

Title 320 WAC MEDICAL DISCIPLINARY BOARD

Chapters

320-12 Election of board members.

Chapter 320-12 WAC ELECTION OF BOARD MEMBERS

WAC

320-12-030 Nominating petitions.
320-12-040 Eligibility requirement in elections.
320-12-050 Time of election—Ballots.
320-12-060 Identification by congressional district.
320-12-070 Ballots.

WAC 320-12-030 Nominating petitions. Nominating petitions shall be signed by not less than twenty-five licensed physicians residing in the congressional district in which the nominee resides. The nominating petitions shall be distributed by the division of professional licensing the first Monday in May and must be returned to the division by the third Monday in June. Nominating petitions will be provided by the division of professional licensing, department of licensing, to Washington state medical association, to the chief of the medical staff of Washington licensed hospitals, the county clerk of each county, and the local medical societies. [Statutory Authority: RCW 18.72.150. 82-01-066 (Order PL 388), § 320-12-030, filed 12/18/81; Rule 320-12-030, filed 12/14/64.]

WAC 320-12-040 Eligibility requirement in elections. In order for a licensed physician to be eligible to vote in an election for the selection of a member of the disciplinary board, the physician must live in the congressional district of the candidate for whom the physician desires to vote, and must hold a current valid registration for the year in which the election is held, except in cases where the voter is in the military service where no current fee is required by law. [Statutory Authority: RCW 18.72.150. 82-01-066 (Order PL 388), § 320-12-040, filed 12/18/81; Rule 320-12-040, filed 12/14/64.]

WAC 320-12-050 Time of election—Ballots. The election shall be held on the second Monday in September. Ballots for the election of a member to the medical disciplinary board from each congressional district shall be sent to the physicians residing in each congressional district not later than the second Monday in August and must be returned to the election commission in the division of professional licensing in Olympia, Washington, by the second Monday in September. [Statutory Authority: RCW 18.72.150. 82-01-066 (Order PL 388), § 320-12-050, filed 12/18/81; Rule 320-12-050, filed 12/14/64.]

WAC 320-12-060 Identification by congressional district. In order for the physician's vote to be valid,

each physician must print his or her name on the mailing envelope, which is returned to the division in Olympia, so that the name of each physician voting in the election may be checked off the list of eligible voters. [Statutory Authority: RCW 18.72.150. 82-01-066 (Order PL 388), § 320-12-060, filed 12/18/81; Rule 320-12-060, filed 12/14/64.]

WAC 320-12-070 Ballots. Voting shall be by secret ballot which shall be enclosed in a separate envelope and neither the ballot nor the ballot envelope shall contain any signature or identifying mark whereby the identity of the voter can be ascertained. [Mailing envelopes,] ballot envelopes and ballots will be provided by the division of professional licensing. [Statutory Authority: RCW 18.72.150. 82-01-066 (Order PL 388), § 320-12-070, filed 12/18/81; Rule 320-12-070, filed 12/14/64.]

Reviser's note: RCW 34.04.058 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.

Title 332 WAC NATURAL RESOURCES, BOARD AND DEPARTMENT OF

Chapters

332-12 Oil and gas leases.
332-22 State land leasing program guidelines.
332-24 Forest protection.
332-140 Forest Products Industry Recovery Act of 1982.
332-150 Survey, plat and map filing and recording fees.

Chapter 332-12 WAC OIL AND GAS LEASES

WAC

332-12-010 Repealed.
332-12-020 Repealed.
332-12-030 Repealed.
332-12-040 Repealed.
332-12-060 Repealed.
332-12-070 Repealed.
332-12-080 Repealed.
332-12-090 Repealed.
332-12-210 Definitions.
332-12-220 Jurisdiction.
332-12-230 Forms.
332-12-240 Applicant.
332-12-250 Lease area.
332-12-260 Term of lease.
332-12-265 Application procedures—Surface rights in other agencies.
332-12-270 Award of lease.
332-12-280 Lease terms.
332-12-290 Reserved rights.
332-12-300 Damages to encumbered lands.
332-12-310 Annual rental or minimum royalty.
332-12-320 Production royalties.
332-12-330 Computation of royalties.

332-12-340	Unit plans.
332-12-350	Performance security.
332-12-360	Plan of operations.
332-12-370	Assignments.
332-12-380	Surrender of leasehold.
332-12-390	Due diligence.
332-12-400	Termination of lease for default.
332-12-410	Condition of premises upon termination of lease.
332-12-420	Reclamation.
332-12-430	Timber.
332-12-440	Use of the premises.
332-12-450	Prevention of waste and environmental protection.
332-12-460	Access road construction and maintenance standards.
332-12-470	Rights of way over state lands.
332-12-480	Field inspections and audits.
332-12-490	Reports.
332-12-500	Compliance with other laws.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

332-12-010	Application for lease. [Statutory Authority: RCW 79.01.088. 80-17-020 (Order 348, Resolution 311), § 332-12-010, filed 11/13/80; Rule (I)(1), filed 8/7/62; Rule (I)(2), filed 3/23/60.] Repealed by 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 82.14.120.
332-12-020	Approval or rejection of applications. [Statutory Authority: RCW 79.01.088. 80-17-020 (Order 348, Resolution 311), § 332-12-020, filed 11/13/80; Rule (I)(3), filed 3/23/60.] Repealed by 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 82.14.120.
332-12-030	Land descriptions. [Rule (I)(4), filed 3/23/60.] Repealed by 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 82.14.120.
332-12-040	Application for renewal of productive lease. [Rule (I)(5), filed 3/23/60.] Repealed by 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 82.14.120.
332-12-060	Offer of oil and gas leases by competitive bidding. [Statutory Authority: RCW 79.01.088. 80-17-020 (Order 348, Resolution 311), § 332-12-060, filed 11/13/80; Rule (II), filed 3/23/60.] Repealed by 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 82.14.120.
332-12-070	Issuance of leases. [Statutory Authority: RCW 79.01.088. 80-17-020 (Order 348, Resolution 311), § 332-12-070, filed 11/13/80; Rule (III), filed 3/23/60.] Repealed by 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 82.14.120.
332-12-080	Cooperative or unit plans. [Rule (IV), filed 3/23/60.] Repealed by 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 82.14.120.
332-12-090	Right of inspection. [Rule (V), filed 3/23/60.] Repealed by 82-23-053 (Order 387), filed 11/16/82. Statutory Authority: RCW 82.14.120.

WAC 332-12-010 Repealed. See Disposition Table at beginning of this chapter.

WAC 332-12-020 Repealed. See Disposition Table at beginning of this chapter.

WAC 332-12-030 Repealed. See Disposition Table at beginning of this chapter.

WAC 332-12-040 Repealed. See Disposition Table at beginning of this chapter.

WAC 332-12-060 Repealed. See Disposition Table at beginning of this chapter.

