

**5224.0270 TIMBER FELLERS, BUCKERS, SKIDDERS, AND PROCESSORS.**

Subpart 1. **Definition.** Timber fellers employ chain saws or other mechanical devices mounted on logging vehicles to fell trees. Trees so felled may either be delimbed at the site or subsequently at roadside landings.

Buckers cut trees into merchantable lengths, with either chain saw or heavier machinery such as slashers, harvesters, and processors. These operations may also be conducted either at the felling site or at roadside. In either case the product is piled or otherwise accumulated to facilitate subsequent transportation.

Skidders or forwarders either drag logs or trees to roadside landings, or load and transport logs or shortwood (fuelwood or pulpwood) to similar destinations.

Timber harvesters and processors combine two or more of the operations described above.

Mechanical debarking and/or chipping may also be coordinated with skidding or forwarding operations.

Chips are usually blown into semitrailer vans for delivery to mills for remanufacture or to furnaces for fuel.

Subp. 2. **Neutral factors.** Due to the nature of the work and certain customs in the field, the following factors are neutral: lack of fixed hours of work, payment on a piecework basis, ownership of small tools, and requirements that the product of the work be within overall specifications.

Subp. 3. **Independent contractor.** A feller, buckler, skidder, or processor is an independent contractor if all of the following criteria are substantially met.

A. The worker is granted timber rights to tracts of land and legally binds himself or herself to remove all or certain parts of the timber within specified times at set prices.

B. The worker bargains for "package" jobs which he or she will do by methods of his or her own choice subject to production specifications required by the contracting company.

C. The worker is paid to obtain a result, which does not necessarily depend on his or her own personal services.

D. The worker is free to hire and direct others to do the work and the worker is responsible for expenses incurred in fulfilling the contract.

E. The worker supplies the necessary equipment and sometimes the tools used by the helpers.

F. The worker determines the working hours and rates of pay, and otherwise controls the helpers' working conditions.

G. The worker holds himself or herself out to the public as a contractor and sometimes holds several logging contracts at the same time.

H. The worker is in a position to make a profit or suffer a loss, depending on the management of helpers, the care of the tools and equipment, and the methods used for doing the work.

I. As long as the worker produces final results that measure up to specifications, there is no desire or legal right to interfere with the worker's methods.

Subp. 4. **Employee.** A feller, buckler, skidder, or processor is an employee if all of the following criteria are substantially met.

A. The feller, buckler, skidder, or processor is assigned specific portions of the area to be harvested, but the right to work in other portions is not given to him or her exclusively.

B. The company assigns a number of workers to each area. They are told the kind and size of trees to cut. Trees designated to be cut because of a conservation or sustained-yield program do not indicate employment.

C. The company lead supervisor periodically inspects the work area to be harvested and, if not satisfied with the progress being made, replaces the workers with another crew.

D. The crews may be shifted from one work area to another to speed up operations and if a worker is ill or not doing satisfactory work the lead supervisor may replace the worker.

E. The worker chooses his or her own hours of work, but is required to finish each work area within a certain time and to do so usually requires long and regular hours of work.

F. The worker may be paid on a piecework basis or by the cord, but generally the company will not pay for products that do not measure up to specifications. Keeping records of wages paid and hours worked is not indicative of employment if it is required only to ensure that the products may be shipped in interstate commerce.

**Statutory Authority:** *MS s 176.041; 176.83*

**History:** *10 SR 1852; 17 SR 1279*

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