

## Chapter 332-12 WAC OIL AND GAS LEASES

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### WAC

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### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

332-12-010	Application for lease. [Statutory Authority: RCW 79.01.088. WSR 80-17-020 (Order 348, Resolution No. 311), § 332-12-010, filed 11/13/80; Rule (I)(1), filed 8/7/62; Rule (I)(2), filed 3/23/60.] Repealed by WSR 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 79.14.120.
332-12-020	Approval or rejection of applications. [Statutory Authority: RCW 79.01.088. WSR 80-17-020 (Order 348, Resolution No. 311), § 332-12-020, filed 11/13/80; Rule (I)(3), filed 3/23/60.] Repealed by WSR 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 79.14.120.
332-12-030	Land descriptions. [Rule (I)(4), filed 3/23/60.] Repealed by WSR 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 79.14.120.
332-12-040	Application for renewal of productive lease. [Rule (I)(5), filed 3/23/60.] Repealed by WSR 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 79.14.120.
332-12-050	Withdrawal of application. [Rule (I)(6), filed 3/23/60.] Repealed by WSR 80-17-020 (Order 348, Resolution No. 311), filed 11/13/80. Statutory Authority: RCW 79.01.088.
332-12-060	Offer of oil and gas leases by competitive bidding. [Statutory Authority: RCW 79.01.088. WSR 80-17-020 (Order 348, Resolution No. 311), § 332-12-060, filed 11/13/80; Rule (II), filed 3/23/60.] Repealed by WSR 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 79.14.120.
332-12-070	Issuance of leases. [Statutory Authority: RCW 79.01.088. WSR 80-17-020 (Order 348, Resolution No. 311), § 332-12-070, filed 11/13/80; Rule (III), filed 3/23/60.] Repealed by WSR 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 79.14.120.
332-12-080	Cooperative or unit plans. [Rule (IV), filed 3/23/60.] Repealed by WSR 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 79.14.120.
332-12-090	Right of inspection. [Rule (V), filed 3/23/60.] Repealed by WSR 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 79.14.120.
332-12-100	Surface rights. [Rule (VI), filed 3/23/60.] Repealed by WSR 80-17-020 (Order 348, Resolution No. 311), filed 11/13/80. Statutory Authority: RCW 79.01.088.

**WAC 332-12-150 Lands not under the jurisdiction of the department of natural resources. (1) May be leased by the commissioner.** The commissioner of public lands is authorized to execute oil and gas leases, in accordance with and by authority of chapter 79.14 RCW, upon lands of the state of Washington not under the jurisdiction of the department of natural resources.

(2) [**Competitive bid requirements.** All oil and gas leases issued under this regulation shall be issued after competitive bidding unless otherwise requested by the agency requesting issuance.]

[(3)] **Form of lease.** Oil and gas leases issued under this regulation shall contain, in addition to the statutory provisions required by chapter 79.14 RCW, further terms, conditions, covenants, and limitations necessary to maintain the suitability of the lands for their intended use after consultation with the agency having jurisdiction over such lands.

[(4)] (3) **Administrative expense.** The commissioner of public lands may enter into necessary agreements with other agencies to provide for the reimbursement of the department of natural resources for expenses reasonably incurred in oil and gas leasing under this regulation. In the absence of such an agreement, reimbursement for expenses shall be by deductions from lease revenues as authorized by RCW 79.64.040.

[(5)] (4) **Revenue from leases.** All revenue [derived] less administrative expenses from oil and gas leases issued upon lands of the state of Washington not under the jurisdiction of the department of natural resources shall be paid to the agency having jurisdiction over such lands for distribution as authorized by law.

[Statutory Authority: RCW 79.14.120. WSR 88-20-056 (Order 554), § 332-12-150, filed 10/3/88; § 2 (part), filed 8/7/62.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 332-12-210 Definitions.** The following definitions are, unless the context otherwise requires, applicable to chapter 79.14 RCW and these rules and regulations.

(1) "Aquatic lands" means all state-owned tidelands, shorelands, harbor areas, and the beds of navigable waters.

(2) "Associated substances" means all gaseous or liquid substances produced in association with oil or gas but shall not include coal, lignite, oilshale, similar solid hydrocarbons, minerals, water, steam or any geothermal resources.

(3) "Base lease" means the first issued lease on a tract of land prior to any assignments of the lease or renewals.

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

(5) "Completion" means the well is capable of producing oil or gas through wellhead equipment from the producing zone after the production string has been run. A dry hole shall be considered completed when the requirements for plugging and abandonment provided for in chapter 344-12 WAC have been complied with.

