

Washington State Register

MARCH 17, 1993

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filed not later than March 3, 1993

CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: the 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCAN 234-7470).

REPLICATION OF OFFICIAL DOCUMENTS

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CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

(Computed and filed by the State Treasurer under RCW 19.52.025)

The maximum allowable interest rate applicable for the month of March 1993 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

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The Washington State Register is an official publication of the state of Washington. It contains proposed, emergency, and permanently adopted administrative rules, as well as other documents filed with the code reviser's office pursuant to RCW 34.08.020 and 42.30.075. Publication of any material in the Washington State Register is deemed to be official notice of such information.

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **PROPOSED**-includes the full text of preproposal comments, original proposals, continuances, supplemental notices, and withdrawals.
- (b) **PERMANENT**-includes the full text of permanently adopted rules.
- (c) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (d) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (e) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (f) **INDEX**-includes a combined subject matter and agency index.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
 - (i) underlined material is new material;
 - (ii) ~~deleted material is ((lined out between double parentheses))~~;
- (b) Complete new sections are prefaced by the heading NEW SECTION;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

Material contained in the Register other than rule-making actions taken under the APA (chapter 34.05 RCW) does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

4. EFFECTIVE DATE IF RULES

- (a) Permanently adopted agency rules normally take effect thirty-one days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one hundred twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

5. EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in [brackets].

1992 - 1993
DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
92-16	Jul 8	Jul 22	Aug 5	Aug 19	Sep 8
92-17	Jul 22	Aug 5	Aug 19	Sep 2	Sep 22
92-18	Aug 5	Aug 19	Sep 2	Sep 16	Oct 6
92-19	Aug 26	Sep 9	Sep 23	Oct 7	Oct 27
92-20	Sep 9	Sep 23	Oct 7	Oct 21	Nov 10
92-21	Sep 23	Oct 7	Oct 21	Nov 4	Nov 24
92-22	Oct 7	Oct 21	Nov 4	Nov 18	Dec 8
92-23	Oct 21	Nov 4	Nov 18	Dec 2	Dec 22
92-24	Nov 4	Nov 18	Dec 2	Dec 16	Jan 5, 1993
93-01	Nov 25	Dec 9	Dec 23, 1992	Jan 6, 1993	Jan 26
93-02	Dec 9	Dec 23, 1992	Jan 6, 1993	Jan 20	Feb 9
93-03	Dec 23, 1992	Jan 6, 1993	Jan 20	Feb 3	Feb 23
93-04	Jan 6	Jan 20	Feb 3	Feb 17	Mar 9
93-05	Jan 20	Feb 3	Feb 17	Mar 3	Mar 23
93-06	Feb 3	Feb 17	Mar 3	Mar 17	Apr 6
93-07	Feb 24	Mar 10	Mar 24	Apr 7	Apr 27
93-08	Mar 10	Mar 24	Apr 7	Apr 21	May 11
93-09	Mar 24	Apr 7	Apr 21	May 5	May 25
93-10	Apr 7	Apr 21	May 5	May 19	Jun 8
93-11	Apr 21	May 5	May 19	Jun 2	Jun 22
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93-22	Oct 6	Oct 20	Nov 3	Nov 17	Dec 7
93-23	Oct 20	Nov 3	Nov 17	Dec 1	Dec 21
93-24	Nov 3	Nov 17	Dec 1	Dec 15	Jan 4, 1994

¹All documents are due at the code reviser's office by 12:00 noon on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

²A filing of any length will be accepted on the closing dates of this column if it has been prepared and completed by the order typing service (OTS) of the code reviser's office; see WAC 1-21-040. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

³At least twenty days before the rule-making hearing, the agency shall cause notice of the hearing to be published in the Register; see RCW 34.05.320(1). These dates represent the twentieth day after the distribution date of the applicable Register.

Regulatory Fairness Act

The Regulatory Fairness Act, chapter 19.85 RCW, was adopted in 1982 to minimize the impacts of state regulations on small business. RCW 43.31.025 defines small business as “any business entity (including a sole proprietorship, corporation, partnership, or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has fifty or fewer employees.” The act requires review and mitigation of proposed rules that have an economic impact on more than 20 percent of the businesses of all industries or more than 10 percent of the businesses in any one industry (as defined by any three-digit SIC code).

When the above criteria is met, agencies must prepare a small business economic impact statement (SBEIS) that identifies and analyzes compliance costs and determines whether proposed rules impact small businesses disproportionately when compared to large businesses. When a proportionately higher burden is imposed on small businesses, agencies must mitigate those impacts. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, are subject to review to determine if the requirements of the Regulatory Fairness Act apply. Impact statements are filed with the Office of the Code Reviser as part of the required notice of hearing.

AN SBEIS IS REQUIRED

When:

The proposed rule has any economic impact on more than 20 percent of all industries or more than 10 percent of any one industry; or

The proposed rule **IMPOSES** costs to business that are not minor and negligible.

AN SBEIS IS NOT REQUIRED

When:

The rule is proposed only to comply or conform with a Federal law or regulation;

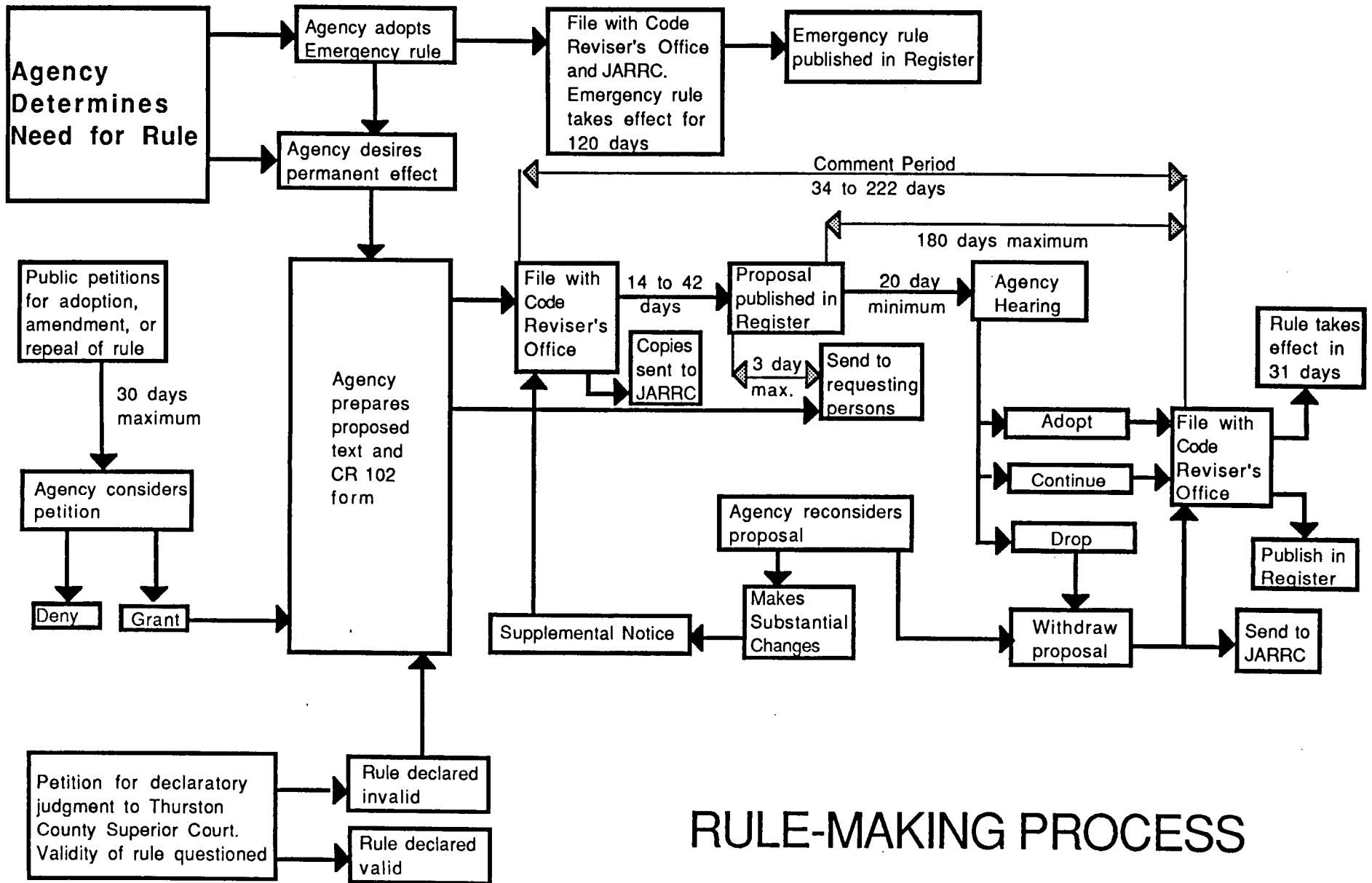
There is no economic impact on business;

The rule **REDUCES** costs to business;

There is only minor or negligible economic impact;

The rule is proposed as an emergency rule, although an SBEIS may be required when an emergency rule is proposed as a permanent rule; or

The rule is pure restatement of statute.



RULE-MAKING PROCESS

WSR 93-04-009
PROPOSED RULES
NORTHWEST AIR
POLLUTION AUTHORITY
 [Filed January 22, 1993, 4:45 p.m.]

Original Notice.

Title of Rule: Northwest Air Pollution Authority regulation.

Purpose: To bring the Northwest Air Pollution Authority regulation up to date by amending, adding, and deleting to reflect changes in the Washington Clean Air Act, new Washington Administrative Codes, federal new source performance standards, and removing provisions that do not promote effective air pollution control.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

Summary: Additions and deletions to the Northwest Air Pollution Authority regulation affect many sections. See Explanation of Rule and Proposal Changes Existing Rules below.

Reasons Supporting Proposal: Incorporation of the new statutory requirements and deletion of others will simplify enforcement and aid in reducing air pollution.

Name of Agency Personnel Responsible for Drafting: Jamie Randles, 302 Pine #207, Mt. Vernon, WA 98273, 428-1617; Implementation and Enforcement: Terry Nyman, 302 Pine #207, Mt. Vernon, WA 98273, 428-1617.

Name of Proponent: Northwest Air Pollution Authority, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Section 104 Adoption of State and Federal Laws and Rules, this revised section specifically references all Washington Administrative Codes, federal new source performance standards and national emission standards for hazardous air pollutants. These changes will allow us to request federal delegation for new and modified federal laws; Section 132 Criminal Penalty and Section 133 Civil Penalty, these sections are updated to reflect changes in the Washington State Clean Air Act. The most significant change is the increase in maximum fines from \$1,000 to \$10,000 plus an annual adjustment for cost-of-living in civil penalties; Section 300, 301, 302 Notice of Construction Procedures, this section is now compatible with the state chapter 173-400 WAC and Board Resolution 174 regarding procedures for filing, public notice, public hearings, and information required for an application to be processed; Section 311 Conditional Approval to Operate, this section is deleted as now all sources whether temporary or experimental must fulfill the same requirements as other air pollution sources; Section 322 Exemptions from Registration, this section now exempts small used oil burners and retail food establishments. Does not exempt temporary activities of asphalt plants, rock crushers, and sand blasting operations; Section 323 Classes of Registration, this section creates a new classification, Class G, for gasoline stations; Section 324 Fees, this section adds provisions to allow NWAPA to collect interim fees for the operating permit program for NWAPA beginning July 1, 1994. All Class "G" sources shall pay a \$100/year fee; Section 366 Instrument Calibration, this section requires that all monitoring instruments

shall be calibrated according to established procedures before any data will be accepted. It also allows the authority to conduct unannounced audits on a monitoring system. Section 401 Suspended Particulate Standards (PM-10), this section now reflects the federal rules for particulate less than ten microns in diameter instead of total particulates; Section 428 Hazardous Air Pollutants, this section adds a new five minute standard for ambient chlorine concentrations; Section 480 Solid Fuel Burning Device Standards, this entirely new section deals with emission standards, certification standards, curtailment rules and fuel restrictions for solid fuel burning devices. This section closely mirrors the state rule for solid fuel burning devices; Section 501 Outdoor Burning, this section replaces the old section on outdoor fires. The new section now reflects the requirements of the State Clean Air Act and chapter 173-425 WAC, Open Burning, plus incorporating requirements on best available burning practices previously passed by the NWAPA Board; Section 550 Preventing Particulate Matter from Becoming Airborne, the section has added provisions to require vehicles to prevent material from being deposited on public roadways that may result in fugitive dust problems; and Section 580.6 Gasoline Stations, additions to this section require certain gasoline stations to install Stage II vapor control systems in accordance with state rules.

Proposal Changes the Following Existing Rules: The proposal would amend Section 133 Civil Penalty; Section 300 Notice of Construction When Required; Section 301 Information Required for Notice of Construction and Application for Approval, Public Notice, Public Hearing; Section 302 Issuance of Approval or Order; Section 322 Exemptions from Registration; Section 323 Classes of Registration; Section 324 Fees; Section 366 Instrument Calibration; Section 550 Preventing Particulate Matter from Becoming Airborne; and Section 580.6 Gasoline Stations. The proposal would repeal Section 104 Adoption of State Law; Section 132 Criminal Penalty; Section 311 Conditional Approval to Operate; Section 401 Suspended Particulate Standards; and Section 501 Outdoor Fires - General. The proposal would add Section 104 Adoption of State and Federal Laws; Section 132 Criminal penalty; Section 401 Suspended Particulate Standards (PM-10); Section 480 Solid Fuel Burning Device Standards; and Section 501 Outdoor Burning.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Skagit County Administration Building, Hearing Room A, Second and Kincaid Streets, Mt. Vernon, Washington 98273, on April 14, 1993, at 1:30 p.m.

Submit Written Comments to: Terry Nyman, 302 Pine #207, Mt. Vernon, WA 98273.

Date of Intended Adoption: April 14, 1993.

January 21, 1993

Terry Nyman
Control Officer

REPEALER

NWAPA REGULATION SECTION 104 - ADOPTION OF STATE LAW

NEW SECTION

NWAPA REGULATION SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

- 104.1 All provisions of State Law as it now exists or may be hereafter amended, which is pertinent to the operation the Authority is hereby adopted by reference and made part of the Regulation of the Authority. Specifically, there is adopted by reference the Washington State Clean Air Act (RCW 70.94), the Administrative Procedures Act (RCW 34.04) and RCW 43.21A and 43.21B and the following state rules: 173-400 WAC, 173-402 WAC, 173-403 WAC, 173-410 WAC, 173-415 WAC, 173-425 WAC, 173-430 WAC, 173-433 WAC, 173-434 WAC, 173-440 WAC, 173-460 WAC, 173-470 WAC, 173-474 WAC, 173-475 WAC, 173-480 WAC, 173-481 WAC, 173-490 WAC, and 173-491 WAC.
- 104.2 All provisions of the following federal rules are hereby adopted by reference and made part of the Regulation of the Authority: 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, B, C, D, Da, Db, E, Ea, F, H, I, J, K, Ka, Kb, L, M, N, O, S, AA, AAa, CC, DD, EE, FF, GG, HH, JJ, OO, QQ, UU, VV, XX, YY, AAA, GGG, HHH, JJJ, NNN, OOO, PPP, QQQ; and 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, C, D, E, F, J, L, M, N, V, Y, BB, FF.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

NWAPA REGULATION SECTION 132 - CRIMINAL PENALTY

NEW SECTION

NWAPA REGULATION SECTION 132 - CRIMINAL PENALTY

- 132.1 Any person who knowingly violates any of the provisions of chapter 70.94 RCW or 70.120 RCW, or any ordinance, resolution, or regulation in force pursuant thereto, including the Regulation of the NWAPA, shall be guilty of a crime and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars (10,000), or by imprisonment in the county jail for not more than one year, or by both for each separate violation.
- 132.2 Any person who negligently releases into the ambient air any substance listed by the department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time

negligently places another person in imminent danger of death or substantial bodily harm shall be guilty of a crime and shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment for not more than one year, or both.

- 132.3 Any person who knowingly releases into the ambient air any substance listed by the department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, shall be guilty of a crime and shall, upon conviction, be punished by a fine of not less than fifty thousand dollars, or by imprisonment for not more than one year, or both.
- 132.4 Any person who knowingly fails to disclose a potential conflict of interest under RCW 70.94.100 shall be guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine or not more than five thousand dollars.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Amended: February 10, 1993

AMENDATORY SECTION

NWAPA REGULATION SECTION 133 - CIVIL PENALTY

- 133.1 In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW, chapter 70.120 RCW, any of the rules in force under such chapters, including regulation of the Northwest Air Pollution Authority may incur a civil penalty in an amount not to exceed ten thousand three hundred dollars (\$10,300) per day for each violation. Each violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation. Any person who fails to take action as specified by an order shall be liable for a civil penalty of not more than ten thousand three hundred dollars (\$10,300) for each day of continued noncompliance. ((or any of the rules and regulations of this Authority shall incur a penalty in the form of a fine in an amount not to exceed one thousand (\$1,000.00) dollars per day for each violation except that no penalty may be levied for the violation of any opacity standard in an amount exceeding four hundred (\$400.00) dollars per day.))

Each such violation shall be a separate and distinct offense, and in case of a separate and distinct violation. The maximum daily fine for violations of standards by a specific emissions unit shall be ~~((one))~~ ten thousand ~~(((\$1,000.00))~~) three hundred ~~(\$10,300)~~ dollars.

- 133.2 Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalty shall become due and payable when the person incurring the same receives a notice in writing from the Control Officer of the Authority describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Hearings Board. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Upon receipt of the application the Control Officer shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstance such as the presence of information or factors not considered in setting the original penalty. If the amount of such penalty is not paid to the Authority within thirty (30) days after receipt of notice imposing the same and request for a hearing has not been made, the attorney for the Authority, upon the request of the Control Officer, shall bring an action to recover such penalty in the Superior Court of Skagit County or of the County in which the violation occurred. All penalties recovered under this section by the Board shall be paid unto the treasury of the Authority and credited to its funds.

To secure the penalty incurred under this Section, the Authority shall have a lien on any vessel used or operated in violation of this act which shall be enforced as provided in RCW 60.36.050.

- 133.3 Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

The maximum penalty amounts established in this section may be increased annually to account for inflation as determined by the state office of the economic and revenue forecast council.

In addition to other penalties provided, persons knowingly under reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments, may be

subject to a penalty equal to three times the amount of the original fee owed.

AMENDATORY SECTION

NWAPA REGULATION SECTION 300 - NOTICE OF CONSTRUCTION WHEN REQUIRED

300.1 No person shall construct, install, ~~((or))~~ establish, modify or alter an ((new)) air contaminant source, except those sources excluded in Section 333 of the Regulation, without first filing with the Authority a "Notice of Construction and Application for Approval," on forms prepared and furnished by the Authority, ~~((and))~~ obtaining written approval of the Board prior to the said construction, installation, modification, alteration or establishment; and paying the appropriate fees as provided in Section 324.2. ~~((provided that, for the purposes of this section, alterations shall be construed as construction or installation or establishment of a new air contaminant source. The board may grant approval or denial but only after thirty (30) days prior published public notice to give the public the opportunity to submit comments to the Control Officer during the thirty (30) day period. The applicant shall reimburse the Authority for the cost of said publication.))~~ The Authority may only grant approval of the "Notice of Construction and Application for Approval" if the requirements of Sections 301 and 302 have been met.

~~((300.11 — A "Notice of Construction and Application for Approval" may not be required if an applicant can demonstrate that the proposed construction, alteration or replacement will not result in increases in the amount of any air pollutant emitted into the atmosphere and that the project represents Best Available Control Technology provided a "Notice of Intent to Construct," including an Environmental Checklist describing the proposed construction, and resultant pollutant impacts, is first submitted to the Control Officer. The Control Officer shall then determine, based upon the information he may reasonably require, if the proposed construction is in fact a "new air contaminant source" as defined in this regulation and, therefore, must submit "Notice of Construction and Application For Approval" for the proposed construction. Permit review fees shall be required as specified in Section 324.2.))~~

- 300.2 A "Notice of Construction and Application for Approval" shall not be required to commence an alteration of equipment or control facility in the

event of breakdown or if delaying the alteration may endanger life or have other serious consequences. The authority shall be notified in writing of the alteration on the first working day after the alteration is commenced and a "Notice of Construction and Application for Approval" shall be filed within fourteen (14) days after the alteration is commenced.

300.3 A separate Notice and Application shall be submitted for each unit of equipment ~~((of))~~ or control facility, unless identical units of equipment or control facility are to be installed, constructed or established in an identical manner on the same premises; provided that, said identical units may, as a group, be listed on one application but that identical units subsequently added shall require a separate Notice and Application; provided also, that, the owner has the option to give notice and apply for approval of a process with a detailed inventory of contaminant sources and emissions related to said process.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Amended: October 12, 1989, February 14, 1990, February 10, 1993

AMENDATORY SECTION

NWAPA REGULATION SECTION 301 - INFORMATION REQUIRED FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL, PUBLIC NOTICE, PUBLIC HEARING

- 301.1 Each Notice of Construction and Application for Approval for the construction, installation, or establishment of a new air contaminant source as described above shall be accompanied by ~~((two))~~ a set~~((s))~~ of plans which show and describe the equipment and control facility, its location, and function.
- 301.2 The proposed means for the prevention or control of the emissions of air contaminants and will provide all known available and reasonable methods of emission control.
- 301.3 Each Notice of Construction and Application for Approval shall be signed by the applicant or owner who may be required to submit evidence of his authority.
- 301.4 The Board or Control Officer may, within 30 days of its receipt of such notice, request such other information as deemed necessary in order to determine whether the proposed construction, installation or establishment, will be in accordance with applicable rules now or hereafter adopted by the Board

or the WDOE and will provide all known, available and reasonable methods of emission control.

301.5 A completed State Environmental Policy Act Guidelines "Environmental Checklist" shall be submitted on forms provided by the Authority in accordance with Washington Administrative Code (WAC) 197.10.365 and Section 312 of this regulation, as a part of the required Notice of Construction and Application for Approval. ~~((provided; no such checklist need be submitted if the applicant has previously submitted such a checklist to another agency with jurisdiction who has assumed "Lead Agency" responsibility under the State Environmental Policy Act for said project.))~~

301.6 The Authority shall provide public notice prior to approval or denial of a Notice of Construction if a new or modified source will result in a net significant emissions increase as defined by WAC 173-400-030(61). The public notice shall provide for a thirty day period to receive written comments. No final decision on any Notice of Construction and Application for Approval until the comment period has ended and all comments have been considered.

301.7 The applicant, any interested governmental entity, any group, or any person may request a public hearing within the thirty day period required by 301.6. Any request shall indicate the interest of the entity filing if and why a hearing is warranted. The NWAPA may, in its discretion, hold a public hearing if it determines significant public interest exists.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

NWAPA REGULATION SECTION 302 - ISSUANCE OF APPROVAL OR ORDER

302.1 If on basis of plans, specifications, or other information required pursuant to Section 301, the Board determines that the proposed construction, installation or establishment will be in accord with this Regulation, applicable air pollution control regulations of the DOE, laws of the State of Washington, and will provide all known available and reasonable methods of emission control, it shall, within ~~((sixty (60)))~~ thirty (30) days~~((-))~~ issue a determination of whether the operation of the new air contaminant source at the location proposed will cause any ambient air quality standard to be exceeded.

~~((302.11) The determination, under subsection 302.1 of this Section, of whether a proposed construction, installation or~~

~~establishment will be in accord with this Regulation and applicable air pollution control regulations and laws of this State, shall include a determination of whether the operation of the new air contaminant source at the location proposed will cause any ambient air quality standard to be exceeded.))~~

302.2 No approval will be issued unless the information supplied as required by Section 301.1 of this Regulation provides evidence to the Board or Control Officer that:

302.21 The equipment is designed and will be installed to operate without causing a violation of ~~((the))~~ applicable emission standards.

302.22 The equipment incorporates advances in the art of air pollution control developed for the kind and amount of air contaminant emitted by the equipment.

~~((302.23 — Equipment having a stack or duct three feet or more in diameter will be provided with:))~~

302.23 The project shall employ all known, available, and reasonable air pollution control technology for all pollutants.

~~((302.231 — Sampling ports of a size, number, and location as the Authority may require; and))~~

~~((302.232 — Safe access to each port; and))~~

~~((302.233 — Such other reasonable sampling and testing facilities as the Board or Control Officer may require.))~~

~~((302.24 — Fuel burning equipment and refuse burning equipment will achieve optimum combustion of fuel or refuse material to be burned.))~~

302.24 The project shall not result in a violation of any ambient air quality standard for criteria air pollutants.

~~((302.25 — All parts of the equipment can be readily inspected, and can be cleaned or repaired.))~~

302.25 The project shall not impact any Class I area or non-attainment area.

302.26 All State Environmental Policy Act requirements have been fulfilled.

302.27 The project shall not result in an exceedance of any Acceptable Source Impact Level (ASIL) for toxic air pollutants as defined in WAC 173-460.

302.28 The project shall comply with all applicable federally mandated programs.

302.3 If the Board determines that all the requirements of Section 302.2 have been met an Order of Approval shall be issued along with any operating and reporting conditions that will ensure compliance with all applicable air pollution standards.

302.4 If the Board determines that the construction, installation or establishment of a new air contaminant source will not meet the emission standards or the ambient air standards or other prohibition established by this Regulation, or will not provide all known available and reasonable means of emission control, the Board shall, within sixty (60) days of receipt of the "Notice of Construction and Application for Approval", issue an Order under Section 121 for the prevention of the construction, installation or establishment of the air contaminant source or sources, and,

302.41 The Order shall be in writing;

302.42 The Order shall set forth the objections in detail with references to the specific provisions of this Regulation and/or with other applicable rules and regulations set forth in the WAC and laws of the State of Washington and emission standards that will not be met by the proposed construction, installation or establishment;

302.43 The Order shall be signed by the Chairman of the Board.

302.5 Any order issued pursuant to this Section shall become final unless, no later than fifteen (15) days after the date the Order is served pursuant to Section 121, the owner or applicant petitions for a reconsideration of the Order with reasons for the reconsideration.

~~((302.51 — The Board shall consider the petition and shall within sixty (60) days of receipt of the information required in Section 302.2 of this Regulation, give written notice of approval or disapproval of the petition setting forth the reasons for disapproval.))~~

302.52 If the petition of the owner or applicant be disapproved the owner or applicant may petition the Hearings Board within

thirty (30) days after receipt of Notice of Disapproval and proceed under the procedure as set forth in Section 122.

- 302.6 Failure to issue such an order or approval within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed, provided that it is in accordance with the plans, specifications or other information, if any, required to be submitted. Such failure, however, shall not relieve any person from his obligation to comply with any emission requirement, or with any other provision of law.
- 302.7 Any (~~Notice and Application~~) Order of Approval issued under this Section shall be valid for one year. If engineering and/or construction of any facility authorized under this Section has not commenced within one year from the date of approval the Notice and Application is revoked and considered void. (~~Provided that~~) I(†)f the applicant can show evidence that the magnitude of the construction project is such or delays have been encountered in the delivery of equipment that construction cannot proceed within the one year limit, the Board may extend, for up to one year, the time limit ((required) set under this Section((~~—A Notice and Application may then be refiled at any time under the provisions of this Section.~~)), if it is determined that the project still incorporates all known, available and reasonable air pollution control technology.

REPEALER

NWAPA REGULATION SECTION 311 - CONDITIONAL APPROVAL TO OPERATE

AMENDATORY SECTION

NWAPA REGULATION SECTION 322 - EXEMPTIONS FROM REGISTRATION

Exclusion from registration does not absolve the owner, lessee, or his registered agent from all other requirements of the Regulation of this Authority. Exemption from registration does not apply to any control facility or device required to be installed in order to meet the emission and/or ambient standards of this Regulation.

- 322.1 Air conditioning or ventilating systems not design(~~ated~~)ed to remove air contaminants generated by or released from equipment.
- 322.2 Asphalt laying equipment.
- 322.3 Atmosphere generators used in connection with metal heat treating processes.