WAC 332-12-070 Repealed. See Disposition Table at beginning of this chapter.

WAC 332-12-080 Repealed. See Disposition Table at beginning of this chapter.

WAC 332-12-090 Repealed. See Disposition Table at beginning of this chapter.

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 accreted, tide and submerged lands of the Pacific Ocean and any arm thereof and bed and shorelands of navigable waters.

(2) "Base or primary term" means the first period of time authorized under a lease or the exploration period of the lease.

(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) "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.

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

(7) "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.

(8) "Drill pads" means the location and surrounding area necessary to position a drill rig and support equipment.

(9) "Exploration" means the investigation of oil and gas resources by any geological, geophysical, geochemical or other suitable means.

(10) "Good standing" means in full compliance with all terms and conditions of the lease contract.

(11) "Hydrocarbon" means a compound containing only the two elements carbon and hydrogen.

(12) "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 changes in the previous conditions of the fixtures that changes the value of the land.

(13) "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.

(14) "Lands" or "land" means both the surface and subsurface components of the lease or contract premises.

(15) "Lease premises" means public land, including lands of retained mineral rights held under an oil and gas lease.

(16) "Lessee" means any person holding an oil and gas lease.

(17) "Logical operating unit" means a contiguous area, independent of ownership, of mineral rights that

can be developed and extracted in an efficient and economical manner with due regard to prevention of waste and environmental protection.

(18) "Oil and gas" means all hydrocarbons and other substances and elements 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. Nor shall it include minerals, waters, steam or any geothermal resource.

(19) "Paying quantities" means extraction of oil and gas in a sufficient amount to generate oil and gas production royalties to the state.

(20) "Person" means any natural person, corporation, association, organization, partnership receiver, trustee, executor, administrator, guardian, fiduciary, or representative of any kind.

(21) "Plug and abandon" means to place permanent seals in well casings or drill holes in the manner as provided by chapter 78.52 RCW 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.

(22) "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.

(23) "Production" means extracting oil and/or gas in paying quantities.

(24) "Public auction" means competitive lease offers either by oral or sealed bidding by qualified bidders or a combination of both.

(25) "Public lands" means lands and areas belonging to or held in trust by the state including tide and submerged lands of the Pacific Ocean or any arm thereof, beds and shorelands of navigable waters, and lands of every kind and nature including mineral rights reserved to the state, the trust or the department.

(26) "Reclamation" means the reasonable protection and rehabilitation of all land subject to disruption from exploration, development, and production of an oil and gas resource.

(27) "Refining" means improving the physical or chemical properties of oil or gas.

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

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

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

(31) "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.

(32) "Waste" means the physical loss of a subsurface resource through damage, escape or inefficient extraction and as defined in WAC 344-12-040(46).

(33) "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. 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. 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. 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. 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. 82-23-053 (Order 387), § 332-12-250, filed 11/16/82.]

WAC 332-12-260 Term of lease. (1) Oil and gas leases shall be for terms of five years and for so long thereafter as lessee shall produce oil or gas in paying quantities from the leased lands, and as long thereafter as the lessee shall comply with the provisions hereof; or

shall be engaged in drilling, deepening, repairing, or re-drilling any well thereon, or be thereafter excused therefrom but not to exceed a period of twenty years including the initial five-year term.

(2) The lessee shall have a preference right to a new lease covering the leased area for an additional twenty-year period. An application for renewal of the original lease shall be filed with the department at least ninety days, but not more than six months, prior to the expiration of the lease. [Statutory Authority: RCW 79.14.120. 82-23-053 (Order 387), § 332-12-260, filed 11/16/82.]

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. 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 commissioner's 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. 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. 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. 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. 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 ten 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 required minimum royalty is greater than the production royalties paid during any lease year, the lessee shall pay the difference between the minimum royalty and the paid 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 as if the state owned in fee simple the entire mineral rights of the leased acreage.

(3) If the annual rental or minimum royalty is not paid as prescribed in the lease, the lease shall be terminated automatically as required by law. [Statutory Authority: RCW 79.14.120. 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 co-tenants.

(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. 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. 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. 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. 82-23-053 (Order 387), § 332-12-350, filed 11/16/82.]

WAC 332-12-360 Plan of operations. The lessee shall submit to the department and obtain approval of an acceptable plan of operations prior to applying for a drilling permit. The purpose of the plan of operations is to provide detailed information regarding proposed lease

activities in exploration, development, production, reclamation, and all other activities on the lease premises. The plan of operations shall be updated by the lessee prior to making any substantial change in its operations or when requested by the department and submitted for approval to the department. [Statutory Authority: RCW 79.14.120. 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 approval 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 non-compliance 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. 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. 82-23-053 (Order 387), § 332-12-380, filed 11/16/82.]

WAC 332-12-390 Due diligence. Oil and gas leases shall be for a base term of five years and shall continue only after the base term for a period not to exceed twenty years in total if:

(1) The lessee has and is complying with all rules and regulations and the terms and conditions of the lease; and

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

(3) The lessee shall be engaged in drilling, deepening, repairing, or redrilling any production well without a ninety-day cessation of operation; or

(4) The lessee shall be actively exploring with due diligence 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

(5) The lessee is proceeding and actively pursuing development in the opinion of the department to efficiently extract oil and/or gas after discovery. [Statutory Authority: RCW 79.14.120. 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. 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. 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. 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. 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. 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 reseeding 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. 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. 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 lessee's use of such rights of way. [Statutory Authority: RCW 79.14.120. 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. 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. 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. 82-23-053 (Order 387), § 332-12-500, filed 11/16/82.]

Chapter 332-22 WAC

STATE LAND LEASING PROGRAM GUIDELINES

WAC

332-22-010	Promulgation.
332-22-020	Definitions.
332-22-030	Applications for lease.
332-22-040	Lease auction procedure.
332-22-050	Lease procedure—Amendment and conversions.
332-22-060	Lease procedure—Rental adjustments.
332-22-070	Lease procedure—Notice.
332-22-080	Rights to re-lease denied.
332-22-090	Notice to lessee of public auction.
332-22-100	Lease negotiation procedure.
332-22-110	Mandatory lease terms.
332-22-120	Assignment.
332-22-130	Residential leases.
332-22-140	Expired leases—Occupancy.
332-22-150	Temporary use permits.

WAC 332-22-010 Promulgation. This chapter is promulgated by the board of natural resources pursuant to the authority granted by RCW 79.01.242 to establish procedures for implementing the department's state land leasing program. The board of natural resources recognizes that in order to obtain a fair market return to the trust, certain of its lands should be retained and managed through leasing. These rules and regulations are designed to establish practical leasing guidelines and achieve the best possible return to the designated trust beneficiary consistent with any other obligations imposed by law on such lands. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-010, filed 1/20/81.]

