

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

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING:**

CASE NO. 13030

**APPLICATION OF THE OIL CONSERVATION DIVISION TO AMEND RULE
1209 (CONTINUANCE OF A HEARING WITHOUT NEW SERVICE)**

ORDER NO. R-11964

ORDER OF THE OIL CONSERVATION COMMISSION

BY THE COMMISSION:

THIS MATTER, a rulemaking proceeding, came before the Oil Conservation Commission (hereinafter referred to as "the Commission") during a public hearing on April 17, 2003 at Santa Fe, New Mexico, on application of the Oil Conservation Division (hereinafter referred to as "the Division"), and the Commission, having carefully considered the evidence, the pleadings, comments and other materials submitted in support of the application, now, on this 15th day of May, 2003,

FINDS,

1. Notice has been given of the application and the public hearing on this matter, and the Commission has jurisdiction of the parties and the subject matter herein.
2. The Division seeks adoption of an amended Rule 1209 [19.15.14.1209 NMAC] to delete a provision of the existing rule that could be construed as requiring the preparation of a transcript of a hearing for the sole purpose of memorializing the continuance of the case to a subsequent time.
3. Existing Rule 1209 provides that the Commission or a Division Examiner may continue any hearing to a different time and place by making an announcement to that effect at a properly noticed hearing. If such an announcement is made, notice need not be published or served of the continuation of the matter at the subsequent hearing. Rule 1209 further provides that, "[i]n the event of any continuance, a statement thereof shall be made in the record of the hearing that is continued."

4. The Division seeks to amend Rule 1209 by deleting the quoted sentence, eliminating the requirement that a statement be made in the record of the hearing concerning the continuance.

5. At the public hearing of this matter, the Division presented the testimony of David R. Catanach. David R. Catanach is a petroleum engineer and hearing examiner employed by the Division

6. Mr. Catanach testified that prior to 1990 it was the practice of the Division that, when a case was continued by announcement at a noticed hearing, a separate transcript would be prepared for that case containing only the announcement of the continuance. In 1990, that procedure was discontinued in order to save money.

7. Mr. Catanach testified that the present procedure involves having the reporter prepare a consolidated transcript of all continuances, which is then copied and a copy inserted in each case file.

8. Mr. Catanach further testified that notations of the continuances are made in the case file at the time the continuance is announced, and the fact of the continuance is published on the subsequently-published hearing docket. The correctness of these notations can be checked by reference to the court reporter's notes.

9. Mr. Catanach further testified that there is no need to prepare a transcript that records each announcement of a continuance.

10. No other persons appeared at the public hearing in support of or in opposition to the proposed amendment, and the Commission has received no written comments thereon.

11. There is no need to prepare a transcript that records each announcement of a continuance.

12. Rule 1209 in its present form does not require preparation of a transcript of each announcement of a continuance. However, the final sentence of the rule is confusing and could be construed to suggest such a requirement.

13. Rule 1209 [19.15.14.1209] should be amended as requested by the Division.

14. A draft of a proposed amended Rule 1209 incorporating the Division's proposed changes is attached hereto as Exhibit A and incorporated herein for all purposes.

15. The amended rule set forth in Exhibit A should be adopted as a part of the Rules and Regulations of the Oil Conservation Division in lieu of the existing rule and published in its entirety in the New Mexico Register.

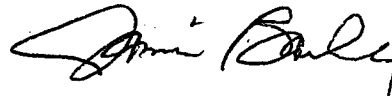
IT IS THEREFORE ORDERED, AS FOLLOWS:

1. The Rule of the Oil Conservation Division, presently codified at 19.15.14.1209 NMAC shall be and hereby is amended, effective as of the date of publication of the amendment in the New Mexico Register, to read as shown on Exhibit A. Staff is instructed to forthwith seek publication of this amendment in the Register.

2. Jurisdiction of this matter is retained for entry of such further orders as may be necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

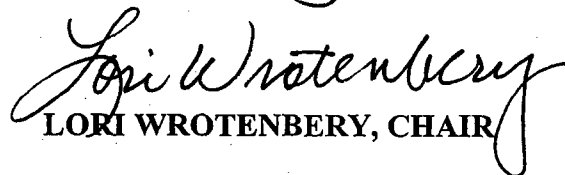
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OIL CONSERVATION COMMISSION**



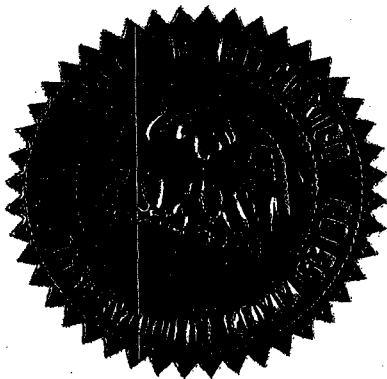
JAMI BAILEY, MEMBER



ROBERT LEE, MEMBER



LORI WROTENBERY, CHAIR



SEAL

EXHIBIT A

19.15.14.1209 CONTINUANCE OF HEARING WITHOUT NEW SERVICE: Any hearing before the commission or a division examiner held after due notice may be continued by the person presiding at such hearing to a specified time and place without the necessity of notice of the same being again served or published. ~~In the event of any continuance, a statement thereof shall be made in the record of the hearing that is continued.~~

Strikeout = deletions
Underline = additions