

CERTIFICATION OF ENROLLMENT

**SECOND SUBSTITUTE HOUSE BILL 2481**

Chapter 126, Laws of 2010

61st Legislature  
2010 Regular Session

**FOREST BIOMASS ON STATE LANDS**

EFFECTIVE DATE: 06/10/10 - Except section 12, which becomes effective 01/01/14.

Passed by the House March 6, 2010  
Yeas 94 Nays 1

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Passed by the Senate March 3, 2010  
Yeas 47 Nays 0

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Approved March 19, 2010, 1:41 p.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 2481** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

\_\_\_\_\_  
**Chief Clerk**

FILED

March 19, 2010

**Secretary of State  
State of Washington**

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**SECOND SUBSTITUTE HOUSE BILL 2481**

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AS AMENDED BY THE SENATE

Passed Legislature - 2010 Regular Session

**State of Washington                      61st Legislature                      2010 Regular Session**

**By** House General Government Appropriations (originally sponsored by Representatives Van De Wege, Kretz, Blake, Hinkle, Ormsby, Dunshee, McCoy, Eddy, Upthegrove, Carlyle, Haler, Morrell, Warnick, and Kessler; by request of Commissioner of Public Lands)

READ FIRST TIME 02/09/10.

1            AN ACT Relating to the department of natural resources authority to  
2 enter into forest biomass supply agreements; amending RCW 79.02.010,  
3 43.30.020, 76.06.180, 79.15.100, 79.15.220, 79.15.510, and 79.15.510;  
4 adding a new chapter to Title 79 RCW; creating a new section; providing  
5 an effective date; and providing expiration dates.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7            NEW SECTION.    **Sec. 1.**    The legislature finds that the utilization  
8 of forest biomass materials located on state lands will assist in  
9 achieving the purposes of the forest biomass energy demonstration  
10 project under RCW 43.30.835, facilitate and support the emerging forest  
11 biomass market and clean energy economy, and enable the department to  
12 encourage biomass energy development on state trust lands for the trust  
13 land's potential long-term benefits to trust beneficiaries.    The  
14 legislature finds that biomass utilization on state forest lands must  
15 be accomplished in a manner that retains organic components of the  
16 forest necessary to restore or sustain forest ecological functions.

17            NEW SECTION.    **Sec. 2.**    (1) The department may maintain a list of  
18 all potential sources of forest biomass on state lands for the purposes

1 of identifying and making forest biomass, as defined in RCW 79.02.010,  
2 available for sale, exploration, collection, processing, storage,  
3 stockpiling, and conversion into energy, biofuels, for use in a  
4 biorefinery, or any other similar use. Prior to entering an agreement  
5 authorized by section 3(1) or 4 of this act, the department shall  
6 complete an inventory of the available biomass in the area that will be  
7 subject to the agreement, except that no inventory will be required as  
8 a prerequisite for demonstration projects authorized pursuant to RCW  
9 43.30.835. The inventory must contain, at a minimum, an estimated  
10 amount of the forest biomass available in the area that will be subject  
11 to the agreement and a determination of the ecological and operational  
12 sustainability of the volumetric limit established by the agreement  
13 under section 3(5) of this act.

14 (2) The data developed for each inventoried area will be compiled  
15 for the list authorized by this section. In order to utilize the list  
16 to limit or terminate any agreement authorized under this act, the  
17 department must determine that the overall supply of forest biomass in  
18 a region or watershed has been reduced to a point such that further  
19 exploration and collection of forest biomass may not be ecologically or  
20 operationally sustainable or might otherwise threaten long-term forest  
21 health.

22 NEW SECTION. **Sec. 3.** (1) The department is authorized to enter  
23 forest biomass supply contracts on terms and conditions acceptable to  
24 the department for terms of up to five years, except as provided in  
25 subsection (4) of this section, for the purpose of providing a supply  
26 of forest biomass during the term of the contract except as the term of  
27 the contract may be limited under subsection (2) of this section,  
28 provided that such a contract must terminate automatically upon the  
29 removal of the agreed volume of biomass and the completion of other  
30 conditions of the contract.