WAC 332-22-020 Definitions. Insofar as these rules and regulations shall apply, these definitions will be utilized. (1) Commissioner shall mean the commissioner of public lands.

(2) Department shall mean the department of natural resources as defined in RCW 43.30.030.

(3) Board shall mean the board of natural resources as defined in RCW 43.30.040.

(4) Fair market rental value shall mean the rental from the lease based on the highest and best use as determined by an analysis of all relevant land use and economic factors.

(5) Fair market value for improvements is as defined in RCW 79.01.136.

(6) Highest and best use shall mean the most profitable legal use that will produce the highest return to the trust over an extended period of time, including interim use.

(7) Interim use shall mean any use of the land for which a rent can be charged before the planned use has been attained.

(8) State lands shall mean those lands defined as state lands in RCW 79.01.004.

(9) Person shall mean a person 18 years of age or older, partnership, firm, corporation, government agency or other entity.

(10) Qualified person shall mean those persons who meet the qualifications set forth in the notice of leasing. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-020, filed 1/20/81.]

WAC 332-22-030 Applications for lease. (1) Application to lease will be considered only for state lands as may be shown to be available in departmental records or under an existing lease which will expire within ninety days or leases which will allow conversion to a higher and better use.

(2) Lands owned by other governmental entities, which are being managed by the department, may be leased only after the owner has made a written request to the department or an agreement to make the same available for leasing pursuant to these rules and regulations.

(3) An application to lease shall be made upon forms prescribed by the department which shall be accompanied by fees prescribed by the board. The fee shall not be refunded unless the state lands applied for are not available for leasing. Applications not accompanied by the proper fees shall not be accepted.

(4) The commissioner may withhold from leasing any state land either before or after an application to lease is made. The commissioner may reject any and all applications to lease.

(5) Any person authorized to do business in the state of Washington shall be qualified to apply for a lease of state lands. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-030, filed 1/20/81.]

WAC 332-22-040 Lease auction procedure. (1) The department will ascertain those parcels of state land which will be offered for public auction from:

- (a) Applications received;
- (b) Land to be offered for lease; and
- (c) Expiring existing leases which are in the best interest of the state to offer at auction for the same or different uses.

(2) The department will establish the minimum requirements for persons qualified to bid at public auction.

(3) Lease auctions will normally be held on the fourth Thursday of a month or on the next business day following where the fourth Thursday falls on a holiday. Special lease auctions may be called on other dates.

(4) Sealed bids will be received up to the time set in the notice of leasing by the auctioneer (RCW 79.01.252). The lease will be awarded to the bidder with the

most acceptable proposal which complies with the criteria set forth in the notice of public auction. The commissioner may reject any or all bids, if it is deemed in the best interests of the state or the trust to do so.

(5) In the event the auction is to be oral, it will be conducted by the auctioneer (RCW 79.01.252) at the time and place designated in the notice of leasing and the lease shall be awarded, by the commissioner or his designee, to the highest bidder within ten days, if it is determined that the best interests of the state or the trust would be served by doing so. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-040, filed 1/20/81.]

WAC 332-22-050 Lease procedure--Amendment and conversions. Existing leases may be amended by negotiation between the lessee and the department but any such amendment shall not exceed the specified maximum lease period. The two-year conversion privilege under RCW 79.01.277 only applies to leases in effect September 26, 1979, and which expire after September 26, 1981. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-050, filed 1/20/81.]

WAC 332-22-060 Lease procedure--Rental adjustments. All leases shall provide for periodic rental re-evaluation and adjustment. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-060, filed 1/20/81.]

WAC 332-22-070 Lease procedure--Notice. Notice of all existing leases which will be negotiated by the department shall be published in two newspapers of general circulation in the area where the state land is located, one of which shall be located in the county where the land is located. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-070, filed 1/20/81.]

WAC 332-22-080 Rights to re-lease denied. Claimed rights to re-lease or to renew a lease will not be authorized or recognized by the department. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-080, filed 1/20/81.]

WAC 332-22-090 Notice to lessee of public auction. The current lessee will be notified if the state intends to offer the leased land at public auction. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-090, filed 1/20/81.]

WAC 332-22-100 Lease negotiation procedure. (1) Those leases which will be used generally for the same broad purposes as the current lease may be offered for negotiation.

(2) A notice of intention to negotiate a lease must be published once within thirty days of the date of negotiation of the existing lease. Such notice shall give the legal description, the date of expiration, the intended land use, the office to which application can be made. The final

date to file a written request to lease and such other information as deemed necessary. The notice must further state that any qualified person interested in acquiring the lease must notify the designated office of their interest in such lease. A written request to lease must be received in the designated office by close of business on the specified date to be considered and must state the proposed terms and conditions and the contemplated use of the land.

(3) The department shall review all such notices and either award the lease to the prior lessee or offer the land at public auction if the best interest of the state and trust would be served.

(4) The existing lessee will be considered as a qualified person and will be mailed the criteria for leasing concurrent with mailing of the notice of intention to negotiate to the newspaper.

(5) Negotiated lease may not exceed the maximum term authorized by RCW 79.01.096 and must have a term commencing within ninety days of date of starting negotiations. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-100, filed 1/20/81.]

WAC 332-22-110 Mandatory lease terms. Each lease negotiated or placed at public auction pursuant to these regulations shall contain terms and conditions relating to the following subjects:

(1) Every lease shall contain a provision setting out the use or uses to which the land is to be employed. Any lawful use may be authorized for state lands and forest board lands. Adequate provision must be made to protect the department against potential third-party claims by virtue of the uses made of the property by the lessee. Liability insurance may be utilized to satisfy this requirement.

(2) Improvements existing on the land at the time of negotiating a lease or at public auction shall be specifically described and, unless other ownership was authorized shall be considered as a part of the value of the land. Improvements may be required to be constructed as a condition of a lease. All improvements existing or authorized under the lease must be maintained at the sole cost of the lessee, unless otherwise specifically provided in the lease. All improvements must be protected against casualty loss in a manner satisfactory to the department unless otherwise specified in the lease. Improvements placed upon the land by the lessee, shall become the property of the state at the end of lease term unless specifically provided by the lease or department letter to remain in lessee ownership.

Improvements owned by lessee may, at any time, be acquired by the department at fair market value if it determines it is in the best interest of the state or the trust to do so upon agreement with lessee.

(3) Any lease issued pursuant to these regulations in excess of ten-year term, must contain an approved plan of development with a scheduled completion date for any required activities, improvements, or other actions.

[Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-110, filed 1/20/81.]

WAC 332-22-120 Assignment. All assignments of leases, whether total or partial, must be approved in writing by the department. Departmental approval of assignments may be conditioned upon a number of factors including, but not limited to, rental adjustment; increased insurance coverage; renegotiation of improvement ownership; or changes in authorized land use. The department may require assurance of the performance capability of the proposed assignee by any feasible means, including the filing of a performance bond.