(6) "Continuous" as in "production in continuous paying quantities" means extracting oil and gas from the earth without cessation for a period of more than ninety days.

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

(8) "Development" means work which generally occurs after exploration and furthers bringing in production including defining the extent of the oil and gas resource and construction of support facilities.

(9) "Drilling" means the drilling of a well and the activities associated therewith of permitting, staking, site preparation, testing, deepening or redrilling of the well.

- (10) "Drill pads" means the location and surrounding area necessary to position a drill rig and support equipment.
- (11) "Exploration" means the investigation of oil and gas resources by any geological, geophysical, geochemical or other suitable means.
- (12) "Good standing" means in full compliance with all terms and conditions of the lease contract.
- (13) "Hydrocarbon" means a compound containing only the two elements carbon and hydrogen.
- (14) "Improvements" means anything considered a fixture in law placed upon or attached to the lease premises that has changed the value of the land or any change in the previous conditions of the fixtures that changes the value of the land.
- (15) "Initial term" means the first period of time authorized under a lease or the exploration period of the lease.
- (16) "In situ" means a process of in-place conversion of an energy resource in the ground by a thermal or liquifaction process in order to simplify extraction of the resource.
- (17) "Lands" or "land" means both the surface and subsurface components of the lease or contract premises.
- (18) "Lease premises" means public land including retained mineral rights held under an oil and gas lease.
- (19) "Lessee" means any person holding an oil and gas lease.
- (20) "Oil and gas" means all hydrocarbons which are present in the earth in a gaseous or liquid form and produced therefrom. It shall not include coal, lignite, oilshale, or similar solid hydrocarbons.
- (21) "Paying quantities" means extraction of oil and/or gas in a sufficient amount to generate oil and gas production royalties to the state.
- (22) "Person" means any natural person, corporation, association, organization, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or representative of any kind.
- (23) "Plug and abandon" means to place permanent seals in well casings or drill holes in the manner as provided by chapter 344-12 WAC and applicable regulations and in a way and at such intervals as are necessary to prevent future contamination; to remove all equipment from the site and rehabilitate the surface to its former state or usage as prescribed by the department.
- (24) "Posted field price" means the announced price at which a crude oil or gas purchaser will buy the oil or gas of specified quality from a field.
- (25) "Preliminary investigation" means geological, geophysical or geochemical investigation.
- (26) "Production" means extracting oil and/or gas in paying quantities.
- (27) "Public auction" means competitive lease offers either by oral or sealed bidding by qualified bidders or a combination of both.
- (28) "Public lands" means lands and areas belonging to or held in trust by the state including state-owned aquatic lands and lands of every kind and nature including mineral rights reserved to the state, the trust or the department.
- (29) "Reclamation" means the reasonable protection and rehabilitation of all land subject to disruption from exploration, development, and production of an oil and gas resource.
- (30) "Refining" means improving the physical or chemical properties of oil or gas.

(31) "Shut-in" means to adequately cap or seal a well to control the contained oil and/or gas for an interim period.

(32) "String of tools" means a cable or rotary drill rig.

(33) "Surface rights" means full fee ownership of the surface of the property and the resources on and attached thereto, not including the mineral estate.

(34) "Undivided interest" means a total assignment of the lease to one person or an assignment which causes the total lease rights to be held jointly by more than one person including but not limited to joint or common tenancy and community property.

(35) "Waste" means the physical loss of a subsurface resource through damage, escape or inefficient extraction and as defined in chapter 78.52 RCW.

(36) "Well" means any bored, drilled, or redrilled hole for the exploration or production of oil, gas, and other hydrocarbon substances.

[Statutory Authority: RCW 79.14.120. WSR 86-07-027 (Order 472), § 332-12-210, filed 3/13/86; WSR 82-23-053 (Order 387), § 332-12-210, filed 11/16/82.]

**WAC 332-12-220 Jurisdiction.** These rules are applicable to all public lands of the state for which the commissioner is authorized or permitted to lease for the purpose of prospecting for, developing and producing oil, gas, or other hydrocarbon substances.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-220, filed 11/16/82.]

**WAC 332-12-230 Forms.** (1) Applications, leases, and related forms shall be on forms prepared and prescribed by the department.

(2) All applications shall be filed with the department. A twenty-five dollar nonrefundable application fee shall be submitted with each application.