31 (2) The department may authorize the sale of forest biomass in a  
32 contract for the sale of valuable materials under chapter 79.15 RCW  
33 provided that the department complies with the provisions of this  
34 chapter and: (a) Requires a separate bid and selects an apparent  
35 highest bidder for the forest biomass separately from the sale of  
36 valuable materials; (b) expressly includes forest biomass as an element  
37 of the sale of the valuable materials to be sold in the sales contract;

1 or (c) a combination of (a) and (b) of this subsection. The term of  
2 the contract for the removal of biomass, if the sale is made in  
3 conformance with this subsection, must not exceed the term of the  
4 contract for valuable materials sold under chapter 79.15 RCW.

5 (3) The department may: (a) Enter into direct sales contracts for  
6 forest biomass, without public auction, based upon procedures adopted  
7 by the board to ensure competitive market prices and accountability; or  
8 (b) enter into contracts for forest biomass at public auction or by  
9 sealed bid to the highest bidder in a manner consistent with the sale  
10 procedures established for the sale of valuable materials in chapter  
11 79.15 RCW or as may be adopted by the board.

12 (4) In the event a contracting entity makes a qualifying capital  
13 investment of fifty million dollars or more, the department may enter  
14 into an agreement for up to fifteen years. Such an agreement must  
15 include provisions that are periodically adjusted for market  
16 conditions. In addition, the conditions of the contract must include  
17 provisions that allow the department, when in the best interest of  
18 trust beneficiaries, to maintain the availability of biomass resources  
19 on state lands to existing pulp and paper operations or other existing  
20 biomass processing operations that are using such resources, in  
21 quantities typical for the period of five years preceding the effective  
22 date of this section. For the purposes of this section, "qualifying  
23 capital investment" means a planned and committed investment at the  
24 time the contract is set with the requirement that at least fifty  
25 million dollars be invested before the removal of any biomass under the  
26 contract.

27 (5) The department must specify in each contract an annual  
28 volumetric limit of the total cubic volume or tons of forest biomass to  
29 be supplied from a specific unit, geographically delineated area, or  
30 region within a watershed or watersheds on an ecologically and  
31 operationally sustainable basis. The department shall adopt general  
32 procedures for making the biomass supply availability determinations  
33 under this subsection. The procedures must be written to ensure that  
34 biomass utilization on forest lands managed by the department is  
35 accomplished in a manner that retains organic components of the forest  
36 necessary to restore or sustain forest ecological functions. The  
37 department shall develop utilization standards and operational methods  
38 in recognition of the variability of on-site conditions. The

1 department may unilaterally amend the volume to be supplied by  
2 providing the contracting party with a minimum of six months notice  
3 prior to reducing the contract volume to be supplied if the department  
4 determines, under section 2 of this act, that the available supply has  
5 been reduced to a point such that further removal of forest biomass may  
6 not be ecologically or operationally sustainable or may adversely  
7 affect long-term forest health.

8 (6) At the expiration of the contract term, the department may  
9 renew the contract for up to three additional five year periods on  
10 terms and conditions acceptable to the department, if the department  
11 finds: (a) An ecologically and operationally sustainable supply of  
12 forest biomass is available for the term of the contract; (b) the  
13 payment under the contract represents the fair market value at the time  
14 of the renewal; and (c) the purchaser agrees to the estimated amount of  
15 biomass material available.

16 (7) Where the department sells forest biomass in a contract for  
17 sale of valuable materials under subsection (2) of this section, any  
18 valuable material conveyed as timber in such a contract must count  
19 toward the achievement of annual or decadal targets developed in the  
20 sustainable timber harvest calculation required by RCW 79.10.320, or  
21 similar targets for timber harvest volume, even where the purchaser  
22 uses that material as a biomass energy feedstock. All other biomass  
23 volume conveyed as authorized in this chapter must not be counted  
24 toward such sustainable timber harvest targets.

25 (8) All contractors and their operations authorized under this  
26 section shall comply with all applicable state and federal laws and  
27 regulations.