An assignment will not be considered to be a termination of the lease within the meaning of RCW 79.01.092. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-120, filed 1/20/81.]

WAC 332-22-130 Residential leases. A lessee desiring a waiver or modification of a residential lease term, as set forth in RCW 79.01.242(4), may make a written request to the board and to the department setting forth the proposed change and the reasons therefore. The department may make recommendations to the board on the request which shall be considered by the board prior to rendering its decision. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-130, filed 1/20/81.]

WAC 332-22-140 Expired leases--Occupancy. (1) An extension of the expired lease may be authorized by the department for a maximum of one year from date of expiration if it is deemed to be in the best interest of the state or the trust to do so. Such extension shall be issued upon such rent, terms and conditions as the department may prescribe.

(2) If a proposed use for the lands has not been determined, the department may issue a permit to the last lessee for up to a maximum period of five years from date of expiration of the lease for an interim use.

The permit may be issued in the same general form as a lease for a similar use of the land under such terms and conditions as the department may prescribe. Upon expiration or termination of the permit, the land and improvements can only be leased at public auction as set forth in WAC 332-12-030 and 332-12-040. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-140, filed 1/20/81.]

WAC 332-22-150 Temporary use permits. The board authorizes the department to issue temporary use permits of state land not to exceed one year which may not be renewed. This permit will only be issued upon receipt of fair market value for the period of occupancy. [Statutory Authority: RCW 79.01.242. 81-03-059 (Order 350, Resolution 321), § 332-22-150, filed 1/20/81.]

Chapter 332-24 WAC
FOREST PROTECTION

WAC

332-24-500 Forest patrol and special forest fire suppression account assessments—Minimum assessment exemption procedure.

WAC 332-24-500 Forest patrol and special forest fire suppression account assessments—Minimum assessment exemption procedure. (1) An owner of forest land under the provisions of RCW 76.04.360 and 76.04.515 who has two or more parcels each containing less than thirty acres in a county, shall comply with the following prescribed procedures in order to obtain the exemption to the minimum forest patrol assessments and the special forest fire suppression account assessments:

(a) Payment to the department of natural resources. The forest landowner may file with the department of natural resources in Olympia, Washington between July 1st and October 15th a list of such parcels that has been certified as accurate by the county assessor and pay the assessment to the department within ten days of such filing. Under this procedure, the department will notify the county assessor of the exemptions of such parcels from the minimum assessments on such parcels.

(b) Payment to the county treasurer. In the alternative, the forest landowner may file with the department of natural resources in Olympia, Washington between October 16th and January 1st a list of such parcels that has been certified as accurate by the county assessor. The forest landowner shall pay to the county treasurer the forest patrol and special forest fire suppression account assessments levied and on county tax statements. The department of natural resources will refund the excess assessments paid upon receipt of certification by the county treasurer of payment of the assessments.

(c) Forest landowners filing with the department of natural resources between dates of July 1st and October 15th who did not submit payment to the department with such filing will be entitled to the exemption and a refund if they comply with the procedures provided in subsection (b) herein. Such forest landowners shall pay their forest patrol assessments and special forest fire suppression account assessments to the county treasurer.

(2) In the event the total acreage for all parcels filed by a forest landowner in a county exceeds thirty acres the current per acre rates for each assessment will be applied to the total acreage and payable as all other forest patrol and special forest fire suppression account assessments. [Statutory Authority: RCW 76.04.020. 83-01-099 (Order 388), § 332-24-500, filed 12/20/82.]

Chapter 332-140 WAC
FOREST PRODUCTS INDUSTRY RECOVERY ACT
OF 1982

WAC

332-140-010 Introduction and general definitions.
332-140-020 Extension procedure.

332-140-030 New plan of operations required.
332-140-040 Extension time credits.
332-140-050 Paid extension credit.
332-140-060 Defaults.
332-140-070 Reinstatement of sales.
332-140-090 Extension interest rate limitation.
332-140-100 Mt. St. Helens sales excluded.

WAC 332-140-010 Introduction and general definitions. (1) The regulations in this chapter are promulgated by the commissioner of public lands of the state of Washington to implement the Forest Products Industry Recovery Act of 1982. Unless provided otherwise herein or unless the context clearly requires otherwise, the following definitions apply to this chapter and to the act:

(a) "The act" means the Forest Products Industry Recovery Act of 1982, which is sections 3 through 9, chapter 222, Laws of 1982.

(b) "ARRF" means the access road revolving fund referred to in the contract and in RCW 79.38.050.

(c) "Assignment" means the assignment of rights or delegation of duties by a purchaser of a sale or contract to another.

(d) A purchaser "commences operations" on a sale by engaging in removals on that sale or by commencing road construction, falling, bucking, or other contract requirements.

(e) A timber sale contract or timber sale which was "purchased," "entered into," or "purchased at auction" in reference to certain dates specified in sections 4, 5 and 6 of the act refers to the date on which the public auction was held at which such contract or sale was offered.

(f) "Default" means, in reference to a sale, that the purchaser's operating authority on such sale has expired and on which there are forest products yet to be removed. Under section 6 of the act, a purchaser may default a sale by giving notification which specifies that the purchaser is waiving all its rights to the sale. Upon receipt of the notification by the department, the purchaser's operating authority on the sale expires.

(g) "Department" means the department of natural resources of state of Washington.

(h) "Existing," in reference to a sale, means a sale on which the operating authority has not expired and on which there are forest products yet to be removed.

(i) "Expiration date," in reference to a sale, means the date on which the operating authority expires on that sale under the terms of the contract.

(j) To "identify" a sale means to state the name of the sale and its application number.

(k) "Merchantable" forest products means those forest products included in a sale which are "merchantable" as that term is used in the contract and does not include "cull" or "utility" forest products as those terms are defined in the contract.

(l) "MBF" means thousand board feet Scribner Scale of forest products.

(m) "MMBF" means million board feet Scribner Scale of forest products.

(n) The "operating authority" on a sale refers to the dates stated in the contract during which the purchaser

is to remove the forest products which are the subject of the sale.

(o) A "partial cut" sale is one other than a clearcut and on which only part of existing forest products are designated to be removed.

(p) "Performance security" means the surety bond, cash bond, savings account assignment, irrevocable bank letter of credit, or other form of security which insures the faithful performance by the purchaser of the terms of the contract.

(q) "Purchaser" means the purchaser of a sale and any affiliate, subsidiary or parent company thereof. "Affiliate" means a person, corporation or other business entity which is allied with or closely connected to another in a practical business sense, or is controlled or has the power to control the other or where both are controlled directly or indirectly by a third person, corporation or other business entity. "Affiliate" includes a joint venture. "Parent company" shall mean a corporation which owns at least a majority of shares of another corporation. The corporation whose shares are so owned is a "subsidiary" of the parent company.