(3) Applications for leases on aquatic lands shall describe the area with reference to the abutting upland survey. The description shall conform as nearly as practicable to extensions of the upland subdivisional lines of the United States government survey or survey lines of other recorded plats. Such descriptions shall be subject to the approval of the department.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-230, filed 11/16/82.]

**WAC 332-12-240 Applicant.** Any person may apply for and hold oil and gas leases on public lands of the state of Washington. Any applicant may acquire, receive and hold more than one lease. The department may deny an application or lease to any person, firm, or corporation for which a lease has been terminated for nonpayment of royalties or for breach of any terms or conditions.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-240, filed 11/16/82.]

**WAC 332-12-250 Lease area.** Leases shall not exceed the acreage specified in RCW 79.14.020: Provided, That an entire government surveyed section may be involved in a single lease. No single lease will be issued including acreage from more than one township of land except that more than one township may be included in a single lease of aquatic lands, if the total lease area does not exceed six hundred forty acres.

If the available land is less than forty acres, the lease will be issued only for the available acreage. On lands which the department manages less than the entire interest in the mineral rights, a lease may be issued by the commissioner covering the state's interest independent of the joinder of the other co-tenant where otherwise permitted.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-250, filed 11/16/82.]

**WAC 332-12-260 Term of lease.** Oil and gas leases may be for an initial term of from five up to ten years and shall be extended for so long thereafter as lessee shall produce oil, gas or associated substances in paying quantities from the leased lands or is prosecuting development on the leased land with due diligence of a prudent operator upon encountering oil, gas or associated substances; or shall be engaged in drilling, deepening, repairing, or redrilling any well thereon; or shall be participating in a unit plan in accordance with RCW 79.14.020; or shall be prosecuting operations with due diligence of a prudent operator in accordance with RCW 79.14.050.

[Statutory Authority: RCW 79.14.120. WSR 86-07-027 (Order 472), § 332-12-260, filed 3/13/86; WSR 82-23-053 (Order 387), § 332-12-260, filed 11/16/82.]

**WAC 332-12-262 Preliminary investigation permit.** Entry to state lands not currently under lease as provided in chapter 79.14 RCW is permitted for preliminary investigations by obtaining a "preliminary investigation permit" from the department and paying required fees as determined by the board of natural resources. Such permits are valid for one year from the date of issuance unless an earlier term is specified or it is revoked by the department. Permits will not be required for preliminary investigation activities that have little surface impact such as geological mapping.

[Statutory Authority: RCW 79.14.120. WSR 86-07-027 (Order 472), § 332-12-262, filed 3/13/86.]

**WAC 332-12-265 Application procedures—Surface rights in other agencies.** Prior to offering mineral rights under the jurisdiction of the department of natural resources for oil and gas leasing where the surface rights are either owned or leased by other state agencies, the department will notify the applicable state agency. Such notification shall be within a reasonable time period prior to leasing to permit the other agencies to consult with the department as to the advisability and conditions of lease.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-265, filed 11/16/82.]

**WAC 332-12-270 Award of lease.** The department shall offer land for oil and gas leasing by the following procedures:

(1) Leases shall be offered at public auction after the approval of an application or initiation by the department. Public auction shall be by sealed or oral bidding or a combination as prescribed in the notice of leasing. Oil and gas leases shall be awarded to the highest cash bonus bidder. If two or more sealed bids tie for the highest bid on an individual tract, the department shall resolve the tie by commencement of oral bidding. If no oral bids are received on such tract the tie shall be resolved by the drawing by lot from the tie bids.

(2) If no bids, sealed or oral, are received on an individual tract, the lease may be awarded to the applicant for the minimum acceptable bid subject to approval by the commissioner.

(3) All awards of leases are subject to the commissioners authority to withhold any tract or tracts of land from leasing and to reject any or all applications or bids for an oil and gas lease if determined to be in the best interest of the state.

(4) Notice of the offer of land for leasing shall be given by publication in a newspaper of general circulation in Thurston County and in such other manner as the department may authorize. Such notice shall specify the place, date, and hour of the offering, a general description of the lands to be offered for lease, and the minimum acceptable bid.

(5) Competitive bid terms. Sealed bids must be submitted prior to the time set for the auction, and must be accompanied by a certified check equal to one-fifth of the total bonus bid offered. Following award of an oral bid, a successful oral bidder is required to submit payment equal to one-fifth of total bonus bid. Unless all bids are rejected, the commissioner will send to the successful bidder two copies of the lease. The bidder will be required within thirty days after receipt thereof to execute and return the lease, pay the balance of their bonus bid, the first year's rental of one dollar twenty-five cents per acre, and all applicable taxes and other required payments. Upon failure of the successful bidder to fulfill the above requirements, the money tendered will be forfeited and the application rejected unless the department grants additional time pursuant to a written request made by the successful bidder prior to the expiration of the thirty-day period.