- 322.4 Blast cleaning equipment which uses a suspension of abrasive in liquid water.
- 322.5 Fuel burning equipment, other than smoke house generators, which:
 - 322.51 Is used solely for a private dwelling serving less than five families;
 - 322.52 Has a BTU input of not more than 400,000 BTU/hour, provided that equipment burning natural gas or liquified petroleum gas (LPG) exclusively may be excluded up to 1,250,000 BTU/hour.
 - 322.53 If used oil is burned the maximum heat input shall be less than 0.4 million BTU per hour (0.5 GJ/hr) provided that:
 - a. The used oil burned is either generated on site or received from do-it-yourself oil changers; and
 - b. The used oil burned is not contaminated with added dangerous wastes.
- 322.6 Insecticide spray equipment, non commercial.
- 322.7 Laboratory equipment used exclusively for chemical or physical analyses.
- 322.8 Laundry driers, extractors or tumblers used exclusively for the removal of water from fabric.
- 322.9 Portable equipment which is used within the jurisdiction of the Authority for less than thirty (30) days, except asphalt plants, rock crushers, and sand blasting operations. (~~shall comply with the requirement of Section 300.11 "Notice of Intent to Construct".~~)
- 322.10 Sewing equipment.
- 322.11 Surface coating by use of aqueous solution or suspension.
- 322.12 Steam cleaning equipment used exclusively for that purpose.
- 322.13 Storage tanks, reservoirs, or containers:
 - 322.131 Of a capacity of 6,000 gallons or less used for organic substances unless, in the opinion of the Control Officer, Section 535 may be violated.
 - 322.132 Of a capacity of (~~65,000 gallons or less in use before April 17, 1974 and~~) 40,000 gallons or less (~~(after said date.)~~) used for liquid fuels including gasoline and lubricating oils.

- 322.133 Containing organic liquid mixtures whose True Vapor Pressure is equal to or less than 1.5 psia under actual storage conditions.
- 322.134 Containing liquids which are not vented to the atmosphere.
- 322.14 Vacuum producing devices used in laboratory operations, and vacuum producing devices which do not remove or convey air contaminants from one to another source.
- 322.15 Vents used exclusively for:
 - 322.151 Sanitary or storm drainage systems.
 - 322.152 Safety valves.
 - 322.153 Storage tanks.
 - ~~((322.154 Non-toxic and non-inflammable gases.))~~
- 322.16 Washing or drying equipment used for products fabricated from metal or glass, if no volatile organic material is used in the process.
- ~~((322.17 Water cooling towers, cooling ponds, and barometric condensers.))~~
- 322.18 Welding, brazing and soldering equipment unless the person operating such equipment otherwise qualifies for registration.
- 322.19 Restaurants and other retail food preparing establishments.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

NWAPA REGULATION SECTION 323 - CLASSES OF REGISTRATION

- 323.1 All air contaminant sources registered by this Authority shall be classified in one of the following classes based upon uncontrolled emissions of air contaminants to the atmosphere.
 - 323.11 CLASS A - All air contaminant sources with potential uncontrolled annual emissions usually in excess of 50 tons/year shall be classified as CLASS A sources. The registration of all CLASS A sources is subject to review annually.
 - 323.12 CLASS B - All air contaminant sources with potential uncontrolled annual emis-

- sions usually between 10 and 50 tons/year shall be classified as CLASS B sources. The registration of all CLASS B sources will be subject to review at the discretion of the Control Officer.
- 323.13 CLASS C - All air contaminant sources with potential uncontrolled annual emissions usually less than 10 tons/year shall be classified as CLASS C sources. The registration of all CLASS C sources will be subject to review at the discretion of the Control Officer.
- 323.14 SPECIAL CLASS D - All sources which in and of themselves are not air contaminant sources per se, but distribute, sell or make available for sale to the general public or other dealers within the jurisdiction of the Authority, solid, liquid, or gaseous fuel (which create emission to the atmosphere) shall be classified as CLASS D sources. ALL CLASS D sources may be required to submit an annual report of the type and quantity of fuel sold on forms provided by the Control Officer at a time selected by the Control Officer.
- ~~((323.15 CLASS E - All sources who have a permit issued by the Authority to burn confidential materials in accordance with Section 502.))~~
- 323.15 CLASS G - All gasoline stations installed or reconstructed after January 1, 1990 and all gasoline stations with a total annual gasoline throughput greater than one million three hundred twenty-five thousand liters (350,000 gallons).
- 323.16 SPECIAL CLASS I - All incinerators approved by the Authority under Section 510 and not classified in CLASS A or B herein shall be classified as a CLASS I source. This class also includes ~~((wig-wam))~~ wood waste burners under Section 458 and other incinerators which may come under the Regulation of this Authority. ALL CLASS I sources will be subject to review at the discretion of the Control Officer.
- 323.17 SPECIAL CLASS O - All air contaminant sources whether or not they would be otherwise classified under this Regulation which have an actual or potential odor problem associated with their operation may be classified as a CLASS O source. ALL CLASS O sources will be subject to review at the discretion of the Control Officer.

323.18 SPECIAL CLASS S - All air contaminant sources which are unique and because of special circumstances cannot be adequately classified elsewhere shall be classified as CLASS S sources. ALL CLASS S sources are subject to review at the discretion of the Control Officer.

examination and inspection fee shall not be required to pay an additional registration fee during that same calendar year.

324.111 All Class "A" Registered Sources

323.2 Any registered source which is classified in CLASS A, B, or C under this Regulation may petition the Control Officer for a change in registration classification to a lower class under the following conditions:

323.21 The registrants shall show that the lower classification is more applicable to ~~(his)~~ their particular situation and that ~~(he)~~ they consistently meet the emission and ambient air standards and any other prohibitions and requirements for ~~(his)~~ their new class.

323.22 The registrants shall control ~~(his)~~ their emissions in accordance with this regulation.

323.3 Intermittent sources which vary in total emissions proportionately according to the amount of time they operate annually shall be extrapolated and their classification determined on their estimated rate of annual emissions as if they were operating on a full time basis throughout the year.

(SIC)	Standard Industrial Classification Number Type	Annual Registration Fee
2911	Petroleum Refinery	\$6,000
2999	Petroleum Coke Calciner	3,000
3241	Cement Manufacturing	3,000
3334	Primary Production of Aluminum	3,000
2611	Pulp & Paper Mills	3,000
2819	Sulfuric Acid Manufacturing	2,750
2812	Alkalies & Chlorine Manufacturing	2,200
2430	Veneer Plywood Manufacturing	1,500
3323	Iron & Steel Foundries	4,000
3295	Olivine Rock Processing	1,500
4953	Refuse Incineration Facilities	3,000
2818	Chemical Processing Plants	2,500
9711	National Security Establishments	2,500
4911	Coal Fired Power Plants	6,000
	Cogeneration Plants	
4911	Peak Load	2,000
4911	Base Load	4,000
4923	Pipeline Compressors	1,500
—	Any Other Type Not Listed	1,500

324.112 All Class "B" Registered Sources 400

324.113 All Class "O" Registered Sources 300

324.114 All Class "I" Registered Sources with combustion rate in lbs/hour:

324.1141 50 or less lbs/hour combustion rate of pathological waste only 150

324.1142 50 to 100 pounds of any waste materials 250

324.1143 500 - 999 pounds of any waste materials. 400

324.115 All other classes of registered sources shall pay a one time registration fee at the time of registration 100

324.116 Holders of each Variance issued by the Authority under Section 350 of this Regulation 500

324.117 The annual registration fee of a facility that includes more than one air contaminant source

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

NWAPA REGULATION SECTION 324 - FEES

324.1 Annual Registration Fees. Before the Control Officer may register any article, machine, equipment, facility, control facility, or other contrivance, the use of which is likely to cause the emission of air contaminants or a variance be granted and under the jurisdiction of this Authority, an annual registration fee shall be paid to the Authority at a time and in such a manner as herein set forth and as may be determined by the Board.

324.11 Sources classified as class "A", Class "B", Class "O" and Class "I" as defined in Section 323, and holders of each Variance issued by NWAPA, shall, upon notification by the Control Officer, pay the Authority an annual registration fee on or before January 1 of each year in accordance with the following schedule except that any new source which has paid a Notice of Construction filing fee and plan,

classified as Class "A", Class "B", Class "C" or Class "I" at the same general location and under the same manager, shall pay the full fee for the primary source, as determined by the Control Officer, and fifty percent (50%) of the fee for each of the other sources subject to an annual registration fee.

~~((324.118 Beginning July 1, 1991, a supplemental registration fee of two dollars per ton (\$2/ton) shall be assessed for Fiscal Year 1992. Affected sources shall be those under the NWAPA jurisdiction and sources under a delegated agreement between the NWAPA and the Washington State Department of Ecology that emit more than 100 tons of any pollutant based on the 1989 NWAPA Emission Inventory. Payment is due on or before September 30, 1991. Affected source registration fees shall be based on emissions of volatile organic compounds, nitrogen oxides, sulfur oxides, and total suspended particulates. This supplemental registration fee requirement shall expire on June 30, 1992.))~~

324.118 All Class "G" Registered Sources \$100.00.

324.119 The Authority shall collect interim fees to cover operating permit program development costs. The fees will be assessed to all sources in the jurisdiction that emit one hundred tons or more of a regulated pollutant. A regulated pollutant is defined in Section 502(b) of the Federal Clean Air Act Amendments of 1990. Fees shall be based on emissions determined in the most recent emissions inventory. The costs shall be determined by a workload analyses done by the Authority and approved by the Board. The fees shall be collected beginning fiscal year 1994.

324.2 Notice of Construction, (~~Notice of Intent to Construct~~), Variance Filing, plan examination, evaluation and/or inspection fee.

The following fees shall be paid by an applicant for processing a Notice of Construction and Application for Approval, pursuant to Section 300.1 (~~or a Notice of Intent to Construct, pursuant to Section 300.11~~), or a Variance pursuant to Section 350, before the Board will take any action approving or denying said application.

324.21 A \$50.00 filing fee and in addition, the plan examination and inspection fee set forth in Section 324.22. One filing fee and plan examination, evaluation and inspection fee shall be paid for identical units, except when a separate examination, evaluation or inspection is required for each identical unit.

324.22 ITEM—PLAN, EXAMINATION, EVALUATION, AND INSPECTION FEE

324.221 Fuel burning equipment in million BTU/HR Input Heat Capacity

Less than 5	\$100 (Installation) 25 (Fuel Change)
5 or more but less than 10	250 (Installation) 50 (Fuel Change)
10 or more but less than 20	500 (Installation) 100 (Fuel Change)
20 or more but less than 50	1000 (Installation) 200 (Fuel Change)
50 or more but less than 100	2000 (Installation) 300 (Fuel Change)
100 or more but less than 250	2500 (Installation) 400 (Fuel Change)
250 or more but less than 500	3000 (Installation) 500 (Fuel Change)
More than 500	4000 (Installation) 600 (Fuel Change)

324.222 Other in Cubic Feet Per Minute (CFM-Design) from equipment, such as, but not limited to, cyclones, bag filters, electrostatic precipitators and wet scrubber.

Less than 5,000	\$ 200
5,000 or more but less than 20,000	300
20,001 or more but less than 50,000	750
50,001 or more but less than 100,000	1,500
100,001 but less than 250,000	2,500
250,000 or more	4,000

324.223 Incinerators - Combustion rate in lbs/hour (Design)

Refuse Incinerator - lbs/hour	
Less than 100	\$ 200
100 or more but less than 200	300
200 or more but less than 500	500
500 or more but less than 1,000	750

Solid Waste Combustion - tons/hr	
.5 or more but less than 2	\$2,000
2 or more but less than 4	3,000
4 or more	4,000

324.224 Storage Tanks* - Gallons

6,000 or more but less than 40,000	200
40,000 or more but less than 100,000	400
100,000 or more but less than 500,000	750
500,000 or more	1,200

324.225 Other -

Gasoline Stations	\$ 50
Odor Source	500
Not Classified above	200

324.23 Environmental Policy Guidelines

324.231 Threshold Determination. For every environmental checklist the NWAPA reviews when it is Lead Agency, the applicant shall first pay NWAPA a fee of \$50.00 prior to undertaking the Threshold Determination by the responsible official of NWAPA.

324.232 If the Authority decides it must prepare ~~((a))~~ an Environmental Impact S((s))tatement (EIS) in order to comply with the State Environmental Policy Act of 1971 before taking any action on a Notice of Construction, the cost of preparing, publishing, and distributing ~~((such a state-ment))~~ an EIS at a cost per hour rate for Authority staff time based upon actual cost as determined by the Control Officer and such other expenses as mutually agreed upon by the applicant and the Control Officer including consulting services, testing, reproduction, distributing, etc., shall be paid by the applicant.

324.24 Should a public hearing or public notice be ~~((legally))~~ required or deemed necessary by the Board on any proposed action by an applicant, said applicant shall reim-

burse the Authority for the actual publication cost of any required legal notice of such public hearing.

324.25 "Bubble" and "Emission Reduction Credit"

A \$150.00 application and processing fee shall be paid for each application for a "Bubble" made pursuant to RCW 70.94.155 and WAC 173-403-060, and an "Emission Reduction Credit" (ERC) made pursuant to WAC 173-403-070.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

NWAPA REGULATION SECTION 366 - INSTRUMENT CALIBRATION

366.1 Any person operating an ambient air or emission monitoring instrument may be required to calibrate said instrument as required by the Control Officer under the following provisions:

366.11 All monitors must be accurate within the limits and tolerances described in Table I of this subsection when compared to an Authority maintained and calibrated instrument or standard, which measures the same pollutant.

366.12 All monitoring instruments must be operated, maintained and calibrated as specified in the "Guidelines for Industrial Monitoring Equipment and Data Handling" and/or specific operating and maintenance procedures issued or approved by the Control Officer.

366.13 The Authority may, at any time, require that any monitoring instrument be compared to the Authority's instrument or other standard approved by the Control Officer.

366.14 If a monitoring instrument is not within the acceptable limits and tolerances, as described in Table I of this subsection, all data collected by the instrument between the date of calibration and the previous date of calibration may be considered invalid and a Notice of Violation may be issued. If evidence shows when and where an instrument exceeded the limits and tolerances established in Table I, the Control Officer may accept data collected prior to that date. No data will be ac-

cepted as valid until the user instrument is calibrated successfully as provided in 366.11 and 366.12 of this subsection.

~~((366.15 — The failure to operate a monitoring instrument and maintain it within the stated limits and tolerances may be cause for a Notice of Violation to be issued. No data will be accepted as valid until the user instrument is calibrated successfully as provided in 366.11 and 366.12 of this subsection.))~~

366.15 An audit of a monitoring system may be conducted by the Authority, at any time, without prior notification.

366.16 All user instruments will be operated and calibrated on a scale range approved by the Control Officer. No data will be accepted from instruments on scale ranges other than those approved by the Control Officer. Provided: that, data from instruments that have automatic range change devices may be accepted if the user can demonstrate that the values obtained are within the tolerances provided in Table I. All tolerances will be based on the scale designated by the Control Officer as the primary or base scale.

TABLE I

POLLUTANT	INSTRUMENT TOLERANCE
Sulfur Dioxide	Whichever is greater (ambient) \pm (± 0.05) 0.005 ppm or \pm 10%
Total Suspended Particulate	Flow Rate of 1.13 - 1.70 m ³ /min. \pm 10% (percent difference)
Continuous Emissions Monitoring Systems	
Calibration Drift Values	
Pollutant	Twice the applicable drift specified in Appendix B, 40 CFR 60
Diluent	
Opacity	\pm 2% opacity
Audit Performance Criteria	
Cylinder Gas Audit	
CGA	\pm 15%
Relative Accuracy Audit	
RAA	Whichever is greater \pm 15% or 7.5% of Standard

Relative Accuracy Test Audit
 RATA Whichever is greater \leq 20% or 10% of Standard.

REPEALER

NWAPA REGULATION SECTION 401 - SUSPENDED PARTICULATE STANDARDS (PM-10)

NEW SECTION

NWAPA REGULATION SECTION 401 - SUSPENDED PARTICULATE STANDARDS (PM-10)

401.1 The concentration in the ambient air of particulate matter with an aerodynamic diameter of less than ten (10) microns (PM10) shall not exceed:

401.11 One hundred and fifty (150) micrograms per cubic meter of air as a 24 hour average more than once a year.

401.12 Fifty (50) micrograms per cubic meter of air as an annual arithmetic mean.

401.2 Sampling and analysis for suspended particulates shall be conducted according to the method outlined in Section 180.

AMENDATORY SECTION

NWAPA REGULATION SECTION 428 - HAZARDOUS AIR POLLUTANTS

428.1 Chlorine concentrations in the ambient air shall not exceed one (1.0) part per million on a one (1) hour time weighted average.

428.11 Chlorine concentration in the ambient air shall not exceed seven (7.0) parts per million for more than 5 minutes.

428.2 Ambient emissions standards for mercury. Emissions to the atmosphere from sources including the processing of mercury or to recover mercury, chlor-alkali cells to produce chlorine gas and alkali metal hydroxide, shall not exceed 2300 grams of mercury per twenty-four (24) hour period.

428.21 Testing methods shall be in accordance with the US-EPA CFR, Title 40, Chapter 61, National Emission Standards for Hazardous Air Pollutants, Appendix B—Test Methods of other test methods approved by the Control Officer.

428.3 Formaldehyde concentrations in the ambient air shall not exceed five hundredths of a part per million by volume (0.05 ppm {v}).

428.4 Ambient standards for other hazardous or toxic air pollutants may be adopted by the Control Officer based upon best available information on health risk.

NEW SECTION

NWAPA REGULATION SECTION 480 - SOLID FUEL BURNING DEVICE STANDARDS

480.1 Purpose. This Section establishes emission standards, certification standards and procedures, curtailment rules, and fuel restrictions for solid fuel burning devices in order to comply with the requirements of the NAAQS for the control of fine particulate matter and to further the policy of the authority as stated in Section 102 of this Regulation.

480.2 - DEFINITIONS

Unless a different meaning is clearly required by context, words and phrases used in this Section shall have the following meaning as defined in Chapter 173-433-030 WAC:

ADEQUATE SOURCE OF HEAT - means a permanently installed furnace or heating system, connected or disconnected from its energy source, designed to maintain seventy degrees Fahrenheit at a point three feet above the floor in all normally inhabited areas of a residence or commercial establishment.

ANTIQUÉ WOOD STOVE - is a stove manufactured before 1940 which has a current market value substantially greater than a common wood stove manufactured during the same time period.

CERTIFIED - means that a wood stove meets emission performance standards specified in RCW 70.94.457 when tested by an accredited independent laboratory and labeled according to procedures specified by the United States Environmental Protection Agency in the Code of Federal Regulation - Title 40 Part 60 Subpart AAA - Standards of Performance for Residential Wood Heaters.

COAL-ONLY HEATER - means an enclosed, coal burning appliance capable of and intended for residential space heating, domestic water heating, or indoor cooking, which has all the following characteristics:

1. An opening for emptying ash which is located near the bottom or the side of the appliance;
2. An opening for loading coal which is located near the top or side of the appliance;
3. A system which admits air primarily up and through the fuel bed;
4. A grate or other similar device for shaking or disturbing the fuel bed;
5. Installation instructions which state that the use of wood in the stove except for coal ignition is prohibited by law; and

6. The model is listed by a nationally recognized safety testing laboratory for use of coal only, except for coal ignition purposes.

COOKSTOVE - means a wood-fired appliance designed primarily for cooking food and containing an integrally built in oven, with an internal temperature indicator and oven rack, around which the fire is vented, as well as a shaker grate, ash pan and an ash clean-out below the firebox. Any device with a fan or heat channels used to dissipate heat into the room shall not be considered a cookstove.

EPA - means United States Environmental Protection Agency.

FIREPLACE - means a permanently installed masonry fireplace; or a factory-built solid fuel burning device designed to be used with an air-to-fuel ratio greater than or equal to thirty-five to one and without features to control the inlet air-to-fuel ratio other than doors or windows such as may be incorporated into the fireplace design for reasons of safety, building code requirements, or aesthetics.

MANUFACTURER - means any person who constructs or imports a solid fuel burning device or parts for a solid fuel burning device.

NEW WOODSTOVE - means a woodstove that has not been sold at retail, bargained, exchanged, or given away for the first time by the manufacturer, the manufacturer's dealer or agency, or a retailer, and has not been so used as to become what is commonly known as "second hand" within the ordinary meaning of that term.

RETAILER - means any person engaged in the sale of solid fuel burning devices directly to the public. A contractor who sells dwellings with solid fuel burning devices installed or a mail order outlet which sells solid fuel burning devices directly to the public is considered to be a solid fuel burning device retailer.

SEASONED WOOD - means wood of any species that contains twenty percent or less moisture by weight.

SOLID FUEL BURNING DEVICE - (SFB D - same as solid fuel heating device) means a device that burns wood, coal, or any other non-gaseous or non-liquid fuels, and includes wood stoves, coal-only heaters, cookstoves and fireplaces, or any similar device burning any solid fuel used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one million British thermal units per hour.

SUBSTANTIALLY REMODELED - means any alteration or restoration of a building exceeding sixty percent of the appraised value of such building within a twelve-month period.

TREATED WOOD - means wood of any species that has been chemically impregnated, painted, or similarly modified to improve resistance to insects, weathering or deterioration.

WOODSTOVE - means a wood fueled appliance other than a cookstove with a closed fire chamber which maintains an air-to-fuel ratio of less than thirty-five to one during the burning of ninety percent or more of the fuel mass consumed at the minimum burn rate achievable (less than 5 kg/hr). Any combination of parts, typically consisting of but not limited to, doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being assembled, with or without additional owner supplied parts, into a woodstove, is considered a woodstove.

480.3 - EMISSION PERFORMANCE STANDARDS

480.31 A person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a new wood stove in Washington unless it has been certified and labeled in accordance with procedures and criteria specified in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" and its emission performance complies with WAC 173-433-100.

480.32 After January 1, 1995, a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away any solid fuel burning device in Washington unless it has been certified and labeled in accordance with procedures and criteria specified in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" and its emission performance complies with WAC 173-433-100.

480.33 Emission Standards for Solid Fuel Burning Devices defined as an "affected facility" in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters". Stack emissions of certified models shall not exceed:

480.331 4.1 grams particulate per hour for catalytic solid fuel burning devices; and
7.5 grams particulate per hour for non-catalytic solid fuel burning devices effective July 1, 1990 to December 31, 1994.

480.332 2.5 grams particulate per hour for catalytic solid fuel burning devices; and
4.5 grams particulate per hour for non-catalytic solid fuel burning devices; effective January 1, 1995.

Solid fuel burning devices with a 35-to-1 or greater air to fuel ratio are exempt from certification.

480.34 Installation of wood stoves.

480.341 By July 1, 1992, the state building code council shall adopt rules requiring an adequate source of heat other than wood stoves in all new and substantially remodeled residential and commercial construction. This rule shall apply (a) to areas designated by a county to be an urban growth area under Chapter 36.70A RCW; and (b) to areas designated by the EPA as being in non-attainment for particulate matter.

480.342 After January 1, 1992, no used solid fuel burning device shall be installed in new or existing buildings unless such device is either Oregon Department of Environmental Quality phase II or EPA certified or a pellet stove either certified or exempt from certification by the EPA in accordance with CFR 40 Part 60 Subpart AAA - Standards of Performance for Residential Wood Heaters.

480.35 Installation of fireplaces.

480.351 After January 1, 1997, no fireplace, except masonry fireplaces, shall be offered for sale unless such fireplace meets the 1990 EPA standards for wood stoves or equivalent standard established by the state building code council by rule in accordance with 70.94.457 RCW.

480.352 Prior to January 1, 1997, the state building code council shall establish by rule design standards for the construction of new masonry fireplaces in Washington state.

480.36 Antique wood stoves are exempt from Section 480.3.

480.4 OPACITY STANDARDS.

480.41 Opacity level. A person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of twenty percent opacity for six consecutive minutes in any one-hour period. This restriction does not apply during the starting of a new fire for a period not to exceed twenty minutes in any four-hour period.

480.42 Test methods and procedures. EPA reference method 9 - Visual Determination of Opacity of Emissions from Stationary Sources shall be used to determine compliance with this section.

480.43 Enforcement. Smoke visible from a chimney, flue or exhaust duct in excess of the opacity standard shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This regulation will be enforced on a complaint basis and through observations of inspectors certified to read opacity. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device.

480.5 PROHIBITED FUEL TYPES

480.51 A person shall not cause or allow any of the following materials to be burned in a solid fuel burning device:

- A. Garbage;
- B. Treated wood;
- C. Plastic products;
- D. Rubber products;
- E. Animals;
- F. Asphaltic products;
- G. Waste petroleum products;
- H. Paints; or
- I. Any substance, other than properly seasoned fuel wood, or coal with sulfur content less than 1.0% by weight burned in a coal-only heater, which normally emits dense smoke or obnoxious odors.

480.6 CURTAILMENT

480.61 Any person in a residence or commercial establishment with an adequate source of heat other than the burning of solid fuel shall not burn solid fuel in any solid fuel burning device under the following circumstances:

480.611 Whenever the Authority has declared the first stage of impaired air quality for the geographical area unless the solid fuel burning device is one of the following:

- A. A pellet stove that is either certified or exempted from certification by the EPA under WAC 173-433-150; or

B. A wood stove certified under WAC 173-433-100, RCW 70.94.457 or Title 40 Part 60 Subpart AAA of the Code of Federal Regulations; or

C. A written exemption has been issued for the device under Section 480.8 of this Regulation.

A first stage of impaired air quality is reached when particulates ten microns and smaller in diameter are measured at an ambient level of seventy five micrograms per cubic meter of air by a method which has been determined, by Ecology or the Authority, to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix J, or equivalent.

480.612 Whenever Ecology or the Authority has declared the second stage of impaired air quality or Ecology has declared an air pollution episode at a level above forecast for a geographical area.

A second stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of one hundred five micrograms per cubic meter of air by a method which has been determined, by Ecology or the Authority, to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix J, or equivalent.

480.62 Any person responsible for a solid fuel burning device already in operation at the time second stage impaired air quality or episode above the forecast stage is declared shall extinguish that device by withholding new solid fuel for the duration of the episode. Any person responsible for a solid fuel burning device that is not certified under WAC 173-433-100, RCW 70.94.457 or CFR 40 Part 60 Subpart AAA already in operation at the time the first stage of impaired air quality is declared shall extinguish that device by withholding new solid fuel for the duration of the impaired air quality.

- 480.63 Compliance with the above solid fuel burning device curtailment rules may be enforced after a time period of 3 hours has elapsed from the time of declaration of the episode or impaired air quality. Smoke visible from a chimney, flue or exhaust duct three hours from the time of declaration of the episode or impaired air quality shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that smoke was not caused by an applicable solid fuel burning device.
- 480.7 General Emission Standards
- 480.71 Emissions detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any solid fuel burning device, including any air contaminant whose emission is not otherwise prohibited by this regulation, if the air contaminant emission directly impacts the property of another so as to cause detriment to the health, safety, or welfare of a person, plant or animal, or causes damage to property or business. Direct impact means that emissions from an identifiable solid fuel burning device are present in amounts which reasonably constitute a threat to the health, safety, or welfare of a person(s).
- 480.72 Odors. Any person who shall cause or allow the generation of any odor from any solid fuel burning device which may interfere with any other property owner's use or enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.
- 480.8 Exemptions
- 480.81 An exemption status allows a resident to operate their solid fuel burning device during any stage of impaired air quality. An exemption does not exempt a resident from the opacity or burning restrictions as stated in Sections 480.3, 480.4, 480.5 and 480.7 of this Regulation. Exemption status is issued by the Authority and is allowed when a resident can demonstrate an inadequate alternate source of heat. Exemptions are only valid until the following July 1st.
- REPEALER
- NWAPA REGULATION SECTION 501 - OUTDOOR FIRES - GENERAL
- NEW SECTION
- NWAPA REGULATION SECTION 501 - OUTDOOR BURNING
- 501.1 PURPOSE
- The purpose of this section is to minimize the air pollution impacts caused by open burning as mandated by the Washington Clean Air Act of 1991. This rule establishes controls for open burning in order to:
- 501.11 Reduce open burning to the greatest extent practical by eliminating it in PM-10 and/or carbon monoxide nonattainment areas; and urban growth areas or cities with a population of 10,000 or more by December 31, 2000;
- 501.12 For areas where open burning is allowed, established a limited burning program, including procedures by which open burning may be conducted;
- 501.13 Encourage the development and use of alternate methods for the disposal of woody debris.
- 501.2 APPLICABILITY
- 501.21 This section applies to all forms of outdoor burning except:
- 501.211 Silvicultural Burning
- 501.212 Agricultural Burning
- 501.213 Recreational Fires - that are not used for debris disposal purposes and do not cause a nuisance to neighbors.
- 501.214 Ceremonial Fires
- 501.215 Burning to improve and maintain fire dependent ecosystems - pursuant to Chapter 332.24 WAC.
- 501.22 No outdoor burning shall occur during a declared period of impaired air quality.
- 501.23 A fire protection agency, county, or conservation district may enforce its own controls that are stricter than those set forth in this section.

501.3 DEFINITIONS

Unless a different meaning is clearly required by context, words and phrases used in this section shall have the following meanings:

AGRICULTURAL BURNING - means burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.650 or other authoritative source on agricultural practices.

CEREMONIAL FIRE - means a fire associated with an Indian ceremony or ritual.

