

5224.0050 BULK OIL PLANT OPERATORS.

Subpart 1. **Definition.** A bulk plant operator is an individual who:

- A. distributes the products of firms engaged in the oil business;
- B. receives the oil products from the firm with which he or she contracts and delivers them to the retailers in his or her territory; and
- C. collects money for the products from customers and forwards it to the firm.

Subp. 2. **Independent contractor.** A bulk oil plant operator is an independent contractor if all of the following criteria are substantially met.

- A. The operator is in complete charge of the entire plant.
- B. The operator's contract with an oil firm provides that the operator will:
 - (1) sell the firm's petroleum products on a consignment basis and account for all money collected;
 - (2) sell the products within a general territory at prices set by the firm;
 - (3) bear all expenses except freight on the products consigned;
 - (4) furnish trucks and other equipment; and
 - (5) hire, pay, and assume full responsibility for all necessary assistants.
- C. The operator advertises the firms' products at his or her own expense.
- D. The operator fixes the hours and days the plant remains open, and hires, pays, and controls the employees.

Subp. 3. **Employee.** A bulk oil plant operator is an employee if all of the following criteria are substantially met.

- A. The operator does not have an investment in capital assets and is paid on a salary basis.
- B. The operator is required to work fixed hours or full time.
- C. The operator is included in the oil firm's employee benefits plans.
- D. The operator is required to comply with instructions given by the firm.
- E. The operator is not personally obligated to pay wages or does not assist in paying the truck or plant maintenance expenses.
- F. The operator is hired to manage the plant on a salary basis under instructions on the method and manner of doing the work.

Statutory Authority: *MS s 176.041; 176.83*

History: *10 SR 1852*

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