

RCW 79.150.030 Forest biomass supply contracts. (1) The department is authorized to enter forest biomass supply contracts on terms and conditions acceptable to the department for terms of up to five years, except as provided in subsection (4) of this section, for the purpose of providing a supply of forest biomass during the term of the contract except as the term of the contract may be limited under subsection (2) of this section, provided that such a contract must terminate automatically upon the removal of the agreed volume of biomass and the completion of other conditions of the contract.

(2) The department may authorize the sale of forest biomass in a contract for the sale of valuable materials under chapter 79.15 RCW provided that the department complies with the provisions of this chapter and: (a) Requires a separate bid and selects an apparent highest bidder for the forest biomass separately from the sale of valuable materials; (b) expressly includes forest biomass as an element of the sale of the valuable materials to be sold in the sales contract; or (c) a combination of (a) and (b) of this subsection. The term of the contract for the removal of biomass, if the sale is made in conformance with this subsection, must not exceed the term of the contract for valuable materials sold under chapter 79.15 RCW.

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

(4) In the event a contracting entity makes a qualifying capital investment of fifty million dollars or more, the department may enter into an agreement for up to fifteen years. Such an agreement must include provisions that are periodically adjusted for market conditions. In addition, the conditions of the contract must include provisions that allow the department, when in the best interest of trust beneficiaries, to maintain the availability of biomass resources on state lands to existing pulp and paper operations or other existing biomass processing operations that are using such resources, in quantities typical for the period of five years preceding June 10, 2010. For the purposes of this section, "qualifying capital investment" means a planned and committed investment at the time the contract is set with the requirement that at least fifty million dollars be invested before the removal of any biomass under the contract.

(5) The department must specify in each contract an annual volumetric limit of the total cubic volume or tons of forest biomass to be supplied from a specific unit, geographically delineated area, or region within a watershed or watersheds on an ecologically and operationally sustainable basis. The department shall adopt general procedures for making the biomass supply availability determinations under this subsection. The procedures must be written to ensure that biomass utilization on forestlands managed by the department is accomplished in a manner that retains organic components of the forest necessary to restore or sustain forest ecological functions. The department shall develop utilization standards and operational methods in recognition of the variability of on-site conditions. The department may unilaterally amend the volume to be supplied by providing the contracting party with a minimum of six months notice prior to reducing the contract volume to be supplied if the department

determines, under RCW 79.150.020, that the available supply has been reduced to a point such that further removal of forest biomass may not be ecologically or operationally sustainable or may adversely affect long-term forest health.

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

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

(8) All contractors and their operations authorized under this section shall comply with all applicable state and federal laws and regulations. [2010 c 126 § 3.]