(6) Unsuccessful sealed bidders will be refunded their deposit. Application fees shall be refunded for applications rejected by the department.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-270, filed 11/16/82.]

**WAC 332-12-280 Lease terms.** (1) Leases issued under the provisions of chapter 79.14 RCW and these rules shall be on forms prepared and prescribed by the department.

(2) Leases shall contain, where applicable, provisions implementing the rules and regulations contained in chapter 332-12 WAC.

- (3) Leases shall contain, where applicable, provisions which:
- (a) Protect the environment;
  - (b) Provide for security for faithful performance of the lease terms and conditions;
  - (c) Require a plan of operations;
  - (d) Require reclamation;
  - (e) Prevent waste;
  - (f) Provide for plugging and abandonment;
  - (g) Require compliance with the provisions of the Oil and Gas Conservation Act and its rules and regulations;
  - (h) Require the drilling of wells for the purpose of offsetting producing wells on adjoining lands;
  - (i) Require the lessee to furnish gas produced from the lease to state lessees for direct use where requested by the department;
  - (j) Relate to the surface use and resources.
- (4) Leases shall contain such terms as are customary and proper for the protection of the rights of the state, the lessee and the surface owner, and necessary to insure compliance with the applicable laws and regulations.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-280, filed 11/16/82.]

**WAC 332-12-290 Reserved rights.** The department reserves the right to lease any subsurface resource not covered by an existing oil and gas lease: Provided, That such leasing is subject to any existing subsurface lease rights and does not materially interfere with any established lease operations. The department shall require a cooperative work agreement to allow simultaneous or coordinated operations.

The department reserves the right to allow joint or several uses of existing sites, easements, or rights of way under control of the state, upon such terms as the department may determine.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-290, filed 11/16/82.]

**WAC 332-12-300 Damages to encumbered lands.** The lessee shall have the right to the surface use of the premises to the extent such use is reasonably necessary for operations under the lease as provided in the plan of operations.

(1) Where surface rights have been transferred from state ownership through sale or exchange with mineral rights reserved or are leased by the state, the oil and gas lessee, prior to exercising lease rights, shall:

(a) Secure the consent or waiver of the surface-right owner or lessee regarding oil and gas lease activities; or

(b) Provide full payment for damages to the surface of said land and improvements thereon to the surface-right owner or lessee; or

(c) Secure the agreement by the surface-right owner or lessee that damages cannot be determined at this time and there shall be the execution of a good and sufficient security acceptable to the department in favor of the surface-right owner or lessee for their use and benefit to secure the payment of such damages, as may be determined and fixed by later agreement or in action brought upon the security or undertaken in a court of law against the oil and gas lessee; or

(d) Institute an action by the oil and gas lessee in the superior court of the county in which the land is situated to ascertain and determine the amount of damages which will accrue to the surface-right owner or lessee by reason of entry thereon. In the event of any such action, the term of the oil and gas lease shall begin thirty days after the entry of the final judgment and payment therefore in such action provided such action was instituted and processed within a reasonable time; or

(e) Shall furnish to the department a good and sufficient security, acceptable to the department, to cover such compensation until such compensation is determined by agreement, arbitration, or judicial decision or is otherwise authorized to be determined.

(2) Where the surface rights are owned by the state, the oil and gas lessee, prior to exercising its lease rights, shall compensate the state for damages that may occur to the surface rights as determined by the department or by another state agency where it owns both the surface and mineral rights.

The department or such agency may, in the alternative, in lieu of immediate payment, require the furnishing of adequate security for payment of all damages.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-300, filed 11/16/82.]

**WAC 332-12-310 Annual rental or minimum royalty.** (1) The department shall require payment of not less than one dollar twenty-five cents per acre per year in annual rental. The lessee shall pay the first year's annual rental upon execution of the lease and pay a like rental in advance each year the lease remains in force: Provided, That at any time the lease starts production, a minimum royalty of five dollars per acre per year shall replace the annual rental and shall be credited against production royalties. Minimum royalties shall be paid at the end of the lease year in which production starts and annually at the end of the lease year for the remainder of the term. When the production royalty is greater than the minimum royalty paid during any lease year, the lessee shall pay, in addition to the minimum royalty, the difference between the minimum royalty and the production royalties. Minimum royalties paid during the term of the lease are nonrefundable and nontransferable.

