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**SECOND SUBSTITUTE HOUSE BILL 2481**

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**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; providing an effective date; and  
5 providing an expiration date.

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(4) 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 for the purpose of  
25 providing a supply of forest biomass during the term of the contract  
26 except as the term of the contract may be limited under subsection (2)  
27 of this section, provided that such a contract must terminate  
28 automatically upon the removal of the agreed volume of biomass and the  
29 completion of other conditions of the contract.

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

1 the contract for the removal of biomass, if the sale is made in  
2 conformance with this subsection, must not exceed the term of the  
3 contract for valuable materials sold under chapter 79.15 RCW.

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

11 (4) The department must specify in each contract an annual  
12 volumetric limit of the total cubic volume or tons of forest biomass to  
13 be supplied from a specific unit, geographically delineated area, or  
14 region within a watershed or watersheds on an ecologically and  
15 operationally sustainable basis. The department shall adopt general  
16 procedures for making the biomass supply availability determinations  
17 under this subsection. The procedures must be written to ensure that  
18 biomass utilization on forest lands managed by the department is  
19 accomplished in a manner that retains organic components of the forest  
20 necessary to restore or sustain forest ecological functions. The  
21 department shall develop utilization standards and operational methods  
22 in recognition of the variability of on-site conditions. The  
23 department may unilaterally amend the volume to be supplied by  
24 providing the contracting party with a minimum of six months notice  
25 prior to reducing the contract volume to be supplied if the department  
26 determines, under section 2 of this act, that the available supply has  
27 been reduced to a point such that further removal of forest biomass may  
28 not be ecologically or operationally sustainable or may adversely  
29 affect long-term forest health.

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

1 (6) All contractors and their operations authorized under this  
2 section shall comply with all applicable state and federal laws and  
3 regulations.

4 NEW SECTION. **Sec. 4.** The department is authorized to lease state  
5 lands for the purpose of the sale, exploration, collection, processing,  
6 storage, stockpiling, and conversion of biomass into energy or  
7 biofuels, the development of a biorefinery, or for any other resource  
8 use derived from biomass if the department is able to obtain a fair  
9 market rental return to the state or the appropriate constitutional or  
10 statutory trust and if the lease is in the best interest of the state  
11 and the affected trust, as follows:

12 (1) Leases authorized under this chapter may be entered into by  
13 public auction, in accordance with the provisions of RCW 79.13.140, or  
14 by negotiation.

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

20 (3) For leases that involve the development of biomass processing,  
21 biofuel manufacturing, or biomass energy production facilities, the  
22 department may include provisions for reduced rent until an approved  
23 plan of development is completed and the facility is operational,  
24 provided that provisions are included to require: (a) Adequate  
25 assurances to protect the department's interest in a future rental  
26 income stream; (b) the demonstration of reasonable progress consistent  
27 with an approved plan of development; and (c) a lump sum payment to the  
28 department in the amount of the difference between the fair market rent  
29 and the reduced rent, if the approved plan of development is not  
30 completed in the time required in the plan.

31 (4) The department may require the payment of production rent or  
32 other compensation for the use of the land and biomass materials on the  
33 land. If the department is not entering a supply contract under  
34 section 3 of this act for any forest biomass to be supplied for the  
35 lease purposes from the leased land, then the department must require  
36 a royalty payment for the contribution to value of any product created

1 by the lessee that is associated with forest biomass removed from the  
2 leased land in an amount fixed by the board.

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

6 NEW SECTION. **Sec. 5.** (1) For the purpose of improving forest  
7 health on state trust lands, and to better clarify the relationship of  
8 forest biomass with the by-products of forest health and fuel reduction  
9 treatments that have been traditionally utilized for other products,  
10 the department of natural resources shall evaluate how the supply  
11 agreements in sections 3 and 4 of this act could be utilized to sustain  
12 or create rural jobs and timber manufacturing infrastructure, and to  
13 sell state timber to traditional types of timber purchasers. The  
14 department shall report its findings to the appropriate committees of  
15 the legislature by December 15, 2010, and the evaluation must at a  
16 minimum identify how such supply agreements could:

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

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

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

22 (d) Ensure environmental compliance with all pertinent state and  
23 federal laws, and provide for ecologically and operationally  
24 sustainable biomass removal.

25 (2) For the purposes of proving the concepts evaluated in this  
26 section, the department may, in addition to the authorities granted in  
27 section 3 of this act, establish a five-year forest health and fuel  
28 reduction supply agreement demonstration project. Solicitation of  
29 private industry partners for such a project must be competitive, must  
30 focus on areas where traditional forest products manufacturing  
31 infrastructure and rural jobs have been lost, and should consider  
32 prioritizing partners utilizing materials for both traditional forest  
33 products and biomass energy conversion.

