

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION**

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION
FOR ADOPTION OF A NEW RULE CONCERNING INFILL WELLS IN
COMPULSORY POOLED UNITS**

CASE NO. 1355

APPLICATION FOR RULEMAKING

The New Mexico Oil Conservation Division (the Division) hereby applies to the New Mexico Oil Conservation Commission (the Commission) for an order

- (a) amending Rule 7.W of the Rules of the Division [subsection W of 19.15.1.7 NMAC] and
- (b) adopting a new rule to be codified as Rule 36 [19.15.1.36 NMAC] providing for the proposal and drilling of optional infill wells within spacing units pooled by orders of the Division or the Commission.

The text of proposed amendment to Rule 7 and of the proposed new is set forth in Exhibit A hereto.

WHEREFORE, the Division hereby applies to the Commission to enter an order:

- A. adopting the proposed amendment to Rule 7 [19.15.1.7 NMAC] and the proposed new rule set forth in Exhibit A hereto, with such changes, if any, as the Commission deems appropriate, to be codified as 19.15.1.36 [Rule 36] or elsewhere if required by the Department of Records and Archives; and

2005 JUL 26 PM 2 09

B. certifying the new rule so adopted for publication in the New Mexico Register as required by statute.

RESPECTFULLY SUBMITTED,



David K. Brooks
Assistant General Counsel
Energy, Minerals and Natural
Resources Department of the State of
New Mexico
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505)-476-3450

Attorney for The New Mexico Oil
Conservation Division

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 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 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 3 percentage points.

Case No. 13555: In the matter of the Application of the New Mexico Oil Conservation Division for Adoption of a New Rule Concerning Infill Wells in Compulsory-Pooled Units.

The Oil Conservation Division proposes amendment of Rules 7.W of the Rules of the Division (defining "working interest") and adoption of a new Rule 36 providing for proposal and drilling of infill wells within spacing units pooled by order of the Division or of the Commission. Copies of the text of the proposed amendment and new rule are available from Division Administrator Florene Davidson at (505)-476-3458 or from the Division's web site at <http://www.emnrd.state.nm.us/ocd/whatsnew.htm>. Written comments on the proposals must be received no later than 5:00 P.M. on Thursday, September 8, 2005. Written comments may be hand-delivered or mailed to the Division office at 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or may be faxed to Ms. Davidson at 476-3462. A public hearing to consider adoption of the proposed new rules will be held before the Commission in Porter Hall, 1220 South St. Francis Drive, Santa Fe, New Mexico, on Thursday, September 15, 2005, at 9:00 A.M. The application of the proposed new rules will be STATEWIDE.

2005 JUL 26 PM 2 09