28 NEW SECTION. **Sec. 4.** The department is authorized to lease state  
29 lands for the purpose of the sale, exploration, collection, processing,  
30 storage, stockpiling, and conversion of biomass into energy or  
31 biofuels, the development of a biorefinery, or for any other resource  
32 use derived from biomass if the department is able to obtain a fair  
33 market rental return to the state or the appropriate constitutional or  
34 statutory trust and if the lease is in the best interest of the state  
35 and the affected trust, as follows:

36 (1) Leases authorized under this chapter may be entered into by

1 public auction, in accordance with the provisions of RCW 79.13.140, or  
2 by negotiation.

3 (2) All leases must contain such terms and conditions as may be  
4 prescribed by the department in accordance with the provision of this  
5 act and to ensure that removal of forest biomass is ecologically and  
6 operationally sustainable. Leases authorized under this act may be for  
7 a term of no more than fifty years.

8 (3) For leases that involve the development of biomass processing,  
9 biofuel manufacturing, or biomass energy production facilities, the  
10 department may include provisions for reduced rent until an approved  
11 plan of development is completed and the facility is operational,  
12 provided that provisions are included to require: (a) Adequate  
13 assurances to protect the department's interest in a future rental  
14 income stream; (b) the demonstration of reasonable progress consistent  
15 with an approved plan of development; and (c) a lump sum payment to the  
16 department in the amount of the difference between the fair market rent  
17 and the reduced rent, if the approved plan of development is not  
18 completed in the time required in the plan.

19 (4) The department may require the payment of production rent or  
20 other compensation for the use of the land and biomass materials on the  
21 land. If the department is not entering a supply contract under  
22 section 3 of this act for any forest biomass to be supplied for the  
23 lease purposes from the leased land, then the department must require  
24 a royalty payment for the contribution to value of any product created  
25 by the lessee that is associated with forest biomass removed from the  
26 leased land in an amount fixed by the board.

27 (5) All lessees and their operations authorized under this section  
28 shall comply with all applicable state and federal laws and  
29 regulations.

30 NEW SECTION. **Sec. 5.** (1) For the purpose of improving forest  
31 health on state trust lands, and to better clarify the relationship of  
32 forest biomass with the by-products of forest health and fuel reduction  
33 treatments that have been traditionally utilized for other products,  
34 the department of natural resources shall evaluate how the supply  
35 agreements in sections 3 and 4 of this act could be utilized to sustain  
36 or create rural jobs and timber manufacturing infrastructure, and to  
37 sell state timber to traditional types of timber purchasers. The

1 department shall report its findings to the appropriate committees of  
2 the legislature by December 15, 2010, and the evaluation must at a  
3 minimum identify how such supply agreements could:

4 (a) Ensure the department of natural resources meets its fiduciary  
5 responsibility to the state's trust beneficiaries;

6 (b) Restore or sustain a competitive market for state timber sales;

7 (c) Generate returns for the trust that are commensurate with  
8 fluctuating market prices; and

9 (d) Ensure environmental compliance with all pertinent state and  
10 federal laws, and provide for ecologically and operationally  
11 sustainable biomass removal.

12 (2) For the purposes of proving the concepts evaluated in this  
13 section, the department may, in addition to the authorities granted in  
14 section 3 of this act, establish a five-year forest health and fuel  
15 reduction supply agreement demonstration project. Solicitation of  
16 private industry partners for such a project must be competitive, must  
17 focus on areas where traditional forest products manufacturing  
18 infrastructure and rural jobs have been lost, and should consider  
19 prioritizing partners utilizing materials for both traditional forest  
20 products and biomass energy conversion.

21 **Sec. 6.** RCW 79.02.010 and 2004 c 199 s 201 are each amended to  
22 read as follows:

23 The definitions in this section apply throughout this title unless  
24 the context clearly requires otherwise.

25 (1) "Aquatic lands" means all state-owned tidelands, shorelands,  
26 harbor areas, and the beds of navigable waters as defined in (~~chapter~~  
27 ~~79.90~~) RCW 79.105.060 that are administered by the department.