ECOLOGY - means the Washington State Department of Ecology.

EPISODE - means a period when a forecast, alert, warning, or emergency air pollution stage is declared, as stated in Chapter 173-435 WAC.

IMPAIRED AIR QUALITY - means a condition declared by Ecology or the Authority in accordance with the following criteria:

- (a) Meteorological conditions are conducive to an accumulation of air contamination concurrent with:
 - (i) Particulate that is ten micron and smaller in diameter (PM-10) at or above an ambient level of seventy-five micrograms per cubic meter measured on a twenty four hour average; or
 - (ii) Carbon monoxide at an ambient level of eight parts of contaminant per million parts of air by volume (ppm) measured on an eight hour average.
- (b) Air quality that threatens to exceed other limits established by the authority.

LAND CLEARING BURNING - means the burning of outdoor fires over ten (10) feet in diameter consisting of residue such as trees, stumps, shrubbery or other natural vegetation in preparation of a land improvement or construction project as distinguished from a forest harvest operation.

NONATTAINMENT AREA - means a clearly delineated geographic area which has been designated by the Environmental Protection Agency and promulgated as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.

NUISANCE - means an emission of smoke from any open fire to be deposited beyond the property line, if it interferes with the use and enjoyment of the property deposited on.

OPEN BURNING - means all forms of outdoor burning except those listed as exempt in section 502 of this regulation.

OUTDOOR BURNING - means the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

REASONABLE ALTERNATIVES - means alternatives to outdoor burning that cost less than eight dollars and fifty cents (\$8.50) per cubic yard are considered reasonable. This amount shall be adjusted periodically to reflect changing economic conditions. Adjustments will be based on Authority policy and guidelines provided by Ecology.

RECREATIONAL FIRE - means barbecues and campfires, not for debris disposal purposes, in public areas or on private property. Fuels used may not contain prohibited materials.

SILVICULTURAL BURNING - means burning on any land the department of natural resources protects per RCW 70.94.030(13), RCW 70.94.660, RCW 70.94.690 and pursuant to Chapter 76.04 RCW.

URBAN GROWTH AREA - means an area defined by RCW 36.70A.030.

501.4 PROHIBITED MATERIALS

501.41 The following materials shall not be burned in any outdoor fire: garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper, cardboard, treated wood, construction debris, metal or any substance other than natural vegetation, which when burned releases toxic emissions, dense smoke, or odors.

501.42 Prohibited materials may be burned in the following circumstances:

501.421 Diseased animals and infested material. When ordered by a duly authorized health officer and authorized by the Authority, diseased animals and other infested material may be burned, as required, to keep the infestation from spreading.

501.422 Dangerous material. When ordered by a fire protection agency and when authorized by the Authority, fires to dispose of materials presenting danger to life, property, or public welfare may be burned, if no approved practical alternate method of disposal is available.

501.5 CURTAILMENT DURING EPISODES OR IMPAIRED AIR QUALITY

- 501.51 No outdoor fire shall be ignited:
 - 501.511 Whenever Ecology declares an air pollution episode for the geographical area pursuant to Chapter 173-435 WAC; or
 - 501.512 Whenever Ecology or the Authority declares impaired air quality for the geographical area.
 - 501.513 Within any county in which the Authority declares impaired air quality.
 - 501.514 Within Skagit, Whatcom, and Island counties if impaired air quality is declared in both Skagit and Whatcom counties.
- 501.52 A person responsible for an outdoor fire at the time an episode or impaired air quality is declared shall extinguish that fire. Outdoor burning conducted under the auspices of the department of natural resources for the purpose of burning forest slash pursuant to RCW 70.94.660 through 70.94.670 shall be extinguished by withholding new fuel and allowing the fire to burn down.
- 501.53 Smoke visible from outdoor burning after a time period of three hours has elapsed from the time of declaration of the episode or impaired air quality shall constitute prima facie evidence of unlawful outdoor burning.
- 501.54 For Department of Natural Resource silvicultural burning, smoke visible from outdoor burning after a time period of ten hours has elapsed from the time of declaration of the episode or impaired air quality shall constitute prima facie evidence of unlawful outdoor burning.

501.6 OPEN BURNING PROGRAM

- 501.61 General Requirements.
 - 501.611 All burning requires a permit as covered in section 501.7.
 - 501.612 Permits shall not be issued, and thus open burning is not allowed, in areas where reasonable alternatives are available.

501.613 No open burning shall be allowed in areas that exceed federal or state ambient air quality standards for fine particulate matter (PM-10) or carbon monoxide. Such areas shall be defined as the entire PM-10 and/or carbon monoxide nonattainment area, unless otherwise determined pursuant to section 506.21 of the regulation.

501.614 A fire protection authority may declare a fire hazard in areas where burning is banned and in areas where burning is allowed. If open burning is determined to be the most appropriate manner to abate a fire hazard, the fire protection authority must request from the Authority permission to burn. Permits issued under section 501.614 shall provide that:

- 501.6141 Prohibited material shall not be burned.
- 501.6142 Burning shall not be conducted during a period of impaired air quality.
- 501.6143 No reasonable alternative is available.
- 501.6144 No open burning shall be conducted in areas that exceed federal or state ambient air quality standards for Carbon monoxide and/or PM-10. Such areas shall be defined as nonattainment areas for these pollutants.

501.62 Additional Requirements for Nonattainment Areas

501.621 Phase-out Approach. The Authority may petition Ecology to allow a phase-out approach in nonattainment areas. The phase-out approach will focus on how to achieve the Clean Air Wash-

- ington goals and eliminate burning in areas that exceed the standards.
- Ecology will review and determine if the petition should be approved. The Ecology may partially approve petitions or approve petitions with conditions based on the following criteria:
- 5016211 Population and population density considerations.
 - 501.6212 Air quality in the region can support open burning based upon geographical and meteorological conditions.
 - 501.6213 The presents of a permitting program.
 - 501.6214 The extent to which reasonable alternatives to open burning are being developed through solid waste management plans and the schedule for the availability of such reasonable alternatives.
- 501.622 The petition to allows for a burning phase-out approach is due to the Ecology no later thirty (30) days after an area is designated as a nonattainment area. A ban is not effective in areas identified in the petition until after Ecology makes a ruling on the petition.
- 501.623 The phase-out plan identified in the petition shall be rendered void: 1) when alternatives are available or 2) when Ecology demonstrates to the Environmental Protection Agency that air quality standards are achieved.
- 501.624 Fires may be permitted in areas where burning is otherwise
- banned under the following conditions.
- 501.6241 Fire training. The Authority may issue permits for fire training fires, pursuant to Ecology guidelines and rules.
 - 501.6242 The Authority may permit, fires that are part of a defined research project, weed abatement, and smoke training as part of a military training exercise.
 - 501.6243 Responding to open burning calls. Each affected County shall identify a fire marshal or other appropriate county official for field response and to document open burning complaints or violations using appropriate field notices. In areas where the county has no jurisdiction, the Authority will negotiate with the appropriate local agency on field response.
- 501.63 Additional Requirements for Urban Growth Areas and Cities with a Population of Ten Thousand (10,000) or More.
- 501.631 Open Burning will be banned when reasonable alternatives are available. Regardless of alternative availability, open burning will be banned after December 31, 2000.
 - 501.632 Until open burning is banned, it is allowed subject to the permitting provisions of this section.
 - 501.633 When open burning is banned, the provisions in section 501.62 shall apply.

- 501.7 OPEN BURNING PERMIT REQUIREMENTS
- | | | |
|--|------------|----------------------|
| | 1992-1995 | twenty-one days/year |
| | 1995-1998 | fourteen days/year |
| | After 1998 | seven days/year |
- 501.71 All outdoor burning requires a permit. For areas where burning is allowed, the Authority, fire districts or departments, conservation districts, or counties may issue permits. Those issuing permits are responsible for field response to open burning complaints. Ecology will provide guidance for field response programs which addresses funding, training, and staffing.
- 501.72 In selecting a permit program, the options range from the minimum - a general rule burn, as described below, to a written permit. A permit program must be in place eight months after Ecology provides guidance for the program. If at that time, no agreement has been reached, the area becomes a no-burn area and falls under the restrictions set forth in section 501.62 above. A no-burn area will be established only after a public hearing has been conducted to address the matter.
- 501.73 Fees. The Authority may charge a fee to cover the administrative cost of a permit program. Fire districts, counties, and conservation districts issuing fire permits may collect fees to cover administrative costs.
- 501.74 The Authority may apply additional restrictions on open burning as necessary to reduce the impacts from open burning. These restrictions include, but are not limited to, restricting burning in sensitive areas per 173-400 WAC, restricting the time periods for which burning is allowed, limiting permissible hours of burning, restricting burning to specific weather conditions, and imposing requirement for good combustion.
- 501.75 General Rule Burn Permits. For areas where burning is allowed, fire permitting agencies may elect to use a general permit by rule. A person burning under a general permit by rule system must meet, at minimum, the following requirements and any additional restrictions including those established by cities, counties, or fire protection authorities. Persons not able to meet all of the requirements of this sections must apply for and receive a written permit.
- General rule burn permits under section 501.75 may be used for the following number of days per year:
- 501.751 The fire must not include prohibited materials except what paper is necessary to start the fire.
- 501.752 A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.
- 501.753 No fires are to be within fifty (50) feet of structures.
- 501.754 The pile must not be larger than four feet in diameter.
- 501.755 Only one pile at a time may be burned, and each pile must be extinguished before lighting another.
- 501.756 No outdoor fire is permitted in or within five hundred (500) feet of forest slash without a written burning permit.
- 501.757 The designated permitting authority must be called to confirm burning conditions for each day or current information on burning conditions must be obtained.
- 501.758 If the fire creates a nuisance, it must be extinguished.
- 501.759 Permission from a landowner or designated representative must be obtained before building an outdoor fire.
- 501.76 Additional requirements for land clearing burning. The following "best available burning practices" shall be used when land clearing burns are conducted.
- 501.761 No land clearing fire shall be larger than fifty (50) feet in diameter and be located less than five times the fire diameter size from any structure.

- 501.762 No land clearing fire shall be ignited and no material shall be added to any fire after 6:00 pm; and no land clearing fire shall commence before 6:00 am each day unless prior approval is granted by the Authority.
- 501.763 At least one fan rated and operated at 6,000 cubic feet per minute must be on site for each twenty-five (25) feet of fire diameter and must be used to facilitate ignition and burning unless comparable winds make a fan unnecessary.
- 501.764 Material for a fire must be free of excess dirt and machine stacked by an excavator or equivalent machine which must be on site and employed until all visible emissions cease. The ratio of stack height to burn pile diameter shall be as high as possible but no less than 1:2.
- 501.765 The number of fires per parcel, defined as a single, integrated, land area that is being cleared by a party, shall be:
 - 501.7651 No more than one fire per acre: and
 - 501.7652 No more than three fires per parcel, which must be set in sequence, with each fire fully engaged prior to setting another.
- 501.766 Stumps and tree trunks must be split so that no material exceeding three (3) feet in diameter is burned.
- 501.767 A person qualified to operate stacking or equivalent machinery shall be present at the immediate fire site during burning.
- 501.768 Burning shall be conducted in such a manner as to prevent any smoke and/or particulate matter from being emitted that is or is likely to restrict visibility on a public road or airport landing strip.

- 501.769 Outdoor fires for the purpose of land clearing burning must have a written permit from the appropriate fire permitting agency. Notwithstanding the restrictions listed in sections 501.761 through 501.768 above, all land clearing fires must meet any additional the conditions listed on the permit and all other applicable air pollution regulations.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

NWAPA REGULATION SECTION 509 - OUTDOOR FIRES - AIR CURTAIN OPEN PIT BURNER PERMANENT INSTALLATION

AMENDATORY SECTION

NWAPA REGULATION SECTION 550 - PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE

- 550.1 It shall be unlawful for any person to cause or permit material to be handled, transported or stored without ~~((taking reasonable precaution))~~ using Best Available Control Technology to prevent the release of fugitive particulate matter to the ambient air.
- 550.2 It shall be unlawful for any person to cause or permit a building or its appurtenances or a road to be constructed, altered, repaired or demolished, or conduct sandblasting, without ~~((taking reasonable precautions))~~ using Best Available Control Technology to prevent the release of fugitive particulate matter to the ambient air.
- 550.3 It shall be unlawful for any person to cause or permit untreated open areas located within a private lot or roadway to be maintained without ~~((taking reasonable precautions))~~ using Best Available Control Technology to prevent the release fugitive of particulate matter to the ambient air.
- 550.4 It shall be unlawful for any person to cause or permit the emission of particulate matter which becomes deposited upon the property of others in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

550.5 It shall be unlawful for any person to cause or allow a vehicle to be operated on a paved roadway open to the public.

550.51 Unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, and except road construction and maintenance by public agencies.

550.52 With a load of dirt, sand, gravel, or other material susceptible to being dropped, spilled, or otherwise escaping therefrom unless it is covered or has adequate free-board so as to prevent spillage.

550.53 With deposits of mud, dirt, or other debris on the vehicle's body, fenders, frame, undercarriage, wheels, or tires.

Deposits of particulate matter on a paved roadway open to the public shall be prima facie evidence of a violation of Subsection 550.5.

AMENDATORY SECTION

NWAPA REGULATION SECTION 580.6 - Gasoline Stations

580.61 Section 580.62 shall apply to:

580.611 All gasoline stations in existence on January 1, 1990 with a total annual gasoline output greater than one million three hundred twenty-five thousand liters (350,000 gallons) and total gasoline storage capacity greater than thirty-eight thousand liters (10,000 gallons) and

580.612 All gasoline stations installed or reconstructed after January 1, 1990.

580.62 It shall be unlawful for any person to cause or allow the transfer of gasoline from any transport tank into any stationary storage tank except as provided in 580.63 of this section unless the following conditions are met:

580.621 Such stationary storage tank is equipped with a permanent submerged fill pipe and approved vapor recovery system, and

580.622 Such transport tank is equipped to balance vapors and is maintained in a vapor-tight condition in accordance with Section 580.10 and

580.623 All vapor return line are connected between the transport tank and the stationary storage tank and the vapor recovery system is operating.

580.63 Notwithstanding the requirements of 580.61 of this regulation, the following stationary gasoline storage tanks are exempt from the requirements of 580.62:

580.631 All tanks with a capacity less than seven thousand five hundred liters (2,000 gallons) installed before January 1, 1990.

580.632 All tanks with offset fill lines installed before January 1, 1990.

580.633 All tanks with a capacity less than one thousand liters (260 gallons).

580.64 It shall be unlawful for any person to cause or allow the transfer of gasoline from a stationary tank into a motor vehicle fuel tank except as provided in 580.65 of this section unless the following conditions are met:

580.641 The gasoline station shall be equipped with a certified Stage II vapor recovery system.

580.642 The owner or operator of the gasoline station shall not allow the transfer of gasoline from stationary tanks into motor vehicle fuel tanks unless a certified Stage II vapor recovery system is used.

580.643 All Stage II vapor recovery equipment shall be maintained in accordance with the systems certification requirements and shall be maintained to be leak free, vapor tight, and in good working order.

580.644 Whenever a Stage II vapor recovery system is determined to be defective, the owner or operator shall take the system out of service until it has been repaired, replaced, or adjusted, as necessary.

580.645 The owner or operator of each gasoline station utilizing Stage II vapor controls shall post operating instructions for the system as referenced in WAC 173-491-40 (5),(f).

580.65 The following gasoline stations are exempt from the requirements of 580.64:

580.651 All gasoline stations in existence August 2, 1991 having an annual gasoline throughput less than three million, one hundred and eighty-two thousand liters (840,000 gallons).

580.652 All gasoline stations built after August 2, 1991 with a nominal gasoline storage capacity of thirty-seven thousand nine hundred liters (10,000 gallons) or less.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 93-06-007

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed February 19, 1993, 8:14 a.m.]

The Department of Agriculture is withdrawing original notice for the proposed pesticide penalty matrix schedule, WSR 93-04-114, filed on February 3, 1993. The department plans to file another notice at a later date.

Art G. Losey
Assistant Director

WSR 93-06-008

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed February 19, 1993, 8:16 a.m.]

The Department of Agriculture is withdrawing original notice for the proposed rights of an aggrieved person by a pesticide violation, WSR 93-04-113, filed on February 3, 1993. The department plans to file another notice at a later date.

Art G. Losey
Assistant Director

WSR 93-06-009

**PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed February 19, 1993, 9:22 a.m.]

Original Notice.

Title of Rule: WAC 388-83-015 Citizenship and alien status.

Purpose: Provide medical coverage to the family members of newly legalized aliens as provided under the family unity program.

Other Identifying Information: Section 301 - Family Unity, Immigration Act of 1990.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Extends medical coverage to the family members of a newly legalized alien (NLA). Family unity provides for emergency medical only, for the same period of disqualification as the NLA, unless the family member is under eighteen years of age, pregnant, SSI-related, or a Cuban-Haitian.

Reasons Supporting Proposal: Section 301 of Immigration Act of 1990, P.L. 101-649 creates the family unity program.

Proposed

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Section 301 - Family Unity.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on April 6, 1993, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Mailstop 5805, Department of Social and Health Services, Olympia, 98504, FAX 664-0118 or SCAN 366-0118, by March 5, 1993.

Date of Intended Adoption: April 7, 1993.

February 19, 1993

D. L. Henry

for Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2798, filed 5/17/89)

WAC 388-83-015 Citizenship and (~~alienage~~) alien status. (1) The department shall provide Medicaid to an otherwise eligible (~~individual~~) person who is:

- (a) A citizen of the United States; or
- (b) A North American Indian born in Canada:
 - (i) Claiming fifty percent Indian blood; or
 - (ii) Claiming fifty percent or less Indian blood and maintains United States residency since before December 25, 1952; or
- (c) An alien lawfully admitted for permanent residence or otherwise permanently residing under color of law (PRUCOL) in the United States; or

(d) An alien who is lawfully present in the United States according to provisions of sections 203 (a)(7), 207(c), 208, and 212 (d)(5) of the Immigration and Nationality Act (INA); or

(~~(e)~~) (e) An alien granted lawful temporary residence, or permanent residence according to provisions of section 245(~~(A)~~)(a), 210, 210(f) and 210A of INA and sections 202 and 302 of the Immigration Reform and Control Act (IRCA) (if the alien is:

- (i) Aged, blind, or disabled;
- (ii) Seventeen years of age or under;
- (iii) Pregnant; or
- (iv) A Cuban/Haitian entrant as defined in sections 501(~~e~~)(1) and (2)(A) of P.L. 96-422.

(2) For five years from the date Immigration and Naturalization Service (INS) grants lawful temporary or permanent resident status to an alien, under sections 245A, 210, and 210A of INA, the alien, other than those described under subsection (1)(d) of this section, shall be eligible for Medicaid services only as follows:

~~(a) Medical care and services necessary for treatment of the alien's emergency medical condition. For purposes of this subsection, the term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:~~

- ~~(i) Placing the alien's health in serious jeopardy;~~
- ~~(ii) Serious impairment to bodily functions; or~~
- ~~(iii) Serious dysfunction of any bodily organ or part.~~

~~(b) When such alien meets the eligibility requirements of any one of the medical assistance programs under chapters 388-82, 388-83, 388-92, 388-95, and 388-99 WAC.~~

~~(3) The department shall consider a seasonal agricultural worker (SAW), granted temporary or permanent residence under sections 210(f) of INA and 302 of IRCA, eligible for Medicaid on the same basis as aliens under subsections (1)(d) or (2) of this section.~~

~~(4)) unless five years from the date Immigration and Naturalization Service (INS) grants lawful temporary resident status has not passed; or~~

~~(f) An alien approved by the INS under the family unity program, unless five years from the date INS grants lawful temporary resident status for the petitioning relative has not passed.~~

~~(2) When an alien as described under subsection (1)(e) or (f) of this section has not passed the five-year disqualification period, the department shall provide Medicaid to an otherwise eligible person when an alien is:~~

- ~~(a) Aged, blind, or disabled;~~
- ~~(b) Seventeen years of age or under;~~
- ~~(c) Pregnant; or~~
- ~~(d) A Cuban/Haitian entrant as defined under sections~~

~~501 (e)(1) and (2)(A) of P.L. 96-422.~~

~~(3) All other aliens, including an alien described in subsection (1)(e) or (f) of this section who is still under the five-year disqualification and is not described under subsection (2) of this section and who is not lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law, or described in subsection (2) ((or (3))) of this section, shall be eligible for Medicaid ((only if)) as follows:~~

~~(a) Medical care and services are necessary for treatment of ((an)) the alien's emergency medical condition ((of the alien); and~~

~~(b) Such alien meets the eligibility requirements of any one of the medical assistance programs under chapters 388-82, 388-83, 388-92, 388-95, and 388-99 WAC;~~

~~(e)) For purposes of this subsection, the term emergency medical condition means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:~~

- ~~(i) Placing the alien's health in serious jeopardy;~~
- ~~(ii) Serious impairment to bodily functions; or~~
- ~~(iii) Serious dysfunction of any bodily organ or part((-));~~

~~and~~

~~(b) Such alien meets the eligibility requirements of the medical assistance programs under chapters 388-82, 388-83, 388-92, 388-95, and 388-99 WAC.~~

WSR 93-06-016

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed February 22, 1993, 2:25 p.m.]

Subject of Possible Rule Making: The Washington Department of Wildlife gives notice that it is initiating the recovery plan development process for the following state endangered and threatened species: Upland sandpiper, snowy plover, pygmy rabbit, western pond turtle, and grizzly bear (in the North Cascades). The recovery plans will include target population objectives, criteria for reclassification, an implementation plan for reaching population objectives, public education needs, and a species monitoring plan.

Persons may Comment on this Subject in the Following Ways: Information pertinent to recovery plan development for upland sandpiper, snowy plover, pygmy rabbit, western pond turtle, and grizzly bear (in the North Cascades) should be submitted in writing. Endangered Species Program Manager, Washington Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, on September 30, 1993.

February 19, 1993

Rich Poelker

Administrative Regulations Officer

WSR 93-06-017

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed February 22, 1993, 2:35 p.m.]

Original Notice.

Title of Rule: WAC 232-12-619 1992-94 Washington game fish regulations.

Purpose: To correct Department of Wildlife's dates for free fishing weekend from June 5 - 6, 1993, to June 12 - 13, 1993.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Deletes specifying dates for free fishing weekend and allows dates to correspond to National Fishing Week.

Reasons Supporting Proposal: The weekends corresponding with National Fishing Week have been declared as family fishing weekends in Washington. On these weekends, fishing licenses are not required to fish for game fish, except steelhead trout. In October 1991, the family fishing weekend for 1993 was adopted as June 5 - 6. It has come to the department's attention recently that the National Fishing Week Steering Committee adopts the weekend following the first full week in June rather than the first weekend in June. Therefore, June 12 - 13, 1993, will be recognized nationally as free fishing weekend. The U.S. Forest Service in Washington is planning related camping-free dates on June 12 - 13. The Oregon Department of Fish and Wildlife is also asking their commission to change the dates for free fishing weekend to June 12 - 13 from June 5 -

6. The state of Idaho also recognizes June 12 - 13 as free fishing weekend dates.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, A.D., Fisheries Management, Olympia, (206) 753-2895; Enforcement: Tony de la Torre, A.D., Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This proposed change will allow Washington residents to share in the same free fishing weekend dates as their neighbors in Oregon and Idaho and to enjoy the benefits of celebrating National Fishing Week in concert with the rest of the nation. Adoption of this change will also alleviate enforcement problems on bordering waters such as the Columbia River. This proposed change also deletes the dates, which note specifically the date of the free fishing weekend in June. The game fish pamphlet can accommodate the exact dates for the public's information. Modification of this WAC by deleting specific dates will alleviate the need to readopt an amendment every two years for the sake of date changes.

Proposal Changes the Following Existing Rules: To have the state of Washington free fishing weekend coincide with the federal free fishing dates.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by April 6, 1993.

Date of Intended Adoption: April 16-17, 1993.

February 19, 1993

Rich Poelker

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 524, filed 12/16/91)

WAC 232-12-619 1992-94 Washington game fish regulations. These regulations are effective from April 16, 1992 to April 15, 1994, both dates inclusive.

Definitions.

Boat fishing: Fishing while in or on a boat, raft, or any other floating device.

Catch-and-release: A type of angling where none of the fish caught are retained by the angler.

Daily catch limit: The maximum number of fish of a given species and size which a person may legally retain in a single day. When you are fishing with bait, all legal trout are counted as part of the daily catch limit, whether kept or released. Steelhead may be caught and released while using bait until the daily catch limit is retained.

Fish in possession: Any fish retained, secure from escape, whether dead or alive.

In waters designated as "fly fishing only" an angler may not fish from any floating device equipped with a motor,

except where specifically allowed under special regulations for individual waters.

Mouth of stream, river, or slough: Those waters upstream of a line projected between the outermost uplands at the mouth. Outermost uplands means those lands are not covered by water during an ordinary high water.

Maximum size limit: The longest length of a fish of a given species that an angler may keep, measured from snout to tip of tail (not fork).

Minimum size limit: The shortest length of a fish of a given species that an angler may keep, measured from snout to tip of tail (not fork).

Night closure: On those waters where night closures are specified, it is unlawful to fish from one hour after official sunset to one hour before official sunrise.

Fishing seasons open at 12:01 a.m. on the first day and close at 11:59 p.m. on the last day.

Possession limit: The maximum number of fish allowed to be retained in the field, in transit, in the home, and/or in a food-storage facility.

Selective fishery regulations: Only artificial flies or lures with a barbless single-pointed hook are allowed; bait is prohibited; fish may be released until the catch limit is retained. No one may fish from any floating device equipped with a motor, except where specifically allowed under special regulations for individual waters. If any fish has swallowed the hook or is hooked in the gill, eye or tongue, it should be kept if legal to do so.

Slough: Any swamp, marsh, bog, pond, side-channel, or backwater connected to a river by water. Many waters commonly called sloughs are not connected to a river and, therefore, are considered lakes.

Wild cutthroat release: Only cutthroat trout with missing adipose fins may be possessed. There must be a healed scar in the location of the missing fin.

Wild steelhead release: Only steelhead with missing adipose or ventral fins may be possessed. There must be a healed scar in the location of the missing fin. It is unlawful to use a gaff hook to land steelhead in waters designated "wild steelhead release."

State-wide regulations.

Taking and possessing game fish.

It is unlawful to:

Use a gaff hook to land steelhead in waters designated as "wild steelhead release."

Take bullfrogs except by angling, hand dip netting, spearing (gigging) or with bow and arrow.

Feed or use any substance to attract game fish unless specifically authorized by special regulations.

Fish for game fish with a bow and arrow or spear.

Possess fish which are under the minimum size or over the maximum size as shown in general or special regional regulations.

Annual limit - steelhead trout only: Each angler who possesses a valid steelhead permit card may retain thirty steelhead over twenty inches in length per year (May 1 to April 30).

Exception for rehabilitated lakes.

Lakes have no size, catch, or possession limits on the day of their rehabilitation and for ten days following. Dip nets are allowed for the taking of fish during this period. All fishing license requirements apply.

Licenses - requirements.

When taking bullfrogs, a hunting or fishing license is required.

Free fishing weekends:

The weekends corresponding with National Fishing Week have been declared as family fishing weekends in Washington. On these weekends (~~June 6-7, 1992; June 5-6, 1993~~) fishing licenses will not be required to fish for game fish, except steelhead trout. These free fishing days are valid for everyone, regardless of residency or age. All other regulations remain in effect. Only waters open to fishing may be fished; lure and/or bait restrictions and size and catch limits currently in place must be followed.

1992-94 license fees.

Military personnel, regardless of the length of time in the state of Washington, who are permanently stationed at a military installation within the state, are entitled to purchase a resident license. Military personnel must have a license to fish for game fish anywhere in the state. Dependents must establish a ninety-day residency.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 93-06-018
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed February 22, 1993, 2:38 p.m.]

Original Notice.

Title of Rule: WAC 232-12-166 Northern squawfish sport-reward fishery Columbia and Snake rivers.

Purpose: To insure the rules and regulations of the Northern squawfish sport-reward fishery are clear, concise and enforceable.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This regulation proposal will provide rules and regulations governing the Northern squawfish sport-reward fishery that are clear, concise and enforceable.

