

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 April 14, 1992, by the Columbia River Gorge Commission to become effective upon filing through July 31, 1992.

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:

Adopted: 350-50

as Administrative Rules of the Columbia River Gorge Commission

DATED this 14th day of April, 1992.

By: Allen Bell

Title: Allen Bell, Acting 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 17 1992

TIME: 1:48 AM
WCR: 92-09-095

COLUMBIA RIVER GORGE COMMISSION

PROPOSED RULE ADOPTION

350-50

SUMMARY

The rule sets out the procedures that must be followed in order for the Commission to consider a plan amendment.

STATEMENT OF NEED

1. The process for submitting a plan amendment is not described in the National Scenic Act.
2. The Commission, local government and public at large needs guidance as soon as possible on how to submit plan amendments.
3. A delay in adoption of the rule will hold up the process of the Commission considering plan amendments and will delay implementation of the Management Plan.
4. An emergency rule will allow the process to begin and at the same time allow for modification when the permanent rule is adopted.

Authority:

16 USC § 544 et seq., ORS 196.150 to ORS 196.165, and RCW 43.97.015 to 49.97.035.

Documents Relied Upon:

The Columbia River Gorge National Scenic Area Final Management Plan and the National Scenic Area Act

FISCAL IMPACT

The rule should expedite the plan amendment process and therefore, reduce costs.

EMERGENCY FINDINGS

The plan amendment process rule should be adopted on an emergency basis because the Gorge Commission has good cause based on the following findings:

1. Immediate adoption is necessary for the preservation of the general welfare.
2. Observing the traditional time requirements of notice and opportunity to comment on adoption of a permanent rule would be contrary to the public interest.

3. The opportunity to comment on adoption of a permanent rule will still come up at a later date.
4. The emergency rule is necessary to immediately begin a plan amendment process so that the Commission can address concerns identified by the Secretary of Agriculture.
5. The emergency rule should reduce costs by promoting clarity, defining terms and offering guidance on legally mandated standards contained in the National Scenic act.
6. Failure to act promptly is contrary to the public interest and the needs of each county in the National Scenic Area.

COLUMBIA RIVER GORGE COMMISSION

EMERGENCY RULE

Chapter 350

Division 50

Plan Amendment Process

350-50-010. Purpose.

This division specifies the process that will be used by the Columbia River Gorge Commission (Commission) when it considers amendments to the Management Plan.

350-50-020. Authority.

Amendments to the Management Plan must comply with the requirements of the Scenic Area Act. These requirements are included in Section 6(h) of the Scenic Area Act:

(1) If the Commission determines at any time that conditions within the Scenic Area have significantly changed, it may amend the Management Plan.

(2) The Commission shall submit amendments to the Management Plan to the Secretary of Agriculture for review, in accordance with the provisions of the Scenic Area Act for adoption of the Management Plan.

(3) The Commission shall adopt an amendment to the Management Plan by a majority vote of the members appointed, including at least three members from each state.

(4) An amendment to the Management Plan must be consistent with the standards established in Section 6 and the purposes of the Scenic Area Act.

350-50-030. Criteria for Plan Amendment Approval.

The Commission must find that the following three criteria are satisfied before it approves an amendment of the Management Plan:

- (1) Conditions in the Scenic Area have significantly changed. This means:
 - (a) physical changes that have widespread or major impacts to the landforms, resources, or land use patterns in the Scenic Area;
 - (b) new information or inventory data regarding land uses or resources that could result in a change of a plan designation, classification, or other plan provision; or

- (c) changes in legal, social, or economic conditions, including those that affect public health, safety, or welfare, not anticipated in the Management Plan;
- (2) No practicable alternative to the proposed amendment exists; and
- (3) The proposed amendment would be consistent with the standards and purposes of the Scenic Area Act.

350-50-040. Origin of Applications.

Applications to amend the Management Plan may originate from the Commission or interested persons, including state and local governments, Indian tribal governments, public interest groups, or affected landowners.

350-50-050. Application for Plan Amendment.

Applications to amend the plan shall contain a statement from the sponsor that explains why the proposed plan amendment is needed. The statement shall demonstrate that the proposed amendment complies with the purposes and standards of the Scenic Area Act and the criterion in Section 6(h) of the Scenic Area Act.

350-50-060. Processing of Application.

Each application for a plan amendment will be reviewed according to the provisions in the Management Plan [Part IV, Chapter 1, section Amendment of the Management Plan, Policy 2].

350-50-070. Submittal and Acceptance of Application.

(1) Applications for plan amendments shall be submitted to the Commission office by a sponsor. An original and fifteen copies of each application are required.

(2) Within ten (10) working days of receiving an application, the Executive Director shall review the application for completeness and adequacy. No application shall be accepted as complete until all omissions and deficiencies noted by the Executive Director have been corrected by the applicant.

(3) The Executive Director shall recommend to the Commission whether to commence the process for review of the proposed amendment to the plan. A decision to commence the process must be based on a majority vote of the Commission at a regularly scheduled meeting.

350-50-080. Notice of Application.

(1) Public notice of the completed application will be sent to U.S. Forest Service - National Scenic Area Office, States of Oregon and Washington, Indian tribal governments, and the six Gorge county planning offices.

(2) Copies of the complete application will be available for inspection at the Commission office during normal office hours.

(3) Interested persons shall have twenty (20) working days from the date the notice is posted to submit written comments to the Executive Director. Written comments should address whether the proposed amendment would be consistent with the purposes and standards of the Scenic Area Act and the criterion in Section 6(h) of the Scenic Area Act.

350-50-090. Report of the Executive Director.

The Executive Director will prepare a report, which may include recommendations, within thirty (30) working days of the date an application has been accepted as complete. Upon application of the Executive Director, the Commission may extend the time for submission of the report. The report will analyze the proposed amendment based on the purposes and standards of the Scenic Area Act and the criterion in Section 6(h) of the Scenic Area Act.

350-50-100. Hearings.

(1) The Commission will conduct a hearing on every application that the Commission has decided to review pursuant to 350-50-070(3).

(2) A hearing will be conducted on the merits of each application. This hearing will be quasi-judicial in nature and will allow the parties, including intervenors, to present the plan amendment in a format that follows the contested case rules of the Commission [see Chapter 350, Division 16]. Any person who submitted comments on a plan amendment application pursuant to 350-50-080(3) may participate in the hearing by filing a Notice of Intervention with the Director within twenty (20) working days of the date the Executive Director's report is prepared, pursuant to 350-50-090. The Notice of Intervention shall also be served by mail upon the applicable sponsor. The Notice of Intervention shall show that the person filing the Notice has submitted comments on the proposed plan amendment. The sponsor shall be afforded an opportunity for rebuttal argument.

(3) The Commission may seek additional information from any applicant before and during the hearing.

350-50-110. Consultation.

In considering an amendment to the Management Plan, the Gorge Commission shall consult with the Forest Service, both states, the six Gorge counties, all four Indian tribal governments and agencies or organizations that have a specific interest.

350-50-120. Review by the Secretary of Agriculture.

According to Sections 6(f) and 6(h) of the Scenic Area Act, an amendment to the Management Plan adopted by the Commission will be submitted to the Secretary of Agriculture. The Secretary of Agriculture will review the amendment and determine if it is consistent with the purposes and standards of the Scenic Area Act. The Secretary has 90 days from the day the

Commission submits an amendment to complete his/her review and make a determination of concurrence or non-concurrence.

350-50, DIR.7