

Chapter 8

The Application of Oil & Gas Lease Implied Covenants in Shale Plays: Old Meets New

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§ 8.01. Introduction.

Oil and gas lessees generally are bound by several implied obligations that are often called “implied covenants.” This chapter reviews the law of implied covenants, discusses several ways that implied covenant disputes might arise in new or unique ways in the development of shale plays, and then analyzes how lessees might protect themselves from implied covenant disputes.

§ 8.02. History of and Justifications for Implied Covenants.

For more than 100 years, courts have held that a mineral lessee’s duties include various implied covenants that are not expressly stated in a lease. Perhaps the earliest case to recognize the existence of implied covenants was