Reasons Supporting Proposal: The Northern squawfish sport-reward fishery has been ongoing since 1990. During the 1992 season there were documented cases of anglers not in compliance with the rules which were established for the fishery. These rules were loosely worded and appeared in several different public information pamphlets in various forms which were printed by the Bonneville Power Administration. It was determined that regulations needed to be adopted by the commissions from both the Washington Department of Wildlife and the Oregon Department of Fish and Wildlife to provide better guidance to anglers. Additionally, these regulation proposals, if adopted, will be more enforceable than those previously appearing in the pamphlets. Concurrent regulations are being proposed by the Oregon Department of Fish and Wildlife to their commission for Oregon waters.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, A.D., Fisheries Management, Olympia, (206) 753-2895; and **Enforcement:** Tony de la Torre, A.D., Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This proposed regulation will provide clear and enforceable rules for anglers participating in the Northern squawfish sport-reward fishery that will be consistent with those being proposed in Oregon. The purpose of the regulation is to provide clear rules for participation by recreational anglers in the fishery. The anticipated effect is increased compliance with the fishery rules, and a continued decrease in the population of Northern squawfish in the mainstem Columbia and Snake rivers.

Statement of Finding: An effective date of April 30, which is earlier than 31 days after filing is necessary because the time requirements would be contrary to the public interest. The Northern squawfish sport-reward fishery is scheduled to begin May 3. An effective date of these proposed rules after the start of the fishery would create public confusion and enforcement problems.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by April 6, 1993.

Date of Intended Adoption: April 16-17, 1993.

February 19, 1993

Rich Poelker
 Administrative Regulations Officer

NEW SECTION

WAC 232-12-166 Northern squawfish sport-reward fishery Columbia and Snake rivers. During times and at sites specified by the Washington Department of Wildlife, a bounty in an amount specified by the Department shall be paid for each Northern squawfish (*Ptychocheilus oregonensis*) taken by legal angling methods from the mouth of the Columbia River to the boat restricted zone below the Priest Rapids Dam; from the mouth of the Snake River to the boat restricted zone below Hells Canyon Dam, and from the backwaters and sloughs as well as up to 400 feet into the tributaries of the reaches listed above on the Columbia and Snake Rivers. In addition, the following requirements shall be met to qualify for payment:

(a) Each angler must register in person, prior to fishing, at one of the registration stations each fishing day. A fishing day is a 24-hour period from 9:01 p.m. through 9:00 p.m. of the following day;

(b) Each angler, in person must exchange their eligible Northern squawfish for a voucher between the hours 9:00

a.m. and 9:00 p.m. at the same registration station where the angler registered during the same fishing day;

(c) To be eligible for a voucher, each Northern squawfish must be eleven (11) inches or longer in total length and presented in fresh (iced or refrigerated) condition or alive;

(d) Anglers shall provide information regarding their catch as requested by Department personnel at the registration site and mail-in survey forms;

(e) Anglers shall obtain a Washington State game fishing license to fish for Northern squawfish and must use a single rod, reel, and line with up to three hooks with no more than three points each.

WSR 93-06-019
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed February 22, 1993, 2:40 p.m.]

Original Notice.

Title of Rule: WAC 232-12-019 Classification of game fish.

Purpose: To classify Northern squawfish as a game fish.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This proposal is to classify Northern squawfish as a game fish and allow for its lawful sale, purchase or trade.

Reasons Supporting Proposal: Since 1990 there has been a sport-reward fishery for Northern squawfish in the mainstem Columbia River and Snake River to the Idaho boundary. This is an effort funded by the Bonneville Power Administration in an attempt to reduce the number of Northern squawfish 11" or greater by 10 percent to 20 percent. If this goal is reached, it is hypothesized that the mortality of juvenile salmonids will be reduced by 50 percent. During 1990, there was a limited sport fishery in only the John Day reservoir to determine if this methodology was a practical means of harvest. During 1991 the fishery was expanded to all nine reservoirs from Bonneville Dam to Lower Granite Dam. There has been heavy participation by anglers during both years. The 1991 season (May 14 - September 22), a total of 67,384 days were spent by anglers fishing. During the 1992 season (May 18 - September 27), a total of 88,494 angler days were spent fishing. The terminal gear used by anglers participating in the sport reward fishery for Northern squawfish is compatible for catching many types of game fish that occur in the same water. During 1991, a total of 768 smallmouth bass, 453 channel catfish, and 185 walleye were turned into the squawfish check stations by sport reward fishery participants. During 1992, 693 smallmouth bass, 231 walleye, and 141 channel catfish were observed in the catch. There is no rule requiring anglers to have a license to fish for Northern squawfish. This is contrary to Oregon's fishing rules where every person fishing is required to possess a license. An estimated 15 percent of the Washington state anglers participating in the Northern squawfish fishery each year did not have Washington state game fish licenses. This has created an enforcement problem for both states. Classifying

Northern squawfish as a game fish would require anglers fishing for Northern squawfish to possess a game fish license.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, A.D., Fisheries Management, Olympia, (206) 753-2895; and Enforcement: Tony de la Torre, A.D., Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This new rule would classify Northern squawfish as a game fish and allow the fish to be offered for sale, sold, purchased, or traded. This new rule would require all anglers to possess a game fish license while fishing for Northern squawfish.

Statement of Finding: An effective date of April 30, which is earlier than 31 days after filing is necessary because the time requirements would be contrary to the public interest. The Northern squawfish sport-reward fishery is scheduled to begin May 3. An effective date of this proposed change after the start of the fishery would create public confusion and enforcement problems.

Proposal Changes the Following Existing Rules: Adds squawfish to the classification listing of game fish.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98506-1091, by April 6, 1993.

Date of Intended Adoption: April 16-17, 1993.

February 19, 1993

Rich Poelker

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 576, filed 10/21/92)

WAC 232-12-019 Classification of game fish. As provided in RCW 77.12.020 and in addition to those species identified in RCW 77.08.020 the following species of the class *Osteichthyes* are classified as game fish:

<u>Scientific Name</u>	<u>Common Name</u>
<i>Salvelinus confluentus</i>	Bull Trout
<i>Esox lucius</i>	Northern Pike
<i>and hybrids involving genus Esox</i>	Tiger Muskellunge
<i>Ctenopharyngodon idella</i>	Grass Carp
<i>Pylodictus olivaris</i>	Flathead Catfish
<i>Ptychocheilus oregonensis</i>	<u>Northern Squawfish</u>

Northern squawfish lawfully taken may be offered for sale, sold, purchased or traded.

WSR 93-06-020
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed February 22, 1993, 2:42 p.m.]

Original Notice.

Title of Rule: WAC 232-12-019 Classification of game fish.

Purpose: To classify bridgelip sucker, largescale sucker, longnose sucker, mountain sucker, and peamouth chub as game fish.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This proposed amendment to WAC 232-12-019 would classify the above listed species as game fish.

Reasons Supporting Proposal: The state of Washington has a diverse aquatic fauna that includes 48 species of native freshwater fishes. Of these native species, 12 are classified as food fish by the director of the Department of Fisheries, and six are classified as game fish by the Wildlife Commission. All other species remain "unclassified" and are under the management jurisdiction of the Department of Wildlife. There is currently a discrepancy between fishing regulations in Oregon and Washington which govern license requirements. In Oregon, anglers are required to possess a license while fishing. In Washington, a license is only necessary to fish for game fish or food fish. This problem has been exacerbated recently with the popular sport-reward fishery for Northern squawfish on the Columbia River. The above listed fish species readily recruit to fishing gear lawfully used by recreational anglers, and are often times used as an excuse for not purchasing a game or food fishing license. Additionally, wastage of these fish (regarded as "trash fish") by anglers is common. Carcasses are often found by department biologists on stream banks of heavily fished streams and rivers. Classification of these fish, along with a public education campaign, should help to reduce or eliminate the license problem and reduce wastage of these fish. There is no reason to change any fishing regulations because of the classification of these fish as game fish. These six species will fall under the category of "all other game fish" and there is no bag limit.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, A.D., Fisheries Management, Olympia, (206) 753-2895; and Enforcement: Tony de la Torre, A.D., Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule change is to classify bridgelip sucker, largescale sucker, longnose sucker, mountain sucker, and peamouth chub as game fish. There is currently a discrepancy between fishing regulations in Oregon and Washington which govern license requirements. Wastage of native unclassified fish which recruit to recreational gear is also a problem. Listing these fish as game fish, along with a public education campaign, should help to reduce or eliminate these problems.

Proposal Changes the Following Existing Rules: Classifies the indicated species as game fish species.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by April 6, 1993.

Date of Intended Adoption: April 16-17, 1993.

February 19, 1993

Rich Poelker

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 576, filed 10/21/92)

WAC 232-12-019 Classification of game fish. As provided in RCW 77.12.020 and in addition to those species identified in RCW 77.08.020 the following species of the class *Osteichthyes* are classified as game fish:

<u>Scientific Name</u>	<u>Common Name</u>
<i>Salvelinus confluentus</i>	Bull Trout
<i>Catostomus columbianus</i>	Bridgelip Sucker
<i>Catostomus macrocheilus</i>	Largescale Sucker
<i>Catostomus catostomus</i>	Longnose Sucker
<i>Catostomus platyrhynchus</i>	Mountain Sucker
<i>Ctenopharyngodon idella</i>	Grass Carp
<i>Esox lucius</i>	Northern Pike
<i>and hybrids involving genus Esox</i>	Tiger Muskellunge
<i>Meilocheilus caurinus</i>	Peamouth Chub
<i>Pylodictus olivaris</i>	Flathead Catfish

WSR 93-06-021
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed February 22, 1993, 2:44 p.m.]

Original Notice.

Title of Rule: WAC 232-28-61932 1992-94 Washington game fish seasons and catch limits—Spokane River in Region 1.

Purpose: To protect wild trout from harvest in the Spokane River and to maintain a harvest fishery for hatchery reared trout planted upstream.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This regulation will enact a year around fishing season with wild rainbow trout release and selective fishery regulations from the Seven Mile Bridge upstream to the Monroe Street Dam. This stretch of river is currently regulated under the general fishing regulations with a trout catch limit - 1.

Reasons Supporting Proposal: Wild rainbow trout in this section of the river are in need of extra protection from harvest. Spawning and feeding habitat is limited due to the

siltation caused from the Spokane Falls. There is a limited fishery on hatchery trout stocked above Monroe Street Dam which are washed downstream, and for brown trout which have adapted to the habitat conditions.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, A.D., Fisheries Management, Olympia, (206) 753-2895; and Enforcement: Tony de la Torre, A.D., Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This regulation will allow anglers to fish year around in the Spokane River from the Seven Mile Bridge upstream to the Monroe Street Dam. Wild trout will be provided further protection with a wild rainbow trout release and selective fishery regulations. This regulation change will allow the consumptive fishery for the hatchery trout and brown trout to continue while providing extra protection for the wild rainbow trout.

Proposal Changes the Following Existing Rules: Open the Spokane River from Seven Mile Bridge upstream to Monroe Street Dam year around season. Wild trout release (only rainbow trout with missing adipose fins may be possessed. There must be a healed scar in the location of the missing fin). Selective fishery regulations.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by April 6, 1993.

Date of Intended Adoption: April 16-17, 1993.

February 19, 1993

Rich Poelker

Administrative Regulations Officer

NEW SECTION

WAC 232-28-61932 1992-94 Washington game fish seasons and catch limits - Spokane River in Region 1. Notwithstanding the provisions of WAC 232-28-619 and WAC 232-28-61925, the game fish seasons for the Spokane River from Seven Mile Bridge upstream to the Monroe Street Dam are as follows:

SPOKANE RIVER, from Seven Mile Bridge upstream to the Monroe Street Dam: Year around season. TROUT - catch limit - 1. Wild trout release (only rainbow trout with missing adipose fins may be possessed. There must be a healed scar in the location of the missing fin.) Selective Fishery Regulations.

All other provisions of Spokane River regulations remain unchanged and in effect as provided in WAC 232-28-619 and WAC 232-28-61925.

**WSR 93-06-022
PROPOSED RULES
DEPARTMENT OF WILDLIFE**
[Filed February 22, 1993, 2:46 p.m.]

Original Notice.

Title of Rule: WAC 232-28-61933 1992-94 Washington game fish seasons and catch limits - Coldwater Lake (Cowlitz/Skamania Co.).

Purpose: Establishes game fish season and catch limit for Coldwater Lake in Region 5.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: The proposed regulation opens Coldwater Lake to fishing effective July 16, 1993, and establishes a trout daily catch limit of 1.

Reasons Supporting Proposal: Coldwater Lake was first planted in 1989 with 30,000 rainbow trout. The lake was formed in 1981 during the eruption of Mt. St. Helens. Shortly after stocking, the U.S. Forest Service closed the area around the lake to public access due to construction work on the visitor's complex. The administrative closure and construction will be completed this year allowing the lake to be opened to public use. To coincide with the opening of the visitor's center, the lake facilities are planned to open the following week to avoid congestion. Biological collection shows that the plants have flourished and are of a quality size (@ 1 lb. each). This lake will be added to the quality lake management list due to its productivity and availability of large fish. A reduced bag limit and selective fishery regulations are proposed.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, A.D., Fisheries Management, Olympia, (206) 753-2895; and Enforcement: Tony de la Torre, A.D., Enforcement, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule opens Coldwater Lake as a quality fishery effective July 16, 1993. Increased harvest, recreational use, and participation are anticipated. Minor impacts on spawning population of hatchery fish are expected. Hatchery fish are successfully spawning. There is overwhelming public support to open the lake. The special quality regulations are supported by the U.S. Forest Service and fit into the monument's overall management plans.

Proposal Changes the Following Existing Rules: Closes all inlet and outlet streams. Opens lake to year around season, trout - catch limit -1, min. lgth. 14". Selective fishery regulations, electric motors allowed.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by April 6, 1993.

Date of Intended Adoption: April 16-17, 1993.

February 19, 1993
 Rich Poelker
 Administrative Regulations Officer

NEW SECTION

WAC 232-28-61933 1992-94 Washington game fish seasons and catch limits - Coldwater Lake (Cowlitz/Skamania Co.). Notwithstanding the provisions of WAC 232-28-619, effective July 16, 1993 the following game fish regulations apply to Coldwater Lake.

COLDWATER LAKE: All inlet streams and outlet streams CLOSED WATERS. Year around season. TROUT - catch limit - 1, min. lgth. 14". Selective fishery regulations, except electric motors allowed. NOTE: Limited access available, contact National Volcanic Monument Headquarters for specific information.

WSR 93-06-036
PROPOSED RULES
GAMBLING COMMISSION
 [Filed February 24, 1993, 10:52 a.m.]

Original Notice.

Title of Rule: WAC 230-08-090 Daily records—Card games, 230-30-106 Standards for flares, made by manufacturers, distributors, operators, and 230-30-300 Recall of defective punchboards, pull tabs or pull tab dispensing devices.

Purpose: WAC 230-08-090, simplify record-keeping requirements and cut printing costs; WAC 230-30-106, decrease possibility of manipulation of punchboard and pull tab prizes; and WAC 230-30-300, ensure that distributors and licensees are treated fairly by manufacturers required to recall products.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.0325.

Summary: The increased prize limits for punchboard and pull tab series increases the potential for manipulation. This prize structure would increase the difficulty of such manipulation; and adds provision to rule to ensure that distributors and licensees are treated fairly by manufacturers required to recall products.

Name of Agency Personnel Responsible for Drafting: Sharon M. Tolton, Rules Coordinator, Lacey, 438-7685; Implementation: Frank L. Miller, Director, Lacey, 438-7640; and Enforcement: Neal S. Nunamaker, Deputy Director, Lacey, 438-7690.

Name of Proponent: Washington State Gambling Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: To decrease the possibility of manipulation of punchboard and pull tab series due to increased prize limits; and to ensure that distributors and licensees are treated fairly by manufacturers to recall products.

Proposal Changes the Following Existing Rules: Increases the difficulty of manipulation of punchboard and pull tab series prizes; and to add provisions to the rule

ensuring that distributors and licensees are treated fairly by manufacturers required to recall products.

Small Business Economic Impact Statement: The agency has considered whether this rule change would create an economic impact on small businesses as defined in chapter 19.85 RCW. It has determined that there is no economic impact to small business as a result of these proposals for the following reasons: No cost or expenditure of resources; no affect on industry; and no substantive change in existing regulatory scheme.

Hearing Location: Everett Pacific Hotel, 3105 Pine Street, Everett, WA 98201, (206) 339-3333, on April 16, 1993, at 10:00 a.m.

Submit Written Comments to: Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, by April 14, 1993.

Date of Intended Adoption: April 16, 1993.

February 24, 1993

Sharon M. Tolton

Rules Coordinator

AMENDATORY SECTION (Amending Order 138, filed 11/15/83)

WAC 230-08-090 Daily records—Card games. In addition to any other requirements set forth in these rules, persons licensed to operate card rooms shall be required to prepare a detailed record covering each occasion. This record shall be maintained continuously during hours of operation and updated immediately following the collection of fees during all time periods. The commission shall provide to the licensee a consecutively prenumbered standard format record sheet (~~in three parts~~). This form shall contain the following:

- (1) The date of the occasion;
- (2) The time that the half hour fee was charged;
- (3) The amount of half hour fee charged per table;
- (4) The number of players at each table at half hour intervals to include all nonpaying house players;
- (5) The names and time of play for each nonpaying house player (which may only include licensed card room employees and the licensee);
- (6) The amount of fees collected at each table each half hour;
- (7) The cumulative gross amount received from fees collected on each occasion and in total;
- (8) A reconciliation of chips and cash on a daily basis; and
- (9) A printed name, signature, and hours worked of the person who was responsible for the collection of fees.

All detailed record sheets issued to a licensee shall be numerically accounted for, and (~~the original of each three part record~~) shall be maintained on the premises for a period of not less than three years from the date of the occasion which it records. An "occasion" for card rooms shall be defined as 20 hours beginning at 6:00 a.m. one day and running continuously through 2:00 a.m. the following day.

AMENDATORY SECTION (Amending Order 192, filed 5/16/89)

WAC 230-30-106 Standards for flares, made by manufacturers, distributors, operators. (1) Except as set forth in paragraph (2) below, the flare advertising prizes available from the operation of any punchboard, or any series of pull tabs shall be made by the manufacturer only, winning numbers or symbols shall not be altered by any operator or distributor, and shall:

(a) Be placed only upon the upper face, or on the top, of any such punchboard or any device used to dispense the pull tabs; and

(b) Clearly set out each of the prizes available and the number or symbol which wins prizes; and

(c) Set out the winning numbers or symbols for prizes of five dollars or more in cash, or merchandise worth five dollars or more at retail, in such a manner that each may be easily and clearly deleted or marked off as each prize is won and awarded. For the purposes of this subsection the retail value of a merchandise prize shall be the amount actually paid ~~((therefore))~~ by the licensed operator plus 50 percent of that actual cost.

(2) Substitute flares

(a) Distributors may make and apply substitute flares to punchboards and pull tab series provided that the conditions set forth in (c) below are satisfied;

(b) Licensed operators may make and use substitute flares on punchboards and pull tab series which offer merchandise or combination merchandise-cash prizes provided that the conditions set forth in (c) below are satisfied;

(c) Use of substitute flares:

(i) The substitute flare must comply with the requirements of (1)(a), (b) and (c) of this section;

(ii) Substitute flares must meet the requirements of WAC 230-30-015;

(iii) The winning numbers or symbols on the substitute flare are selected from the winning numbers or symbols on the flare made by the manufacturer, or from the optional numbers placed on the back of the board by the manufacturer. Provided flares and games which offer merchandise, or combination merchandise/cash prizes, in excess of \$100.00 actual costs, must utilize numbers, not symbols to denote winners. Prizes must be assigned to the winning numbers consecutively starting with the highest value prize being assigned the lowest available winning number; and

(iv) The substitute flare is stapled to the manufacturer's flare and the manufacturer's flare is defaced so that it is unusable, but the identification and inspection services stamp is readable and visible.

(3) Spindle-type pull tab series when played in the manner set out in WAC 230-30-070~~((&))~~ (9) are exempt from this section.

AMENDATORY SECTION (Amending Order 175, filed 3/15/88)

WAC 230-30-300 Recall of defective punchboards, pull tabs or pull tab dispensing devices. (1) Upon a determination that punchboards, pull tabs or pull tab dispensing devices for sale in Washington do not meet commission standards, the director may order all defective products and

all similarly constructed or printed products be recalled by the manufacturer(s).

(2) If the director orders such a recall, the manufacturer of the product shall be immediately notified regarding the items to be recalled, reason for the recall, effective date of the recall, and any other specific requirements. The verbal notification shall be followed with a written notification. Immediately upon the oral notification, manufacturers shall cease sale in the state and initiate actions to ensure complete compliance with the recall. Manufacturers will notify all distributors within 72 hours of the items recalled, effective date of recall, and arrange for the prompt return of the defective items. Distributors, when notified in writing by either manufacturer or commission of the recall, shall immediately stop sales and/or delivery of the product.

(3) The commission shall notify, in writing, each licensed distributor of gambling paraphernalia of the recall, effective dates thereof, the products involved, and of any special instructions if applicable. ~~((Within 72 hours, the distributor shall notify the Commission of the name and addresses of operators who have purchased the recalled item(s) during the last 30 days.~~

~~((4))~~ (4) ~~When the distributors have provided the names of the operators,)~~ The commission shall then notify, in writing, each ~~((affected))~~ licensed operator as to the items recalled, effective date and special instructions, if applicable. Operators shall not utilize any defective punchboards, pull tabs or pull tab dispensing devices after receiving written notification from the commission.

~~((5))~~ (4) Prior to any reintroduction in the state of any recalled or similar item, the manufacturer must first submit the revised or reworked item to the commission for review, evaluation and approval. The manufacturer will be notified in writing, of the approval or disapproval and a copy of the approving letter will be sent by the manufacturer to the distributor with the next five shipments of the reworked item.

(5) Manufacturers shall reimburse distributors the actual cost paid by the distributor for each punchboard, pull tab series or pull tab dispensing device recalled by order of the director. Manufacturers of recalled punchboards, pull tab series or pull tab dispensing devices shall compensate distributors for time and expenses incurred during a recall. Such compensation shall not exceed fifty cents per punchboard or pull tab series actually returned by the distributor to the manufacturer or, twenty-five dollars per pull tab dispensing device.

WSR 93-06-040
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Filed February 24, 1993, 1:04 p.m.]

Original Notice.

Title of Rule: WAC 388-95-310 Fraternal, religious, or benevolent nursing facility.

Purpose: This proposed rule will provide eligibility for medical programs of persons living in nursing facilities operated by fraternal, religious, or benevolent organizations.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Provide rules to field for clients in a nursing facility operated by a religious, fraternal, or benevolent organization.

Reasons Supporting Proposal: Chapter 388-34 WAC is repealed in its entirety with the exception of this new section identified as WAC 388-95-310. All information under chapter 388-34 WAC is obsolete or can be found in other areas of the rules.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on April 6, 1993, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Mailstop 5805, Department of Social and Health Services, Olympia, 98504, FAX 664-0118 or SCAN 366-0118, by April 5, 1993.

Date of Intended Adoption: April 7, 1993.

February 24, 1993

Rosemary Carr

Acting Director

Administrative Services

NEW SECTION

WAC 388-95-310 Fraternal, religious, or benevolent nursing facility. (1) The department shall find an otherwise eligible client, residing in a nursing facility operated by a fraternal, religious, or benevolent organization:

- (a) Eligible for medical care when:
 - (i) The facility is licensed as a nursing facility; and
 - (ii) The contract between the client and the nursing facility excludes institutional and/or medical care; or
 - (iii) The nursing facility is unable to fulfill the terms of the contract and has:
 - (A) Voided the contract; and
 - (B) Refunded to the client any existing assets of the client.
- (b) Ineligible for institutional and/or medical care when a contract between the client and the facility includes institutional and/or medical care.

- (2) The department shall consider available to the client all assets of a fraternal, religious, or benevolent organization when the client:
 - (a) Signs a contract with the organization that includes institutional and/or medical care for the life of the client; and
 - (b) Surrenders income and/or resources to the organization in exchange for such care.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-34-010 Institutional living arrangements.
- WAC 388-34-015 Definitions.
- WAC 388-34-020 Eligibility conditions.
- WAC 388-34-025 Eligibility conditions—Eligibility for AFDC—Child or needy relative temporarily in institution.
- WAC 388-34-035 Skilled nursing home care.
- WAC 388-34-040 Skilled nursing home care—Application.
- WAC 388-34-045 Skilled nursing home care—Cost standards for requirements.
- WAC 388-34-055 Skilled nursing home care—Authorization and payment.
- WAC 388-34-085 Public nursing home—Definition—Grant requirements.
- WAC 388-34-095 Fraternal, religious, or benevolent home.
- WAC 388-34-110 General hospital—Grants requirements.
- WAC 388-34-120 Tuberculosis hospital—Grant requirements.
- WAC 388-34-125 Psychiatric hospital (JCAH approved)—Standards for requirements.
- WAC 388-34-140 Maternity services.
- WAC 388-34-150 Other homes.
- WAC 388-34-160 Grant change—Admittance to institution other than nursing home.
- WAC 388-34-165 Grant change—Discharge from institution other than licensed nursing home.
- WAC 388-34-180 Notification of grant authorization and change in grant.
- WAC 388-34-370 Intermediate care—Eligibility conditions.
- WAC 388-34-372 Intermediate care—Determination of need for intermediate care.
- WAC 388-34-374 Intermediate care—Placement of recipient.
- WAC 388-34-375 Intermediate care—Absence for social reasons.
- WAC 388-34-376 Intermediate care—Services to be provided by operator.
- WAC 388-34-378 Intermediate care—Grant requirements—Procedures.
- WAC 388-34-380 Intermediate care—Payment procedures—Operator's responsibility.
- WAC 388-34-384 Intermediate care—Application to provide intermediate care.

PROPOSED

WSR 93-06-045
WITHDRAWAL OF PROPOSED RULES
CENTRAL PUGET SOUND
GROWTH PLANNING HEARINGS BOARD

[Filed February 25, 1993, 9:07 a.m.]

This letter is to confirm the withdrawal of the proposed adoption of WAC 242-02-562 in the Growth Planning Hearings Boards' rules of practice and procedure.

WAC 242-02-562 was filed in the boards' permanent rules as WAC 242-02-560, and was adopted on October 14, 1992, in WSR 92-21-034.

M. Peter Philley
 Rule Drafter

WSR 93-06-048
PROPOSED RULES
DEPARTMENT OF
SERVICES FOR THE BLIND

[Filed February 25, 1993, 3:50 p.m.]

Original Notice.

Title of Rule: WAC 67-35-040 Eligibility, 67-35-050 Licensee—Former or current out-of-state, and 67-35-056 Challenge test licensee.

Purpose: Revise/peel for consistency with training WAC and policy.

Statutory Authority for Adoption: Chapter 74.18 RCW.

Summary: WAC 67-35-040 is being revised to be consistent with the new training WAC and policy; and WAC 67-35-050 and 67-35-056 are being repealed as they are inconsistent with the new training WAC and policy.

Name of Agency Personnel Responsible for Drafting: Jim Fischer, Olympia, 586-0277; Implementation and Enforcement: Bonnie Jindra, Olympia, 586-0275.

Name of Proponent: Department of Services for the Blind, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Rule is being revised to coincide with the modified vendor training program in an attempt to improve training of new food services managers and enable them to operate their facilities successfully. The program expects future operations in large facilities, and it would be steps closer to success if the food services managers in charge are experienced and well-trained.

Proposal Changes the Following Existing Rules: The existing rules specified time frame requirements to be met in order to be eligible to become a blind licensee. This change will allow flexibility to individuals in gaining the work experience and the education needed.

Hearing Location: Services for the Blind, 521 East Legion Way, Olympia, WA 98504-0933, on April 8, 1993, at 9:00 a.m.

Submit Written Comments to: Bonnie Jindra, P.O. Box 40933, Olympia, WA 98504-0933, by March 25, 1993.

Date of Intended Adoption: April 12, 1993.
 February 25, 1993
 Bonnie Jindra
 Assistant Director

AMENDATORY SECTION (Amending Order 84-06, filed 4/16/84)

WAC 67-35-040 Eligibility. To be eligible (~~to enter the program~~) to become a blind licensee, the applicant must meet the following requirements:

- (1) Blind as defined in WAC 67-35-030(2);
- (2) A citizen of the United States;
- (3) Determined eligible for vocational rehabilitation services under 34 CFR, section 361.33;
- (4) Found by a vocational rehabilitation counselor's thorough diagnostic study to possess adequate alternative skills to the use of vision in reading, writing and independent travel;
- (5) Be referred to the business enterprise program by a vocational rehabilitation counselor;
- (6) Receive a passing grade on the business enterprise (~~screening~~) test;
- (7) Successfully complete (~~two on-the-job evaluations at two different vending facilities operated by licensed vendors. Facilities used as on-the-job training sites will be chosen by the vendors committee in conjunction with the business enterprise director. Each on-the-job evaluation will be of two weeks duration;~~
- (8) Successfully complete a vendor training program arranged by the business enterprise director or meet the requirements set forth in WAC 67-35-055, or meet the requirements set forth in WAC 67-35-056) a vendor training program arranged by the business enterprise staff.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 67-35-055 Licensee—Former or current out-of-state.
- WAC 67-35-056 Challenge test licensee.

