

Chapter 79.15 RCW
SALE OF VALUABLE MATERIALS

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PART 1
GENERAL PROVISIONS

RCW 79.15.010 Valuable materials sold separately. (1) Valuable materials situated upon state lands and state forestlands may be sold separate from the land, when in the judgment of the department, it is for the best interest of the state so to sell the same.

(2) Sales of valuable materials from any university lands require:

(a) The consent of the board of regents of the University of Washington; or

(b) Legislative directive.

(3) When application is made for the purchase of any valuable materials, the department shall appraise the value of the valuable materials if the department determines it is in the best interest of the state to sell. No valuable materials shall be sold for less than the appraised value thereof. [2003 c 334 s 331; 2001 c 250 s 3; 1982 1st ex.s. c 21 s 154; 1959 c 257 s 12; 1929 c 220 s 1; 1927 c 255 s 31; RRS s 7797-31. Prior: 1915 c 147 s 2; 1909 c 223 s 3; 1907 c 256 s 6; 1901 c 148 s 1; 1899 c 129 s 1; 1897 c 89 s 12; 1895 c 178 s 23. Formerly RCW 79.01.124, 79.12.100.]

Intent—2003 c 334: See note following RCW 79.02.010.

Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.135.900 through 79.135.904.

Forests and forest products: Title 76 RCW.

RCW 79.15.020 Duties of department. (1) The department shall exercise general supervision and control over the sale of valuable materials.

(2) The department shall maintain all reports, data, and information in its records pertaining to a proposed sale.

(3) The department may hold a sale in abeyance pending further inspection and report and may cause such further inspection and report.

(4) The department shall determine, based on subsection (2) of this section, and if necessary the information provided under subsection (3) of this section, the terms upon which the proposed sales are consummated. [2003 c 334 s 319.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.030 Rules or procedures for removal of valuable materials sold. All sales of valuable materials shall be made subject to the right, power, and authority of the department to prescribe rules or procedures governing the manner of the sale and removal of the valuable materials. Such procedures shall be binding when contained within a purchaser's contract for valuable materials and apply to the purchaser's successors in interest and shall be enforced

by the department. [2004 c 199 s 213; 2003 c 334 s 339; 2001 c 250 s 5; 1959 c 257 s 15; 1927 c 255 s 40; RRS s 7797-40. Prior: 1915 c 147 s 2; 1909 c 223 s 3; 1907 c 256 s 6; 1901 c 148 s 1; 1899 c 129 s 1; 1897 c 89 s 12; 1895 c 178 s 23. Formerly RCW 79.01.160, 79.12.190.]

Part headings not law—2004 c 199: See note following RCW 79.02.010.

Intent—2003 c 334: See note following RCW 79.02.010.

Forest protection: Chapter 76.04 RCW.

RCW 79.15.040 Sale of valuable materials without application or deposit. The department may cause valuable materials on state lands and state forestlands to be inspected and appraised and offered for sale when authorized by the board without an application having been filed, or deposit made, for the purchase of the same. [2003 c 334 s 341; 1961 c 73 s 2; 1959 c 257 s 17; 1927 c 255 s 42; RRS s 7797-42. Prior: 1915 c 147 s 2. Formerly RCW 79.01.168, 79.12.210.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.045 Who may purchase—Fee. A person desiring to purchase valuable materials may make application to the department on forms provided by the department and accompanied by the fee provided in RCW 79.02.250. [2003 c 334 s 312.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.050 Type of sale—Direct sales. (1) All sales of valuable materials exceeding twenty-five thousand dollars in appraised value must be at public auction or by sealed bid to the highest bidder, provided that on public lands granted to the state for educational purposes sealed bids may be accepted for sales of timber or stone only.

