

CERTIFICATE AND ORDER

FOR FILING

TEMPORARY

ADMINISTRATIVE RULES WITH THE OFFICE OF THE CODE REVISER

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of Temporary rule(s) adopted on March 26, 1991, by the Columbia River Gorge Commission to become effective immediately through June 30, 1991.

The within matter having come before the Columbia River Gorge 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 action be taken:

Amended: 350-20-004

as Administrative Rules of the Columbia River Gorge Commission

DATED this 5th day of April, 1991.

By: Richard Benner

Title: Richard P. Benner, Executive Director

Statutory Authority: RCW 43.97.015, Chapter 499, Washington Laws 1987.

For Further Information Contact: Jan Brending, Rules Coordinator, (509) 493-3323.

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

APR 08 1991

TIME: 5:00 AM
WOR: 91-09-009

COLUMBIA RIVER GORGE COMMISSION

RULE AMENDMENT

350-20-004(2)

EMERGENCY RULE FINDINGS

MARCH 26, 1991

1. Failure to amend the rule as proposed will deprive the Commission of an opportunity to enhance the scenic resources of the Gorge by reducing the contrast of existing development otherwise exempt from regulation under Commission rule. Failure to amend the rule will also result in serious prejudice to owners of some properties who could not otherwise make additions to residences built before passage of the Scenic Area Act and who have no alternative way to modify them which will not protrude above a cliff, bluff or skyline.
2. Authority to amend the subject rule lies in 16 USC 544h(c) and the Compact between Washington and Oregon, RCW 43.97 and ORS 192.
3. The need to amend the subject rule arises from the effect on existing structures of its prohibition on any structure which would protrude above the line of a cliff or bluff. The existing rule has this effect even if there is no alternative modification to the structure, and even if application of mitigation measures would reduce the visibility of the existing structure from its pre-modification appearance. The rule would allow a modification to an existing structure which already protrudes above a cliff, bluff or skyline upon showing that no alternative modification would avoid the protrusion, that the additional protrusion would not increase more than 50 percent, and that mitigation measures would reduce the contrast of the finished structure below that of the pre-modification structure.
4. The proposed amendment to the rule is based upon three years of experience applying the existing rule.

COLUMBIA RIVER GORGE COMMISSION
TEMPORARY RULE AMENDMENT
350-20

350-20-004. Review Standards and Guidelines.

(1) The Columbia River Gorge National Scenic Area Final Interim Guidelines, published by the Forest Service and dated June 30, 1987, are adopted by reference as amended in paragraph (2) below and declared to be a part of this rule. In reviewing major development actions and new residential development for consistency with the standards of section 6 and the purposes of P.L. 99-663, Chapter 3 of the Final Interim Guidelines, as amended in paragraph (2) below, shall be utilized.

(2) The Final Interim Guidelines identified in paragraph (1) above are amended as follows:

(a) The definition of agricultural lands shall be revised to read as follows: "Agricultural lands are those lands which are primarily used or are suitable for the production of crops, fruits or Christmas trees or the pasturing, grazing or feeding of livestock. Lands designated as open space by the Commission shall not be considered agricultural lands."

(b) The definition of forest lands shall be revised to read as follows: "Forest lands are those lands which are used for growing forest products or capable of producing in excess of twenty (20) cubic feet per acre per year of Douglas fir, Ponderosa pine or other merchantable tree species. Lands designated as open space by the Commission shall not be considered forest lands."

(c) The guidelines for existing uses shall be revised as follows: "When a structure is destroyed or partially destroyed, it will be considered an existing use when replaced in kind and in the same location within one year. The exterior color and reflectivity of the replacement structures must be consistent with the scenic guidelines in Chapter III. Replacement of a structure or use that differs in size or location from the original shall be subject to a consistency determination. Replacement of a mobile home in a special management area with a modular or site-built home, to be used in the same manner and for the same purposes, shall be considered the continuation of an existing use except that it shall be subject to review for consistency with the guidelines on scenic resources in section B(1).

(d) An alteration to a structure which was built prior to November 17, 1986, and which already protrudes above the line of a bluff, cliff or skyline, may itself protrude above the line provided that:

1. the alteration does not increase the protrusion more than 50 percent as viewed from the key viewing area from which the structure is most prominently seen;

2. the altered structure, through a combination of color, landscaping and other mitigation measures, contrasts less with its setting than before the alteration; and
3. there is no practicable alternative way to alter the structure without increasing the protrusion.