

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.]