(2) A direct sale of valuable materials may be sold to the applicant for cash at full appraised value without notice or advertising. The board must, by resolution, establish the value amount of a direct sale not to exceed twenty-five thousand dollars in appraised sale value, and establish procedures to ensure that competitive market prices and accountability are guaranteed. [2006 c 42 s 1; 2003 c 334 s 353.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.055 Appraisal—Defined. For the purposes of this chapter, "appraisal" means an estimate of the market value of valuable materials. The estimate must reflect the value based on market conditions at the time of the sale or transfer offering. The appraisal must reflect the department's best effort to establish a reasonable market value for the purpose of setting a minimum bid at auction or transfer. A purchaser of valuable materials may not rely upon the

appraisal prepared by the department for purposes of deciding whether to make a purchase from the department. All purchasers are required to make their own independent appraisals. [2004 c 199 s 214; 2003 c 334 s 309; 2001 c 250 s 10. Formerly RCW 79.01.082.]

Part headings not law—2004 c 199: See note following RCW 79.02.010.

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.060 Date of sale limited by time of appraisal—Transfer of authority. (1) For the sale of valuable materials under this chapter, if the board is required by law to appraise the sale, the board must establish a minimum appraisal value that is valid for a period of one hundred eighty days, or a longer period as may be established by resolution. The board may reestablish the minimum appraisal value at any time. For any valuable materials sales that the board is required by law to appraise, the board may by resolution transfer this authority to the department.

(2) Where the board has set a minimum appraisal value for a valuable materials sale, the department may set the final appraisal value of valuable materials for auction, which must be based on current market prices. The department may also appraise any valuable materials sale not required by law to be approved by the board. [2009 c 418 s 4; 2003 c 334 s 329.]

Findings—Intent—2009 c 418: See note following RCW 79.15.510.

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.070 Time and date of sale. It is the duty of the department to fix the date, time, and place of sale.

(1) All valuable materials shall have been appraised prior to the date fixed for sale as prescribed in RCW 79.15.060.

(2) No sale may be conducted on any day that is a legal holiday.

(3) Sales must be held between the hours of 10:00 a.m. and 4:00 p.m. If all sales cannot be offered within this time period, the sale must continue on the following day between the hours of 10:00 a.m. and 4:00 p.m.

(4) Sales must take place:

(a) At the department's regional office having jurisdiction over the respective sale; or

(b) On county property designated by the board of county commissioners or county legislative authority of the county in which the whole or majority of valuable materials are situated. [2003 c 334 s 350.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.080 Advertising sales of valuable materials. (1) Sales, other than direct sales, appraised at an amount not exceeding two hundred fifty thousand dollars, when authorized by the board for sale, shall be advertised by publishing not less than ten days prior

to sale a notice of such sale in a newspaper of general circulation located nearest to the property from which the valuable material is to be sold.

(2) Except as provided in RCW 79.15.050, all other proposed sales of valuable materials must be advertised through individual notice of sale and publication of a statewide list of sales.

(a) The notice of sale:

(i) Must specify the place, date, and time of sale, the appraised value thereof, and describe with particularity each parcel of land from which valuable materials are to be sold. The estimated volume will be identified and the terms of sale will be available in the region headquarters and the department's Olympia office;

(ii) May prescribe that the bid deposit required in RCW 79.15.110 be considered an opening bid;

(iii) May be advertised by newspaper or by other means of publishing the information such as on the internet; and

(iv) Must be posted in a conspicuous place in the department's Olympia office and in the region headquarters administering the sale, and in the office of the county auditor of the county where the material is located.

(b) The department shall print a list of all valuable material on public lands that are to be sold. The list should be organized by county and by alphabetical order.

(i) The list should be published in a pamphlet form, issued at least four weeks prior to the date of any sale and provide sale information to prospective buyers.

(ii) The department must retain for free distribution in the Olympia office and the region offices sufficient copies of the pamphlet, to be kept in a conspicuous place, and, when requested to do so, must mail copies of the pamphlet as issued to any requesting applicant.

(iii) The department may seek additional means of publishing the information in the pamphlet, such as on the internet, to increase the number of prospective buyers.