28 (2) "Board" means the board of natural resources.

29 (3) "Commissioner" means the commissioner of public lands.

30 (4) "Community and technical college forest reserve lands" means  
31 lands managed under RCW 79.02.420.

32 (5) "Department" means the department of natural resources.

33 (6) "Improvements" means anything considered a fixture in law  
34 placed upon or attached to lands administered by the department that  
35 has changed the value of the lands or any changes in the previous  
36 condition of the fixtures that changes the value of the lands.

37 (7) "Land bank lands" means lands acquired under RCW 79.19.020.

1 (8) "Person" means an individual, partnership, corporation,  
2 association, organization, cooperative, public or municipal  
3 corporation, or agency of a federal, state, or local governmental unit,  
4 however designated.

5 (9) "Public lands" means lands of the state of Washington  
6 administered by the department including but not limited to state  
7 lands, state forest lands, and aquatic lands.

8 (10) "State forest lands" means lands acquired under RCW 79.22.010,  
9 79.22.040, and 79.22.020.

10 (11) "State lands" includes:

11 (a) School lands, that is, lands held in trust for the support of  
12 the common schools;

13 (b) University lands, that is, lands held in trust for university  
14 purposes;

15 (c) Agricultural college lands, that is, lands held in trust for  
16 the use and support of agricultural colleges;

17 (d) Scientific school lands, that is, lands held in trust for the  
18 establishment and maintenance of a scientific school;

19 (e) Normal school lands, that is, lands held in trust for state  
20 normal schools;

21 (f) Capitol building lands, that is, lands held in trust for the  
22 purpose of erecting public buildings at the state capital for  
23 legislative, executive, and judicial purposes;

24 (g) Institutional lands, that is, lands held in trust for state  
25 charitable, educational, penal, and reformatory institutions; and

26 (h) Land bank, escheat, donations, and all other lands, except  
27 aquatic lands, administered by the department that are not devoted to  
28 or reserved for a particular use by law.

29 (12) "Valuable materials" means any product or material on the  
30 lands, such as forest products, forage or agricultural crops, stone,  
31 gravel, sand, peat, and all other materials of value except: (a)  
32 Mineral, coal, petroleum, and gas as provided for under chapter 79.14  
33 RCW; and (b) forest biomass as provided for under chapter 79.-- RCW  
34 (the new chapter created in section 14 of this act).

35 (13)(a) "Forest biomass" means the by-products of: Current forest  
36 management activities; current forest protection treatments prescribed  
37 or permitted under chapter 76.04 RCW; or the by-products of forest  
38 health treatment prescribed or permitted under chapter 76.06 RCW.



1        (b) "Forest biomass" does not include wood pieces that have been  
2 treated \_\_ with \_\_ chemical \_\_ preservatives \_\_ such \_\_ as: Creosote,  
3 pentachlorophenol, or copper-chrome-arsenic; wood from existing old  
4 growth forests; wood required to be left on-site under chapter 76.09  
5 RCW, the state forest practices act; and implementing rules, and other  
6 legal and contractual requirements; or municipal solid waste.

7        **Sec. 7.** RCW 43.30.020 and 2009 c 163 s 6 are each amended to read  
8 as follows:

9        The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

11        (1) "Administrator" means the administrator of the department of  
12 natural resources.

13        (2) "Agency" and "state agency" means any branch, department, or  
14 unit of the state government, however designated or constituted.

15        (3) "Board" means the board of natural resources.

16        (4) "Commissioner" means the commissioner of public lands.

17        (5) "Department" means the department of natural resources.