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

1 The definitions in this section apply throughout this title unless  
2 the context clearly requires otherwise.

3 (1) "Aquatic lands" means all state-owned tidelands, shorelands,  
4 harbor areas, and the beds of navigable waters as defined in (~~chapter~~  
5 ~~79.90~~) RCW 79.105.060 that are administered by the department.

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

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

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

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

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

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

16 (8) "Person" means an individual, partnership, corporation,  
17 association, organization, cooperative, public or municipal  
18 corporation, or agency of a federal, state, or local governmental unit,  
19 however designated.

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

23 (10) "State forest lands" means lands acquired under RCW 79.22.010,  
24 79.22.040, and 79.22.020.

25 (11) "State lands" includes:

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

28 (b) University lands, that is, lands held in trust for university  
29 purposes;

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

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

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

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

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

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

6 (12) "Valuable materials" means any product or material on the  
7 lands, such as forest products, forage or agricultural crops, stone,  
8 gravel, sand, peat, and all other materials of value except: (a)  
9 Mineral, coal, petroleum, and gas as provided for under chapter 79.14  
10 RCW; and (b) forest biomass as provided for under chapter 79.-- RCW  
11 (the new chapter created in section 13 of this act).

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

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

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

24 The definitions in this section apply throughout this chapter  
25 unless the context clearly requires otherwise.

26 (1) "Administrator" means the administrator of the department of  
27 natural resources.

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

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

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

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

33 (6) (~~"Forest biomass" means the by products of: Current forest~~  
34 ~~practices prescribed or permitted under chapter 76.09 RCW; current~~  
35 ~~forest protection treatments prescribed or permitted under chapter~~  
36 ~~76.04 RCW; or the by products of forest health treatments prescribed or~~  
37 ~~permitted under chapter 76.06 RCW. "Forest biomass" does not include~~

1 ~~wood pieces that have been treated with chemical preservatives such as:~~  
2 ~~Creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old~~  
3 ~~growth forests, except wood removed for forest health treatments under~~  
4 ~~chapter 76.06 RCW and RCW 79.15.540; wood required by chapter 76.09 RCW~~  
5 ~~for large woody debris recruitment; or municipal solid waste.~~

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

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

9 (1) Prior to issuing a forest health hazard warning or forest  
10 health hazard order, the commissioner shall consider the findings and  
11 recommendations of the forest health technical advisory committee and  
12 shall consult with county government officials, forest landowners and  
13 forest land managers, consulting foresters, and other interested  
14 parties to gather information on the threat, opportunities or  
15 constraints on treatment options, and other information they may  
16 provide. The commissioner, or a designee, shall conduct a public  
17 hearing in a county within the geographical area being considered.

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

23 (a) The presence of an uncharacteristic insect or disease outbreak  
24 that has or is likely to (i) spread to multiple forest ownerships and  
25 cause extensive damage to forests; or (ii) significantly increase  
26 forest fuel that is likely to further the spread of uncharacteristic  
27 fire;

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

32 (c) When otherwise determined by the commissioner to be  
33 appropriate.

34 (3) The commissioner of public lands may issue a forest health  
35 hazard order when he or she deems such action is necessary to address  
36 a significant threat to forest health. A decision to issue a forest



1 health hazard order may be based on existing forest stand conditions  
2 and:

3 (a) The presence of an uncharacteristic insect or disease outbreak  
4 that has (i) spread to multiple forest ownerships and has caused and is  
5 likely to continue to cause extensive damage to forests; or (ii)  
6 significantly increased forest fuels that are likely to further the  
7 spread of uncharacteristic fire;

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

12 (c) Insufficient landowner action under a forest health hazard  
13 warning; or

14 (d) When otherwise determined by the commissioner to be  
15 appropriate.

16 (4) A forest health hazard warning or forest health hazard order  
17 shall be issued by use of a commissioner's order. General notice of  
18 the commissioner's order shall be published in a newspaper of general  
19 circulation in each county within the area covered by the order and on  
20 the department's web site. The order shall specify the boundaries of  
21 the area affected, including federal and tribal lands, the forest stand  
22 conditions that would make a parcel subject to the provisions of the  
23 order, and the actions landowners or land managers should take to  
24 reduce the hazard. If the forest health hazard warning or order  
25 relates to land managed by the department, the warning or order may  
26 also contain provisions for the department's utilization of any forest  
27 biomass pursuant to chapter 79.-- RCW (the new chapter created in  
28 section 13 of this act).

29 (5) Written notice of a forest health hazard warning or forest  
30 health hazard order shall be provided to forest landowners of  
31 specifically affected property.

32 (a) The notice shall set forth:

33 (i) The reasons for the action;

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

36 (iii) Suggested actions that should be taken by the forest  
37 landowner under a forest health hazard warning or the actions that must  
38 be taken by a forest landowner under a forest health hazard order;

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

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

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

6 (vii) These requirements are advisory only for federal and tribal  
7 lands.