(3) The department is authorized to expend any sum in additional advertising of the sales as it deems necessary. [2006 c 42 s 2; 2003 c 334 s 347.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.090 Advertisement for informational purposes only.

The advertisement of sales is for informational purposes only, and under no circumstances does the information in the notice of sale constitute a warranty that the purchaser will receive the stated values, volumes, or acreage. All purchasers are expected to make their own measurements, evaluations, and appraisals. [2003 c 334 s 345.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.100 Terms and conditions of sale—Exemption for forest biomass. (1) Valuable materials may be sold separately from the land as a "lump sum sale" or as a "scale sale."

(a) "Lump sum sale" means any sale offered with a single total price applying to all the material conveyed.

(b) "Scale sale" means any sale offered with per unit prices to be applied to the material conveyed.

(2) Payment for lump sum sales must be made as follows:

(a) Lump sum sales under five thousand dollars appraised value require full payment on the day of sale.

(b) Lump sum sales appraised at over five thousand dollars but under one hundred thousand dollars may require full payment on the day of sale.

(c) Lump sum sales requiring full payment on the day of sale may be paid in cash or by certified check, cashier's check, bank draft, or money order, all payable to the department.

(3) Except for sales paid in full on the day of sale or sales with adequate bid bonds, an initial deposit not to exceed twenty-five percent of the actual or projected purchase price shall be made on the day of sale.

(a) Sales with bid bonds are subject to the day of sale payment and replacement requirements prescribed by RCW 79.15.110.

(b) The initial deposit must be maintained until all contract obligations of the purchaser are satisfied. However, all or a portion of the initial deposit may be applied as the final payment for the valuable materials in the event the department determines that adequate security exists for the performance or fulfillment of any remaining obligations of the purchaser under the sale contract.

(4) Advance payments or other adequate security acceptable to the department is required for valuable materials sold on a scale sale basis or a lump sum sale not requiring full payment on the day of sale.

(a) The purchaser must notify the department before any operation takes place on the sale site.

(b) Upon notification as provided in (a) of this subsection, the department must require advanced payment or may allow purchasers to submit adequate security.

(c) The amount of advanced payments or security must be determined by the department and must at all times equal or exceed the value of timber cut and other valuable materials processed or removed until paid for.

(d) Security may be bank letters of credit, payment bonds, assignments of savings accounts, assignments of certificates of deposit, or other methods acceptable to the department as adequate security.

(5) All valuable material must be removed from the sale area within the period specified in the contract.

(a) The specified period may not exceed five years from date of purchase except for stone, sand, gravel, fill material, or building stone.

(b) The specified period for stone, sand, gravel, fill material, or building stone may not exceed thirty years.

(c) In all cases, any valuable material not removed from the land within the period specified in the contract reverts to the state. The department may utilize any remaining forest biomass in accordance with chapter 79.150 RCW.

(6) The department may extend a contract beyond the normal termination date specified in the sale contract as the time for removal of valuable materials when, in the department's judgment, the purchaser is acting in good faith and endeavoring to remove the materials. The extension is contingent upon payment of the fees specified below.

(a) The extended time for removal shall not exceed:

(i) Forty years from date of purchase for stone, sand, gravel, fill material, or building stone;

(ii) A total of ten years beyond the original termination date for all other valuable materials.

(b) An extension fee fixed by the department will be charged based on the estimated loss of income per acre to the state resulting from the granting of the extension plus interest on the unpaid portion of the contract. The board must periodically fix and adopt by rule the interest rate, which shall not be less than six percent per annum.

(c) The sale contract shall specify:

(i) The applicable rate of interest as fixed at the day of sale and the maximum extension payment; and

(ii) The method for calculating the unpaid portion of the contract upon which interest is paid.

(d) The minimum extension fee is fifty dollars per extension plus interest on the unpaid portion of the contract.

(e) Moneys received for any extension must be credited to the same fund in the state treasury as was credited the original purchase price of the valuable material sold.