(2) On lands which the state owns less than entire fee simple mineral rights in common tenancy (undivided interests), the lessee shall pay the department rentals and minimum royalties in the amount equal to the state's undivided mineral interest percentage in such lands.

(3) If the annual rental or minimum royalty is not paid as prescribed in the lease, the lease shall be terminated as provided by RCW 79.14.090.

[Statutory Authority: RCW 79.14.120. WSR 86-07-027 (Order 472), § 332-12-310, filed 3/13/86. Statutory Authority: RCW 43.30.150(6). WSR 83-07-039 (Order 393, Resolution No. 409), § 332-12-310, filed 3/16/83. Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-310, filed 11/16/82.]

**WAC 332-12-320 Production royalties.** (1) Production royalty payments shall be payable to the department for oil and gas produced from the lease premises, or in the case of gas products from gas produced but not sold, the products manufactured. Royalty rates shall be not less than twelve and one-half percent of the gross value at the point of production as defined in WAC 332-12-330. In the case of production of gas from coal deposits by "in situ" or other newly developed technology for which there is little or no leasing experience, the commissioner may set applicable royalty rates.

(2) The state reserves the right that, in lieu of receiving royalty payment for the market value of the state's royalty share of oil or gas, the department may elect that such royalty share of oil or gas be delivered in kind at the mouth of the well into tanks or pipelines provided by the department.

(3) On lands which the state owns less than the entire fee simple mineral rights in common tenancy (undivided interests), the lessee shall pay production royalties in the proportion which the state's interests bear to the undivided whole or an amount established by agreement between cotenants.

(4) Payments shall be in an amount to cover all royalties due the state from production. The department may approve the use of payment bonds, savings account assignments, or other security which guarantees payment to the state. Production royalty payments shall be scheduled in the lease and plan of operations. The lessee shall furnish the department a sworn statement showing production for accounting periods required by the department and pay any royalties due.

(5) The lessee shall not sell or deliver any oil and gas or manufactured products to any person who does not agree to file purchase invoices with the department stating the price, quantity, origin of oil and gas purchased from a state lease and to allow an audit as provided by these rules. The department may require and prescribe any other methods necessary to insure a full accounting of oil and gas produced from the premises. Noncompliance with any accounting requirements may cause suspension of operation or termination as provided in WAC 332-12-400.

(6) Any past due royalty payment shall bear interest at the rate of one percent per month, compounded monthly, on the unpaid balance.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-320, filed 11/16/82.]

**WAC 332-12-330 Computation of royalties.** Production royalty payments shall be based upon the gross value at the point of production defined as follows:

(1) For oil. The posted field price, or, if no field price is posted, the fair market value prevailing for oil of like kind, character, quality or comparable source at the point of production. All field prices shall be approved by the department.

All royalties, whether in money or in kind, shall be delivered to the state free of cost and deductions.

Quantities of oil produced shall be determined by metering or measuring (by automatic custody transfer meter, tank gauge, or other approved method) at the first point of transfer it is in a condition of pipeline quality which shall be considered the point of production.

(2) For gas or other hydrocarbons. The posted field price or if no field price is posted, the fair market value prevailing for gas of

like kind, character or comparable source at the point of production. All field prices shall be approved by the department. These royalties shall be delivered to the state free of costs and deductions.

If gas is not sold but is used by the lessee for the manufacture of gasoline or other products, the fair market price at point of sale shall be used for these products, less reasonable deductions for refining costs, as determined by the department.

(3) All prices shall be approved by the department.

(4) Quantity of gas produced shall be determined by metering or measuring at the point where it is first accurately metered or measured on or near the lease premises from which it is recovered. Where it is considered to be merchantable or pipeline quality shall be considered the point of production, less any quantities reinjected into a reservoir in the same field for purposes of repressuring and conservation. The quantity of gas products shall be determined by metering at the point of delivery for sale by the lessee.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-330, filed 11/16/82.]

**WAC 332-12-340 Unit plans.** The holder(s) of any oil and gas leases may apply to the department to unite with each other or with other entities, including lands not owned by the state, to collectively adopt and operate under a unit plan.

(2) To implement a plan and protect the state's interest, the commissioner may alter the terms and conditions of the lease(s) so involved with the consent of the leaseholder(s). Authorization by the department to include state leases in unit plans shall be conditioned on the following requirements:

(a) There shall be submitted to the department a plat showing the area to be unitized, together with geological and other information in support of the delineation of the area.

(b) A preliminary draft of the plan shall be submitted to the department for approval.