Purchasers shall be required, upon request of the department, to produce satisfactory written documentation of the relationship between any two or more persons, corporations or other business entities which they or the department claim should be treated as one purchaser under the provisions of the act.

(r) "Timber sale contract," "sale contract," "contract," "timber sale," "sale of timber," and "sale" all mean the sale of and the contract to remove and pay for forest products which were sold by the department at auction by voice or sealed bid and which had, at time of auction, a minimum appraised value of over twenty thousand dollars. The terms "sale" or "contract" shall be used in these regulations. All of the foregoing terms are considered to be synonymous as referred to in the act and these regulations.

(s) "Person" as used in section 5(2) of the act means the business entity which paid extension fees prior to the effective date of the act.

(t) "Window sale" means a sale which is referred to in subsection (2) below.

(2) **Window sales.** (a) As referred to in these regulations and in sections 4, 5 and 6 of the act, sales or contracts "entered into," "purchased," or "purchased at auction" between January 1, 1978, and July 1, 1980, means those sales for which the auction was held after January 1, 1978, and before July 1, 1980.

(b) "Lincoln day blowdown" sales are those sales identified by the department which were prepared and sold as a result of damage to the timber caused primarily by the Lincoln day windstorm which occurred on or about February 13, 1979. Such term does not include sales sold because of other reasons or sales sold because timber which was damaged by the Lincoln day storm was further substantially damaged by later storms or other causes. The following sales are the only Lincoln day blowdown sales which were auctioned from July 1, 1980, through December 31, 1980, on which there are forest products remaining to be removed:

- (i) Lower Wasankari, Application No. 40694
- (ii) Piedmont Blowdown, Application No. 42799
- (iii) Miller Road Blowdown, Application No. 42817
- (iv) 4 Corners Blowdown, Application No. 43196
- (v) Key Boundary, Application No. 42078
- (vi) Peaks Pickens, Application No. 42933
- (vii) Three Sisters Blowdown, Application No. 42493
- (viii) Little Boy Blew, Application No. 42163
- (ix) Miller Pickup Blowdown, Application No. 43474
- (x) Shay, Application No. 42133

(3) **Full reservation of rights.** These regulations are being adopted because of the presumption that enacted laws are valid. However, all existing, past and future purchasers should be aware that claims have been made that the act is invalid and that there is a possibility that the act or portions thereof may be challenged in court, even by the department or other governmental agency or entity.

Any purchaser who requests relief under the act does so at its own risk as to the validity of the act and the possibility of judicial orders or decrees affecting it. The department makes no warranty of the validity of the act and reserves the right to immediately terminate, rescind, or otherwise refuse to grant relief under the act if all or a portion of the act is declared invalid, whether such court order or decision is obtained by others or itself. The department further reserves the right to secure all rights, monies, charges, damages or claims that it would otherwise have been entitled to if the act or portions thereof are declared invalid, and to take such action as may be necessary to secure the same. [Statutory Authority: 1982 c 222 § 8. 82-14-058 (Order 380), § 332-140-010, filed 7/1/82.]

WAC 332-140-020 Extension procedure. Requests for extensions under the act shall be in writing. Extensions will be granted only by a written extension document. Extensions granted under the act shall only be on a quarterly (3 month) basis and shall be for 3, 6, 9 or 12 months, except as provided in WAC 332-140-050(2)(c). An extension will not be granted for less time than is reasonably required, as determined by the department, to remove all of the forest products remaining on the sale being extended. [Statutory Authority: 1982 c 222 § 8. 82-14-058 (Order 380), § 332-140-020, filed 7/1/82.]

WAC 332-140-030 New plan of operations required. A new plan of operations must be filed and approved for all window sales on which the purchaser commences operations prior to July 15, 1982, before the purchaser commences operations. [Statutory Authority: 1982 c 222 § 8. 82-14-058 (Order 380), § 332-140-030, filed 7/1/82.]

WAC 332-140-040 Extension time credits. This section implements section 4 of the act.

(1) **Introduction.** "Extension time credit" means the number of calendar days a purchaser receives by engaging in or agreeing to engage in the removal of forest products on a sale which qualifies under subsection (2)

below. Extension time credit can be received only for removals engaged in after April 3, 1982. This credit can only be used to extend window sales which exist at the time of the application for an extension of such sale. There are two ways to receive extension time credit. First, a purchaser can "earn" the credit. The extension time credit is "earned" only after the purchaser has satisfactorily engaged in the removals. Second, a purchaser can receive "conditional" credit by agreeing to engage in removals in the future.

(2) **Sales upon which purchaser may earn credit.** The following sales are sales on which the purchaser may earn extension time credit:

(a) All sales auctioned prior to April 3, 1982, but only if and to the extent that the purchaser agrees to and engages in removals and receives a logging release on that sale prior to December 31, 1983.

(b) Sales auctioned on or after April 3, 1982, which, in the prospectus and contract, are identified by the department as sales on which extension time credit may be earned, but only if and to the extent that the purchaser agrees to and engages in removals on that sale prior to the sale's expiration date or December 31, 1983, whichever is sooner. Up to 60% of the number of sales auctioned in 1982 and 1983 may be so designated by the department.

(3) **Amount of extension time credit.** One calendar day of extension time credit is earned for each acre of forest products which the purchaser satisfactorily removes and for which a logging or operating release has been issued, except that on partial cut sales or units on which less than 10 MBF/acre is satisfactorily removed, the following schedule shall be used to compute the number of days of extension time credit which may be earned:

Department's presale cruise volume of forest products (average board feet per acre)	Acres of forest products to be removed to earn one day of Extension Time Credit
9,000 to 9,999	1.1
8,000 to 8,999	1.2
7,000 to 7,999	1.4
6,000 to 6,999	1.7
5,000 to 5,999	2.0
4,000 to 4,999	2.5
3,000 to 3,999	3.3
2,000 to 2,999	5.0
Less than 2,000	10.0

Extension time credit will be computed on the foregoing basis, whether the removal of the forest products actually takes a longer or shorter time. The volume of forest products and acreage of a sale shall be the volume and acreage stated in the contract. Extension time credit is earned for time spent on yarding, loading and hauling activities only and not for road construction, falling and bucking, or for other contract requirements.

(4) **Request to earn extension time credit.** To earn extension time credit on a sale qualifying under subsection (2) above, a purchaser must submit a written request to the department. Extension time credit will be granted only for forest products removed on or after the day the request is received by the department. This request must

identify the sale(s) on which the purchaser wishes to operate to earn extension time credit. The department shall determine the amount of extension time credit available to be earned on a sale in accordance with subsection (3) above. The department and the purchaser shall enter into a written agreement on a form provided by the department which sets forth the limitations of subsection (2) above as well as the amount of extension time credit which can be earned by engaging in such removals. The department shall establish an extension time credit account for the purchaser. After extension time credit is earned on a sale, the department will credit the purchaser's extension time credit account with the proper number of days of extension time credit. The account shall be debited from time to time as extension time credit is used under subsection (9) below. The purchaser which earns the extension time credit may not assign that credit to another purchaser.