(7) The department may, in addition to any other securities, require a performance security to guarantee compliance with all contract requirements. The security is limited to those types listed in subsection (4) of this section. The value of the performance security will, at all times, equal or exceed the value of work performed or to be performed by the purchaser.

(8) The department does not need to comply with the provisions of this chapter for forest biomass except as described in the provisions of chapter 79.150 RCW. Forest biomass may not be included in any sales contract authorized under this chapter unless the department has complied with the provisions of chapter 79.150 RCW.

(9) The provisions of this section apply unless otherwise provided by statute. [2010 c 126 s 9; 2004 c 177 s 5; 2003 c 334 s 334.]

Effective date—2004 c 177: See note following RCW 84.33.035.

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.110 Conduct of sales. (1) Sales of valuable materials must be conducted under the direction of the department or its authorized representative.

(a) Sales of valuable materials, unless otherwise provided in this chapter, shall be at public auction or by sealed bid to the highest bidder, except that, on public lands granted to the state for educational purposes, sealed bids may be accepted for sales of timber or stone only.

(b) The person conducting the sale is called the auctioneer.

(2) On or before the time specified in the notice of sale each bidder shall deposit with the auctioneer a bid deposit equal to the amount specified in the notice of sale plus any fees required by law for the issuance of contracts or bill of sale.

(a) The bid deposit must meet the requirements of RCW 79.15.100(3).

(b) The deposit may be in cash, or by certified check, cashier's check, or money order, all payable to the department or by bid guarantee in the form of a bid bond acceptable to the department.

(3) The bid deposit, if prescribed in the notice of sale as authorized in RCW 79.15.100, may be considered an opening bid of an amount not less than the minimum appraised price established in the notice of sale.

(4) The successful bidder's deposit will be retained by the auctioneer.

(a) Any difference between the bid deposit and the total amount due including any fees required by law shall be paid on the day of sale. Payments may be by cash, certified check, cashier's check, bank draft, or money order payable to the department.

(b) Any amount of the deposit guaranteed by a bid bond must be paid to the department within ten days of the sale day in cash, certified check, cashier's check, money order, or other acceptable payment method.

(c) Other deposits must be returned to the respective bidders at the conclusion of each sale.

(5) The auctioneer must deliver to the purchaser a memorandum of his or her purchase containing a description of the materials purchased, the price bid, and the terms of the sale.

(6) The auctioneer must at once send to the department all payments or bid guarantees received from the purchaser and a copy of the memorandum delivered to the purchaser, together with additional reports of the proceedings as required by the department. [2003 c 334 s 355.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.120 Confirmation of sale. The department shall enter upon its records a confirmation of sale and issue to the purchaser a bill of sale for valuable materials if the following conditions have been met:

(1) No fewer than ten days have passed since the auctioneer's report has been filed;

(2) No affidavit is filed with the department showing that the interests of the state in the sale were injuriously affected by fraud or collusion;

(3) It appears from the auctioneer's report that:

(a) The sale was fairly conducted; and

(b) The purchaser was the highest bidder and the bid was not less than the appraised value of the material sold;

(4) The department is satisfied that the valuable material sold would not, upon being readvertised and offered for sale, sell for at least ten percent more than the price submitted by the apparent high bidder;

(5) The payment required by law to be made at the time of making the sale has been made; and

(6) The department determines the best interests of the state will be served by confirming the sale. [2003 c 334 s 358.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.130 Bill of sale. When valuable materials are sold separately from the land and the purchase price is paid in full, the department shall prepare a bill of sale. The bill of sale shall:

(1) State the time period for removing the material;

(2) Be signed by the commissioner and attested by the seal of the commissioner's office upon full payment of the purchase price and fees;

(3) Be issued to the purchaser upon payment of the fee for the bill of sale; and

(4) Be recorded in the department. [2003 c 334 s 362; 2001 c 250 s 9; 1927 c 255 s 58; RRS s 7797-58. Formerly RCW 79.01.232, 79.12.420.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.140 Valuable materials contract—Impracticable to perform/cancellation—Substitute valuable materials. (1) In the event that the department determines that regulatory requirements or some other circumstance beyond the control of both the department and the purchaser has made a valuable materials contract wholly or partially impracticable to perform, the department may cancel any portion of the contract which could not be performed. In the event of such a cancellation, the purchaser shall not be liable for the purchase price of any portions of the contract so canceled. Market price fluctuations shall not constitute an impracticable situation for valuable materials contracts.