18        (6) (~~"Forest biomass" means the by products of: Current forest~~  
19 ~~practices prescribed or permitted under chapter 76.09 RCW; current~~  
20 ~~forest protection treatments prescribed or permitted under chapter~~  
21 ~~76.04 RCW; or the by products of forest health treatments prescribed or~~  
22 ~~permitted under chapter 76.06 RCW. "Forest biomass" does not include~~  
23 ~~wood pieces that have been treated with chemical preservatives such as:~~  
24 ~~Creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old~~  
25 ~~growth forests, except wood removed for forest health treatments under~~  
26 ~~chapter 76.06 RCW and RCW 79.15.540; wood required by chapter 76.09 RCW~~  
27 ~~for large woody debris recruitment; or municipal solid waste.~~

28        (7)) "Supervisor" means the supervisor of natural resources.

29        **Sec. 8.** RCW 76.06.180 and 2007 c 480 s 7 are each amended to read  
30 as follows:

31        (1) Prior to issuing a forest health hazard warning or forest  
32 health hazard order, the commissioner shall consider the findings and  
33 recommendations of the forest health technical advisory committee and  
34 shall consult with county government officials, forest landowners and  
35 forest land managers, consulting foresters, and other interested  
36 parties to gather information on the threat, opportunities or

1 constraints on treatment options, and other information they may  
2 provide. The commissioner, or a designee, shall conduct a public  
3 hearing in a county within the geographical area being considered.

4 (2) The commissioner of public lands may issue a forest health  
5 hazard warning when he or she deems such action is necessary to manage  
6 the development of a threat to forest health or address an existing  
7 threat to forest health. A decision to issue a forest health hazard  
8 warning may be based on existing forest stand conditions and:

9 (a) The presence of an uncharacteristic insect or disease outbreak  
10 that has or is likely to (i) spread to multiple forest ownerships and  
11 cause extensive damage to forests; or (ii) significantly increase  
12 forest fuel that is likely to further the spread of uncharacteristic  
13 fire;

14 (b) When, due to extensive physical damage from wind or ice storm  
15 or other cause, there are (i) insect populations building up to large  
16 scale levels; or (ii) significantly increased forest fuels that are  
17 likely to further the spread of uncharacteristic fire; or

18 (c) When otherwise determined by the commissioner to be  
19 appropriate.

20 (3) The commissioner of public lands may issue a forest health  
21 hazard order when he or she deems such action is necessary to address  
22 a significant threat to forest health. A decision to issue a forest  
23 health hazard order may be based on existing forest stand conditions  
24 and:

25 (a) The presence of an uncharacteristic insect or disease outbreak  
26 that has (i) spread to multiple forest ownerships and has caused and is  
27 likely to continue to cause extensive damage to forests; or (ii)  
28 significantly increased forest fuels that are likely to further the  
29 spread of uncharacteristic fire;

30 (b) When, due to extensive physical damage from wind or ice storm  
31 or other cause (i) insect populations are causing extensive damage to  
32 forests; or (ii) significantly increased forest fuels are likely to  
33 further the spread of uncharacteristic fire;

34 (c) Insufficient landowner action under a forest health hazard  
35 warning; or

36 (d) When otherwise determined by the commissioner to be  
37 appropriate.

1 (4) A forest health hazard warning or forest health hazard order  
2 shall be issued by use of a commissioner's order. General notice of  
3 the commissioner's order shall be published in a newspaper of general  
4 circulation in each county within the area covered by the order and on  
5 the department's web site. The order shall specify the boundaries of  
6 the area affected, including federal and tribal lands, the forest stand  
7 conditions that would make a parcel subject to the provisions of the  
8 order, and the actions landowners or land managers should take to  
9 reduce the hazard. If the forest health hazard warning or order  
10 relates to land managed by the department, the warning or order may  
11 also contain provisions for the department's utilization of any forest  
12 biomass pursuant to chapter 79.-- RCW (the new chapter created in  
13 section 14 of this act).

14 (5) Written notice of a forest health hazard warning or forest  
15 health hazard order shall be provided to forest landowners of  
16 specifically affected property.

