

**EXHIBIT A**  
**to Application for Rulemaking**

**19.15.1.7 DEFINITIONS:**

W. Definitions beginning with the letter "W".

(9) Working interest owners are the owners of ~~the~~ operating interests under an oil and gas lease or of unleased interests in oil and gas who have the exclusive right to exploit the oil & and gas minerals in a tract of land; provided that if any unleased mineral interest is pooled by order of the division, seven-eighths of such interest shall be considered a working interest and one-eighth shall be considered a royalty interest.

Working interests are cost bearing.

**19.15.1.36 COMPULSORY POOLING. SUBSEQUENT OPERATIONS.**

A. Definitions. For purposes of 19.15.1.36 NMAC only:

(1) Operator shall mean the division-appointed operator of a compulsory pooled unit, or its successor.

(2) Infill well shall mean a well in a compulsory pooled unit to be completed in a pool in which an existing well drilled pursuant to the compulsory pooling order has been completed and not abandoned.

(3) Pooled working interest shall mean a working interest that is pooled by order of the division and not by voluntary agreement of the owner thereof.

B. Subsequent operations. ~~Whenever are authorized, pursuant to 19.15.3.104~~ NMAC or any applicable pool rule authorizes one or more infill wells within a spacing unit pooled by order of the division or the commission pursuant to Section 70-2-17 NMSA 1978, either the operator or any owner of a pooled working interest may, at any time after completion of the initial well provided in the pooling order, propose drilling of an infill well.

C. Proposal by the operator. If the operator proposes an infill well, it shall give notice of such proposal to each pooled working interest owner by certified mail, return receipt requested, specifying the location and depth of the proposed well and including therewith a schedule of estimated well costs and a statement of each pooled working interest owner's gross working interest percentage. Each pooled working interest owner may elect to participate in the proposed infill well by notice in writing to the operator within 30 days after such owner receives the proposal, provided that such election to participate shall not be effective unless the owner so electing pays to the operator the amount of such owner's share of estimated well costs within 30 days after the date of transmission of its notice of election to participate. Any pooled working interest owner not electing to participate in the proposed infill well as above provided shall be deemed to have elected to become a non-consenting owner with respect to the infill well. The operator shall withhold from the proceeds of production of such well accruing to the working interest of any non-consenting owner such non-consenting owner's share of well costs, as defined in 19.15.1.35 NMAC, of such infill well, together with a risk charge computed at the same rate as provided in the pooling order with respect to the initial well. The operator shall distribute the amounts withheld from the non-consenting owner's share of production for well costs and risk charges proportionately to the persons who have advanced the cost of the infill well. Unless it withdraws the proposal the operator shall

commence drilling of the proposed infill well no later than 120 days after the expiration of the initial notice period of 30 days. The division may extend the time for commencement of drilling once for not more than an additional 120 days, upon showing of good cause for such extension, without notice or hearing. If the operator has not commenced drilling within the time provided no election previously made shall be binding on any party. If the operator still desires to drill such infill well, it must resubmit written notice proposing the well as if no prior proposal had been made.

D. Proposal by pooled owner. If a pooled working interest owner proposes an infill well, it shall give written notice of such proposal to the operator by certified mail, return receipt requested, specifying the location and depth of the proposed well and including therewith a schedule of estimated well costs. The proposing owner shall mail a copy of such proposal to each of the other pooled working interest owners, or their successors in title as identified by documents of record in the office of the clerk of the county where the proposed well will be located, at the same time that it mails such proposal to the operator. The operator shall, within 60 days after receipt of such notice, either propose an infill well at the specified location and depth as an operator proposal pursuant to subsection C of 19.15.1.36 NMAC, or notify the owner proposing the well that it declines to do so. If the operator proposes the well and less than all working interest owners elect to participate, the operator may withdraw the proposal unless the originally proposing owner, within thirty days of receipt of notice of such occurrence, advances the share of estimated well costs allocable to all non-consenting owners of pooled working interests. If the operator proposes the well and (1) all owners consent thereto or (2) the originally proposing owner advances the share of well costs allocable to any otherwise unsubscribed interest, the operator shall commence drilling the proposed infill well within 120 days after it receives notice that either such condition has occurred. The division may extend the time for commencement of drilling once for not more than an additional 120 days, upon showing of good cause for such extension, without notice or hearing. Well costs applicable to any non-consenting owner of a pooled working interest, together with the risk charge provided in the original pooling order, shall be recoverable out of the non-consenting owner's share of production as in other cases. If the operator declines to propose a well proposed to it by a pooled working interest owner, or fails to commence such well within the time provided, the proposing owner may apply to the division for an order authorizing the drilling of the proposed infill well under the terms of the compulsory pooling order. The owner filing such application shall give notice thereof as provided in 19.15.14.1210 NMAC to all owners of working interests in the unit, including those whose interests in the unit are pooled by agreement, and, if the unit includes federal or state minerals, to the United States Bureau of Land Management and the State Land Office, as applicable.

E. Refund of money advanced. If the operator does not commence an infill well proposed pursuant to 19.15.1.36 NMAC within the time provided, including any extension allowed by the division, it shall refund any amounts it has received from any pooled party as advance payment of well costs for such well within 10 days after the expiration of the time provided for commencement of drilling, together with interest thereon calculated at the rate of Bank of America prime plus three percentage points.

F. Determination of reasonable well costs. The provisions of the applicable compulsory pooling order regarding reporting of actual well costs to the division and to

pooled working interest owners, opportunity for objection thereto, determination of reasonableness of well costs, and adjustment of the amount paid by any participating pooled working interest owner to reflect reasonable well costs, shall apply to any well drilled pursuant to 19.15.1.36 NMAC.