(2) Alternatively, and notwithstanding any other provision in this title, the department may substitute valuable materials from another site in exchange for any valuable materials which the department determines have become impracticable to remove under the original contract. Any substituted valuable materials must belong to the identical trust involved in the original contract, and the substitute materials shall be determined by the department to have an appraised value that is not greater than the valuable materials remaining under the original contract. The substitute valuable materials and site shall remain subject to all applicable permitting requirements and the state environmental policy act, chapter 43.21C RCW, for the activities proposed at that site. In any such substitution, the value of the materials substituted shall be fixed at the purchase price of the original contract regardless of subsequent market changes. Consent of the purchaser shall be required for any substitution under this section. [2003 c 334 s 364; 2001 c 250 s 18. Formerly RCW 79.01.238.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.150 Reoffer. A sale of valuable materials that has been offered, and for which there are no bids received, shall not be reoffered until it has been readvertised as prescribed in RCW 79.11.130. [2003 c 334 s 351.]

Intent—2003 c 334: See note following RCW 79.02.010.

PART 2
DAMAGED TIMBER

RCW 79.15.210 Findings—Damage to timber. From time to time timber on state land is damaged by events such as fire, windstorms, and flooding. After such events the timber becomes very susceptible to loss of value and quality due to rot and disease. To obtain maximum value for the state, it is important to sell any damaged timber as fast as possible while providing ample protection for the physical environment and recognizing the sensitivity of removing timber from certain locations. [1987 c 126 s 1. Formerly RCW 79.01.790.]

RCW 79.15.220 Sale of damaged valuable materials. When the department finds valuable materials on state land that are damaged by fire, wind, flood, or from any other cause, it shall determine if the salvage of the damaged valuable materials is in the best interest of the trust for which the land is held, which may include the salvage of forest biomass under chapter 79.150 RCW. If salvaging the valuable materials is in the best interest of the trust, the department shall proceed to offer the valuable materials for sale. The valuable materials, when offered for sale, must be sold in the most expeditious and efficient manner as determined by the department. In determining if the sale is in the best interest of the trust the department shall consider the net value of the valuable materials and relevant elements of the physical and social environment. [2010 c 126 s 10; 2001 c 250 s 14; 1987 c 126 s 2. Formerly RCW 79.01.795.]

PART 3
ROCK, GRAVEL, ETC., SALES

RCW 79.15.300 Contracts—Forfeiture—Royalties—Monthly reports.

(1) The department, upon application by any person, may enter into a contract providing for the sale and removal of rock, gravel, sand, and silt located upon state lands or state forestlands, and providing for payment to be made on a royalty basis.

(2) The issuance of a contract shall be made after public auction and shall not be issued for less than the appraised value of the material.

(3) Each application made pursuant to this section shall:

(a) Set forth the estimated quantity and kind of materials desired to be removed; and

(b) Be accompanied by a map or plat showing the area from which the applicant wishes to remove such materials.

(4) The department may in its discretion include in any contract such terms and conditions required to protect the interests of the state.

(5) Every contract shall provide for a right of forfeiture by the state, upon a failure to operate under the contract or pay royalties for periods therein stipulated. The right of forfeiture is exercised

by entry of a declaration of forfeiture in the records of the department.

(6) The department may require a bond with a surety company authorized to transact a surety business in this state, as surety, to secure the performance of the terms and conditions of such contract including the payment of royalties.