(c) If the plan is approved by the department, the proponent of the plan shall deliver one copy to the department when fully executed.

(d) Leases which are only partially covered by unit plans shall be segregated into separate leases as to the lands committed and not committed as of the effective date of the unitization. The annual rental or minimum royalty shall be paid on the leased acreage in the unit independently from other segregated lease areas.

(e) The term of any lease that has become the subject of a unit plan as approved by the department shall continue in force until the termination of such plan. In the event that such plan is terminated prior to the expiration of any such leases, the original term of the lease shall continue.

(f) Any apportionment of production or royalties among the separate tracts of land comprising the unit shall include an accounting system and the right of the department to audit such system to protect the interests of the state.

(g) Operations and production under a single unit plan shall be considered the operations and production of all leases included under the plan. Due diligence performed on any part of an area under a unit plan, may be credited by the department toward the requirement for all state leases included in the unit.

(3) Agreements for a cooperative or unit plan of development of an oil and gas pool, field or like area or any part thereof shall comply with the provisions of RCW 78.52.370. All unit or cooperative plans containing lands leased under the provisions of chapter 79.14 RCW require approval and consent by the department.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-340, filed 11/16/82.]

**WAC 332-12-350 Performance security.** The lessee shall file a corporate surety bond, cash bond, savings account assignment or other security satisfactory to the department in an amount determined by the department to be sufficient to guarantee performance of the terms and conditions of the lease. Such security shall be submitted prior to the beginning of operations or applying for a drilling permit. Such security shall not be less than ten thousand dollars. The lessee shall promptly advise the department of any changes in operation. The department may reduce or increase the amount of the security as a result of operational changes requiring different levels of performance. The department may allow a lessee to file a single security device, acceptable to the state, in an amount set by the department covering all of the lessee's state leases.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-350, filed 11/16/82.]

**WAC 332-12-360 Plan of operations.** An applicant or lessee shall submit to the department and obtain approval of an acceptable plan of operations when applying for a preliminary investigation permit or prior to applying for a drilling permit required under Oil and Gas Conservation Act, chapter 78.52 RCW. The purpose of the plan of operations is to provide detailed information for intended activities regarding exploration and reclamation. The plan of operations shall be reformulated to include development, production and additional reclamation or prior to making any material change in operations or when requested by the department.

[Statutory Authority: RCW 79.14.120. WSR 86-07-027 (Order 472), § 332-12-360, filed 3/13/86; WSR 82-23-053 (Order 387), § 332-12-360, filed 11/16/82.]

**WAC 332-12-370 Assignments.** (1) Any lease may be assigned, mortgaged, sublet, or otherwise transferred as to a divided or undivided interest therein to any qualified applicant subject to the approval of the department. The lessee shall execute an assignment approved by the commissioner. A transfer of a separate zone or deposit under any lease or a part of a legal subdivision shall be considered an assignment and is subject to the approval of the department. All approved assignments shall take effect as of the first day of the lease month following the date of approval. A separate assignment fee is required for each separate lease in which an interest is assigned.

(2) Assignments of undivided interests in a lease or changes in controlling lease interest shall not create new leases or new obligations and shall be subject to the approval of the department. The ap-

proval of these assignments, a designation of a single agent or a power of attorney executed by all lessees shall be filed with the department and an acceptable agreement adequate to protect the state's interest including a designation of the lessee shall be executed and filed with the department.

(3) Any divided interest or partial assignment of a geographically distinct subdivision of a lease shall segregate the assigned and retained portions thereof and upon approval of such assignment by the commissioner, create a new lease as to the assigned lands. The rights and obligations of the lessees under the retained portion and the assigned portion of the original lease are separate and distinct but are identical as to terms and conditions. Execution of the assignment shall release or discharge the assignor from all obligations thereafter accruing with respect to the assigned lands. Such segregated leases shall continue in full force and effect for the primary term of the original lease.

(4) Owners of cost-free interests such as overriding royalties, where authorized by the department, shall not be considered lessees and shall be subject to the rights of the department against the lessee. All state assignment documents shall contain provisions which subject any cost-free interests created by an assignment to the authority of the commissioner to require the proper parties to suspend or modify such overriding royalties or payments out of production in such a manner as may be reasonable when and during such periods of time as they may constitute an undue economic burden upon the reasonable development and operations of such lease.

(5) The approval of any assignment shall not waive compliance with any terms and conditions of the original lease. The department may subject the assignment to special requirements or conditions to correct any noncompliance with the original lease. Upon approval of any assignment, the assignee or sublessee shall be bound by the terms of the original lease to the same extent as if such assignee or sublessee were the original lessee.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-370, filed 11/16/82.]