WSR 93-06-050
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Order 93-06—Filed February 26, 1993, 11:09 a.m.]

Original Notice.

Title of Rule: WAC 173-19-4203 City of Olympia shoreline master program.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Other Identifying Information: Urban waterfront plan.
 Statutory Authority for Adoption: RCW 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: The amendment revises the shoreline master program for the city of Olympia.

Reasons Supporting Proposal: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Shoreline Management Act and the Administrative Procedure Act.

Name of Agency Personnel Responsible for Drafting: Peter Skowlund, Washington Department of Ecology, Box 47692, Olympia, 98504-7692, (206) 438-7430; Implementation and Enforcement: D. Rodney Mack, Box 47600, Olympia, 98504-7600, 459-6777.

Name of Proponent: Department of Ecology, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The urban waterfront plan contains policies and regulations that specify where and under what conditions over-the-water development can occur on urban Budd Inlet. This special area management plan is intended to provide a vision and framework to evaluate and balance the health and viability of marine habitat in Budd Inlet to protect water quality, to allow water-dependant uses and public access to the shoreline, to retain the open-space of water, and to protect views. To achieve this intent, the special area management plan provides policies and regulations for the entire area regulated and additional policies and regulations for smaller areas of the waterfront which respond to specific conditions in these areas.

Proposal Changes the Following Existing Rules: This amends chapter 173-19 WAC, Shoreline Management Act of 1971, state master program.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Thurston Regional Planning Conference Room, 2404-B Heritage Court S.W., Second Floor, Olympia, Washington, on April 6, 1993, at 7:00 p.m.

Submit Written Comments to: Master Program Coordinator, Washington State Department of Ecology, Shorelands and Coastal Zone Management Program, P.O. Box 47600, Olympia, WA 98504-7600, by April 13, 1993.

Date of Intended Adoption: May 18, 1993.

February 25, 1993

Mary Riveland
Director

AMENDATORY SECTION (Amending Order 90-07, filed 5/16/90, effective 6/16/90)

WAC 173-19-4203 Olympia, city of. City of Olympia master program approved May 21, 1976. Revision approved March 29, 1984. Revision approved April 30, 1984. Revision approved August 30, 1984. Revision approved September 29, 1987. Revision approved May 15, 1990. Revision approved May 19, 1993.

WSR 93-06-051

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 93-07—Filed February 26, 1993, 11:14 a.m.]

Original Notice.

Title of Rule: WAC 173-19-3911 City of Mountlake Terrace shoreline master program.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority for Adoption: RCW 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: Amend and adopt the Snohomish County master plan so that it is applicable for the city; selective text amendment to allow golf courses in the conservancy environment subject to a conditional use permit.

Reasons Supporting Proposal: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Shoreline Management Act and the Administrative Procedure Act.

Name of Agency Personnel Responsible for Drafting: Barry Wenger, Washington Department of Ecology, 3190 160th Avenue S.E., Bellevue, WA 98008, (206) 649-7244; Implementation and Enforcement: D. Rodney Mack, Box 47600, Olympia, 98504-7600, 459-6777.

Name of Proponent: Department of Ecology, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The first general category of this amendment is to adopt the current Snohomish County master program for the city of Mountlake Terrace. This is intended to update to city's master program which has not been updated the initial adoption in 1976. Several amendments are required to make the Snohomish plan appropriate for use by the city. These changes are noted in the text. One amendment is intended to allow golf courses in the conservancy environment subject to a conditional use permit.

Proposal Changes the Following Existing Rules: This amends chapter 173-19 WAC, Shoreline Management Act of 1971, state master program.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Mountlake Terrace Civic Center, City Council Chambers, 23204 58th Avenue West, Mountlake Terrace, WA 98403, on April 13, 1993, at 7:00 p.m.

Submit Written Comments to: Master Program Coordinator, Washington State Department of Ecology, Shorelands and Coastal Zone Management Program, P.O. Box 47600, Olympia, WA 98504-7600, by April 20, 1993.

Date of Intended Adoption: May 18, 1993.

February 25, 1993

Mary Riveland
Director

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-3911 Mountlake Terrace, city of. City of Mountlake Terrace master program approved December 27, 1974. Revision approved May 19, 1993.

WSR 93-06-052
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed February 26, 1993, 2:10 p.m.]

Original Notice.

Title of Rule: WAC 296-116-082 Limitations on new pilots.

Purpose: To make the emergency rule permanent amending the experience limitations for newly licensed pilots in the Grays Harbor pilotage district.

Statutory Authority for Adoption: RCW 88.16.035 and 88.16.105.

Statute Being Implemented: RCW 88.16.035 and 88.16.105.

Summary: The progression of Grays Harbor's first state-mandated training program has shown a necessity to alter the experience limitations that are imposed during a pilot's first license year. It has been revealed, through the training program, that vessels which are loaded, or partially loaded, present greater maneuvering difficulties, to a novice pilot transiting the Chehalis River bridge constrictions, than those which are in ballast, irrespective of length. The proposed amendment addresses these issues.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Pilotage Commissioners, Pier 52, Seattle, 464-7818.

Name of Proponent: Grays Harbor Bar Pilots, private.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule provides for a five-year schedule of license limitations for newly licensed pilots and a corresponding method of removing each year's limitations through a program of familiarization/training trips required upon the expiration of each of these license years. The limitations apply to type, size, and tonnage of vessels.

Proposal Changes the Following Existing Rules: The limitations are tightened during a pilot's first year of active piloting. Modifications are made to the corresponding familiarization-training trip requirements.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Eikum Conference Room, 801 Alaskan Way, Pier 52, Seattle, WA 98104, on April 8, 1993, at 9:00 a.m.

Submit Written Comments to: Thomas F. Heinan, Chairman, 801 Alaskan Way, Seattle, WA 98104-1487, by April 1, 1993.

Date of Intended Adoption: April 8, 1993.

February 26, 1993

Susan Jensen

Assistant Attorney General

[AMENDATORY SECTION (Amending WSR 92-24-056, filed 11/30/92)]

WAC 296-116-082 Limitations on new pilots (1) The following limitations shall apply to a newly licensed pilot during his/her first five years of active service. Except where otherwise noted, the pilotage assignment may include docking and undocking of vessels within the tonnage

limitations. All tonnages referred to are international tonnages.

(2) Progressive lifting of tonnage limitations requires a newly licensed pilot to satisfactorily complete the familiarization/training trips listed under the supervision of a five-year pilot. This veteran pilot shall complete and submit an evaluation form for each trip a new pilot performs. All of these trips must, if practical, be completed during the last ninety days of the license year.

(3) Puget Sound Pilotage District - License limitations.

(a) First year:

(i) Not authorized to pilot loaded petroleum tankers.

(ii) Not authorized to pilot any vessels in excess of 25,000 gt or 660' in length or any passenger vessels in excess of 5,000 gt.

(b) Second year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 25,000 gt.

(ii) Not authorized to pilot any vessels in excess of 30,000 gt.

(c) Third year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 32,000 gt.

(ii) Not authorized to pilot any vessels in excess of 45,000 gt.

(d) Fourth year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 32,000 gt.

(ii) Not authorized to pilot any vessels in excess of 60,000 gt.

(e) Fifth year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 45,000 gt.

(ii) Not authorized to pilot any vessels in excess of 75,000 gt.

(4) Puget Sound Pilotage District - Familiarization/training trips.

(a) Prior to the expiration of the FIRST license year, a new pilot must make three familiarization/training trips, two of which shall involve docking loaded petroleum tankers of not more than 25,000 gt; and the third trip shall involve a bridge and waterway transit of a vessel between 25,000 and 35,000 gt.

(b) Prior to the expiration of the SECOND license year, a new pilot must make three familiarization/training trips, two of which shall involve docking loaded petroleum tankers between 25,000 and 32,000 gt; and the third trip shall involve the anchoring of a vessel between 30,000 and 45,000 gt.

(c) Prior to the expiration of the THIRD license year, a new pilot must make two familiarization/training trips which shall involve the docking of vessels between 45,000 and 55,000 gt other than loaded petroleum tankers.

(d) Prior to the expiration of the FOURTH license year, a new pilot must make three familiarization/training trips which shall involve docking loaded petroleum tankers of between 32,000 and 45,000 gt.

(e) Prior to the expiration of the FIFTH license year, a new pilot must make three familiarization/training trips which shall involve two trips docking and one trip anchoring loaded petroleum tankers of 55,000 gt or larger.

(5) Grays Harbor Pilotage District - License limitations.

- (a) First year:
- (i) Not authorized to pilot loaded tankers or barges carrying chemical or petroleum products.
- (ii) Not authorized to pilot any vessels in excess of 17,500 gt.
- (iii) Not authorized to pilot loaded or partially loaded vessels (~~in excess of 550' in length~~) through the Chehalis River bridges.
- (b) Second year:
- (i) Not authorized to pilot loaded tankers or barges carrying chemical or petroleum products in excess of 10,000 gt.
- (ii) Not authorized to pilot any vessels in excess of 20,000 gt.
- (c) Third year: Not authorized to pilot any vessels in excess of 22,500 gt.
- (d) Fourth year: Not authorized to pilot any vessels in excess of 25,000 gt.
- (e) Fifth year: Not authorized to pilot any vessels in excess of 27,500 gt.
- (6) Grays Harbor Pilotage District - Familiarization/training trips.
- (a) Prior to the expiration of the FIRST license year, a new pilot must make (~~four~~) ten familiarization/training trips. (~~Two~~) Eight of these trips shall be through the Chehalis River bridges on loaded or partially loaded vessels (~~in excess of 550' in length~~). The other trips may be elsewhere on the waterway but shall be on vessels in excess of 17,500 gt.
- (b) Prior to the expiration of the SECOND license year, a new pilot must make three familiarization/training trips on vessels in excess of 20,000 gt. Two of these trips shall involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway.
- (c) Prior to the expiration of the THIRD license year, a new pilot must make three familiarization/training trips on vessels in excess of 25,000 gt to or from the sea buoy. Two of these trips shall involve docking these vessels.
- (d) Prior to the expiration of the FOURTH license year, a new pilot must make three familiarization/training trips on vessels in excess of 27,500 gt or on the nearest larger size vessels available. Two of these trips shall involve docking these vessels; and one of these trips shall involve turning the vessel in the waterway.
- (e) Prior to the expiration of the FIFTH license year, a new pilot must make three familiarization/training trips on vessels in excess of 30,000 gt or on the nearest larger size vessels available.
- (7) The initial license shall contain the limitations contained above and list the date of commencement and expiration of such periods. If a newly licensed pilot is unable to pilot for forty-five days or more in any one of the five years, he shall notify the Board and request a revised schedule of limitations.
- (8) No pilot shall be dispatched to, or accept an assignment on, any vessel which exceeds the limitations of his/her license. On vessels in which there is more than one pilot assigned, the license limitations shall apply only to the pilot in charge.
- (9) All limitations on a new pilot's license shall be lifted at the beginning of the sixth year of piloting provided he/she has submitted to the Board a statement attesting to the

fact that he/she has completed all the required familiarization/training requirements and the vessel simulator courses required.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 93-06-054
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed February 26, 1993, 3:02 p.m.]

Original Notice.

Title of Rule: WAC 388-92-036 SSI-Related income exemption.

Purpose: Adds EITC, crime victim's compensation, Agent Orange settlement, German restitution, radiation exposure and Austrian social insurance funds as SSI-related income exemptions. Clarifies language.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: The amendment to WAC 388-92-036 adds SSI-related income exemptions, including EITC, crime victim's compensation, Agent Orange settlement, German restitution, radiation exposure and Austrian social insurance funds. Clarifies language. Deletes redundant language.

Reasons Supporting Proposal: Complies with federal requirements.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, POMS 830.660, 830.710, 830.715, 830.730, 830.740 and Federal Register change to CFR 20 Part 416.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on April 6, 1993, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Mailstop 5805, Department of Social and Health Services, Olympia, 98504, FAX 664-0118 or SCAN 366-0118, by April 2, 1993.

Date of Intended Adoption: April 7, 1993.

February 26, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 2907, filed 12/1/89, effective 1/1/90)

WAC 388-92-036 SSI-related income (~~exclusions~~) exemptions. (1) The department shall (~~exclude the following from income in the order listed~~) exempt:

(a) Any (~~amount a client receives from any~~) public (~~agency as a return of~~) agency's refund of taxes paid on real property or on food (~~purchase by such client or spouse~~);

(b) State public assistance and supplemental security income (SSI) based on financial need;

(c) Any portion of (~~any~~) a grant, scholarship, or fellowship (~~received by a client for use in paying the cost of~~) used to pay tuition (~~and~~), fees, or other necessary educational expenses at (~~any~~) an educational institution;

(d) Income (~~that~~) a client does not reasonably anticipate, or (~~may~~) receives infrequently or irregularly, (~~and~~) when such income does not exceed twenty dollars per month if unearned, or ten dollars per month if earned;

(e) Any amount(~~s~~) a client receives for the foster care of a child who lives in the same household, if the child is not SSI-eligible and was placed in such home by a public or nonprofit private child-placement or child-care agency;

(f) One-third of any payment for child support (~~an individual~~) a parent receives from an absent parent for a minor child who is not institutionalized;

(g) The first twenty dollars per month of earned or unearned income, not otherwise excluded in subsection (1)(a) through (f) of this section, for a client at home. The department shall consider the (~~exclusion~~) exemption only once for a husband and wife. The department shall apply no (~~exclusion~~) such exemption on income paid on the basis of an eligible (~~individual~~) person's needs, (~~such as VA pension and cash from private charitable organizations~~) which is totally or partially funded by the federal government or a private agency;

(h) Tax exempt payments Alaska natives receive under the Alaska Native Claims Settlement Act;

(i) Tax rebates or special payments (~~excluded~~) exempted by other statutes(~~—When necessary, the department shall publicize these exclusions~~);

(j) Compensation provided to volunteers in ACTION programs established by (~~Public Law~~) P.L. 93-113, the Domestic Volunteer Service Act of 1973;

(k) An amount to meet (~~the needs of~~) an ineligible minor child's needs residing in the household of an SSI (~~applicant~~) or SSI-related client. The (~~exclusion~~) exemption is (~~the difference between the SSI couple cash benefit and the SSI individual cash benefit~~) one-half of the one-person Federal Benefit Rate (FBR) less any income of the child;

(l) (~~The following portions of~~) Veteran's benefits designated for the veteran's:

(i) (~~The veteran's~~) Dependent; or

(ii) Aid and attendance/housebound allowance. For an institutionalized client(~~s~~), (~~the department shall consider~~

~~the amount subsequently in the cost of the client's institutional care; and~~

(ii) ~~The portion attributable to the veteran's dependent~~) see WAC 388-95-340(6).

(m) Title II Social Security Administration benefits. The department shall:

(i) (~~The department shall~~) Determine current client eligibility for categorically needy medical assistance under WAC 388-82-115(4), including all Title II cost of living adjustment (COLA) benefit increases received by the:

(A) (~~By the~~) Client since termination from SSI/SSP; or

(B) (~~By the~~) Client's spouse and/or other financially responsible family member living in the same household during the time period under subsection (m)(i) of this section; and

(ii) (~~The department shall~~) Consider the total of the COLA benefit increases and the Title II Social Security Administration benefits in the cost of the institutionalized client's care.

(n) A (~~reimbursable~~) fee a guardian charges as reimbursement for providing services (~~provided~~);

(o) Income an ineligible or nonapplying spouse receives from a governmental agency for services provided to an eligible client (~~e.g.~~) such as chore services(~~?~~);

(p) Certain cash payments a client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(q) Restitution payment to a civilian of Japanese or Aleut ancestry under P.L. 100-383 and any interest earned from such payment;

(r) The amount of the expenses directly related to a client's impairment that allows the permanently and totally disabled client to continue to work;

(s) The amount of the blindness-related work expenses of a blind client; (~~and~~)

(t) Interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become part of the separately identified burial funds set aside on or after November 1, 1982;

(u) Earned income tax credit (EITC);

(v) Crime victim's compensation funds;

(w) Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P. L. 101-201;

(x) Payments to certain survivors of the Holocaust under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution or German Restitution Act. Interest earned on this income is not exempt;

(y) Payments to the injured person, the surviving spouse, children, grandchildren, or grandparents under the Radiation Exposure Compensation Act; and

(z) Payments under section 500 through 506 of the Austrian General Social Insurance Act. The department shall consider the earned interest from such payments as countable income.

(2) (~~Unless income is contributed to the applicant, the department shall exclude all earned income of an ineligible or nonapplying individual twenty years of age and under who is a student regularly attending a school, college or~~

university, or pursuing a vocational or technical training designed to prepare the student for gainful employment.

(3)) For the SSI-related ((individual)) client, the department shall exclude the first sixty-five dollars per month of earned income not excluded according to subsection (1) of this section, plus one-half of the remainder.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 93-06-056
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed February 26, 1993, 4:21 p.m.]

Original Notice.

Title of Rule: Water rules, Docket No. UW-921211, amending WAC 480-110-176 relating to filing of records and reports, and preservation of records; and adopting WAC 480-110-023 relating to average customer revenue jurisdictional threshold for water companies.

Purpose: See Explanation of Rule below.

Statutory Authority for Adoption: RCW 80.01.040.

Statute Being Implemented: RCW 80.04.010.

Summary: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul Curl, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA, (206) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: No comments or recommendations are submitted because the proposal is pursuant to legislative authorization in RCW 80.01.040.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendment will revise the date of the NARUC publication that the section adopts by reference regarding the preservation of records by regulated electric, gas and water utilities. It also updates the definition of the acronym NARUC and specifies where copies of the adopted document may be viewed and obtained. The proposed new section will implement RCW 80.04.010, allowing the commission to revise its jurisdictional revenue threshold for water companies, and will revise the average customer revenue threshold for jurisdictional purposes to \$379.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The proposal has no adverse economic effect on industry.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park

Drive S.W., Olympia, WA 98503, on April 21, 1993, at 9:00 a.m.

Submit Written Comments to: Paul Curl, Secretary, P.O. Box 47250, Olympia, WA 98503-7250, by April 2, 1993.

Date of Intended Adoption: April 21, 1993.

February 26, 1993

Paul Curl
Secretary

NEW SECTION

WAC 480-110-023 Average customer revenue jurisdictional threshold. (1) Pursuant to RCW 80.04.010, the commission may increase annually the jurisdictional revenue threshold pertaining to water companies by reflecting the rate of inflation as determined by the implicit price deflator of the United States Department of Commerce.

(2) Calculated as specified in subsection (1) of this section, the average customer revenue jurisdictional threshold for water companies beginning on the effective date of this section is three hundred seventy-nine dollars.

AMENDATORY SECTION (Amending Order R-64, filed 2/13/74)

WAC 480-110-176 Filing of records and reports and the preservation of records. (1) All records and reports required by these rules shall be retained on file in the office of the utility at which such records and reports were made, or in such other place as may be especially approved by the commission, for such time as is specifically provided in paragraph (2) of this section, or where no time is specified, for a period of three years.

(2) *The Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities, Revised ((1963)) 1984* published by the National Association of ((Railroad and Utilities)) Regulatory Utility Commissioners (NARUC) is hereby prescribed as the requirement for the preservation of records of water companies in the state of Washington. The document is available for public inspection at the commission branch of the Washington state library, housed with the commission's headquarters office. The commission secretary will provide a copy of the document on request, subject to any pertinent charge.

(3) No records shall be destroyed prior to the expiration of ((such)) the time ((or period)) specified in paragraphs (1) and (2) of this section, except by prior written permission of the commission.

WSR 93-06-057
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed March 1, 1993, 1:05 p.m.]

Original Notice.

Title of Rule: WAC 232-28-61935 1992-94 Washington game fish seasons and catch limits—Green River (Region 4).

Purpose: Extend the emergency regulation that protects wild winter steelhead trout on the Green River.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: The regulation will extend to June 14, 1993, the emergency winter steelhead regulation adopted on January 13, 1993. The current emergency regulation expires May 13, 1993.

Reasons Supporting Proposal: The March 1, 1993, through June 14, 1993, closure to fishing for all game fish will eliminate hooking mortality on wild steelhead and will facilitate enforcement for protection of the stock. The extension will allow as many steelhead as possible to escape.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, A.D., Fisheries Management, Olympia, (206) 753-2895; and **Enforcement:** Tony de la Torre, A.D., Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The regulation extension will continue the Green River closure from May 13, 1993, to June 14, 1993. The extension will close the entire Green River to all fishing for game fish and thus eliminate hooking mortality on wild steelhead and allow as many steelhead as possible to escape.

Proposal Changes the Following Existing Rules: Extends emergency closure.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m. [a.m.]

Submit Written Comments to: Richard J. Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by April 6, 1993.

Date of Intended Adoption: April 16-17, 1993.

March 1, 1993
Richard J. Poelker
Administrative Regulations Officer

NEW SECTION

WAC 232-28-61935 1992-94 Washington game fish seasons and catch limits - Green River (Region 4). Notwithstanding the provisions of WAC 232-28-619, the game fish season for the Green River is as follows:

GREEN (DUWAMISH) RIVER: CLOSED to fishing for all game fish, March 1, 1993 - June 14, 1993.

All other provisions of the Green River regulations remain unchanged and in effect as provided in WAC 232-28-619.

**WSR 93-06-058
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed March 1, 1993, 1:11 p.m.]**

Original Notice.

Title of Rule: Amending WAC 232-28-228 1991-92, 1992-93, 1993-94 Official hunting hours and small game seasons.

Purpose: To amend WAC 232-28-228 1991-92, 1992-93, 1993-94 Official hunting hours and small game seasons. **Statutory Authority for Adoption:** RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This amendment will modify the 1993-94 small game seasons. The changes involve steelshot requirements on pheasant release sites and a boundary modification for the early September Canada goose season. This WAC will establish the requirements for a Western Washington pheasant and quail punch card.

Reasons Supporting Proposal: Within small game hunting seasons, advises hunters of the proper time, place, and manner for hunting.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, AD, Wildlife Management Division, Olympia, (206) 753-5728; and **Enforcement:** Tony de la Torre, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Amends the time, place, and manner for public hunting opportunities of small game in Washington.

Proposal Changes the Following Existing Rules: Modification of seasons.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by April 5, 1993.

Date of Intended Adoption: April 16-17, 1993.

March 1, 1993
Richard J. Poelker
Administrative Rules Officer

AMENDATORY SECTION (Amending Order 549, filed 6/1/92)

WAC 232-28-228 1991-92, 1992-93, and 1993-94 Official hunting hours and small game seasons

1991-92 OFFICIAL HUNTING HOURS*
September 1, 1991 to January 31, 1992

Dates (Inclusive)	Western Washington		Eastern Washington	
	A.M. to	P.M.	A.M. to	P.M.
	Daylight Savings Time			
Sun. Sept. 1 -				
Sun. Sept. 8	6:00	7:45	5:45	7:30
Mon. Sept. 9 -				
Sun. Sept. 15	6:10	7:30	6:00	7:15
Mon. Sept. 16 -				
Sun. Sept. 22	6:20	7:15	6:10	7:00
Mon. Sept. 23 -				
Sun. Sept. 29	6:30	7:00	6:20	6:45
Mon. Sept. 30 -				
Sun. Oct. 6	6:40	6:45	6:30	6:35
Mon. Oct. 7 -				
Fri. Oct. 11	6:50	6:30	6:40	6:20

PROPOSED

Opening** Weekend				
Sat. Oct. 12	7:00	6:20	6:50	6:05
Sun. Oct. 13	7:00	6:20	6:50	6:05
Mon. Oct. 14 -				
Sun. Oct. 20	7:00	6:20	6:50	6:05
Mon. Oct. 21 -				
Sat. Oct. 26	7:10	6:05	7:00	5:55
Pacific Standard Time				
Sun. Oct. 27	6:10	5:05	6:00	4:55
Mon. Oct. 28 -				
Sun. Nov. 3	6:20	4:55	6:10	4:50
Mon. Nov. 4 -				
Sun. Nov. 10	6:30	4:45	6:20	4:30
Mon. Nov. 11 -				
Sun. Nov. 17	6:40	4:35	6:30	4:20
Mon. Nov. 18 -				
Sun. Nov. 24	6:50	4:25	6:40	4:15
Mon. Nov. 25 -				
Sun. Dec. 1	7:00	4:20	6:50	4:10
Mon. Dec. 2 -				
Sun. Dec. 8	7:10	4:20	7:00	4:10
Mon. Dec. 9 -				
Sun. Dec. 15	7:15	4:20	7:05	4:10
Mon. Dec. 16 -				
Sun. Dec. 22	7:20	4:20	7:10	4:10
Mon. Dec. 23 -				
Sun. Dec. 29	7:25	4:25	7:10	4:15
Mon. Dec. 30 -				
Sun. Jan. 5	7:25	4:30	7:15	4:15
Mon. Jan. 6 -				
Sun. Jan. 12	7:25	4:35	7:15	4:25
Mon. Jan. 13 -				
Sun. Jan. 19	7:20	4:45	7:10	4:35
Mon. Jan. 20 -				
Sun. Jan. 26	7:15	4:55	7:05	4:45
Mon. Jan. 27 -				
Fri. Jan. 31	7:10	5:00	7:00	4:50

* These are lawful hunting hours for all game animals and game birds during established seasons.

** Opening Day - In Eastern Washington, upland bird and waterfowl seasons open at noon. In Western Washington, upland bird and waterfowl seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Before September 1 and after January 31, the lawful hunting hours for all game animals and game birds during their respective hunting seasons are one-half hour before sunrise to sunset.
- 4) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to sunset.
- 5) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

1992-93 OFFICIAL HUNTING HOURS*
September 1, 1992 to January 31, 1993

Dates (Inclusive)	Western Washington		Eastern Washington	
	A.M. to	P.M.	A.M. to	P.M.
Daylight Savings Time				
Tue. Sept. 1 -				
Sun. Sept. 6	6:00	7:45	5:50	7:35
Mon. Sept. 7 -				
Sun. Sept. 13	6:10	7:35	6:00	7:20
Mon. Sept. 14 -				
Sun. Sept. 20	6:20	7:20	6:05	7:05
Mon. Sept. 21 -				
Sun. Sept. 27	6:30	7:05	6:15	6:50
Mon. Sept. 28 -				
Sun. Oct. 4	6:40	6:50	6:25	6:35
Mon. Oct. 5 -				
Sun. Oct. 11	6:45	6:35	6:25	6:25
Mon. Oct. 12 -				
Fri. Oct. 16	6:55	6:20	6:45	6:10
Opening** Weekend				
Sat. Oct. 17	6:55	6:20	6:35	6:25
Sun. Oct. 18	6:55	6:20	6:35	6:25
Mon. Oct. 19 -				
Sat. Oct. 24	7:05	6:10	6:55	6:00
Pacific Standard Time				
Sun. Oct. 25	6:10	5:00	6:00	4:50
Mon. Oct. 26 -				
Sun. Nov. 1	6:20	4:55	6:05	4:45
Mon. Nov. 2 -				
Sun. Nov. 8	6:30	4:45	6:15	4:35
Mon. Nov. 9 -				
Sun. Nov. 15	6:40	4:35	6:30	4:25
Mon. Nov. 16 -				
Sun. Nov. 22	6:50	4:30	6:40	4:15
Mon. Nov. 23 -				
Sun. Nov. 29	7:00	4:25	6:50	4:10
Mon. Nov. 30 -				
Sun. Dec. 6	7:10	4:20	6:55	4:10
Mon. Dec. 7 -				
Sun. Dec. 13	7:15	4:20	7:05	4:05
Mon. Dec. 14 -				
Sun. Dec. 20	7:20	4:20	7:10	4:10
Mon. Dec. 21 -				
Sun. Dec. 27	7:25	4:20	7:15	4:10
Mon. Dec. 28 -				
Sun. Jan. 3	7:25	4:30	7:15	4:15
Mon. Jan. 4 -				
Sun. Jan. 10	7:25	4:35	7:15	4:25
Mon. Jan. 11 -				
Sun. Jan. 17	7:25	4:45	7:10	4:30
Mon. Jan. 18 -				
Sun. Jan. 24	7:20	4:55	7:05	4:40
Mon. Jan. 25 -				
Sun. Jan. 31	7:10	5:00	7:00	4:50

* These are lawful hunting hours for all game animals and game birds during established seasons.

