

Appendix 3 Timber Sale Contract Checklist for Private Landowners and Loggers

The following is a checklist of issues private landowners and logging contractors may want to consider on a logging contract. Each of the items should be addressed in a contract to allow for a minimum probability of a dispute. **Issues can be as detailed as both parties find acceptable and economically feasible.**

___ **Property location and legal description are clearly defined**

Include Tree Farm certification number if applicable.

___ **Property boundaries and harvest units are clearly and accurately marked**

Logging trespass can result in a minimum cost of 3x value of trees.

___ **Property ownership is documented and type of ownership is specified**

Either individual, partnerships, corporations, etc.

___ **Insurance is documented**

Any contractor working for a landowner must have Commercial General Liability \$1 –million, Loggers Broad Form Property Damage Liability \$1-million, Workers' Compensation \$100,000 or an Independent Contractor Exemption, and Automobile Liability \$1-million. If they do not have these, the landowner will be held liable for any damage or personnel injury that may occur. Insurance can be written to include owner and consulting forester.

___ **Access to the property/harvest unit are specified and documented**

To avoid trespass or the disturbance of sensitive area access routes should be clearly delineated. If access across other ownerships is required, written and notarized documentation of access permission should be obtained.

___ **Type of harvest is clearly specified for each stand**

Typically trees are marked both at eye level and on the stump, or harvest tree characteristics are defined by species, diameter, crown characteristic, or residual tree spacing.

___ **Timing of harvest is specified**

Dates when harvesting and/or other treatments need to be conducted or completed by.

___ **Residual property specifications should be defined**

This is as detailed as the landowner and contractor can agree upon. Issues can be the completeness of residual logging debris disposal, burn pile rehabilitation, grass seeding, skid trail rehab, noxious weed control, tree planting, noncommercial thinning, access roads- does the logger need to do repairs and bring them up to a particular standard or are they required to put them to bed and pull up the culverts?

- **Best Management Practices (BMP's) responsibilities are designated**
Compliance to state BMP's is ultimately the landowners responsibility but should be specified in the contract.

 - **Performance bond or contract penalty**
Create some provision for compensation to the landowner for harvesting activities that deviate from specifications. Having the contractor post a bond is the best protection for the landowner but imposes a risk on the contractor.

 - **Method of payment is clearly defined**
Could include: **Lump sum** is one payment for the entire estimated log volume, this method may over or underestimate actual value but is simple and can be demanded in advance of the actual harvesting. **Payment by unit** is where payment for logs occurs based upon the actual scaled logs at the mill. Either the contractor pays an agreed upon percentage to the landowner or the mill pays agreed upon percentages separately to the contractor and landowner. Downfall is that in cases of salvaging dead and dying trees a delayed harvesting job can result in losses of standing tree value.

 - **Method of scaling is defined**
Either direct scaling or weight scaling are used. Direct scaling tends to be more accurate though each mill may use different defect deductions. Weight scaling works for large volume sales that have trees of similar species and diameter. In general logs should be trucked to the mill quickly following harvest or they lose significant water weight or for most accurate conversions a continuous representative sample of logs should be check scaled and weighed.

 - **Notification**
It is defined if and when the contractor or landowner needs to notify the other party about when activities are to start or end and the type of format – written, e-mail, telephone. This is to avoid issues with blocked access, noise, special sites, etc.

 - **Expiration date**
Any contract should have a defined end date after which the contract is no longer valid.

 - **Notarization**
Any legally binding document should have signatures notarized.
- *** This is simply a recommended check list compiled from a variety of sources including the Montana Logging Association. Any contract can be challenged. It is always advised that a contract be reviewed by an attorney. You may also want an attorney's fees recovery statement in the document that will allow for recovery of legal fees should a dispute require legal action. ***