**WAC 332-12-380 Surrender of leasehold.** (1) Every lessee shall have the option of surrendering their lease as to all or any portion or portions of the land covered thereby at any time and shall be relieved of all future liability thereunder with respect to the land so surrendered except for monetary payments theretofore accrued, physical damage to the premises embraced by the lease which have been occasioned by their operation, physical damages occasioned by right of way passage across other state lands, and the duty to plug and abandon and reclaim the lease premises.

(2) The lessee shall notify the department in writing requesting surrender of leasehold and the department shall acknowledge the receipt of such notice.

(3) If no operations have been conducted under the lease and no surface disturbances or damages have occurred on the land to be surrendered, the lease shall terminate sixty days after the date of the receipt by the department of the notice of surrender, unless the department authorizes an earlier date: Provided, That all payments due up to the time of termination are paid.

(4) If operations have been conducted and surface disturbance or damage has occurred on land proposed for surrender, the leasehold shall not terminate until the land has been reclaimed and placed in an acceptable condition and approved by the department, all wells have been properly plugged and abandoned, and all applicable conditions of chapter 78.52 RCW have been complied with. Termination of the lease shall become effective after approval by the department and all payments which may be due up to the time of termination are paid.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-380, filed 11/16/82.]

**WAC 332-12-390 Due diligence.** Oil and gas leases shall continue after their initial term as provided by RCW 79.14.020 and 79.14.050 if:

(1) The lessee has complied with the conditions of the lease and is actively exploring in which one string of tools is in operation on the lease premises, allowing not to exceed ninety days between the completion of one well and the start of the next; or

(2) The lessee shall be producing oil and/or gas in continuous paying quantities; or

(3) The lessee is proceeding and actively pursuing development in the opinion of the department to efficiently extract oil, gas or associated substances after discovery; or

(4) The lessee engages in drilling, deepening, repairing or re-drilling any production well without a ninety-day cessation of such activities; or

(5) The lessee has constructed a well capable of producing oil, gas or associated substances in paying quantities which is shut-in by consent or order of the oil and gas conservation committee. Such lease extension shall continue for the duration of such consent or order.

[Statutory Authority: RCW 79.14.120. WSR 86-07-027 (Order 472), § 332-12-390, filed 3/13/86; WSR 82-23-053 (Order 387), § 332-12-390, filed 11/16/82.]

**WAC 332-12-400 Termination of lease for default.** The department may cancel the lease for noncompliance with the lease agreement, plan of operations, or applicable laws, rules, and regulations. The lessee shall be notified of such noncompliance and the necessary corrective measures by certified mail to the last known address of the lessee. If the lessee shall diligently and in good faith prosecute the remedying of the default specified in such notice, then no cancellation of the lease shall occur. Otherwise termination or cancellation shall automatically become effective thirty days from the date of mailing the notice of default and shall be final. The lessee may make a written request for an extension of time outlining the circumstances such extension is warranted. The department may, upon receiving a written request prior to the end of the thirty-day period, grant an extension of time in which to comply with the terms and conditions of the lease. Termination shall not relieve the lessee of any obligation incurred under the lease.

Failure to pay required rental and/or royalty within the time prescribed shall automatically and without notice work a forfeiture of such leases and of all rights thereunder.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-400, filed 11/16/82.]

**WAC 332-12-410 Condition of premises upon termination of lease.**

The lessee shall have thirty days from the termination date in which to remove all improvements, except buildings and structures, from the premises except as authorized by the state, leaving all existing development in good order and repair, and without unnecessarily hampering future development and operation of the lease premises. All such improvements remaining on the lease premises after thirty days, including the buildings and structures, shall become the property of the state: Provided, That the lessee may upon written request to the department be granted an extension of time where forces beyond the control of the lessee prevent removal of said improvements within thirty days. If the subsurface resource is exhausted, the lessee shall remove all improvements unless otherwise permitted by the department.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-410, filed 11/16/82.]

**WAC 332-12-420 Reclamation.** The lessee shall restore the lease premises as required by state and federal law and the lease. The lessee shall submit final reclamation plans to the department for its approval prior to:

- (1) Submission of such a plan to the oil and gas conservation committee; and
- (2) Prior to notification to the department to plug and abandon any well; and
- (3) Within ninety days prior to the end of the lease term.