(5) **Request to receive extension time credit for engaging in removals from April 3, 1982, through May 14, 1982.** If a purchaser wishes to receive extension time credit for engaging in removals from April 3, 1982, through May 14, 1982, it must submit a written request to the department on or before May 14, 1982. This request must identify the sale on which the purchaser wishes to receive the credit. The department shall determine the proper number of days of extension time credit in accordance with subsection (3) above and shall credit the purchaser's extension time credit account accordingly. If a purchaser fails to meet the foregoing deadline, it shall not receive credit for engaging in removals from April 3, 1982, up through the time it submits a request on that sale under subsection (4) above.

(6) **Conditional extension time credit.** If a purchaser needs to extend a window sale and does not have a sufficient amount of extension time credit in its extension time credit account to do so, the purchaser may submit a written request to the department to receive conditional extension time credit. The request must identify the window sale to be extended and the sale on which the purchaser will agree to engage in removals to receive the conditional credit.

The department and the purchaser shall enter into an agreement, on a form provided by the department, which identifies the sale being extended, the sale on which the purchaser agrees to engage in removals, the amount of extension time credit being conditionally granted, and the date by which the purchaser must complete the removals agreed upon. Failure of the purchaser to complete the removals by the foregoing date subjects the purchaser to subsection (8) below. A purchaser which receives conditional extension time credit may not assign that credit to another purchaser.

(7) **Performance security required for agreements involving conditional credit.** An agreement extending a sale using conditionally granted extension time credit shall be secured by the initial deposit and the performance security on the sale being extended and by the initial deposit of the sale on which the purchaser agrees to engage in removals. An adequate amount of the deposits and such security, as determined by the department, must be

maintained until the purchaser completes the removals as agreed to, or can substitute the conditionally granted credit with credit actually earned after the date of the agreement referred to above.

(8) **Purchaser's failure to engage in removals.** If the purchaser fails to meet the completion date for removals as stated in the agreement referred to in subsection (6) above, all of the conditional extension time credit granted on that sale will be disallowed, and the sale(s) which was extended using the conditional extension time credit shall not receive such credit. The purchaser shall receive no extension time credit for the removals engaged in. The department shall notify the purchaser in writing of a failure to meet the completion date. Within 30 days of the date of mailing or personal service of this notice, the purchaser must pay for any extension granted, to the extent that it was granted using conditional credits, as that extension fee would have been computed under the contract as limited only by section 9 of the act. In addition, the purchaser shall pay an additional interest charge on the value of that portion of the extension granted using conditional credit at 12 percent per annum from the date the extension was granted through the date of actual payment by the purchaser. If the purchaser fails to make this payment within 30 days following the above notice, the purchaser's operating authority on the sale shall terminate, and the department may recover damages against the purchaser and its surety as allowed by law.

(9) **Use of extension time credit to extend a window sale.** (a) Credit earned and credited to the purchaser's extension time credit account may be used by the department to extend a window sale upon written application by the purchaser. Extensions under section 4 of the act will be granted only by written extension agreement. The purchaser must deliver to the department a properly executed extension agreement on or before the expiration date of the sale which the purchaser wishes to extend under section 4 of the act. Failure to meet the above deadline will disqualify the sale for an extension under section 4 of the act.

(b) The purchaser may use the extension time credit earned or conditionally granted to extend as many window sales as it selects. Sales may be extended for 3, 6, 9 or 12 months only, but the purchaser may apply as much credit as it has earned toward the extension. Extension time credit earned may be applied together with cash or road credit in any combination toward the extension fee. Conditionally granted extension time credit may also be used, but only if needed.

(c) Days of extension time credit earned shall be applied to a sale without regard to whether the extension is during the operating season, closed or winter season, or shutdowns, except that contract termination date adjustments under contract clause 14-4 may still be made.

(d) The department will grant no extension under section 4 of the act after December 31, 1983, except that the department may exercise its rights under subsection (8) above after December 31, 1983. The term of extensions granted under section 4 of the act shall not extend

beyond December 31, 1984. [Statutory Authority: 1982 c 222 § 8. 82-14-058 (Order 380), § 332-140-040, filed 7/1/82.]

WAC 332-140-050 Paid extension credit. This section implements section 5 of the act.

(1) **Section 5(1).** (a) **Qualifying sales.** Only window sales which exists as of the date of the application under this subsection qualify for a paid extension credit under section 5(1) of the act.

(b) **Written application.** To qualify for the paid extension credit, an extension agreement, properly executed by the purchaser and surety (if applicable), must be received by the department at least one working day prior to the then current expiration date of the sale on which the purchaser seeks a paid extension credit. No credits will be granted under section 5(1) of the act if the purchaser does not meet the foregoing deadline.

(c) **Amount of paid extension credit.** The amount of the paid extension credit on a sale shall be equal to the total amount of the extension fees paid by the purchaser on that sale after April 3, 1982 by cash or road credits.

(d) **Same sale.** The paid extension credit shall be applied, dollar for dollar, to payments for forest products only on the same sale as the extension fee is paid by the purchaser. The paid extension credit may not be used to pay ARRF charges.

(e) **Length of extensions.** The extensions granted on a sale under section 5(1) of the act shall only be 3, 6, 9 or 12 months in length. The department's authority to grant extensions under section 5(1) of the act expires on December 31, 1984.

(2) **Section 5(2).** (a) **Qualifying sales.** Section 5(2) of the act applies only to extensions which were requested, paid for, and for which the extension agreements were executed on or before April 2, 1982. Section 5(2) of the act applies to all sales existing as of the date of the purchaser's application hereunder. Extensions of sales for which extensions were paid after April 2, 1982, do not qualify for an equivalent extension under section 5(2) of the act. A person may not receive a credit under section 5(2) of the act for minimum fee (\$100) extensions granted before April 3, 1982, but only for extensions paid in cash by the purchaser.

(b) **Written application.** A person wishing to receive an extension on a sale under section 5(2) of the act must make a written application to the department which identifies the sale, the amount of extension time claimed under section 5(2) of the act, and the dates and periods of past extensions purchased on that sale.

(c) If a person satisfies the provisions of (2)(a) and (b) above, the department shall, without any charge, grant the person applying for an extension under section 5(2) of the act an extension equal in time to the total time of the extensions on that sale which were paid by the person extending the sale, up to a total of twelve months. [Statutory Authority: 1982 c 222 § 8. 82-14-058 (Order 380), § 332-140-050, filed 7/1/82.]

WAC 332-140-060 Defaults. This section is to implement section 6 of the act.

(1)(a) **Qualifying sales.** Section 6 of the act applies only to window sales which were in existence as of April 3, 1982, or for which a payment is made after April 3, 1982, under section 7 of the act to reinstate the sale.