17 (a) The notice shall set forth:

18 (i) The reasons for the action;

19 (ii) The boundaries of the area affected, including federal and  
20 tribal lands;

21 (iii) Suggested actions that should be taken by the forest  
22 landowner under a forest health hazard warning or the actions that must  
23 be taken by a forest landowner under a forest health hazard order;

24 (iv) The time within which such actions should or must be taken;

25 (v) How to obtain information or technical assistance on forest  
26 health conditions and treatment options;

27 (vi) The right to request mitigation under subsection (6) of this  
28 section and appeal under subsection (7) of this section;

29 (vii) These requirements are advisory only for federal and tribal  
30 lands.

31 (b) The notice shall be served by personal service or by mail to  
32 the latest recorded real property owner, as shown by the records of the  
33 county recording officer as defined in RCW 65.08.060. Service by mail  
34 is effective on the date of mailing. Proof of service shall be by  
35 affidavit or declaration under penalty of perjury.

36 (6) Forest landowners who have been issued a forest health hazard  
37 order under subsection (5) of this section may apply to the department  
38 for the remission or mitigation of such order. The application shall

1 be made to the department within fifteen days after notice of the order  
2 has been served. Upon receipt of the application, the department may  
3 remit or mitigate the order upon whatever terms the department in its  
4 discretion deems proper, provided the department deems the remission or  
5 mitigation to be in the best interests of carrying out the purposes of  
6 this chapter. The department may ascertain the facts regarding all  
7 such applications in such reasonable manner and under such rule as it  
8 deems proper.

9 (7) Forest landowners who have been issued a forest health hazard  
10 order under subsection (5) of this section may appeal the order to the  
11 forest practices appeals board.

12 (a) The appeal shall be filed within thirty days after notice of  
13 the order has been served, unless application for mitigation has been  
14 made to the department. When such an application for mitigation is  
15 made, such appeal shall be filed within thirty days after notice of the  
16 disposition of the application for mitigation has been served.

17 (b) The appeal must set forth:

18 (i) The name and mailing address of the appellant;

19 (ii) The name and mailing address of the appellant's attorney, if  
20 any;

21 (iii) A duplicate copy of the forest health hazard order;

22 (iv) A separate and concise statement of each error alleged to have  
23 been committed;

24 (v) A concise statement of facts upon which the appellant relies to  
25 sustain the statement of error; and

26 (vi) A statement of the relief requested.

27 (8) A forest health hazard order issued under subsection (5) of  
28 this section is effective thirty days after date of service unless  
29 application for remission or mitigation is made or an appeal is filed.  
30 When an application for remission or mitigation is made, the order is  
31 effective thirty days after notice setting forth the disposition of the  
32 application is served unless an appeal is filed from such disposition.  
33 Whenever an appeal of the order is filed, the order shall become  
34 effective only upon completion of all administrative and judicial  
35 review proceedings and the issuance of a final decision confirming the  
36 order in whole or in part.

37 (9) Upon written request, the department may certify as adequate a  
38 forest health management plan developed by a forest landowner, before

1 or in response to a forest health hazard warning or forest health  
2 hazard order, if the plan is likely to achieve the desired result and  
3 the terms of the plan are being diligently followed by the forest  
4 landowner. The certification of adequacy shall be determined by the  
5 department in its sole discretion, and be provided to the requestor in  
6 writing.

7 **Sec. 9.** RCW 79.15.100 and 2004 c 177 s 5 are each amended to read  
8 as follows:

9 (1) Valuable materials may be sold separately from the land as a  
10 "lump sum sale" or as a "scale sale."

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

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

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

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

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

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

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

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

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

36 (4) Advance payments or other adequate security acceptable to the

1 department is required for valuable materials sold on a scale sale  
2 basis or a lump sum sale not requiring full payment on the day of sale.

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

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

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

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

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

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

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

23 (c) In all cases, any valuable material not removed from the land  
24 within the period specified in the contract reverts to the state. The  
25 department may utilize any remaining forest biomass in accordance with  
26 chapter 79.-- RCW (the new chapter created in section 14 of this act).

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

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

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

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

37 (b) An extension fee fixed by the department will be charged based  
38 on the estimated loss of income per acre to the state resulting from

1 the granting of the extension plus interest on the unpaid portion of  
2 the contract. The board must periodically fix and adopt by rule the  
3 interest rate, which shall not be less than six percent per annum.