** Opening Day - In Eastern Washington, upland bird and waterfowl seasons open at noon. In Western Washington, upland bird and waterfowl seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Before September 1 and after January 31, the lawful hunting hours for all game animals and game birds

- during their respective hunting seasons are one-half hour before sunrise to sunset.
- 4) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to sunset.
 - 5) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

1993-94 OFFICIAL HUNTING HOURS*
September 1, 1993 to January 31, 1994

Dates (Inclusive)	Western Washington		Eastern Washington	
	A.M.	P.M.	A.M.	P.M.
Daylight Savings Time				
Wed. Sept. 1 -				
Sun. Sept. 5	6:00	7:45	5:45	7:35
Mon. Sept. 6 -				
Sun. Sept. 12	6:05	7:35	5:50	7:20
Mon. Sept. 13 -				
Sun. Sept. 19	6:15	7:20	6:05	7:10
Mon. Sept. 20 -				
Sun. Sept. 26	6:25	7:10	6:15	6:50
Mon. Sept. 27 -				
Sun. Oct. 3	6:35	6:50	6:25	6:40
Mon. Oct. 4 -				
Sun. Oct. 10	6:45	6:40	6:35	6:25
Mon. Oct. 11 -				
Fri. Oct. 15	6:50	6:25	6:45	6:15
Opening** Weekend				
Sat. Oct. 16	6:50	6:25	6:45	6:15
Sun. Oct. 17	6:50	6:25	6:45	6:15
Mon. Oct. 18 -				
Sun. Oct. 24	7:05	6:15	6:55	6:00
Mon. Oct. 25 -				
Sat. Oct. 30	7:15	6:00	7:05	5:45
Pacific Standard Time				
Sun. Oct. 31 -				
Sun. Nov. 7	6:25	4:45	6:15	4:35
Mon. Nov. 8 -				
Sun. Nov. 14	6:35	4:40	6:25	4:25
Mon. Nov. 15 -				
Sun. Nov. 21	6:50	4:30	6:35	4:20
Mon. Nov. 22 -				
Sun. Nov. 28	7:00	4:25	6:45	4:10
Mon. Nov. 29 -				
Sun. Dec. 5	7:05	4:20	6:50	4:10
Mon. Dec. 6 -				
Sun. Dec. 12	7:10	4:20	7:00	4:05
Mon. Dec. 13 -				
Sun. Dec. 19	7:20	4:20	7:05	4:05
Mon. Dec. 20 -				
Sun. Dec. 26	7:25	4:25	7:10	4:10
Mon. Dec. 27 -				
Sun. Jan. 2	7:30	4:25	7:15	4:15
Mon. Jan. 3 -				
Sun. Jan. 9	7:30	4:35	7:15	4:20
Mon. Jan. 10 -				
Sun. Jan. 16	7:25	4:40	7:10	4:30
Mon. Jan. 17 -				
Sun. Jan. 23	7:20	4:50	7:05	4:45
Mon. Jan. 24 -				
Mon. Jan. 31	7:15	5:00	7:00	4:50

* These are lawful hunting hours for all game animals and game birds during established seasons.

** Opening Day - In Eastern Washington, upland bird and waterfowl seasons open at noon. In Western Washington, upland bird and waterfowl seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Before September 1 and after January 31, the lawful hunting hours for all game animals and game birds during their respective hunting seasons are one-half hour before sunrise to sunset.
- 4) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to sunset.
- 5) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

Bobcat

Bag and Possession Limits: No limit.

Bobcat may be killed during archery deer or elk seasons with archery equipment if valid license and tags are in possession for deer or elk seasons, respectively. Archers may not kill bobcat with use of hounds during early archery seasons.

Bobcat may be killed during muzzleloader deer or elk seasons with muzzleloader equipment if valid license and tags are in possession for deer or elk seasons, respectively. Muzzleloaders may not kill bobcat with use of hounds during early muzzleloader seasons.

Eastern Washington

PURSUIT-ONLY SEASON

(Bobcat may not be killed or injured.)

Sept. 1-30, Nov. 20-Dec. 14, 1991 and Jan. 16-31, 1992; Sept. 1-30, Nov. 25-Dec. 14, 1992 and Jan. 16-31, 1993; Sept. 1-30, Nov. 24-Dec. 14, 1993 and Jan. 16-31, 1994; except closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest Sept. 1-Oct. 11, 1991; Sept. 1-Oct. 16, 1992; and Sept. 1-Oct. 15, 1993.

OPEN SEASON

(Bobcat may be killed)

Oct. 12-31, 1991 and Dec. 15, 1991-Jan. 15, 1992; Oct. 17-31, 1992 and Dec. 15, 1992-Jan. 15, 1993; Oct. 16-31, 1993 and Dec. 15, 1993-Jan. 15, 1994.

Western Washington

PURSUIT-ONLY SEASON

(Bobcat may not be killed or injured.)

Aug. 1-Oct. 11, 1991; Aug. 1-Oct. 16, 1992; Aug. 1-Oct. 15, 1993; except CLOSED in GMU 522.

OPEN SEASON

(Bobcat may be killed.)

Oct. 12, 1991-Mar. 15, 1992; Oct. 17, 1992-March 15, 1993; Oct. 16, 1993-March 15, 1994; except CLOSED in GMU 522.

Hound Hunting During Deer and Elk Hunting Seasons

It is unlawful to hunt any wildlife at night or game animals with dogs (hounds) during the months of September, October, or November in any area open to a center-fire rifle deer or elk season EXCEPT for the following areas and dates. (This does not permit the hunting of deer or elk with the use of hounds.)

Eastern Washington

	<u>1991</u>	<u>1992</u>	<u>1993</u>
GMUs 100-124.	Oct. 2-9	Oct. 7-14	Oct. 6-13
GMUs 127-185.	Nov. 14-21	Nov. 12-19	Nov. 11-18
Yakima County within two (2) miles of the Yakima River below Union Gap.			

Oct. 12-29	Oct. 17- Nov. 3	Oct. 16- Nov. 2
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Whitman and Lincoln counties.

Oct. 26- Nov. 10	Oct. 31- Nov. 15	Oct. 30- Nov. 14
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Western Washington

Oct. 12-Nov. 24, 1991; Oct. 17-Nov. 22, 1992; Oct. 16-Nov. 21, 1993; in GMU 405 (west of Highway 9), GMUs 454, 627, 633, and the Columbia River Floodplain of Clark and Cowlitz counties with boundaries described as follows: beginning at the Longview/Columbia River Bridge, then north and west on Oregon Way (Highway 432) to Tennant Way (Highway 432) to Interstate Highway 5, then south on I-5 to State Highway 14 to the Skamania County line, then south on county line to the Columbia River on state line to the Longview Bridge and point of beginning.

RACCOON

Bag and Possession Limits: No Limit.

Raccoon may be killed during archery deer or elk seasons with archery equipment if valid license and tags are in possession for deer or elk seasons, respectively. Archers may not kill raccoon with use of hounds during early archery seasons.

Raccoon may be killed during muzzleloader deer or elk seasons with muzzleloader equipment if valid license and tags are in possession for deer or elk seasons, respectively. Muzzleloaders may not kill raccoon with use of hounds during early muzzleloader seasons.

Eastern WashingtonPURSUIT-ONLY SEASON

(Raccoon may not be killed or injured).

Sept. 1-Oct. 11, 1991; Sept. 1-Oct. 16, 1992; Sept. 1-Oct. 15, 1993; except CLOSED to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest.

Feb. 1-29, 1992; Feb. 1-28, 1993; and Feb. 1-28, 1994; in GMUs 111, 121, 148, and 154.

OPEN SEASON

(Raccoon may be killed)

Oct. 12, 1991-Jan. 15, 1992; Oct. 17, 1992-Jan. 15, 1993; Oct. 16, 1993-Jan. 15, 1994.

Western WashingtonPURSUIT-ONLY SEASON

(Raccoon may not be killed or injured).

Aug. 1-Oct. 11, 1991; Aug. 1-Oct. 16, 1992; Aug. 1-Oct. 15, 1993; except CLOSED on Long Island within Willapa National Wildlife Refuge and GMU 522.

OPEN SEASON

(Raccoon may be killed).

Oct. 12, 1991-Mar. 15, 1992; Oct. 17, 1992-Mar. 15, 1993; Oct. 16, 1993-Mar. 15, 1994; except CLOSED on Long Island within Willapa National Wildlife Refuge and GMU 522.

FOX

Bag and Possession Limits: No limits.

Statewide: Oct. 12, 1991-Mar. 15, 1992; Oct. 17, 1992-Mar. 15, 1993; Oct. 16, 1993-Mar. 15, 1994, except CLOSED within the exterior boundaries of the Mount Baker/Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests and GMUs 405, 410, and 522.

COYOTE

Coyotes are unclassified wildlife and, as such, may be taken year-round EXCEPT from September 15 to November 30 in the following closed areas: Pasayten Wilderness, GMUs 426 and 450, and those portions of GMUs 218, 304, and 448 within external boundaries of the Mount Baker-Snoqualmie, Okanogan and Wenatchee national forests.

FOREST GROUSE (BLUE, RUFFED, AND SPRUCE)

Forest grouse may ~~((not))~~ be killed with shotgun, bow and arrow, and muzzleloader. During modern firearm deer or elk seasons, centerfire rifles or centerfire pistols are legal methods of take ~~((except during modern firearm deer or elk seasons.))~~

Bag and Possession Limits: Three (3) grouse per day, with a total of nine (9) grouse in possession at any time; straight or mixed bag.

Statewide: Sept. 1-Dec. 31 during 1991, 1992, and 1993; except CLOSED in GMU 522.

UPLAND BIRDSEastern WashingtonRing-necked Pheasant

Bag and Possession Limits: Three (3) cock pheasants per day, with a total of fifteen (15) cock pheasants in possession at any time.

Noon Oct. 12-Dec. 31, 1991; Noon Oct. 17-Dec. 31, 1992; Noon Oct. 16-Dec. 31, 1993.

Chukar and Gray (Hungarian) Partridge

Bag and Possession Limits: Six (6) chukar or gray partridges per day, with a total of eighteen (18) chukar or gray partridges in possession at any time; straight or mixed bag.

Early season in Asotin and Garfield counties; in that part of Whitman County south of the Washtucna - Colfax - Moscow Highway; in that part of Columbia County that is north and east of the Tucannon River: Sept. 21-Oct. 11, 1991; Sept. 26-Oct. 16, 1992; Sept. 25-Oct. 15, 1993.

Regular Season: Noon Oct. 12, 1991 - Jan. 12, 1992; Noon Oct. 17, 1992 - Jan. 10, 1993; Noon Oct. 16, 1993 - Jan. 9, 1994.

Quail

Bag and Possession Limits: Ten (10) quail per day, with a total of thirty (30) quail in possession at any time.

Noon Oct. 12, 1991 - Jan. 12, 1992; Noon Oct. 17, 1992 - Jan. 10, 1993; Noon Oct. 16, 1993 - Jan. 9, 1994.

Western Washington

Ring-necked Pheasant

Bag and Possession Limits: Two (2) pheasants of either sex per day on designated release sites, EXCEPT two cock pheasants per day on other than designated release sites, with a total of fifteen (15) pheasants in possession at any time.

Sept. 28-Nov. 30, 1991; Oct. 3-Nov. 30, 1992; and Oct. 2-Nov. 30, 1993; 8 a.m. to 4 p.m.; except Voice of America site (Clallam County) starting Oct. 12, 1991; Oct. 17, 1992; Oct. 16, 1993; except CLOSED in GMU 522.

During the 1992 hunting season, three season options are available for hunters:

- (1) Season Long Option - Oct. 3-Nov. 30, 1992
- (2) Early Season Option - Oct. 3-Oct. 25, 1992
- (3) Late Season Option - Oct. 26-Nov. 30, 1992

An Upland Game Bird Punch Card is required to hunt pheasant and quail in western Washington, in addition to a current hunting license. Pheasant kills only must be recorded. Upon taking a pheasant, the holder of an Upland Game Bird Punch Card must immediately enter on the corresponding space the date and location of kill.

There are three punch card options available for the 1993 hunting season:

- (1) Full Season Option: Oct. 2 - Nov. 30, 1993; allows the harvest of ten (10) pheasants.
- (2) Juvenile (under 15): Oct. 2 - Nov. 30, 1993; allows the harvest of six (6) pheasants.
- (3) 2-Day Option: allows the harvest of four (4) pheasants during two consecutive days from Oct. 2 - Nov. 30, 1993.

Every person possessing an Upland Game Bird Punch Card must by December 31, 1993, return the punch card to the Department of Wildlife. The number of punch cards purchased per person is not limited.

A hunter may select one or more options at the time they purchase their western Washington upland bird permit.

Special Restriction: Steelshot must be used in a shotgun to hunt pheasant on the release sites at Lake Terrell, Tenant Lake, Snoqualmie, and Skagit wildlife areas. Hunting is restricted on weekend mornings at Lake Terrell, Tennant Lake, Snoqualmie (including Stillwater, Cherry Valley, and Two Rivers segments) and Skagit (including headquarters and Smith Farm segments) wildlife areas. Only hunters with western Washington upland bird licenses marked "odd" may hunt these sites from 8:00 a.m. until 12:00 noon on odd numbered weekend days. Only hunters with western

Washington upland bird licenses marked "even" may hunt these sites from 8:00 a.m. until 12:00 noon on even numbered weekend days. Hunters 14 years of age or younger may hunt during either weekend day morning provided they are accompanied by an adult with appropriately marked upland bird license.

Quail

Bag and Possession Limits: Two (2) quail per day, with a total of thirty (30) quail in possession at any time.

Oct. 12-Nov. 30, 1991; Oct. 17-Nov. 30, 1992; Oct. 16-Nov. 30, 1993; except CLOSED in GMU 522.

TURKEY

Spring Season

Gobblers and Turkeys with Visible Beards Only.

Statewide: April 15-May 10, 1992; April 14-May 9, 1993; April 20-May 16, 1994.

Fall Season

Either Sex

Klickitat and Skamania counties: Nov. 22-26, 1991; Nov. 20-24, 1992; Nov. 19-23, 1993.

Asotin, Columbia, Garfield, and Walla Walla counties: Nov. 20-24, 1992; Nov. 19-23, 1993. Only hunters that successfully complete the Department of Wildlife's Advanced Hunter Education (AHE) program will be eligible to hunt turkeys during this season. A certification card will be issued to all AHE graduates and must be in possession in addition to a valid hunting license and turkey transport tag while hunting in this area.

OFFICIAL HUNTING HOURS/BAG LIMITS:

Bag and Possession Limit: One turkey per calendar year.

Hunting Hours: One-half hour before sunrise to sunset during spring seasons and as noted under Official Hunting Hours during fall seasons.

SPECIAL REGULATIONS:

1. Turkey season is open for shotgun and bow-and-arrow hunting only.
2. A turkey transport tag is required for hunting turkey.
3. Each successful hunter must complete and return a game harvest report card to the Department of Wildlife within ten days after taking a turkey.
4. It is unlawful to use dogs to hunt turkeys.

BIRD DOG TRAINING SEASON Aug. 1, 1991-Mar. 15, 1992; Aug. 1, 1992-Mar. 15, 1993; and Aug. 1, 1993-Mar. 15, 1994, except from Sept. 28-Nov. 30, 1991, Oct. 3-Nov. 30, 1992, and Oct. 2-Nov. 31, 1993, dog training is prohibited except from 8:00 a.m. to 4:00 p.m. on designated western Washington pheasant release sites. Game birds may be taken only during established bird hunting seasons.

CANADA GOOSE SEPTEMBER SEASON

Early September Canada Goose season for portions of Clark, Cowlitz, Pacific, and Wahkiakum counties.

Bag and Possession Limits: ~~((Two (2)))~~ Three (3) Canada geese per day with a total of ~~((four (4)))~~ six (6) in possession at any time.

Sept. 1-10, 1991; Sept. 1-10, 1992; Sept. 1-10, 1993.

Open Area: Those portions of Clark, Cowlitz, Pacific, and Wahkiakum counties within the following boundary: Beginning at the Washington-Oregon border on the Interstate 5 bridge near Vancouver, Washington, north on Interstate 5 to Kelso, west on Highway 4 from Kelso to Highway 401, south and west on Highway 401 to ~~((the Washington-Oregon border on the Astoria-Megler bridge, upstream along the Washington-Oregon border to the point of origin))~~ Highway 101 at the Astoria/Megler Bridge, then west on SR 101 to the city of Ilwaco, then west on Gray Drive to Canby Road, then southwest on Canby Road to the north jetty, then southwest on the north jetty to its end, then southeast to the Washington-Oregon state line in a straight line to the tip of the Columbia River south jetty.

~~((Permit requirement: All hunters participating in this season are required to obtain written authorization from the department of wildlife. Application forms are available from department offices and must be delivered to a department office no later than 5:00 p.m. or postmarked on or before August 1 of the hunt year. With the authorization, hunters will receive a hunter activity and harvest report form. Return of the harvest report form is mandatory. Those hunters not returning the harvest report form to the department of wildlife by October 15 of the hunt year will be ineligible to participate in the following year September Canada goose season.))~~

Steel Shot Requirement: It is unlawful to possess while hunting for or to take geese with shotshells or a muzzleloader shotgun loaded with any metal other than steel in the open area of the September Canada goose season.

BAND-TAILED PIGEON

Bag and possession limits: Two (2) band-tailed pigeons per day and in possession at any time.

Western Washington: ~~((Sept. 21-29, 1991;))~~ Closed Season Statewide, 1991, 1992, 1993. ~~((; Sept. 18-26, 1993, except closed in GMU 522.))~~

WRITTEN AUTHORIZATION REQUIRED: All hunters participating in this season are required to obtain written authorization from the Department of Wildlife. Application forms are available from Department offices and must be delivered to a Department office no later than 5:00 p.m. or postmarked on or before August 1, of the hunt year. With the authorization, hunters will receive a hunter activity and harvest report form. Return of the harvest report form is mandatory. Those hunters not returning the harvest report form to the Department of Wildlife by October 31 of the hunt year will be ineligible to participate in the following year band-tailed pigeon season.

MOURNING DOVE

Bag and possession limits: Ten (10) mourning doves per day with a total of twenty (20) mourning doves in possession at any time.

Statewide: Sept. 1-15 during 1991, 1992, and 1993; except closed in GMU 522.

RABBIT AND HARE

Cottontail snowshoe hare (or Washington hare), and white-tailed jackrabbit.

Bag and Possession Limits: Ten (10) rabbits or hares per day, with a total of thirty (30) in possession at any time; straight or mixed bag.

Statewide: Sept. 1, 1991-March 15, 1992; Sept. 1, 1992-March 15, 1993; Sept. 1, 1993-March 15, 1994 except closed in GMU 522.

Black-tailed Jackrabbit

Bag and Possession Limits: Ten (10) black-tailed jackrabbits per day, with a total of thirty (30) in possession at any time.

Statewide: Year-around.

FALCONRY SEASONS

Upland Game Bird - Falconry

Daily bag: Two (2) pheasants (either sex), six (6) partridge, five (5) quail, and three (3) forest grouse (blue, ruffed, spruce) per day.

Statewide: Sept. 1, 1991-March 15, 1992; Sept. 1, 1992-March 15, 1993; Sept. 1, 1993-March 15, 1994.

Mourning Dove - Falconry

Daily Bag: Three (3) mourning doves per day straight bag or mixed bag with snipe, coots, and waterfowl during established seasons.

Statewide: Sept. 1-Oct. 11, 1991; Sept. 1-Oct. 16, 1992; Sept. 1-Oct. 15, 1993; and the month of December each year.

Rabbit and Hare - Falconry

Daily Bag: Ten (10) rabbits or hares per day: Straight or mixed bag.

Statewide: Aug. 1, 1991-March 15, 1992; Aug. 1, 1992-March 15, 1993; Aug. 1, 1993-March 15, 1994, for cottontail, snowshoe hare (or Washington hare), white-tailed and black-tailed jackrabbits.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 93-06-059
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed March 1, 1993, 1:14 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-28-227 1991-92, 1992-93, 1993-94 Elk hunting seasons and regulations.

Purpose: To amend WAC 232-28-227, 1991-92, 1992-93, 1993-94 Elk hunting seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This amendment will modify the 1993-94 elk hunting seasons. Changes involve an all citizen closure for elk hunting in GMU 621 (Olympic). Other changes involve damage control hunt adjustments in the Blue Mountains and Central Washington.

Reasons Supporting Proposal: Within elk hunting seasons, advises hunters of the proper time, place, and manner for hunting.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, AD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Tony de la Torre, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Amends the time, place, and manner for public hunting opportunities of elk in Washington.

Proposal Changes the Following Existing Rules: Minor changes to seasons and regulations.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by April 5, 1993.

Date of Intended Adoption: April 16-17, 1993.

March 1, 1993

Richard J. Poelker

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 562, filed 8/21/92)

WAC 232-28-227 1991-92, 1992-93, 1993-94 Elk hunting seasons and regulations

ELK SEASONS

Bag Limit: One (1) elk per hunter during the annual (July 1-March 31) hunting season.

Hunting Method: Elk hunters must select one of the hunting methods (modern firearm, archery, muzzleloader).

Tag Required: Elk hunters must choose one of the four elk hunting areas (Blue Mountains, Yakima, Colockum or Western Washington) to hunt in and buy the appropriate tag for that area. (Archery elk hunters may hunt in any tag area in late seasons.)

Bull Elk Seasons: Open only to the taking of male elk with visible antlers (bull calves are illegal).

Definition: Visible Antler is defined as a horn-like growth projecting above the hairline.

Spike Bull Restriction GMUs: Bull elk taken in these GMUs must have at least one antler that is a spike above the ears (does not branch above ears). An animal with branch antlers on both sides is illegal but an animal with a spike on one side is legal in spike only units.

Spike Only GMUs: 145-185 and 472.

Branched Antler Restriction GMUs: Bull elk taken in these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Antler points include eye guards but all antler points must be at least one inch long. Antler restrictions apply to all hunters during any open season.

3 Point GMUs: 418, 460, 466, 478, 490, 506, 524, 530, 556, 558, 572, 601, 602, 607, 621, 636, 638, 639, 681; and GMUs 157 and 485 by permit only.

GMU 418 Nooksack Elk Hunting Authorization Requirement

An unlimited number of written authorizations will be available without charge and must be in possession while hunting elk in GMU 418 (Nooksack) during both archery and modern firearm seasons. Written authorization can be obtained at the Department of Wildlife Region Four office in Mill Creek. Written authorization can also be obtained by submitting a standard 3 1/2" x 5" postcard obtained from the U.S. Post Office and shall include the following information: "Nooksack Elk Hunting Written Authorization Request," requestor's full name, complete address (including zip code), telephone number (including area code), date of birth, and valid 1993 elk transport tag number. Mail the completed postcard to the Department of Wildlife, 600 Capitol Way N., Olympia, WA 98501-1091.

Special Permits: Modern firearm late season elk tag holders along with muzzleloader tag holders may apply to be drawn in special elk permit seasons. Blue Mountain archery, muzzleloader, and early modern firearm tag holders may apply for bull permits in the Blue Mountains. Western Washington archery, muzzleloader, and early modern firearm tag holders may apply for bull permits in GMU 472 (White River). Hunters drawn for a special permit may hunt only with a weapon in compliance with their tag and during the dates listed for the hunt.

Modern Firearm Elk Information

Modern firearm elk hunters have early and late hunts in all elk areas. Those who choose the early tag have the first opportunity to hunt bulls, but only those who choose the late tag are able to apply for special elk permits except as outlined above for the Blue Mountains bull permits.

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched modern firearm elk tag as listed below on his/her person.

Hunting Method: May use rifle, bow and arrow, or muzzleloader, but only during modern firearm seasons.

Modern Firearm Elk Seasons

Legal Elk: Male elk with visible antlers are legal throughout the state except in GMUs 145-185 and 472 only spike bull restrictions apply and in branched-antler areas branched antler restrictions apply.

Blue Mountains - Open Area: 100 series GMUs; GMUs 127, 130, and 157 limited to permit hunters only. GMUs 145-185 are spike bull only, except by permit.

BE - Blue Mountain Early Tag
BL - Blue Mountain Late Tag

- BA - Blue Mountain Archery Tag
- BM - Blue Mountain Muzzleloader Tag

Colockum - Open Area: Chelan County portion of GMU 302 and GMUs 300, 301, 304, 306, 308, 314, 316, 328, 329, 330 (permit only in GMU 330), and the portion of GMU 334 north of I-90 (modern firearm restrictions in GMU 334).

- CE - Colockum Early Tag
- CL - Colockum Late Tag
- CA - Colockum Archery Tag
- CM - Colockum Muzzleloader Tag

Yakima - Open Area: Kittitas County portion of GMU 302 and GMUs 335, 336, 340, 342, 346, 352, 356, 360, 364, 366, 368, 370, and that portion of GMU 334 South of I-90 (modern firearm restrictions in GMU 334).

- YE - Yakima Early Tag
- YL - Yakima Late Tag
- YA - Yakima Archery Tag
- YM - Yakima Muzzleloader Tag

Western Washington - Open Area: All 400, 500, and 600 GMUs except closed in GMU 417, 522 and 621. GMUs 417 (Bald Mountain) and 621 (Olympic) are all citizen closures for elk hunting. Permit only in GMUs 485, 524, 554, 556, and 602. Written authorization required in GMU 418 (Nooksack). GMU 472 is spike bull only, except by permit.

- WE - Western Washington Early Tag
- WL - Western Washington Late Tag
- WA - Western Washington Archery Tag
- WM - Western Washington Muzzleloader Tag

	Year		
	1991	1992	1993
Blue Mountains			
BE - Blue Mountains Early Elk Tag	Oct. 30-Nov. 10	Oct. 28-Nov. 8	Oct. 27-Nov. 7
BL - Blue Mountains Late Elk Tag	Nov. 2-10	Oct. 31-Nov. 8	Oct. 30-Nov. 7
Colockum			
CE - Colockum Early Elk Tag	Oct. 23-29	Oct. 28-Nov. 3	Oct. 27-Nov. 2
CL - Colockum Late Elk Tag	Oct. 26-29	Oct. 31-Nov. 3	Oct. 30-Nov. 2
Yakima			
YE - Yakima Early Elk Tag	Nov. 5-13	Nov. 5-13	Nov. 5-13
YL - Yakima Late Elk Tag	Nov. 8-13	Nov. 8-13	Nov. 8-13
Western Washington			
WE - Western Washington Early Elk Tag	Nov. 6-17	Nov. 4-15	Nov. 3-14
WL - Western Washington Late Elk Tag	Nov. 9-17	Nov. 7-15	Nov. 6-14

Archery Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person.

Hunting Method: Bow and arrow only.

Special Notes: Archery tag holders can only hunt during archery seasons. Only Blue Mountain archers may apply for Blue Mountains bull archery permits. Only western Washington archers may apply for GMU 472 bull archery permits. If drawn, archers must hunt with archery equipment and only during the permit archery season.

Early Archery Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person for the area hunted: Blue Mountain (BA), Colockum (CA), Yakima (YA), or Western Washington (WA).

GMUs	Elk Tag	Dates			Legal Elk
		1991	1992	1993	
100-118, 121-142, 178	BA	Sept. 28- Oct. 11	Oct. 1-14	Oct. 1-14	Either sex
145-154, 160-169, 175, 181-185	BA	Sept. 28- Oct. 11	Oct. 1-14	Oct. 1-14	Antlerless or spike only
300, 306, 308, 316	CA	Sept. 28- Oct. 11	Oct. 1-14	Oct. 1-14	Either sex
328, 329, 330	CA		Oct. 5-14	Oct. 4-14	Either sex
335, 336-340, 352-356, 364, 370	YA	Sept. 28- Oct. 11	Oct. 1-14	Oct. 1-14	Either sex
405-410, 426-466, 472, 478, 490, 504, 505, 510, 512, 514, 516, 520, 530, 550, 554, 558, 560, 568, 572, 574, 576, 580, 586, 588-601, 607, 615, 618, 638-663, 667, 669, 678, 681	WA	Sept. 28- Oct. 11	Oct. 1-14	Oct. 1-14	Either sex except antlerless or 3 pt. min. in GMUs 640, 466, 478, 490, 530, 558, 572, 601, 607, 638, 639, and 681; antlerless or spike only in 472.
484	WA	Sept. 28- Oct. 4	Oct. 1-7	Oct. 1-7	Either sex
418, 621	WA	Sept. 28- Oct. 11	Oct. 1-14	Oct. 1-14	3-Pt. min.
Bow Area					
802	WA	Sept. 28- Oct. 11	Oct. 1-14	Oct. 1-14	Either sex

Late Archery Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person for any area.

GMUs	Dates			Legal Elk
	1991	1992	1993	
118, 121, 124, 127, 178	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Either sex
166	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Antlerless only
328, 336, 346, 352	Nov. 27- Dec. 8	Nov. 25- Dec. 8	Nov. 24- Dec. 8	Either sex
405, 433, 454, 484, 505, 520, 564, 588, 603, 612, 615, 648, 672	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Either sex
506, 530, 638, 681*	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Antlerless or 3-pt. min.
636	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	3 Pt. min.

