this point, especially now that the ETS is gone, and one of the main reasons why is the challenge of procuring tests for an entire workforce on an ongoing basis," he said. "As we were headed toward enforcement of the ETS, I talked to several companies that had attempted to source tests from numerous locations and were meeting obstacle after obstacle after obstacle."

Positive feedback from the failure of the OSHA ETS has been almost unanimous among Asper's clients.

"Companies that wanted to implement a mandatory vaccine probably already did it, or they started heading down that path as this started percolating through the courts," he said. "And they probably won't change course."

Follow GSA Business Report's continued conversation with Asper on vaccine mandates and exemptions at gsabusiness.com. ⁵⁵⁴

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