(7) The amount of rock, gravel, sand, or silt taken under the contract shall be reported monthly by the purchaser to the department and payment therefor made on the basis of the royalty provided in the contract.

(8) The department may inspect and audit books, contracts, and accounts of each person removing rock, gravel, sand, or silt pursuant to any such contract and make such other investigation and secure or receive any other evidence necessary to determine whether or not the state is being paid the full amount payable to it for the removal of such materials. [2003 c 334 s 335; 1985 c 197 s 1; 1961 c 73 s 11. Formerly RCW 79.01.134.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.320 Road material—Sale to public authorities—

Disposition of proceeds. (1) Any county, city, or town may file with the department an application to purchase any stone, rock, gravel, or sand upon any state lands or state forestlands to be used in the construction, maintenance, or repair of any public street, road, or highway within such county, city, or town.

(2) Applications shall set forth the quantity and kind of material desired to be purchased, the location thereof, and the name, or other designation, and location of the street, road, or highway upon which the material is to be used.

(3) The department is authorized to appraise and sell the material in such a manner and upon such terms as the department deems advisable for not less than the fair market value thereof.

(4) The proceeds of any such sale shall be paid into the state treasury and credited to the fund to which the proceeds of the sale of the land upon which the material is situated would belong. [2003 c 334 s 343; 1982 1st ex.s. c 21 s 155; 1927 c 255 s 44; RRS s 7797-44. Prior: 1923 c 71 s 1; 1917 c 148 s 13. Formerly RCW 79.01.176, 79.12.250.]

Intent—2003 c 334: See note following RCW 79.02.010.

Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.135.900 through 79.135.904.

PART 4
FIREWOOD

RCW 79.15.400 License to remove firewood authorized. The department may issue licenses to residents of this state to enter upon lands under the administration or jurisdiction of the department for the purpose of removing therefrom, standing or downed timber which is unfit for any purpose except to be used as firewood. [2003 c 334 s

230; 1975 c 10 s 1; 1945 c 97 s 1; Rem. Supp. 1945 s 7797-40a.
Formerly RCW 76.20.010.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.410 Removal only for personal use. In addition to other matters which may be required to be contained in the application for a license under this chapter the applicant must certify that the wood so removed is to be only for the applicant's own personal use and in his or her own home and that the applicant will not dispose of it to any other person. [2003 c 334 s 231; 1945 c 97 s 2; Rem. Supp. 1945 s 7797-40b. Formerly RCW 76.20.020.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.420 Issuance of license—Fee. The application may be made to the department, and if deemed proper, the license may be issued upon the payment of two dollars and fifty cents which shall be paid into the treasury of the state by the officer collecting the same and placed in the resource management cost account or forest development account, as applicable; the license shall be dated as of the date of issuance and authorize the holder thereof to remove between the dates so specified not more than six cords of wood not fit for any use but as firewood for the use of the applicant and his or her family from the premises described in the license under such rules as the department may adopt. [2003 c 334 s 232; 1975 c 10 s 2; 1945 c 97 s 3; Rem. Supp. 1945 s 7797-40c. Formerly RCW 76.20.030.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.430 Removal of firewood without charge. Whenever the department determines that it is in the best interest of the state and there will be a benefit to the lands involved or a state program affecting such lands it may designate specific areas and authorize the general public to enter upon lands under its jurisdiction for the purposes of cutting and removing standing or downed timber for use as firewood for the personal use of the person so cutting and removing without a charge under such terms and conditions as it may require. [2003 c 334 s 233; 1975 c 10 s 3. Formerly RCW 76.20.035.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.15.440 Penalty. Any false statement made in the application or any violation of the provisions of RCW 79.15.400 through 79.15.430 shall constitute a gross misdemeanor and be punishable as such. [2003 c 334 s 234; 1945 c 97 s 4; Rem. Supp. 1945 s 7797-40d. Formerly RCW 76.20.040.]

Intent—2003 c 334: See note following RCW 79.02.010.