* Except closed between U.S. Highway 101 and the Columbia River from Astoria-Megler toll bridge to the Wallicut River.

Bow Areas

802	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Either sex
806, 807	Nov. 27- Dec. 8	Nov. 25- Dec. 8	Nov. 23- Dec. 8	Either sex
831	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	3-pt. min.

Muzzleloader Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched muzzleloader elk tag as listed below on his/her person.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during the muzzleloader seasons and must hunt with muzzleloader equipment. Hunters selecting the muzzleloader elk tag may apply for special hunt permit seasons, if eligible.

Early Muzzleloader Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched muzzleloader elk tag as designated below on his/her person.

GMUs	Elk Tag	Dates			Legal Elk
		1991	1992	1993	
172	BM	Oct. 5-11	Oct. 8-14	Oct. 8-14	Spike bull only
302	CM, YM	Oct. 5-11	Oct. 8-14	Oct. 8-14	Bull only
314*	CM	Oct. 5-11	Oct. 8-14	Oct. 8-14	Bull only
342	YM		Oct. 8-14	Oct. 8-14	Antlerless only
368	YM	Oct. 5-11	Oct. 8-14	Oct. 8-14	Bull only
603, 612	WM	Oct. 5-11	Oct. 8-14	Oct. 8-14	Bull only
460, 506, 636	WM	Oct. 5-11	Oct. 8-14	Oct. 8-14	3-Pt. min.
484, 501,	WM	Oct. 5-11	Oct. 8-14	Oct. 8-14	Either sex

564, 684
Muzzleloader
Area 910 YM Oct. 5-11 Oct. 5-14 Oct. 4-14 Either sex
* The portion of GMU 314 bounded by the Colockum Pass Road (Road 10), Naneum Ridge Road (Road 9), and Ingersol Road (Road 1) is closed.

Late Muzzleloader Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched muzzleloader elk tag as designated below on his/her person.

GMUs	Elk Tag	Dates			Legal Elk
		1991	1992	1993	
130, 133, 136, 139	BM	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. ((+5)) 31	Either sex
184	BM	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. ((+5)) 31	Antlerless only
346	YM		Nov. 17-20	Nov. 16-19	Antlerless only
484	WM	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Either sex
501, 568, 574, 576, 580, 586	WM	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Either sex
505	WM	Nov. 19-24	Nov. 17-22	Nov. 16-21	Either sex
504, 550	WM	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Bull only
601	WM	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	3-Pt. bull min.
684	WM	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Either sex

Muzzleloader Areas

910	YM	Nov. 17- Dec. 8	Nov. 17- Dec. 8	Nov. 17- Dec. 8	Antlerless only
944	YM	Nov. 17-20	Nov. 17-20	Nov. 16-19	Either sex

Special Elk Hunts Open to Specified Tag Holders

Tag Required: Proper elk tags are listed with each GMU below.

Hunting Method: Hunters must use method listed on their tag, except in Firearm Restriction Areas, where some types of weapons are banned from use. See elk tag required, dates, and legal elk in table below.

Antlerless or Either Sex Elk Hunts

GMUs	Elk Tag	Dates			Legal Elk
		1991	1992	1993	
100, 103, 105, 108, 121, 124 west of SR 395, 133, 136, 139	BE, BL	Nov. 2-10	Oct. 31- Nov. 8	Oct. 30- Nov. 7	Either sex
178	BE, BL	Nov. 9-10	Nov. 7-8	Nov. 6-7	Either Sex

(200-284)	Any Elk Tag	Oct. 24	Nov. 15	Oct. 24	Nov. 15	Oct. 24	Nov. 15	Either sex
370	CM, YE, YL, YM	Nov. 1-30	Nov. 1-30	Nov. 1-30	Nov. 1-30	Nov. 1-30	Nov. 1-30	Either sex <u>5-13</u>
564*	WA, WM, WE, WL	Nov. 6-17	Nov. 4-15	Nov. 3-14	Nov. 3-14	Nov. 3-14	Nov. 3-14	Either sex
501, 568, 574, 576, 586, 588	WE, WL	Nov. 6-17	Nov. 4-15	Nov. 3-14	Nov. 3-14	Nov. 3-14	Nov. 3-14	Either sex
GMUs 300, 304, 306, 308, and 316 east of Highway 2.								
	CE, CL, CM	Dec. 7-22	Dec. 5-20	Dec. 4-19	Dec. 4-19	Dec. 4-19	Dec. 4-19	Antlerless only

<u>Elk Area</u>	<u>Any Elk Tag</u>	<u>Nov. 1-15</u>	<u>Either Sex</u>
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* Archery or Muzzleloader Equipment Only. Modern Firearm elk tag holders may hunt but must use primitive weapons.

Private Land Management Opportunities

Kapowsin Tree Farm (GMU 401 - Champion)

<u>Hunting Method</u>	<u>Open Season</u>	<u>Special Restrictions</u>
<u>Archery</u>	<u>Oct. 1-14</u>	<u>Antlerless or Spike Bull</u>
<u>Modern Firearm</u>	<u>Nov. 3-14</u>	<u>Spike Bull Only</u>
<u>Muzzleloader</u>	<u>Nov. 24-Dec. 5</u>	<u>Antlerless or Spike Bull</u>

Report Cards

Each successful hunter must fill out and return a Game Harvest Report Card to the Department of Wildlife within 10 days after taking an elk.

WSR 93-06-060
PROPOSED RULES
DEPARTMENT OF WILDLIFE

[Filed March 1, 1993, 1:16 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-236 1993-94 Special species hunting seasons and regulations; and repealing WAC 232-28-235 1992-93 Special species hunting seasons and regulations.

Purpose: To establish 1993-94 special permit seasons for hunting moose, mountain sheep, mountain goat, and cougar.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This regulation establishes the 1993-94 special permit seasons for hunting moose, mountain sheep, mountain goat, and cougar, and provides for recreational opportunity and population management.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, AD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Tony de la Torre, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal does not change existing rules. No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by April 5, 1993.

Date of Intended Adoption: April 16-17, 1993.

March 1, 1993

Richard J. Poelker

Administrative Regulations Officer

NEW SECTION

WAC 232-28-236 1993-94 Special species hunting seasons and regulations

PERMIT APPLICATION INSTRUCTIONS

You must have a valid 1993 Washington hunting license to apply for any special hunting season permit.

Application Deadline: Applications must be postmarked no later than July 1, 1993, or received not later than 5:00 p.m., July 1, 1993, at the Washington Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, or any Department of Wildlife regional office.

Computer Drawing: Drawings for goat, bighorn sheep, moose, and cougar will be done by computer selection. All applicants will be notified by August 10, 1993.

Disqualification: Anyone who submits more than one application for each species will be disqualified for drawings for that species.

Incomplete Applications: To be eligible for the permit drawing, applications must contain unit number and unit name, date of birth, and hunting license number. Applicant's complete name and address including zip code must be included.

Permit Hunting Report: A hunter questionnaire report will be sent to each permittee. This questionnaire must be returned to the Department of Wildlife within ten days after the close of the hunting season.

MOOSE

Permit Season: Oct. 1 to Nov. 30, 1993, both dates inclusive.

Who may apply: Anyone with a valid 1993 Washington hunting license. Only one moose permit will be issued during an individual's lifetime.

Bag Limit: One moose of either sex.

Moose Unit 1
GMU 113
5 Special Moose Permits will be issued.

Moose Unit 2
GMU 124
3 Special Moose Permits will be issued.

Moose Unit 3
GMU 118

2 Special Moose permits will be issued.

Moose Unit 4
GMU 119

2 Special Moose Permits will be issued.

MOUNTAIN SHEEP (BIGHORN)

Permit Seasons: Separate seasons are indicated for each bighorn sheep unit.

Who may apply: Anyone with a valid 1993 Washington hunting license; EXCEPT those who drew a bighorn permit during 1988, 1989, 1990, 1991, or 1992, or have been successful in taking a bighorn in Washington State.

Bag Limit for Permit Holders: One bighorn ram.

Any Legal Weapon

Sheep Unit 1

Okanogan:

Permit Season: Sept. 4-26, 1993, both dates inclusive.
3 Special Permits will be issued.

Sheep Unit 2

Vulcan Mountain Area:

Permit Season: Sept. 25-Oct. 10, 1993, both dates inclusive.
4 Special Permits will be issued.

Sheep Unit 3

Tucannon River Area:

Permit Season: Sept. 4-26, 1993, both dates inclusive.
1 Special Permit will be issued.

Sheep Unit 5

Umtanum Area:

Permit Season: Sept. 25-Oct. 10, 1993, both dates inclusive.
3 Special Permits will be issued.

Sheep Unit 8

Mountainview

Permit Season: Sept. 4-26, 1993, both dates inclusive
1 Special Permit will be issued.

Sheep Unit 9

Blackbutte:

Permit Season: Sept. 1-18, 1993, both dates inclusive.
2 Special Permits will be issued.

Sheep Unit 10

Mt. Hull:

Permit Season: Sept. 4-26, 1993, both dates inclusive.
2 Special Permits will be issued.

Sheep Unit 11

Wenaha Wilderness:

Permit Season: Sept. 4-26, 1993, both dates inclusive.
3 Special Permits will be issued.

MOUNTAIN GOAT

Permit Season: Sept. 18-Oct. 31, 1993, both dates inclusive, in all goat units.

Who may apply: Anyone with a valid 1993 Washington hunting license; EXCEPT those who drew goat permits in 1988, 1989, 1990, 1991, or 1992.

Bag Limit: One (1) adult goat of either sex with horns four (4) inches or longer. The Department of Wildlife urges hunters to refrain from shooting nannies with kids.

Any Legal Weapon

Goat Unit 2-1

Mount Chopaka Area:

2 Special Permits will be issued.

Goat Unit 2-2

Methow Area:

8 Special Permits will be issued.

Goat Unit 3-2

North Wenatchee Mountains Area:

1 Special Permit will be issued.

Goat Unit 3-4

Snoqualmie:

2 Special Permits will be issued.

Goat Unit 3-6

Naches Pass Area:

10 Special Permits will be issued.

Goat Unit 3-7

Bumping River Area:

3 Special Permits will be issued.

Goat Unit 3-9

Tieton River Area:

5 Special Permits will be issued.

Goat Unit 4-1

Ruth Creek Area:

10 Special Permits will be issued.

Goat Unit 4-3

Chowder Ridge Area:

2 Special Permits will be issued.

Goat Unit 4-4

Lincoln Peak Area:

2 Special Permits will be issued.

Goat Unit 4-6

Dillard Creek Area:

5 Special Permits will be issued.

Goat Unit 4-7

Avalanche Gorge Area:

5 Special Permits will be issued.

Goat Unit 4-8

East Ross Lake Area:

10 Special Permits will be issued.

Goat Unit 4-9

Jack Mountain Area:

2 Special Permits will be issued.

Goat Unit 4-16

Glacier Peak Area:

5 Special Permits will be issued.

Goat Unit 4-32
Foss River Area:
10 Special Permits will be issued.

Goat Unit 4-34
Pratt River Area:
10 Special Permits will be issued.

Goat Unit 5-2
Tatoosh Area:
5 Special Permits will be issued.

Goat Unit 5-4
Goat Rocks Area:
10 Special Permits will be issued.

Muzzleloading Goat Hunts

Goat Unit 3-5
Cle Elum:
2 Special Permits will be issued.

Goat Unit 3-8
Bumping River Area:
3 Special Permits will be issued.

Goat Unit 4-24
Sloan Peak Area:
3 Special Permits will be issued.

Archery Goat Hunts

Goat Unit 3-3
Goat and Davis Mountains Area:
5 Special Permits will be issued.

Goat Unit 4-18
Sauk River Area:
4 Special Permits will be issued.

Goat Unit 4-21
Liberty Mountain Area:
4 Special Permits will be issued.

Goat Unit 4-23
Twin Peaks Area:
4 Special Permits will be issued.

Goat Unit 4-38
Corral Pass Area:
4 Special Permits will be issued.

Goat Unit 5-3
Smith Creek Area:
3 Special Permits will be issued.

Goat Unit 6-2
Quilcene River Area:
25 Special Permits will be issued.

Goat Unit 653
Hamma Hamma River Area:
10 Special Permits will be issued.

NATIVE CATS

A valid hunting license is required to hunt (including pursuit seasons) native cats. A hound stamp is required for all hunters if dogs are used to hunt any native cats.

COUGAR

Pursuit-Only Season (Cougar may not be killed or injured.): Sept. 1-30 and Nov. 24, 1993-Jan. 31, 1994 in the cat units listed below, EXCEPT closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest Sept. 1-Oct. 15, 1993.

Early Permit Season (Permit required. Permit holders may not kill cougar with the use of hounds during the early cougar permit season.): Oct. 16-Nov. 23.

General Permit Season (Permit required. Cougar may be killed by permit holders only.): Nov. 24, 1993-Jan. 31, 1994.

Who May Apply: Anyone with a valid 1993 Washington hunting license may submit one special permit application for cougar during the 1993-94 season. Successful cougar applicants must purchase a cougar tag by October 1, 1993. Special permits assigned to those hunters failing to purchase a cougar tag by the deadline will be voided and cougar permits will be issued to other applicants. Cougar permit hunters failing to return their cougar hunting questionnaire by February 15, 1994, will be ineligible to apply for a permit the following season.

Bag Limit: One (1) cougar during the 1993-94 hunting season except that it is unlawful to kill or possess spotted cougar kittens or adult cougar accompanied by spotted kittens.

Unit	Description	Permits
1	Pend Oreille	35
2	Colville	40
3	Republic	30
4	Spokane	20
5	Blue Mountains	50
6	Okanogan	30
7	Wenatchee	25
8	Nooksack	10
9	Skagit	5
10	Snoqualmie	8
11	Olympic Peninsula	30
12	Rainier	10
13	Skamania	2
14	Cowlitz	2

LYNX

Season closed statewide.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-235 1992-93 Special species hunting seasons and regulations

WSR 93-06-062
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed March 1, 1993, 1:19 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-238 1993-94 Special closures and firearm restriction areas; and repealing WAC 232-28-233 1992-93 Special closures and firearm restriction areas.

Purpose: To establish 1993-94 special closure areas and firearm restriction areas.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This rule restricts the use of firearms in specified geographic areas for public safety and establishes hunting closure areas for resource management.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, AD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Tony de la Torre, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by April 5, 1993.

Date of Intended Adoption: April 16-17, 1993.

March 1, 1993

Richard J. Poelker

Administrative Regulations Officer

NEW SECTION

WAC 232-28-238 1993-94 Special closures and firearm restriction areas

SPECIAL CLOSURES

HUNTING PROHIBITED AREAS

IT IS UNLAWFUL TO HUNT WILD ANIMALS OR WILD BIRDS IN THE FOLLOWING AREAS:

1. Little Pend Oreille Wildlife Area: The southern part of the Little Pend Oreille Wildlife Area in Stevens County is closed to hunting and discharge of firearms except during the period of Oct. 1-Dec. 31, 1993. This closure is south of a boundary beginning at the west project boundary in Section 3, Township 34 N, R 40 EWM, then easterly along Road 1.0 to the intersection with Road 2.0 in Section 2, then easterly along Road 2.0 to the easterly boundary in Section 8, Township 34 N, R 42 EWM.

The Little Pend Oreille Wildlife Area north of the preceding boundary is open to all legally established hunting seasons during September and October.

2. Parker Lake: All lands south of Ruby Creek Road (USFS Road 2489), north of Tacoma Creek Road (USFS Road 2389) and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to the hunting of wild animals and wild birds EXCEPT during the period Aug. 1-Sept. 30, 1993. The above closures were established to provide a protected area for the Air Force Military Survival Training Program.
3. Columbia River and all the islands in the river, and the Benton County shoreline below the high water mark, and any peninsula originating on the Benton County shoreline, between Vernita Bridge (Highway 24) downstream to the old Hanford townsite powerline crossing (wooden towers) in Section 24, T 13 N, R 27 E, is designated as a "CLOSED AREA" to the hunting of wild animals and wild birds.
4. Green River (GMU 485): Except for special permit hunts, all lands within GMU 485 are designated as a "CLOSED AREA" to the hunting of big game by Department of Wildlife regulated hunters throughout the year. During the general westside elk season and general and late deer seasons, all lands within GMU 485 are also designated as a "CLOSED AREA" to the hunting of all wild animals and wild birds. The City of Tacoma enforces trespass within GMU 485 on lands owned or controlled by the City during all times of the year.
5. McNeil Island: McNeil Island (part of GMU 480) is closed to the hunting of all wild animals and wild birds year around.
6. As posted on Bailey Youth Ranch, Franklin County, hunting is closed on Mondays, Tuesdays, Thursdays, and Fridays.
7. Those Department of Wildlife lands that are posted closed prior to crop harvesting.
8. As posted, hunting is closed on the Department owned Mt. Vale Ranch in Yakima County.
9. As posted, hunting is closed on Department owned land on the Oak Creek Wildlife Area in Yakima County.
10. As posted, hunting is closed on Department owned land near the shooting range on the L. T. Murray Wildlife Area in Yakima County.
11. As posted, hunting is closed on Department owned land on the Sunnyside Wildlife Area in Yakima County.

BIG GAME CLOSURES

1. Cathlamet: Those lands between State Highway 4 and the Columbia River between Cathlamet and Skamokawa, and all of Puget Island in Wahkiakum County; closed to all big game hunting. This closure is

established to protect the endangered Columbian Whitetail Deer.

2. Clark, Cowlitz, Pacific, and Wahkiakum counties are closed to Columbian Whitetail Deer hunting.
3. Willapa National Wildlife Refuge: Except for Bow Area No. 802 (Long Island), Willapa National Wildlife Refuge is closed to all big game hunting.
4. Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to the hunting of all wild animals and wild birds except for holders of special elk permits during the established open season. This area is closed to motorized vehicles.
5. Colockum elk hunting restrictions: No entry in GMU 330 (West Bar) except permit holders, Oct. 25-27, 1993. Closed to entry (no trespassing) Oct. 28-Nov. 8, 1993.
6. Westport: Closed to hunting of all big game animals on that part of Westport Peninsula lying north of State Highway 105 from the west end of the Elk River Bridge and the Schafer Island Road to the ocean beach.
7. Baleville: Closed to hunting of all big game animals on those lands between State Highway 105 and the Willapa River west of Raymond.

UPLAND BIRD CLOSURES

It is unlawful to hunt game birds on the Columbia River or from any island in the Columbia River in the following areas:

1. From the mouth of Glade Creek (River Marker 57) to the old townsite of Paterson (River Marker 67) in Benton County, except the hunting of game birds is permitted from the main shoreline of the Columbia River in this area. (Check with Umatilla National Wildlife Refuge for other federal regulations for this area.)
2. Between the public boat launch at Sunland Estates in Grant County (Wanapum Pool) and a point perpendicular in Kittitas County; upstream to the posted marker 200 yards north of Quilomene Bay and a point perpendicular in Grant County, including islands.

HORSE RESTRICTIONS

Colockum horse restrictions: GMU 330 (West Bar)—It is unlawful to ride horses, mules, or other livestock during any open elk season in GMU 330 *Provided*, however, that livestock may be used for transporting camp gear and elk carcasses. GMU 329 (Quilomene)—It is unlawful to allow a horse to enter the Brushy and Cape Horn agricultural fields prior to 9 a.m. from Oct. 25-Nov. 3, 1993.

HUNTING FIREARM RESTRICTION AREAS

In firearm restriction areas, hand guns, centerfire and rimfire rifles are not legal for hunting during any time of the year. Hunters may hunt only during the season allowed by their tag. Archery tag holders may hunt during archery seasons with archery equipment. Muzzleloaders may hunt during muzzleloader seasons with muzzleloader equipment except in the GMU 484 restriction area outlined for King County.

Modern firearm tag holders may hunt during modern firearm seasons with bows and arrows, muzzleloader or shotguns firing slugs or legal buckshot. Shotguns are not legal for hunting elk.

<u>County</u>	<u>Area</u>
Clallam	That portion of GMU 624 (Coyle) located within Clallam County
Clark	GMU 564 (Battleground)
Cowlitz	GMU 554 (Yale) GMU 504 (Stella)
Franklin,	Those portions of GMU 281 (Ringold) and GMU 278
Grant, Adams	(Wahluke) known as the Wahluke Slope Wildlife Area.
Grays Harbor	That portion of GMU 658 (North River) beginning at Bay City; then west along Highway 105 to Twin Harbors State Park; then south along Highway 105 to Grayland Grocery; then east on Cranberry Road to Turkey Road; then east and north on Turkey Road to Bayview Logging Road; then north and east along Bayview Logging Road to Mallard Slough; then east and south along the Bayview Road to Andrews Creek; then north along main channel of Andrews Creek to Grays Harbor; then north and west along the main navigation channel to Bay City and point of beginning.
Island	That portion of GMU 660 (Minot Peak) east of South Bank Road.
Jefferson	That portion of GMU 410 (Island) located on Camano and Whidbey islands
King	Indian and Marrowstone islands The area west of Highway 203 (Monroe-Fall City-Preston) to Interstate 90 (I-90), I-90 to Highway 18, Highway 18 to Interstate 5 (I-5), I-5 to the Pierce-King County line; Vashon and Maury Islands
Kitsap	The following portion of GMU 484 (Puyallup): Beginning at the intersection of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the southeast Mud Mountain Road to 284th Avenue southeast; then north along 284th Avenue southeast to State Highway 410; then west along Highway 410 to the point of the beginning. (This restriction includes high power rifles and muzzleloaders.) East of State Highway 16 originating at the Tacoma Narrows Bridge to Gorst, and east of Highway 3 to North Lake Way, north of North Lake Way and the

	Bremerton-Seabeck Highway to Big Beef Creek bridge; all of Bainbridge Island, and Bangor Military Reservation.
Kittitas	GMU 334 (Ellensburg) Closed to high power rifles during deer and elk seasons.
Mason	GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Hartstene Island
Pacific	GMU 684 (Long Beach) west of Sand Ridge Road
Pierce	GMU 480 (Anderson and Ketron Islands) limited to archery, shotgun, and muzzleloader shotgun. McNeil Island closed to hunting. See GMU 484 restriction area outline for King County. GMU 627 (Kitsap) south of Highway 302 on the Longbranch Peninsula is a firearm restriction area.
Snohomish	West of Highway 9
Skagit	Guemes Island and March Point north of State Highway 20
Thurston	GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River
Whatcom	Area west of I-5 and north of Bellingham city limits including Point Roberts

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-233 1992-93 Special closures and firearm restriction areas

**WSR 93-06-063
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed March 1, 1993, 1:21 p.m.]**

Original Notice.

Title of Rule: Adopting WAC 232-28-237 1993-94 Deer and elk permit hunting seasons; and repealing WAC 232-28-234 1992-93 Deer and elk permit hunting seasons.

Purpose: To establish 1993-94 special permit seasons for hunting deer and elk.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This regulation establishes the 1993-94 special permit seasons for hunting deer and elk and provides for recreational opportunity, population management, and wildlife damage control in specified areas of the state.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Britnell, AD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Tony de la Torre, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way, Olympia, WA 98501-1091, by April 5, 1993.

Date of Intended Adoption: April 16-17, 1993.

March 1, 1993

Richard J. Poelker

Administrative Regulations Officer

NEW SECTION

WAC 232-28-237 1993-94 Deer and elk permit hunting seasons

Application Instructions

Note: Hunt numbers and GMU numbers are not the same.

A permit gives a hunter additional opportunity but it does not give him/her an extra deer or elk, EXCEPT that special deer permit holders for Hunt 1042 will be eligible to purchase a second deer transport tag and harvest a second antlerless deer (see Special Deer Permit Hunting Seasons).

To apply for Special Deer Permit: You must have a valid 1993 Washington hunting license and a modern firearm or muzzleloader deer tag. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply for Special Hunts for Disabled, Blind or Visually Handicapped. You may submit one (only one) special deer permit application for 1993.

To apply for Special Elk Permit: You must have a valid 1993 Washington hunting license and a valid late modern firearm, muzzleloader, or archery elk tag; EXCEPT Western Washington archery tag holders may apply for branched antler permits in GMU 472. Blue Mountain archery tag holders and early Blue Mountain modern firearm tag holders may apply for branched antler permits in the Blue Mountains. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply for the Special Hunts for Disabled, Blind or Visually Handicapped. You may submit one (only one) special permit application for elk. You may not submit an elk permit application if you were drawn for any elk permit during 1991 or 1992. Permit hunters may hunt only with a weapon in compliance with their tag.

Application Deadline: To qualify for the drawing all applications must be postmarked no later than July 22, 1993 or received no later than 5:00 p.m. on July 22, 1993 at the

Department of Wildlife headquarters in Olympia or at any of the regional Department of Wildlife offices.

- Permits will be drawn by random computer selection.
- There are no refunds or exchanges for deer or elk tags for persons applying for special permits.

Special Hunting Season Permits

You MUST have a valid hunting license and tag to apply for any special hunting season set by the Wildlife Commission. (Special hunting seasons do not include hunts open to all hunters.)

SPECIAL DEER PERMIT HUNTING SEASONS (Open to Permit Holders Only)

Hunters must purchase a hunting license and deer tag prior to purchase of a permit application. Only modern firearm deer tag holders and muzzleloader deer tag holders may apply for the following permit hunts.

Hunters successfully drawing a special deer permit for Hunt 1042 will be eligible to purchase a second deer tag and harvest a second antlerless deer. To take advantage of this opportunity, successful applicants must purchase the second deer tag at the Department of Wildlife Regional Office in Ephrata, or by mailing their original deer tag and a check or money order for \$18.00 (resident) or \$60.00 (nonresident) to the Department of Wildlife, Ephrata Regional Office, 1550 Alder St. NW, Ephrata, WA 98823-9699. Those purchases made through the mail must be postmarked no later than September 30, 1993. When these items are received, the original deer tag will be stamped "ANTLERLESS ONLY", a second deer tag will be issued and stamped "ANTLERLESS ONLY", and returned to the successful applicant. These "validated" deer tags will only be valid for use within the special permit season. It is ILLEGAL for hunters with the second antlerless deer tag to kill a buck.