(b) **Written notification.** The purchaser must provide the department with written notification on or before July 14, 1982, stating that the purchaser elects to terminate or default a sale under section 6 of the act. Such notification must state that the purchaser is giving up all of its rights under that contract as of the date of the notification. The notification must be accompanied by a sworn written statement by an authorized representative of the purchaser which identifies the names of all affiliates, subsidiaries, and parent companies of the purchaser which purchased a window sale. The department shall provide the form for this statement. The notification must also be accompanied by a \$2,500 administrative fee. The notification will be considered received by the department only when the fee and sworn statement are received by the department.

(c) **Limitation on sales to be defaulted.** The following limitations apply to the sales which a purchaser may terminate or default under section 6 of the act.

(i) The purchaser may default on the sale(s) of its choice of which it was the purchaser as of April 3, 1982, if the sale qualifies under subsection (1)(a) above and if the cumulative volume remaining on those sales for which notification is given does not exceed 15 MMBF of forest products as of the date of the notification. The volume remaining on a sale shall be computed by the department by subtracting the volume of merchantable forest products removed from the department's presale cruise volume of merchantable forest products stated in the contract.

(ii) No sales which have been assigned after April 3, 1982, may be terminated or defaulted.

(iii) Only entire sales may be defaulted. A purchaser may not default on part of a sale under section 6 and choose to retain any right to remove forest products from any part of the same sale.

(iv) A sale may be terminated or defaulted even though the purchaser has operated on it and removed forest products from the sale, subject to the further limitations of subsection (1)(d) below.

(v) A sale on which all of the forest products have been removed may not be terminated or defaulted under section 6 of the act.

(d) **Limitations on defaults of sales on which operations have occurred.** A sale which otherwise qualifies for termination or default under section 6 of the act and this section may be defaulted subject to the following obligations and reservations:

(i) All forest products must be paid for which were removed from the sale and all due ARRF payments and other payments due must be paid, including all payments for forest products and ARRF deferred under a deferred payment agreement. The department reserves the full right to take appropriate action against the purchaser and its surety to recover all applicable damages for a failure of the purchaser to make the foregoing

payments on or before the receipt of the notification of default.

(ii) All outstanding contract requirements (other than removal of forest products) which arose as a result of the purchaser's activities on the sale must be performed. These requirements include, but are not limited to, slash disposal preparation work, stream cleanout, falling non-merchantable forest products, road maintenance, ditching, waterbarring and fire trail construction. If the purchaser fails to perform the foregoing outstanding requirements, the department shall determine the current cost of performing that work and charge the purchaser therefor. If the purchaser fails to promptly pay such charges, the department may take appropriate action to recover the same from the purchaser and its surety.

(iii) The purchaser and its surety are not released from any liability or duty to indemnify the department which arose as a result of the acts or omissions of the purchaser or its delegate relating to the sale being defaulted.

(2) **No refunds or credits.** Upon notification under subsection (1)(b) above, the department shall make no refunds nor give any credits of any cash payments made to the department in connection with the contract which is being defaulted. Such cash payments include, but are not limited to, the initial deposit, extension fees, cash advance payments, and cash performance bonds, whether the foregoing deposits or payments are used or unused. All such sums shall be retained by the department.

(3)(a) **Road credits.** Upon receipt of notification under subsection (1)(b) above, the department shall compute the road credit which is provided by section 6(3) of the act. The credit shall only be allowed for construction of roads that are listed under the ROAD DEVELOPMENT section of the timber sale prospectus, as shown on the timber sale map.

(b) **Amount of road credit.** The amount of the road credit shall be determined based upon the percentage of road work satisfactorily completed in each road construction phase. The phases of road construction are those separate phases expressly identified in the road appraisal work forms used by the department in the presale appraisal. The percentages of satisfactory completion shall be applied to the road construction cost estimates as stated in the department's road construction presale appraisal.

(c) **Reduction of credit.** The total amount of the road credit as computed in subsection (3)(b) above shall be reduced by the difference between the current costs, as determined by the department, of correcting road work which was unsatisfactorily performed and the cost of completing such road work as computed in the department's original presale road construction appraisal.

(d) **Amortization.** The amount of the road credits shall be further reduced by the same percentage as the percentage of forest products removed on that sale. The percentage of forest products removed shall be computed by dividing the volume of merchantable forest products removed by the volume stated in the contract.

(4) **Application of road credit.** (a) Road credit will be applied only upon written application of the purchaser and after the department has determined the amount of the road credit. Such credit may be applied to one-half of any required payment for stumpage, cash deposits for performance security, or extension fee on a sale. Road credits cannot be applied to the initial deposit on a sale nor to a payment made under section 7 of the act.

(b) Road credit will only be applied to sales of that purchaser which are situated on land of the same trust and beneficiary as the sale on which the road credit is given. If the sale on which the road credit is given is situated on land of more than one trust and beneficiary the total road credit for the sale shall be divided in proportion to the acreage of each trust and beneficiary and applied separately and only to sales situated on the same trust and beneficiary.

(5) A purchaser whose sale expires or expired without removing all of the forest products from the sale and which sale does not qualify to be terminated or defaulted by the purchaser under section 6(1) of the act remains fully liable to the department for whatever damages that may be recovered under law notwithstanding the provisions of the act. This includes a sale which had expired as of April 3, 1982, and which the purchaser does not reinstate under section 7 of the act on or before July 14, 1982. [Statutory Authority: 1982 c 222 § 8. 82-14-058 (Order 380), § 332-140-060, filed 7/1/82.]

WAC 332-140-070 Reinstatement of sales. This section implements section 7 of the act.

(1) **Qualifying sales.** Section 7 of the act applies to sales on which the operating authority had expired as of April 3, 1982 which otherwise would qualify for extension under sections 4 or 5 of the act or to be defaulted under section 6 of the act. The purpose of section 7 of the act is to allow the purchaser to make a payment to reinstate such a sale and thereby make that sale eligible for relief under sections 4, 5, 6 and 9 of the act. A reinstatement payment made under section 7 of the act is not considered an extension payment for purposes of section 5 of the act.

(2) **Application for reinstatement.** To reinstate a sale under section 7 of the act, the purchaser must make written application to the department for reinstatement on or before July 14, 1982.

(3) **Reinstatement payment.** To be effective, an application for reinstatement under section 7 of the act must be accompanied by a payment equal to the extension payment for that sale computed from the date the sale or a previous extension thereof expired through the date the application is received. The amount of this payment shall be computed as provided in the contract for extensions. The interest limitation of section 9 of the act does not apply to the extension computation under the provisions of section 7 of the act and this section. Road credits under section 6 of the act may not be used to make the reinstatement payments required by section 7 of the act. [Statutory Authority: 1982 c 222 § 8. 82-14-058 (Order 380), § 332-140-070, filed 7/1/82.]