CONTRACT HARVESTING

RCW 79.15.500 Contract harvesting—Definitions. The definitions in this section apply throughout RCW 79.15.500 through 79.15.530 and 79.15.540 unless the context clearly requires otherwise.

(1) "Commissioner" means the commissioner of public lands.

(2) "Contract harvesting" means a timber operation occurring on state forestlands, in which the department contracts with a firm or individual to perform all the necessary harvesting work to process trees into logs sorted by department specifications. The department then sells the individual log sorts.

(3) "Department" means the department of natural resources.

(4) "Harvesting costs" are those expenses related to the production of log sorts from a stand of timber. These expenses typically involve road building, labor for felling, bucking, and yarding, as well as the transporting of sorted logs to the forest product purchasers.

(5) "Net proceeds" means gross proceeds from a contract harvesting sale less harvesting costs.

(6) "Silvicultural treatment" means any vegetative or other treatment applied to a managed forest to improve the conditions of the stand, and may include harvesting, thinning, prescribed burning, and pruning. [2004 c 218 s 8; 2003 c 313 s 2.]

Effective date—2004 c 218: See note following RCW 76.06.140.

Findings—2003 c 313: "The legislature finds that it is in the best interest of the trust beneficiaries to capture additional revenues while providing for additional environmental protection on timber sales. Further, the legislature finds that contract harvesting is one method to achieve these desired outcomes. Therefore, the legislature directs the department of natural resources to establish and implement contract harvesting where there exists the ability to increase revenues for the beneficiaries of the trusts while obtaining increases in environmental protection." [2003 c 313 s 1.]

Severability—2003 c 313: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2003 c 313 s 15.]

RCW 79.15.510 Contract harvesting—Program established. (1) The department may establish a contract harvesting program for directly contracting for the removal of timber and other valuable materials from state lands and for conducting silvicultural treatments consistent with RCW 79.15.540.

(2) The contract requirements must be compatible with the office of financial management's guide to public service contracts.

(3) The department may not use contract harvesting for more than twenty percent of the total annual volume of timber offered for sale. However, volume removed primarily to address an identified forest health issue under RCW 79.15.540 may not be included in calculating the annual limit of contract harvesting sales. Forest biomass resulting from harvesting to address an identified forest health issue

under RCW 79.15.540 may be utilized in accordance with chapter 79.150 RCW. [2010 c 126 s 11; (2010 c 126 s 12 repealed by 2017 c 64 s 2); 2009 c 418 s 2; 2004 c 218 s 6; 2003 c 313 s 3.]

Findings—Intent—2009 c 418: "The legislature finds that it is in the best interest of the trust beneficiaries to capture additional revenues while providing for additional environmental protection and improving forest health on state trust lands. Further, the legislature finds that contract harvesting is one method to achieve these desired outcomes while also providing the department of natural resources with the ability to offer opportunities to merchandise high value wood. The legislature intends that the department of natural resources should have the ability to expand their contract sales in areas where other sales do not generate as much revenue or provide resource management benefits. The legislature further intends that the department of natural resources distribute the increased contract harvest authority across all trusts and markets." [2009 c 418 s 1.]

Effective date—2004 c 218: See note following RCW 76.06.140.

Findings—Severability—2003 c 313: See notes following RCW 79.15.500.

