

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 2481

61st Legislature
2010 Regular Session

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

Speaker of the House of Representatives

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

President of the Senate

Approved

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.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 2481

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.

--- END ---