

BEFORE THE WATER RESOURCES COMMISSION OF OREGON

IN THE MATTER OF ADOPTION OF A)	Statutory Authority,
RULE FOR NON-ATTORNEY REPRESENTATION)	Statement of Need
IN CONTESTED CASE HEARINGS BEFORE)	Principle Documents
THE WATER RESOURCES COMMISSION)	Relied Upon and Statement
AND THE WATER RESOURCES DEPARTMENT)	of Fiscal Impact

1. Citation of statutory authority: Chapter 833, Oregon Laws of 1987 (SB 905), and ORS 183.335 and 536.027.
2. Need for the rule: Senate Bill 905 provides that a person participating in a contested case hearing before the Water Resources Commission or the Water Resources Department may appear by an authorized representative who is not an attorney at law, if appropriate administrative rules have been adopted.
3. Documents, reports and studies relied upon: The Attorney General's Model Rules 137-03-008 and 137--03-009 which were adopted pursuant to the requirements of Senate Bill 905. Copies of the Model Rules are available from the Department of Justice or from the Water Resources Department.
4. Fiscal and economic impact: The provisions of SB 905 would allow corporations and associations and certain other "persons" to be represented in contested case hearings by an authorized officer or regular employe who is not an attorney at law. The amount of savings that result from not having to obtain the services of an attorney at law would vary and is not known. There would be some unknown amount of adverse impact on small businesses consisting of attorneys at law in private practice.

TEMPORARY RULE
FOR 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)(a) 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 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).

(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.