

CERTIFICATE AND ORDER RECEIVED
for
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Water Resources Commission on January 8, 1988 to become effective February 23, 1988 (upon expiration of temporary rule 690-02-001)

The within matter having come before the Water Resources Commission after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following rule(s) be adopted: Perm. or Temp.
(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Adopted: OAR 690-02-001
(New Rules)

RECEIVED

Amended: _____
(Existing Rules) JAN 19 1988

LEGISLATIVE COUNSEL'S
OFFICE

Suspended: _____
(Temporary Only)

Repealed: NOTE: Permanent Rule 690-02-001 is intended to take the place
(Existing Rules) of temporary rule 960-02-001 when the temporary rule
expires on February 23, 1988.

as Administrative Rules of the Water Resources Commission and Water Resources Department

DATED this 19th day of January, 1988

By: William H. Young
William H. Young (Authorized Signature)
Title: Water Resources director

Statutory Authority: Chapter 833, Oregon Laws of 1987 (SB 905), and ORS 183.335 and 536.027.

Subject Matter: Non-attorney representation of certain parties in contested case hearings
before the Water Resources Commission and Water Resources Department

Statement of Need Attached: Fiscal Impact Attached:

For Further Information Contact: Jim Carver or Weisha Mize Phone: 378-3066

NON-ATTORNEY REPRESENTATION

690-02-001 (1) A party or limited party participating in a contested case hearing before the Water Resources Commission or the Water Resources Department may be represented by an authorized representative.

(2) On or before first appearance by authorized representative as defined in subsection (4)(b) herein, an authorized representative must provide the presiding officer with a letter authorizing the named representative to appear on behalf of a party or limited party.

(3) The presiding officer may limit an authorized representative's presentation of evidence, examination and cross-examination of witnesses, or presentation of factual arguments to ensure the orderly and timely development of the hearing record, and shall not allow an authorized representative to present legal argument as defined in subsection (4)(b).

(4) For purposes of this rule, the following words and phrases have the following meaning:

(a) "Authorized representative means a member of a partnership, an authorized officer or regular employe of a corporation, association or organized group, or an authorized officer or employe of a governmental authority other than a state agency.

(b) "Legal argument" includes arguments on:

(i) The jurisdiction of the agency to hear the contested case;

(ii) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency;

(iii) The application of court precedent to the facts of the particular contested case proceeding.

TEMPORARY RULE

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(c) "Legal argument" does not include arguments on:

(i) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;

(ii) Comparison of prior actions of the agency conducting the proceeding;

(iii) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;

(iv) The admissibility of evidence or the correctness of procedures being followed.

(5) When authorized representatives are representing a party or limited party in a hearing, the presiding officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections may involve legal argument as defined in this rule, presiding officers shall provide reasonable opportunity for authorized representatives to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

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RULE FOR NON-ATTORNEY REPRESENTATION

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(3) The presiding officer shall have authority to limit an authorized representative's presentation of evidence, examination and cross-examination of witnesses, or presentation of factual arguments to ensure the orderly and timely development of the hearing record, and shall not allow an authorized representative to present legal argument as defined in subsection (4)(b).

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