4 (c) The sale contract shall specify:

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

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

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

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

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

20 (8) The department does not need to comply with the provisions of  
21 this chapter for forest biomass except as described in the provisions  
22 of chapter 79.-- RCW (the new chapter created in section 14 of this  
23 act). Forest biomass may not be included in any sales contract  
24 authorized under this chapter unless the department has complied with  
25 the provisions of chapter 79.-- RCW (the new chapter created in section  
26 14 of this act).

27 (9) The provisions of this section apply unless otherwise provided  
28 by statute.

29 **Sec. 10.** RCW 79.15.220 and 2001 c 250 s 14 are each amended to  
30 read as follows:

31 When the department finds valuable materials on state land that are  
32 damaged by fire, wind, flood, or from any other cause, it shall  
33 determine if the salvage of the damaged valuable materials is in the  
34 best interest of the trust for which the land is held, which may  
35 include the salvage of forest biomass under chapter 79.-- RCW (the new  
36 chapter created in section 14 of this act). If salvaging the valuable  
37 materials is in the best interest of the trust, the department shall

1 proceed to offer the valuable materials for sale. The valuable  
2 materials, when offered for sale, must be sold in the most expeditious  
3 and efficient manner as determined by the department. In determining  
4 if the sale is in the best interest of the trust the department shall  
5 consider the net value of the valuable materials and relevant elements  
6 of the physical and social environment.

7 **Sec. 11.** RCW 79.15.510 and 2009 c 418 s 2 are each amended to read  
8 as follows:

9 (1) The department may establish a contract harvesting program for  
10 directly contracting for the removal of timber and other valuable  
11 materials from state lands and for conducting silvicultural treatments  
12 consistent with RCW 79.15.540.

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

15 (3) The department may not use contract harvesting for more than  
16 twenty percent of the total annual volume of timber offered for sale.  
17 However, volume removed primarily to address an identified forest  
18 health issue under RCW 79.15.540 may not be included in calculating the  
19 ~~((ten-[twenty]-percent))~~ annual limit of contract harvesting sales.  
20 Forest biomass resulting from harvesting to address an identified  
21 forest health issue under RCW 79.15.540 may be utilized in accordance  
22 with chapter 79.-- RCW (the new chapter created in section 14 of this  
23 act).

24 **Sec. 12.** RCW 79.15.510 and 2004 c 218 s 6 are each amended to read  
25 as follows:

26 (1) The department may establish a contract harvesting program for  
27 directly contracting for the removal of timber and other valuable  
28 materials from state lands and for conducting silvicultural treatments  
29 consistent with RCW 79.15.540.

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

32 (3) The department may not use contract harvesting for more than  
33 ten percent of the total annual volume of timber offered for sale.  
34 However, volume removed primarily to address an identified forest  
35 health issue under RCW 79.15.540 may not be included in calculating the  
36 ~~((ten-percent))~~ annual limit of contract harvesting sales. Forest



1 biomass resulting from harvesting to address an identified forest  
2 health issue under RCW 79.15.540 may be utilized in accordance with  
3 chapter 79.-- RCW (the new chapter created in section 14 of this act).

4 NEW SECTION. **Sec. 13.** The department of natural resources must  
5 conduct a survey of scientific literature regarding the carbon  
6 neutrality of forest biomass. The department must submit the survey  
7 results with any findings and recommendations to the appropriate  
8 committees of the legislature by December 15, 2010.

9 This section expires January 1, 2011.

10 NEW SECTION. **Sec. 14.** Sections 1 through 5 of this act constitute  
11 a new chapter in Title 79 RCW.

12 NEW SECTION. **Sec. 15.** Section 11 of this act expires January 1,  
13 2014.

14 NEW SECTION. **Sec. 16.** Section 12 of this act takes effect January  
15 1, 2014.

Passed by the House March 6, 2010.

Passed by the Senate March 3, 2010.

Approved by the Governor March 19, 2010.

Filed in Office of Secretary of State March 19, 2010.