All plans shall be subject to the approval of the department. All reclamation shall be completed within ninety days of the receipt of the final approved plan from the department. The department may, upon receiving a written request prior to the end of the ninety-day period, grant an extension of time for completion of reclamation.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-420, filed 11/16/82.]

**WAC 332-12-430 Timber.** No forest products owned by the department shall be cut, removed or destroyed unless approved in advance by the department. The lessee shall appropriately mark all forest products proposed to be cut. Unless the department elects to directly dispose of the forest products, the department will appraise the forest products and the lessee shall pay the appraised value of such forest products within thirty days of billing unless there is written extension of time by the department, and in any event, prior to their cutting.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-430, filed 11/16/82.]

**WAC 332-12-440 Use of the premises.** A lessee may use the lease premises as provided in the lease and the approved plan of operations, subject to existing rights and payments as otherwise provided. Such uses shall be those reasonably necessary for the exploration, operation, and production of oil and gas. All other uses shall require separate leases.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-440, filed 11/16/82.]

**WAC 332-12-450 Prevention of waste and environmental protection.**

(1) The lessee shall conduct all operations in a manner to prevent waste and preserve property and resources. If the lessee fails to do so, the department may enter on the property to repair damages or prevent waste at the lessee's expense, in addition to other authorized actions.

(2) The lessee shall use all proper safeguards to prevent pollution of earth, air, and water. The lessee is responsible for all damage to public and private property caused by the lessee's operation and shall use all reasonable means to recapture escaped pollutants.

(3) The lessee shall explore for oil and gas with the minimum disturbance to the surface of the land. All drill holes shall be securely capped and/or plugged when not in use or abandoned. The lessee shall comply with all of the provisions of law governing surface and groundwater.

(4) Topsoil on lands to be disturbed shall be removed and stockpiled on the site. The lessee shall take all necessary steps to insure the preservation of the stockpiled topsoil, including establishment of a temporary vegetative cover to prevent erosion. Upon the final abandonment or completion of a drilling operation, the lessee shall reclaim the lease premises, including restoration of the surface to acceptable contours, redistribution of the topsoil, and reseedling the land with native grasses and native plants prescribed by the department in the approved plan of reclamation.

(5) Upon completion of production or exhaustion of an oil and/or gas resource, the lessee shall reclaim the land, and plug and abandon all wells.

(6) The department may, in the plan of operations, require interim measures to reclaim the lease area and protect all resources and property.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-450, filed 11/16/82.]

**WAC 332-12-460 Access road construction and maintenance standards.** Access roads authorized to be constructed and/or maintained on public lands or easement agreements shall conform to those standards approved and specified by the department.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-460, filed 11/16/82.]

**WAC 332-12-470 Rights of way over state lands.** Any lessee shall have a right of way over state lands not included in the lease area

when authorized by law, when necessary, for the exploration, development and production of oil and gas, provided that a right of way application and a plat showing the location of such right of way shall be filed with the department. Rights of way, when authorized, will be granted to the lessee upon approval of the location by the department or other agency owning in fee the surface rights and payment of charges.

The department retains the right to utilize all rights of way and grant such other rights not inconsistent with the lessees use of such rights of way.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-470, filed 11/16/82.]

**WAC 332-12-480 Field inspections and audits.** Any person designated by the department shall have the right at any time to inspect and examine the lease premises and production facilities, and shall have the right during lessee business hours to examine such books, records, tax returns, and accounts of the lessee as are directly connected with the determination of royalties.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-480, filed 11/16/82.]

**WAC 332-12-490 Reports.** The rules and regulations promulgated under the Oil and Gas Conservation Act, chapter 78.52 RCW require standardized reports of well history or record and well log, production, and methods used in plugging and abandoning a well. These reports shall be made available to the department through the oil and gas conservation committee.

If a lessee discovers any subsurface resource of possible recoverable value, not covered in the oil and gas lease, the discovery shall be reported to the department within ten days of the discovery date.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-490, filed 11/16/82.]

**WAC 332-12-500 Compliance with other laws.** All development or production activities authorized by the lease shall be conducted in accordance with all applicable laws, rules and regulations. The lessee(s) shall, before commencing any operations on the leased lands, inform themselves of and then abide by the laws, rules and regulations affecting such operations. Compliance with state and federal laws, rules and regulations shall be the sole responsibility of the lessee and not the responsibility of the department.

The filing of a bond or other security as a lease requirement does not remove the obligation to file bonds required by other laws.

[Statutory Authority: RCW 79.14.120. WSR 82-23-053 (Order 387), § 332-12-500, filed 11/16/82.]