WAC 332-140-090 Extension interest rate limitation. This section implements section 9 of the act.

(1) Section 9 of the act applies to extensions on sales which were auctioned on or before December 30, 1980, for which extensions are granted after April 3, 1982, but before December 31, 1984. In computing the fees for such extensions, the department shall use the interest rate stated in the contract or 13 percent, whichever is less, in computing the interest charge on the unpaid portion of the contract which forms part of the extension fee.

(2) Reinstatement payments made under section 7 of the act are not subject to the interest rate limitation of section 9 of the act. [Statutory Authority: 1982 c 222 § 8. 82-14-058 (Order 380), § 332-140-090, filed 7/1/82.]

WAC 332-140-100 Mt. St. Helens sales excluded. Sections 2 through 9 of the act do not apply to any sales sold before or after any eruption of Mt. St. Helens and which include or included timber damaged by any such eruption. [Statutory Authority: 1982 c 222 § 8. 82-14-058 (Order 380), § 332-140-100, filed 7/1/82.]

Chapter 332-150 WAC SURVEY, PLAT AND MAP FILING AND RECORDING FEES

WAC

332-150-010	Authority and scope.
332-150-020	Definitions.
332-150-030	Filing and recording fees.
332-150-040	Filing and recording fees—Designation of fees.
332-150-050	Biennial review.

WAC 332-150-010 Authority and scope. This chapter is promulgated pursuant to the authority granted in chapter 165, Laws of 1982. WAC 332-150-010 through 332-150-040 are intended to implement section 7, chapter 165, Laws of 1982. [Statutory Authority: Chapter 58.24 RCW and 1982 c 165 § 7. 82-14-042 (Order 378), § 332-150-010, filed 6/30/82.]

WAC 332-150-020 Definitions. As used in WAC 332-150-010 through 332-150-040, the following definitions shall apply:

(1) "Surveys." All records of surveys required to be filed by law pursuant to chapter 58.09 RCW and all other land division plats or maps required by local ordinance to be filed and recorded.

(2) "Subdivision plats." All plats required to be filed by law pursuant to chapter 58.17 RCW.

(3) "Short plats." All short plats required to be filed by law pursuant to chapter 58.17 RCW.

(4) "Condominium surveys, plats or maps." All surveys, plats, or maps required to be filed by law pursuant to chapter 64.32 RCW.

(5) "Instrument." The total document filed and recorded of each of the above regardless of the number of pages. This term also includes corrections to such instruments, including but not limited to boundary line

adjustments, correction affidavits, and correction plats and surveys. [Statutory Authority: Chapter 58.24 RCW and 1982 c 165 § 7. 82-14-042 (Order 378), § 332-150-020, filed 6/30/82.]

WAC 332-150-030 Filing and recording fees. After the effective date of this regulation, each county auditor shall collect the fee of fifteen dollars per instrument in addition to any other fees required by law, as a condition precedent to the filing and recording of any surveys, subdivision plats, short plats or condominium surveys, plats or maps. [Statutory Authority: Chapter 58.24 RCW and 1982 c 165 § 7. 82-14-042 (Order 378), § 332-150-030, filed 6/30/82.]

WAC 332-150-040 Filing and recording fees-- Designation of fees. The fees imposed by the foregoing rules are designated for and related solely to the purposes and provisions of chapter 58.24 RCW and not for the maintenance, sale and distribution of publications authorized by RCW 43.99.142. [Statutory Authority: Chapter 58.24 RCW and 1982 c 165 § 7. 82-14-042 (Order 378), § 332-150-040, filed 6/30/82.]

WAC 332-150-050 Biennial review. The fee established by these rules shall be reviewed subsequent to the adoption of each biennial budget for surveys and maps to determine the sufficiency of such fee. If revenue is determined to be inappropriate for the program need the department shall adjust the fee accordingly. [Statutory Authority: Chapter 58.24 RCW and 1982 c 165 § 7. 82-14-042 (Order 378), § 332-150-050, filed 6/30/82.]

Title 342 WAC

OCEANOGRAPHIC COMMISSION

Chapter

**342-10 Commission--Organization--Meetings--
Public records.**

Chapter 342-10 WAC

COMMISSION--ORGANIZATION--MEETINGS-- PUBLIC RECORDS

WAC

342-10-180 Oceanographic commission--Duties of office.
342-10-240 Oceanographic institute of Washington--Term of vacancies of institute trustees.

WAC 342-10-180 Oceanographic commission-- Duties of office. (1) The chairman shall:

(a) Preside at all public meetings and executive sessions of the commission, and at all meetings of the executive committee;

(b) Endorse all resolutions, contracts and instruments on behalf of the commission as authorized by the commission, except where such power is delegated by these rules to the executive secretary;

(c) Perform all such other duties as are incident to his or her office or as are properly required of him or her by the commission.

(2) The vice-chairman shall:

(a) Exercise all of the functions of the chairman during the absence or disability of the chairman;

(b) Have such powers and discharge such duties as may be assigned to him or her from time to time by the commission.

(3) The executive committee shall:

(a) Take emergency administrative action in the name of the commission when time precludes deliberations by the commission in full assembly;

(b) Interview and recommend to the commission appointments of personnel to the permanent staff of the commission;

(c) Approve all out-of-state travel and that travel requiring the extended absence of any member of the commission and its staff;

(d) Schedule commission meetings;

(e) Perform such other and further duties as are properly required of them by the commission.

(4) The executive secretary, as chief executive officer of the commission, and with the commission's approval, shall:

(a) Employ such persons and incur such expenditures as are necessary for the accomplishment of the purposes for which the commission has been formed;

(b) Ensure an accurate record of all meetings be maintained in the form of meeting minutes, and maintain a record of all motions and resolutions adopted by the commission which may be so recorded in the form of meeting minutes;

(c) Supervise the maintenance and safekeeping of the commission's books and records;

(d) Publish, at the [discretion] [direction] of the executive committee, all notices of meetings to be held and prepare an agenda for each such meeting, subject to the approval of the commission chairman;

(e) Perform such other and further duties as are incident to his or her office and as are properly required of him by the commission and its executive committee. [Statutory Authority: RCW 43.94.040. 81-12-049 (Order 1-81), § 342-10-180, filed 6/3/81; Order 1-76, § 342-10-180, filed 4/22/76.]

Reviser's note: RCW 34.04.058 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 342-10-240 Oceanographic institute of Washington--Term of vacancies of institute trustees. (1) The term for each trustee's office shall be for four years, expiring on January 15 and until his or her successor shall have been elected.

(2) An office of trustee shall be filled when any nominee for that position receives a majority vote of the quorum in his or her favor by the board of trustees.

(3) Election to such position shall be for the unexpired term of his or her predecessor in office or for the next full term associated with that position, as appropriate.