RCW 79.15.520 Contract harvesting revolving account. (1) The contract harvesting revolving account is created in the custody of the state treasurer. All receipts from the gross proceeds of the sale of logs from a contract harvesting sale must be deposited into the account. Expenditures from the account may be used only for the payment of harvesting costs incurred on contract harvesting sales and for payment of costs incurred from silvicultural treatments necessary to improve forest health conducted under RCW 79.15.540. Only the commissioner or the commissioner's designee may authorize expenditures from the account. The board of natural resources has oversight of the account, and the commissioner must periodically report to the board of natural resources as to the status of the account, its disbursement, and receipts. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) When the logs from a contract harvesting sale are sold, the gross proceeds must be deposited into the contract harvesting revolving account. Moneys equal to the harvesting costs must be retained in the account and be deducted from the gross proceeds to determine the net proceeds. The net proceeds from the sale of the logs must be distributed in accordance with RCW 43.30.325(1)(b). The final receipt of gross proceeds on a contract harvesting sale must be retained in the contract harvesting revolving account until all required costs for that sale have been paid. The contract harvesting revolving account is an interest-bearing account and the interest must be credited to the account. The account balance may not exceed five million dollars at the end of each calendar year. Moneys in excess of five million dollars must be disbursed according to RCW 79.22.040, 79.22.050, and 79.64.040. If the department permanently discontinues the use of contract harvesting sales, any sums remaining in the contract harvesting revolving account must be returned to the resource management cost account and the forest development account in

proportion to each account's contribution to the initial balance of the contract harvesting revolving account. [2009 c 418 s 3; 2004 c 218 s 7; 2003 c 313 s 4.]

Findings—Intent—2009 c 418: See note following RCW 79.15.510.

Effective date—2004 c 218: See note following RCW 76.06.140.

Findings—Severability—2003 c 313: See notes following RCW 79.15.500.

RCW 79.15.530 Contract harvesting—Special appraisal practices.

The board of natural resources must determine whether any special appraisal practices are necessary for logs sold by the contract harvesting processes, and if so, must adopt the special appraisal practices or procedures. In its consideration of special appraisal practices, the board of natural resources must consider and adopt procedures to rapidly market and sell any log sorts that failed to receive the required minimum bid at the original auction, which may include allowing the department to set a new appraised value for the unsold sort.

The board of natural resources must establish and adopt policy and procedures by which the department evaluates and selects certified contract harvesters. The procedures must include a method whereby a certified contract harvester may appeal a decision by the department or board of natural resources to not include the certified contract harvester on the list of approved contract harvesters. [2003 c 313 s 5.]

Findings—Severability—2003 c 313: See notes following RCW 79.15.500.

RCW 79.15.540 Intent—Contract harvesting—State trust forestland with identified forest health deficiencies. (1) The legislature intends to ensure, to the extent feasible given all applicable trust responsibilities, that trust beneficiaries receive long-term income from timberlands through improved forest conditions and by reducing the threat of forest fire to state trust forestlands.

(2) In order to implement the intent of RCW 76.06.140, the department may initiate contract harvesting timber sales, or other silvicultural treatments when appropriate, in specific areas of state trust forestland where the department has identified forest health deficiencies as enumerated in RCW 76.06.140. All harvesting or silvicultural treatments applied under this section must be tailored to improve the health of the specific stand, must be consistent with any applicable state forest plans and other management agreements, and must comply with all applicable state and federal laws and regulations regarding the harvest of timber by the department of natural resources.

(3) In utilizing contract harvesting to address forest health issues as outlined in this section, the department shall give priority to silvicultural treatments that assist the department in meeting forest health strategies included in any management or landscape plans that exist for state forests. If such plans are not in place, the

department shall prioritize silvicultural treatments for forest health with higher priority given to the protection of public health and safety, public resources as defined in RCW 76.09.020, and the long-term asset value of the trust. [2007 c 109 s 2; 2004 c 218 s 5.]

Findings—2007 c 109: "The legislature finds that chapter 218, Laws of 2004 authorized the department of natural resources to utilize contract harvesting for silvicultural treatments to improve forest health on state trust lands, in accordance with RCW 76.06.140 and 79.15.540. The legislature further finds that the use of contract harvesting for silvicultural treatments has proven effective and that continued utilization is important to improve and maintain forest health. Therefore, the legislature finds that it is necessary to remove the expiration date for this authority, set for December 31, 2007, and to continue the use of contract harvesting for silvicultural treatments to improve forest health on state trust lands." [2007 c 109 s 1.]

Effective date—2004 c 218: See note following RCW 76.06.140.