

§ 3162.2-12

- (1) Time required to evaluate the characteristics and performance of the draining well;
 - (2) Rig availability;
 - (3) Well depth;
 - (4) Required environmental analysis;
 - (5) Special lease stipulations which provide limited time frames in which to drill; and
 - (6) Weather conditions.
- (c) If BLM determines that you did not take protection action timely, you will owe compensatory royalty for the period of the delay under § 3162.2-12.

[66 FR 1894, Jan. 10, 2001]

§ 3162.2-12 If I hold an interest in a lease, for what period will the Department assess compensatory royalty against me?

The Department will assess compensatory royalty beginning on the first day of the month following the earliest reasonable time we determine you should have taken protective action. You must continue to pay compensatory royalty until:

- (a) You drill sufficient economic protective wells and remain in continuous production;
- (b) We approve a unitization or communitization agreement that includes the mineral resources being drained;
- (c) The draining well stops producing; or
- (d) You relinquish your interest in the Federal or Indian lease.

[66 FR 1894, Jan. 10, 2001]

§ 3162.2-13 If I acquire an interest in a lease that is being drained, will the Department assess me for compensatory royalty?

If you acquire an interest in a Federal or Indian lease through an assignment of record title or transfer of operating rights under this part, you are liable for all drainage obligations accruing on and after the date we approve the assignment or transfer.

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§ 3162.2-14 May I appeal BLM's decision to require drainage protective measures?

You may appeal any BLM decision requiring you take drainage protective measures. You may request BLM State

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Director review under 43 CFR 3165.3 and/or appeal to the Interior Board of Land Appeals under 43 CFR part 4 and subpart 1840.

[66 FR 1894, Jan. 10, 2001]

§ 3162.2-15 Who has the burden of proof if I appeal BLM's drainage determination?

BLM has the burden of establishing a *prima facie* case that drainage is occurring and that you knew of such drainage. Then the burden of proof shifts to you to refute the existence of drainage or to prove there was not sufficient information to put you on notice of the need for drainage protection. You also have the burden of proving that drilling and producing from a protective well would not be economically feasible.

[66 FR 1894, Jan. 10, 2001]

§ 3162.3 Conduct of operations.

(a) Whenever a change in operator occurs, the authorized officer shall be notified promptly in writing, and the new operator shall furnish evidence of sufficient bond coverage in accordance with § 3106.6 and subpart 3104 of this title.

(b) A contractor on a leasehold shall be considered the agent of the operator for such operations with full responsibility for acting on behalf of the operator for purposes of complying with applicable laws, regulations, the lease terms, NTL's, Onshore Oil and Gas Orders, and other orders and instructions of the authorized officer.

[53 FR 17363, May 16, 1988; 53 FR 31959, Aug. 22, 1988]

§ 3162.3-1 Drilling applications and plans.

(a) Each well shall be drilled in conformity with an acceptable well-spacing program at a surveyed well location approved or prescribed by the authorized officer after appropriate environmental and technical reviews (see § 3162.5-1 of this title). An acceptable well-spacing program may be either (1) one which conforms with a spacing order or field rule issued by a State Commission or Board and accepted by the authorized officer, or (2) one which is located on a lease committed to a