

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 12, 1994, by the Columbia River Gorge Commission to become effective upon filing through August 26, 1994.

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 to be taken:

Adopted: 350-120, Economic Development Certification Process
as Administrative Rules of the Columbia River Gorge Commission

DATED this 19th day of April, 1994.

By: *Jonathan Doherty*
Title: Jonathan Doherty, Executive Director

Statutory Authority: RCW 43.97.015 to 43.97.035, Chapter 499,
Washington Laws 1987

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

CODE REVISER'S OFFICE
STATE OF WASHINGTON

MAY 05 1994

TIME: 3:33
WSR 41-11-014

FINDINGS OF EMERGENCY RULE ADOPTION
OF COMMISSION RULE 350-120

SUMMARY OF RULE

The rule sets for the process whereby the Commission certifies proposed projects being considered for grants/loans under the National Scenic Area economic development project are consistent with the Scenic Act, Management Plan and land use ordinances adopted pursuant to the Act.

FINDINGS OF EMERGENCY

(1) The Columbia River Gorge National Scenic Area Act (16 USC § 544 et seq.) authorizes funds for economic development grants and loans. Funds have been appropriated for this program and are now available in both Oregon and Washington. The economic departments of both states have developed a plan for the expenditure of these funds and are now ready to make grants/loans. Grant applications in Oregon have been evaluated by the Oregon Economic Development Department and await only the Commission's certification. Without the proposed rule, which governs the Commission's certification process required by the Scenic Act, the states are unable to award any grants/loans. Delay in implementing the certification process will have two significant effects. First, grants for specific economic development projects cannot be awarded. This will hamper these developments and delay implementation of the economic development program. This program is the top priority of the Bi-state Economic Development Advisory Council appointed by the governors of Oregon and Washington. Second, the funds currently available were appropriated by the federal government for Fiscal Year 1993 (funds were not appropriated in FY 1994). Without visible progress in awarding grants and loans prior to the federal FY 1995 appropriations hearings in June, Congress is extremely unlikely to appropriate additional economic development funds.

(2) Because the Commission is an interstate agency it must follow both Oregon and Washington's rulemaking processes. Washington's process has a lengthy timeframe for permanent rulemaking and would cause a delay resulting in the rule not becoming effective until late June 1994. This would result in a 2 and a half month delay in awarding grants/loans in Oregon. It would also place the first awards after Congressional appropriations committees have begun deliberations on FY 1995 funding. This would significantly lessen the likelihood of federal dollars for economic development in the National Scenic Area in FY 1995.

(3) The temporary rulemaking action will allow both states to begin awarding grants and loans through the Scenic Area Economic Development program once the projects are certified by the Commission. The rule will go through the permanent rulemaking process in the meantime. It should be noted this rule has been through considerable public involvement with the Scenic Area Economic Development Bi-State Advisory Council and the Commission. Discussion of the rule prior to adoption as a temporary rule took place a public Commission meeting where the public was allowed to comment on the rule.

STATUTORY AUTHORITY

Authority to adopt the rule derives the Scenic Area Act (16 USC § 544 et seq.) and the Columbia River Compact, Article I, Section a(4)(g), at ORS 196.150 and RCW 43.97.015. The temporary rule is necessary as a result of federal law, 16 USC § 544 et seq. as well as state law.

STATEMENT OF NEED AND HOW RULE IS INTENDED TO MEET NEED

The Columbia River Gorge National Scenic Area Act (16 USC § 544i) requires the Commission to certify all activities undertaken by a grant provided under the National Scenic Area economic development program are consistent with the purposes of the Act, the management plan, and land use ordinances adopted pursuant to the Act. Commission Rule 350-120 provides a process whereby proposed projects for grants/loans through the National Scenic Area economic development program are certified by the Commission.

DOCUMENTS RELIED UPON

Columbia River Gorge National Scenic Area Act (16 USC § 544 et seq.), ORS 196.150, RCW 43.97.015, Management Plan for the Columbia River Gorge National Scenic Area, Economic Development Plan - Columbia River Gorge National Scenic Area (January 1992). All documents are available for inspection at the Columbia River Gorge Commission, 288 E. Jewett Blvd., White Salmon, Washington.

STATEMENT OF ANTICIPATED EFFECTS

The temporary rulemaking action will allow both states to begin awarding grants and loans through the Scenic Area Economic Development program once the projects are certified by the Commission. The rule will go through the permanent rulemaking process in the meantime. It should be noted this rule has been through considerable public involvement with the Scenic Area Economic Development Bi-State Advisory Council and the Commission. Discussion of the rule prior to adoption as a temporary rule took place a public Commission meeting where the public was allowed to comment on the rule.

FISCAL IMPACT STATEMENT

The procedures set forth in the rule are substantially similar to what the Commission uses in its land use ordinances therefore the time required for the review of projects is minimal. However, if the rule is not immediately implemented a delay could result in a negative fiscal impact to businesses who are applying for grants/loans through the National Scenic Area economic development program. A delay could cause a loss in funding for future and existing businesses in the Scenic Area.