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

13 (6) Forest landowners who have been issued a forest health hazard  
14 order under subsection (5) of this section may apply to the department  
15 for the remission or mitigation of such order. The application shall  
16 be made to the department within fifteen days after notice of the order  
17 has been served. Upon receipt of the application, the department may  
18 remit or mitigate the order upon whatever terms the department in its  
19 discretion deems proper, provided the department deems the remission or  
20 mitigation to be in the best interests of carrying out the purposes of  
21 this chapter. The department may ascertain the facts regarding all  
22 such applications in such reasonable manner and under such rule as it  
23 deems proper.

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

27 (a) The appeal shall be filed within thirty days after notice of  
28 the order has been served, unless application for mitigation has been  
29 made to the department. When such an application for mitigation is  
30 made, such appeal shall be filed within thirty days after notice of the  
31 disposition of the application for mitigation has been served.

32 (b) The appeal must set forth:

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

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

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

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

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

3 (vi) A statement of the relief requested.

4 (8) A forest health hazard order issued under subsection (5) of  
5 this section is effective thirty days after date of service unless  
6 application for remission or mitigation is made or an appeal is filed.  
7 When an application for remission or mitigation is made, the order is  
8 effective thirty days after notice setting forth the disposition of the  
9 application is served unless an appeal is filed from such disposition.  
10 Whenever an appeal of the order is filed, the order shall become  
11 effective only upon completion of all administrative and judicial  
12 review proceedings and the issuance of a final decision confirming the  
13 order in whole or in part.

14 (9) Upon written request, the department may certify as adequate a  
15 forest health management plan developed by a forest landowner, before  
16 or in response to a forest health hazard warning or forest health  
17 hazard order, if the plan is likely to achieve the desired result and  
18 the terms of the plan are being diligently followed by the forest  
19 landowner. The certification of adequacy shall be determined by the  
20 department in its sole discretion, and be provided to the requestor in  
21 writing.

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

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

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

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

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

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

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

36 (c) Lump sum sales requiring full payment on the day of sale may be

1 paid in cash or by certified check, cashier's check, bank draft, or  
2 money order, all payable to the department.

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

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

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

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

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

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

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

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

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

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

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

1 (c) In all cases, any valuable material not removed from the land  
2 within the period specified in the contract reverts to the state. The  
3 department may utilize any remaining forest biomass in accordance with  
4 chapter 79.-- RCW (the new chapter created in section 13 of this act).

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

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

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

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

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

20 (c) The sale contract shall specify:

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

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

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

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

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

36 (8) The department does not need to comply with the provisions of  
37 this chapter for forest biomass except as described in the provisions  
38 of chapter 70.-- RCW (the new chapter created in section 13 of this

1 act). Forest biomass may not be included in any sales contract  
2 authorized under this chapter unless the department has complied with  
3 the provisions of chapter 79.-- RCW (the new chapter created in section  
4 13 of this act).

5 (9) The provisions of this section apply unless otherwise provided  
6 by statute.

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

9 When the department finds valuable materials on state land that are  
10 damaged by fire, wind, flood, or from any other cause, it shall  
11 determine if the salvage of the damaged valuable materials is in the  
12 best interest of the trust for which the land is held, which may  
13 include the salvage of forest biomass under chapter 79.-- RCW (the new  
14 chapter created in section 13 of this act). If salvaging the valuable  
15 materials is in the best interest of the trust, the department shall  
16 proceed to offer the valuable materials for sale. The valuable  
17 materials, when offered for sale, must be sold in the most expeditious  
18 and efficient manner as determined by the department. In determining  
19 if the sale is in the best interest of the trust the department shall  
20 consider the net value of the valuable materials and relevant elements  
21 of the physical and social environment.

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

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

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

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

1 forest health issue under RCW 79.15.540 may be utilized in accordance  
2 with chapter 79.-- RCW (the new chapter created in section 13 of this  
3 act).

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

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

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

12 (3) The department may not use contract harvesting for more than  
13 ten percent of the total annual volume of timber offered for sale.  
14 However, volume removed primarily to address an identified forest  
15 health issue under RCW 79.15.540 may not be included in calculating the  
16 ((ten percent)) annual limit of contract harvesting sales. Forest  
17 biomass resulting from harvesting to address an identified forest  
18 health issue under RCW 79.15.540 may be utilized in accordance with  
19 chapter 79.-- RCW (the new chapter created in section 13 of this act).

20 NEW SECTION. **Sec. 13.** Sections 1 through 5 of this act constitute  
21 a new chapter in Title 79 RCW.

22 NEW SECTION. **Sec. 14.** Section 11 of this act expires January 1,  
23 2014.

24 NEW SECTION. **Sec. 15.** Section 12 of this act takes effect January  
25 1, 2014.

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