COLUMBIA RIVER GORGE COMMISSION

TEMPORARY RULE

Chapter 350

Division 120

Economic Development Certification Process

350-120-000. Purpose.

This division specifies the process of the Columbia River Gorge Commission (Commission) to certify activities undertaken under a National Scenic Area economic development grant and/or loan are consistent with the purposes of the Scenic Area Act, the management plan, and land use ordinances adopted pursuant to the Act.

350-120-010. Authority.

Section 11(c)(1) of the Scenic Area Act requires the Commission to certify all activities undertaken under a National Scenic Area economic development grant and/or loan are consistent with the purposes of the Act, the management plan, and land use ordinances adopted pursuant to the Act.

The Scenic Area Act states as follows:

§ 544i. Economic development

(a) Economic development plan. Based on the Economic Opportunity Study and other appropriate information, each State, in consultation with the counties and the Commission, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with this Act.

(b) Funds provided to States for grants. Upon certification of the management plan, and receipt of a plan referred to in subsection (a) of this section, the Secretary shall provide \$5,000,000 to each State which each State shall use to make grants and loans for economic development projects that further the purposes of this Act.

(c) Conditions of grants. Each State making grants under this section shall require as a condition of a grant that--

- (1) all activities undertaken under the grant are certified by the Commission as being consistent with the purposes of the Act, the management plan, and land use ordinances adopted pursuant to this Act;
- (2) grants and loans are not used to relocate a business from one community to another;
- (3) grants and loans are not used for program administration; and

(4) grants and loans are used only in counties which have in effect land use ordinances found consistent by the Commission and concurred on by the Secretary pursuant to section 8 of this Act [16 USCS § 544f].

(d) Report. Each State shall—

(1) prepare and provide the Secretary with an annual report to the Secretary on the use of the funds made available under this section;

(2) make available to the Secretary and to the Commission, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this section; and

(3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

16 USCS § 544i.

350-120-020. Application for Certification.

(1) The applicant shall submit one complete application to the Executive Director of the Commission.

(2) A complete application shall include:

(a) One complete copy of the application materials required by the state agency administering the grant or loan program, excluding confidential financial information;

(b) If the proposed project will be located entirely or partially within the general management area or special management area one complete copy of a Scenic Area land use ordinance development review decision, issued by the applicable county planning director, approving the proposed project as consistent with the ordinance requirements, or a copy of a letter from the applicable county planning director stating why the proposed project does not require review under the county's Scenic Area land use ordinance;

(c) One completed application for certification form, available from the Gorge Commission and/or the state agencies administering the grant or loan program. The form shall include the following information:

(A) applicant's name and business address;

(B) description of proposed project for which a Scenic Area grant or loan is sought;

(C) legal description and map of the specific location of proposed project; if project has multiple or regional locations, these should be identified;

- (D) description of the existing use of the property or properties on which the project will be located and/or used;
 - (E) a statement setting forth any local, state or federal permits required and a report on their status; and
 - (F) signature of applicant and property owner if, different from applicant.
- (d) One copy of each of any state and federal environmental permits that have been issued for the proposed project. If permits have not been received, copies of permit applications shall be submitted instead.

(3) The Director shall review the application and determine if it is complete. If it is not complete, the applicant is required to submit the additional information requested by the Director. Once the Director determines the application is complete, the process of staff analysis shall begin.

350-120-030. Recommendation of the Director.

- (1) In making a recommendation on a proposed grant or loan the Director shall:
- (a) Consult with the applicant and such agencies as the Director deems appropriate;
 - (b) Consider information submitted by the applicant and all other relevant information available;

(2) The Director shall recommend a grant or loan for certification only if it is consistent with the purposes of the Act, the management plan and land use ordinances adopted pursuant to the Act.

(3) Within 15 working days of acceptance of the application as complete, the Director shall issue a report setting forth the recommendation and the basis for it.

(4) The Director shall mail a copy of the decision to the applicant, Gorge Commissioners, the Forest Service, the States of Oregon and Washington, the Indian Tribes with treaty rights in the Scenic Area, and the planning director of the applicable county or city.

350-120-040. Review and Decision by Commission.

(1) The Commission shall review the recommendation and report of the Director at a scheduled meeting. Public comment shall be allowed.

(2) The Commission may request further information at the meeting if it is deemed relevant to its decision.

(3) At the first Commission meeting occurring five (5) or more working days of after issuance of the Director's report, the Commission shall make a decision on the grant or loan, as follows:

- (a) approve the request, certifying the grant or loan is consistent with the purposes of the Act, the management plan and land use ordinances adopted pursuant to the Act;
- (b) approve the request contingent upon approval of certain required state and/or federal environmental permits;
- (c) defer the decision, pending receipt of further information; or
- (d) deny the request, stating that the grant or loan is not consistent with the purposes of the Act, the management plan and land use ordinances adopted pursuant to the Act.