Use the FOUR DIGIT HUNT NUMBER on your application.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1001	Curlew A	300	Oct. 13-24	Whitetail, Antlerless Only	GMU 100
1002	Boulder	250	Oct. 13-24	Whitetail, Antlerless Only	GMU 103
1003	Kelly Hill	400	Oct. 13-24	Whitetail, Antlerless Only	GMU 105
1004	Douglas	900	Oct. 13-24	Whitetail, Antlerless Only	GMU 108
1005	Aladdin	300	Oct. 13-24	Whitetail, Antlerless Only	GMU 111
1006	Selkirk	200	Oct. 13-24	Whitetail, Antlerless Only	GMU 113
1007	Chewelah	450	Oct. 13-24	Whitetail, Antlerless Only	GMU 118
1008	Boyer	600	Oct. 13-24	Whitetail, Antlerless Only	GMU 119
1009	Huckleberry	2,000	Oct. 13-24	Whitetail, Antlerless Only	GMU 121
1010	Mt. Spokane	1,000	Oct. 13-24	Whitetail, Antlerless Only	GMU 124
1011	Cheney	100	Oct. 13-24	Whitetail, Antlerless Only	GMU 130
1012	Roosevelt	500	Oct. 13-24	Antlerless Only	GMU 133
1013	Harrington	150	Nov. 10-21	Antlerless Only	GMU 136
1014	Steptoe	300	Nov. 10-21	Antlerless Only	GMU 139
1015	Almota	400	Nov. 10-21	Antlerless Only	GMU 142
1016	Mayview A	300	Oct. 16-24	Antlerless Only	GMU 145
1017	Mayview B	100	Oct. 16-24	Whitetail, Antlerless Only	GMU 145
1018	Starbuck	200	Nov. 10-21	Antlerless Only	GMU 148
1019	Bluecreek	150	Nov. 10-21	Whitetail, Antlerless Only	GMU 154
1020	Touchet	75	Nov. 10-21	Whitetail, Antlerless Only	GMU 160
1021	Eckler	75	Nov. 10-21	Whitetail, Antlerless Only	GMU 161
1022	Marengo A	125	Nov. 10-21	Whitetail, Antlerless Only	GMU 163
1023	Marengo B	175	Nov. 10-21	Antlerless Only	GMU 163
1024	Peola	200	Nov. 10-21	Antlerless Only	GMU 178
1025	Couse A	100	Oct. 16-24	Whitetail, Antlerless Only	GMU 181
1026	Couse B	100	Nov. 10-21	Whitetail, Antlerless Only	GMU 181

1027	Blue Mtn. Foothills A	70	Nov. 10-24	Whitetail, Antlerless or 3-Pt. Min.	GMUs 148, 154, 160, 161, 163, 166
1028	Blue Mtn. Foothills B	70	Nov. 10-24	Whitetail, Antlerless or 3-Pt. Min.	GMUs 145, 172, 175, 178, 181
1029	East Okanogan	50	Dec. 8-14	Whitetail, Either Sex	GMUs 200, 206
1030	West Okanogan	50	Dec. 8-14	Whitetail, Either Sex	GMUs 209, 215, 218, 224, 231, 233
1031	Wannacut	100	Nov. 1-7	Antlerless Only	GMU 209
1032	Sinlahekin	100	Nov. 1-7	Antlerless Only	GMU 215
1033	Chewuch	300	Nov. 1-7	Antlerless Only	GMU 218
1034	Pearrygin	700	Nov. 1-7	Antlerless Only	GMU 224
1035	Gardner	200	Nov. 1-7	Antlerless Only	GMU 231
1036	Pogue	500	Nov. 1-7	Antlerless Only	GMU 233
1037	Big Bend A	150	Oct. 18-24	Antlerless Only	GMU 248
1038	Saint Andrews	75	Oct. 18-24	Antlerless Only	GMU 254
1039	Foster Creek	200	Oct. 18-24	Antlerless Only	GMU 260
1040	Withrow	50	Oct. 18-24	Antlerless Only	GMU 262
1041	Badger	100	Oct. 18-24	Antlerless Only	GMU 266
1042	Moses Coulee A	200	Oct. 18-24	Antlerless Only	GMU 269
1043	Beezley	200	Oct. 23-31	Antlerless Only	GMU 272
1044	Kahlolus	150	Oct. 23-31	Antlerless Only	GMU 284
1045	Wenatchee	200	Nov. 13- Dec. 31	Antlerless Only	Portion of GMU 314 Deer Area 031
1046	Paterson	50	Dec. 1-12	Antlerless Only	GMU 485
1047	Green River A	40	Oct. 23-29	Either Sex	GMU 485
1048	Green River B	35	Oct. 23-29	Antlerless Only	GMU 485
1049	Lincoln	100	Oct. 23-31	Either Sex	GMU 501
1050	Mossyrock	100	Oct. 23-31	Either Sex	GMU 505
1051	Willapa Hills	75	Oct. 23-31	Either Sex	GMU 506
1052	Stormking	50	Oct. 23-31	Either Sex	GMU 510
1053	Sawtooth	50	Oct. 23-31	Either Sex	GMU 512
1054	Packwood	30	Oct. 23-31	Either Sex	GMU 516
1055	Ryderwood	50	Oct. 23-31	Either Sex	GMU 530
1056	Coweeman	60	Oct. 23-31	Either Sex	GMU 550
1057	Lewis River	50	Oct. 23-31	Either Sex	GMU 560
1058	Siouxon	50	Oct. 23-31	Either Sex	GMU 572
1059	Wind River	50	Oct. 23-31	Antlerless or 2-Pt. Min.	GMU 574
1060	White Salmon	100	Oct. 23-31	Antlerless or 2-Pt. Min.	GMU 576
1061	Goodnoe	100	Oct. 23-31	Antlerless or 2-Pt. Min.	GMU 584
1062	Grayback	200	Oct. 23-31	Antlerless or 2-Pt. Min.	GMU 588
1063	Hoko	50	Oct. 23-31	Either Sex	GMU 601
1064	Pysht	100	Oct. 23-31	Either Sex	GMU 603
1065	Soleduck	20	Oct. 23-31	Either Sex	GMU 607
1066	Goodman	50	Oct. 23-31	Either Sex	GMU 612
1067	Clearwater	50	Oct. 23-31	Either Sex	GMU 615
1068	Olympic	150	Oct. 23-31	Either Sex	GMU 621
1069	Coyle	125	Oct. 23-31	Either Sex	GMU 624
1070	Mason Lake	50	Oct. 23-31	Either Sex	GMU 633
1071	Skokomish	100	Oct. 23-31	Antlerless or 2-Pt. Min.	GMU 636
1072	Wynoochee	75	Oct. 23-31	Either Sex	GMU 648
1073	North River	25	Oct. 23-31	Either Sex	GMU 658
1074	Capitol Peak	30	Oct. 23-31	Either Sex	GMU 663
1075	Deschutes	75	Oct. 23-31	Either Sex	GMU 666
1076	Skookumchuck	250	Oct. 23-31	Either Sex	GMU 667
1077	Palix	50	Oct. 23-31	Either Sex	GMU 669
1078	Fall River	75	Oct. 23-31	Either Sex	GMU 672
1079	Nemah	25	Oct. 23-31	Either Sex	GMU 678
1080	Marrowstone Island	20	Oct. 23-31	Either Sex	Deer Area 061
1081	Minot Peak	75	Oct. 23-31	Either Sex	GMU 660

DEER MUZZLELOADER ONLY

Hunters must purchase a hunting license and muzzleloader deer tag prior to submitting an application for a muzzleloader permit hunt.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1082	Blue Creek B	50	Nov. 24- Dec. 5	Whitetail, Antlerless or 3-Pt. Min.	GMU 154
1083	Wannacut B	100	Nov. 13-21	Mule Deer, Antlerless Only Whitetail, Either Sex	GMU 209

PROPOSED

1084	Chiliwist	200	Nov. 13-21	Mule Deer, Antlerless Only Whitetail, Either Sex	GMU 239
1085	Alta	300	Nov. 13-21	Mule Deer, Antlerless Only Whitetail, Either Sex	GMU 242
1086	Moses Coulee B	25	Nov. 27- Dec. 19	Antlerless Only	GMU 269
1087	Chiwawa	200	Nov. 13-21	Antlerless Only	GMU 304
1088	Manson	200	Nov. 13-21	Antlerless Only	GMU 300
1089	Stillaguamish A	100	Dec. 4-12	Antlerless Only	GMU 448
1090	Yale	50	Nov. 24- Dec. 14	Either Sex	GMU 554

YOUNG HUNTER OPPORTUNITY

Applicants must be 16 years old or younger and must be accompanied by an adult.

1091	Northeast	250	Oct. 16-21	Either Sex	GMUs 105-124
1092	Blue Mtn. Foothills C	60	Oct. 16-24	Either Sex	GMUs 148, 154, 160, 161, 163, 166
1093	Blue Mtn. Foothills D	60	Oct. 16-24	Either Sex	GMUs 145, 172, 175, 178, 181
1094	Lincoln	100	Oct. 16	Either Sex	GMUs 130, 133
1095	Big Bend B	100	Oct. 18-24	Antlerless Only	GMU 248

ADVANCED HUNTER EDUCATION (AHE) PROGRAM

Only hunters who have successfully completed the Department of Wildlife's Advanced Hunter Education (AHE) Program will be eligible to hunt deer in these seasons. A certification card will be issued to all AHE graduates and must be in possession while hunting during these seasons.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1096	Curlew B	25	Dec. 4-12	Whitetail, Either Sex	GMU 100

In addition, other AHE permits are available on Private Land Management hunts.

SPECIAL HUNT FOR DISABLED, BLIND OR VISUALLY HANDICAPPED

Hunters must purchase a hunting license and modern firearm or muzzleloader deer tag prior to purchase of a special hunting season permit application. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply for these permits.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1097	Big Bend C	25	Oct. 20-25	Antlerless Only	GMU 248
1098	Stillaguamish B	25	Nov. 27-28	Antlerless Only	GMU 448

In addition, special hunts for disabled, blind or visually handicapped are available on Private Land Management hunts.

DEER PRIVATE LANDS MANAGEMENT PERMIT OPPORTUNITIES

Wilson Creek Area

There will be up to thirty hunters authorized to participate in a special hunt for which an access fee will be charged. The hunter must have a valid hunting license, transport tag, and written authorization from the landowner to participate in this hunt. All other hunting regulations apply.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1099	Wilson A	30	Oct. 9-31	Buck Only*	PLWMA 201
1100	Wilson B	2	Oct. 9-31	Buck Only, Young Hunters Only**	PLWMA 201
1101	Wilson C	70	Oct. 1- Dec. 31	Antlerless Only, Young Hunters Only**	PLWMA 201
1102	Wilson D	20	Oct. 1- Dec. 31	Antlerless Only, Disabled Only	PLWMA 201
1103	Wilson E	10	Oct. 1- Dec. 31	Antlerless Only, AHE Only	PLWMA 201

*Persons desiring to hunt bucks and pay an access fee should contact Mr. Stevens (509-345-0121) for information on fees and access.

**Applicants must be 16 years old or younger and must be accompanied by an adult during the hunt.

Champion's Kapowsin Tree Farm

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1104	Kapowsin North	50	Dec. 10-14	Antlerless Only, Senior Hunters (Age 65+)	GMU 401 North
1105	Kapowsin Central	50	Dec. 10-14	Antlerless Only	GMU 401 Central
1106	Kapowsin South	100	Dec. 11, 12, 18, 19	Antlerless Only, Young and Disabled	GMU 401 South

**Special Elk Hunting Seasons
(Open to Permit Holders Only)**

Hunters must purchase a hunting license and elk tag prior to purchase of a permit application. Permit hunters may hunt only with a weapon in compliance with their tag. Applicants must have purchased the proper area tag for these hunts (see Elk Tag Prefix required to apply for each hunt). Hunters drawing a permit for a hunt after the first of the year can use their 1993 license and tag during the hunt. Only hunters who purchase an Early Blue Mountain elk tag (BE) may apply for special Blue Mountain bull permits. Blue Mountain hunters must have the appropriate elk tag prefix for the hunt they are applying for.

Use the FOUR DIGIT HUNT NUMBER on your application.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2001	Aladdin	30	Oct. 30- Nov. 7	Either Sex	BL or BM	GMU 111
2002	Selkirk	50	Oct. 30- Nov. 7	Either Sex	BL or BM	GMU 113
2003	Mt. Spokane	30	Oct. 30- Nov. 7	Antlerless Only	BL or BM	GMU 124
2004	Mica, Cheney	150	Oct. 30- Nov. 7	Either Sex	BL or BM	GMU 127, 130
2005	Blue Creek A	50	Oct. 30- Nov. 7	Spike Bull or Antlerless	BL or BM	GMU 154
2006	Blue Creek B	15	Oct. 27- Nov. 7	Any Bull	BE	GMU 154
2007	Watershed	100	Oct. 30- Nov. 7	Antlerless or 3-Pt. Min.	BL or BM	GMU 157
2008	Touchet	15	Oct. 27- Nov. 7	Any Bull	BE	GMU 160
2009	Eckler	15	Oct. 27- Nov. 7	Any Bull	BE	GMU 161
2010	Touchet, Eckler, Marengo	25	Dec. 15- Jan. 15, 1994	Antlerless Only	BL or BM	GMUs 160*, 161*, 163*
2011	Tucannon	20	Oct. 27- Nov. 7	Any Bull	BE	GMU 166
2012	Wenaha A	5	Oct. 1-7	Any Bull	BE	GMU 169
2013	Wenaha B	15	Oct. 27- Nov. 7	Any Bull	BE	GMU 169
2014	Mountain View A	50	Oct. 30- Nov. 7	Spike Bull or Antlerless	BL or BM	GMU 172
2015	Mountain View B	50	Dec. 15- Jan. 15, 1994	Antlerless Only	BL or BM	GMU 172
2016	Mountain View C	15	Oct. 27- Nov. 7	Any Bull	BE	GMU 172
2017	Lick Creek	25	Oct. 30- Nov. 7	Spike Bull or Antlerless	BL or BM	GMU 175
2018	Peola	5	Oct. 27- Nov. 7	Any Bull	BE	GMU 178
2019	Couse A	75	Oct. 30- Nov. 7	Spike Bull or Antlerless	BL or BM	GMU 181
2020	Couse B	3	Oct. 27- Nov. 7	Any Bull	BE	GMU 181
2021	Joseph/Black Butte	1	Oct. 27- Nov. 7	Any Bull	BE	GMUs 184-185
2022	Naneum	100	Oct. 24-26	Antlerless Only	CL or CM	GMU 328
2023	Malaga A	150	Sept. 1- Oct. 7	Antlerless Only	CL or CM	Elk Area 032
2024	Malaga B	150	Nov. 4- Dec. 31	Either Sex	CL or CM	Elk Area 032
2025	Peshastin A	150	Sept. 1- Oct. 7	Antlerless Only	CL or CM	Elk Area 033
2026	Peshastin B	150	Nov. 4- Dec. 31	Antlerless Only	CL	Elk Area 033
2027	Quilomene	150	Oct. 24-26	Antlerless Only	CL or CM	GMU 329

2028	West Bar A	25	Oct. 24	Antlerless Only	CL or CM	GMU 330
2029	West Bar B	25	Oct. 25	Antlerless Only	CL or CM	GMU 330
2030	West Bar C	25	Oct. 26	Antlerless Only	CL or CM	GMU 330
2031	Parke Creek	25	Nov. 24- Dec. 15	Antlerless Only	CL or CM	Elk Area 034
2032	Taneum	300	Nov. 1-4	Antlerless Only	YL or YM	GMU 336
2033	Manastash	300	Nov. 1-4	Antlerless Only	YL or YM	GMU 340
2034	Umtanum	300	Nov. 1-4	Antlerless Only	YL or YM	GMU 342
2035	Naches A	300	Nov. 1-4	Antlerless Only	YL or YM	GMU 346
2036	Naches B	25	Oct. 2-15	3-Pt. Min.	YL or YM	GMU 346
2037	Nile	100	Nov. 1-4	Antlerless Only	YL or YM	GMU 352
2038	Bumping	450	Nov. 1-4	Antlerless Only	YL or YM	GMU 356
2039	Bethel	100	Nov. 1-4	Antlerless Only	YL or YM	GMU 360
2040	Rimrock	300	Nov. 1-4	Antlerless Only	YL or YM	GMU 364
2041	Cowiche	150	Nov. 1-4	Antlerless Only	YL or YM	GMU 368
2042	White River A	25	Nov. 3-14	Any Bull	WE or WM	GMU 472
2043	Green River Cow A	25	Nov. 13-17	Antlerless Only	WL or WM	GMU 485
2044	Green River Bull	15	Nov. 13-17	Antlerless or 3-Pt. Min.	WL or WM	GMU 485
2045	Green River Spike	5	Nov. 13-17	Spike or Antlerless Only	WL or WM	GMU 485
2046	Lincoln	25	Nov. 16-21	Antlerless Only	WL or WM	GMU 501
2047	Willapa Hills	50	Nov. 16-21	Antlerless Only	WL or WM	GMU 506
2048	Packwood	75	Nov. 16-21	Antlerless Only	WL or WM	GMU 516
2049	Margaret Cow	30	Nov. 16-21	Antlerless Only	WL or WM	GMU 524
2050	Margaret Bull	30	Nov. 3-14	3-Pt. Min.	WL or WM	GMU 524
2051	Ryderwood	50	Nov. 16-21	Antlerless Only	WL or WM	GMU 530
2052	Toutle Cow	75	Nov. 16-21	Antlerless Only	WL or WM	GMU 556
2053	Toutle Bull	200	Nov. 3-14	3-Pt. Min.	WL or WM	GMU 556
2054	Marble	60	Nov. 16-21	Antlerless Only	WL or WM	GMU 558
2055	Lewis River	125	Nov. 16-21	Antlerless Only	WL or WM	GMU 560
2056	Siouxon	50	Nov. 16-21	Antlerless Only	WL or WM	GMU 572
2057	Dickey Bull A	10	Oct. 3-14	3-Pt. Min.	WL or WM	GMU 602
2058	Dickey Bull B	75	Oct. 30- Nov. 10	3-Pt. Min.	WL or WM	GMU 602
2059	Soleduck	30	Nov. 16-21	Antlerless Only	WL or WM	GMU 607
2060	Goodman	50	Nov. 16-21	Antlerless Only	WL or WM	GMU 612
2061	Matheny	50	Nov. 16-21	Antlerless Only	WL or WM	GMU 618
2062	Quinalt Ridge	5	Oct. 3-14	3-Pt. Min.	WL or WM	GMU 638
2063	Humpulips	15	Nov. 16-21	Antlerless Only	WL or WM	GMU 639
2064	Wynoochee	50	Nov. 16-21	Antlerless Only	WL or WM	GMU 648
2065	Palix	40	Nov. 16-21	Antlerless Only	WL or WM	GMU 669
2066	Nemah	50	Nov. 16-21	Antlerless Only	WL or WM	GMU 678
2067	Backbone	55	Nov. 24- Dec. 14	Either Sex	WL or WM	Elk Area 025
2068	Curtis	50	Dec. 20-31	Antlerless Only	WL or WM	Elk Area 050
2069	Boistfort A	25	Jan. 1- 16, 1994	Antlerless Only	WL or WM	Elk Area 054
2070	East Valley	25	Jan. 4-16	Antlerless Only	WL or WM	Elk Area 055
2071	Carlton	5	Oct. 3-14	3-Pt. Min.	WL or WM	Elk Area 057
2072	West Goat Rocks	5	Oct. 3-14	3-Pt. Min.	WL or WM	Elk Area 058
2073	Mt. Adams	5	Oct. 3-14	3-Pt. Min.	WL or WM	Elk Area 059
2074	Mt. Tebo	5	Oct. 3-14	3-Pt. Min.	WL or WM	Elk Area 061
2075	South Willapa	10	Jan. 1- 15, 1994	Antlerless Only	WL or WM	Elk Area 067

*Outside of Umatilla National Forest.

SPECIAL HUNT FOR DISABLED, BLIND OR VISUALLY HANDICAPPED

Hunters must purchase a hunting license and modern firearm or muzzleloader elk tag prior to purchase of a special hunting season permit application. Note elk tag required. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2076	Naches D	10	Oct. 2-15	Either Sex	YL or YM	GMU 346
2077	Green River Cow B	5	Nov. 13-17	Antlerless Only	WL or WM	GMU 485
2078	Centralia Mine A	7	Nov. 20-21	Antlerless Only	WL or WM	Portion of GMU 667*

2079	Centralia Mine B	7	Nov. 27-28	Antlerless Only	WL or WM	Portion of GMU 667*
2080	Centralia Mine C	6	Dec. 4-5	Either Sex	WL or WM	Portion of GMU 667*

*Successful applicants will be mailed a map of the hunt boundary.

MUZZLELOADER ONLY

Hunters must purchase a hunting license and muzzleloader elk tag prior to purchase of a special hunting season permit application. Note the elk tag required for each hunt.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2081	Blue Creek C	50	Dec. 1- Jan. 31, 1994	Antlerless Only	BM	GMU 154
2082	Mountain View D	50	Oct. 8-14	Spike Bull or Antlerless	BM	GMU 172
2083	Mountain View E	6	Oct. 8-14	Any Bull	BM	GMU 172
2084	Coal Creek	10	Nov. 9- Dec. 9	Antlerless Only	WM	ML Area 940
2085	Stella	50	Nov. 24- Dec. 14	Either Sex	WM	GMU 504
2086	Boistfort B	50	Jan. 16-31	Either Sex	WM	Elk Area 054
2087	Yale	75	Nov. 24- Dec. 14	Either Sex	WM	GMU 554
2088	Toledo	50	Jan. 3-17	Antlerless Only	WM	Elk Area 029
2089	Hoko River A	15	Jan. 1- 15, 1994	Antlerless Only	WM	ML Area 961
2090	Hoko River B	15	Jan. 16- Feb. 15, 1994	Antlerless Only	WM	ML Area 961
2091	Chinook	10	Jan. 16- Feb. 15, 1994	Antlerless Only	WM	Elk Area 069
2092	North River	30	Nov. 20- Dec. 8	Antlerless Only	WM	GMU 658
2093	Minot Peak	30	Oct. 8-14	Either Sex	WM	GMU 660
2094	Elwha A	5	Dec. 15- Jan. 15, 1994	Antlerless Only	WM	ML Area 962

ARCHERY ONLY

Hunters must purchase a hunting license and the appropriate archery elk tag prior to purchase of a special hunting season permit application.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2095	Blue Mountains West	11	Oct. 1-14	Either Sex	BA	GMUs 154, 160, 161, 166, 169
2096	Blue Mountains East	5	Oct. 1-14	Either Sex	BA	GMUs 178, 181, 184, 185
2097	White River	5	Oct. 1-14	Either Sex	WA	GMU 472

Private Lands Management Permit Opportunities

Champion's Kapowsin Tree Farm

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
2098	Kapowsin North	60	Nov. 24- Dec. 5	Antlerless Only or Spike Bull	GMU 401 North
2099	Kapowsin Central	25	Nov. 24- Dec. 5	Antlerless Only or Spike Elk	GMU 401 Central
2100	Kapowsin South	25	Nov. 24- Dec. 5	Antlerless Only or Spike Elk	GMU 401 South

REPEALER

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

The following section of the Washington Administrative Code is repealed.

WAC 232-28-234 1992-93 Deer and elk permit hunting seasons

WSR 93-06-064
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed March 1, 1993, 1:24 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-28-226 1991-92, 1992-93, 1993-94 Deer and bear hunting seasons and regulations.

Purpose: To amend WAC 232-28-226 1991-92, 1992-93, 1993-94 Deer and bear hunting seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This amendment will modify the 1993-94 deer and bear hunting seasons and regulations. Modern firearm deer seasons in Okanogan, Chelan, Kittitas, Klickitat, and Yakima counties are shortened. Archery two deer hunts are eliminated. Late muzzleloader hunts in southeastern Washington and Deschutes are added for damage control purposes. Deer hunting seasons for Kapowsin Tree Farm are included.

Reasons Supporting Proposal: Advises deer and bear hunters of the proper time, place, and manner for hunting.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Britnell, AD, Wildlife Management Division, Olympia, (206) 753-5728; and **Enforcement:** Tony de la Torre, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Amends the time, place, and manner for deer and bear hunting seasons.

Proposal Changes the Following Existing Rules: Minor date corrections and hunt locations.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by April 5, 1993.

Date of Intended Adoption: April 16-17, 1993.

March 1, 1993

Richard J. Poelker

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 547, filed 6/1/92)

WAC 232-28-226 1991-92, 1992-93, 1993-94 Deer and bear hunting seasons and regulations

DEER

Bag Limit: One (1) deer per hunter during an annual (July 1-March 31) hunting season. Except modern firearm or muzzleloader special permit hunters (~~and archers~~) in select GMUs may be allowed two (2) deer.

Hunting Method: Hunters must select one of the hunting methods (modern firearm, archery, muzzleloader).

Buck Deer Seasons: Open only to the taking of male deer with visible antlers (buck fawns illegal).

Definition: Visible antler is a horn-like growth projecting above the hairline.

Branched Antler Restriction GMUs: APPLIES TO ALL HUNTERS DURING ANY OPEN SEASON! Buck deer taken in these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Antler points include eye guards but all antler points must be at least one inch long. The following GMUs have 2 or 3 point minimum requirements on buck deer taken.

2 Point GMUs: 433, 478, 558, 574, 576, 584, 586, 588, 636, 681, and GMU 485 (by permit only).

3 Point GMUs: 103, 127, 130, 133, 136, 139, 142, 145, 148, 151, 154, 160, 161, 163, 166, 169, 172, 175, 178, 181, 184, 185, 203, 231, 306, and 450.

Modern Firearm Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

Hunting Method: Modern firearm deer tag hunters may use rifle, handgun, shotgun, bow or muzzleloader, but only during modern firearm seasons.

High Buck Hunt

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	Dates			Legal Deer
	1991	1992	1993	
203, 301, 302, 450	Sept. 15-25	Sept. 15-25	Sept. 15-25	3-Pt. min.
Deer Areas 010, 040, 060	Sept. 15-25	Sept. 15-25	Sept. 15-25	3-Pt. min.

General Modern Firearm Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

PROPOSED

GMUs	Dates			Legal Deer
	1991	1992	1993	
Northeastern 100	Oct. 12-27	Oct. 17- Nov. 1	Oct. 16-31	Buck only
103	Oct. 12-27	Oct. 17- Nov. 1	Oct. 16-31	3 Pt. min.
105-124	Oct. 12- Nov. 24	Oct. 17- Nov. 22	Oct. 16- Nov. 21	Buck only
Southeastern 127-185 Except closed in 157	Oct. 12-20	Oct. 17-25	Oct. 16-24	3-Pt. min.
Okanogan 200-242	Oct. 12- Nov. 1	Oct. 17- Nov. 6	Oct. 16- ((Nov-5)) 31	Buck only except 3 pt. min. in GMU 203 and 231.
Columbia Basin 248-278, 284	Oct. 12-20	Oct. 17-25	Oct. 16- ((24)) 22	Buck only
281	Oct. 12-20	Oct. 17-25	Oct. 16-24	Either sex
Chelan 300-316	Oct. 12- Nov. 8	Oct. 17- Nov. 10	Oct. 16- ((Nov-10)) 31	Buck only except 3 pt. min. in GMU 306.
Colockum and Central 328-334, 336,340	Oct. 12-22	Oct. 17-27	Oct. 16-26	Buck only
335, 342-370	Oct. 12-31	Oct> 17- Nov. 4	Oct. 16- ((Nov-4)) 29	Buck only
Western 405-572, 580, 600-684 Closed in GMU 522. Permit only in GMU 485.	Oct. 12-27	Oct. 17- Nov. 1	Oct. 16-31	Buck only except either sex in GMUs 410, 480, and 564; and 2 pt. min. in GMUs 433, 478, 558, 636, and 681; and 3 pt. min. in GMU 450.
574, 576, 584, 586, 588	Oct. 12- Nov. 10	Oct. 17- Nov. 15	Oct. 16- Nov. ((4)) 8	2-Pt. min.

Late Buck Season

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	Dates			Legal Deer
	1991	1992	1993	
All 400, 500 & 600 Except closed in: GMUs 480, 485, 522, 574, 576, 580, 584, 586, 588.	Nov. 21-24	Nov. 19-22	Nov. 18-21	Buck only except 2 pt. min. in GMUs 433, 478, 558, 636, and 681 and 3 pt. min. in GMU 450 and either sex in GMU 410 and 564.

Archery Deer Seasons

Tag Required: Deer hunter must have a current valid, unaltered, unnotched archery deer tag on his/her person.

Special Notes: Archery tag holders can only hunt with archery equipment during archery seasons.

~~((Archery Two Deer Hunts))~~

~~((Archery hunters will be eligible to purchase a second deer tag for game management units 105-118, 121, 124. To take advantage of this opportunity, archers must mail their original deer transport tag and a check or money order for \$18.00 (resident) or (\$60.00) nonresident to the Department of Wildlife, 600 Capitol Way N., Olympia, WA 98501-1091 and be postmarked no later than September 15, 1992. When these items are received, the original deer transport tag will be stamped "WHITETAIL ANTLERLESS ONLY - VALID ONLY IN GMUS 105-118, 121, 124," a second deer transport tag will be issued and stamped "WHITETAIL ANTLERLESS ONLY - VALID ONLY IN GMUS 105-118, 121, 124," and returned to the archer. These validated deer transport tags will only be valid for use within the specified game management units.))~~

Early Archery

GMUs	Dates			Legal Deer
	1991	1992	1993	
100-118, 121-154, 160-169, 175-200, 206, 215-239, 248-300, 306, 308, 316-340, 352-356, 364, 370, 405-442, 454-478, 490, 504, 505, 510, 512, 514, 516, 520, 524, 530, 550, 554-560, 568-588, 601, 602, 607, 615, 618, 621, 627-633, 638, 639, 642-663, 667-669, 678, 681	Sept. 11- Oct. 8	Sept. 16- Oct. 13	Sept. 15- Oct. 12	Either sex except 3 pt. or antlerless in GMUs 103, 127- 185, 231, and 306, and 2 pt. or antler- less in GMUs 433, 478, 558, 574, 576, 584, 586, 588, and 681.
203, 301, 450	Sept. 15- Oct. 8	Sept. 15- Oct. 13	Sept. 15- Oct. 12	3 Pt. min. or antlerless

302	Sept. 15-24	Sept. 15-29	Sept. 15-28	3 Pt. min. or antlerless
119, 172, 242, 304, 360, 448, 484, 564, 603, 612, 624, 636, 666, 672, 684	Sept. 11-24	Sept. 16-29	Sept. 15-28	Either sex except 2 pt. or antlerless in GMU 636 and 3 pt. min. or antlerless in GMU 172.
501, 506	Sept. 11-Oct. 1	Sept. 16-Oct. 6	Sept. 15-Oct. 5	Either sex
480	Sept. 27-Oct. 8	Sept. 25-Oct. 6	Oct. 1-12	Either sex
Bow Area 802	Sept. 11-Oct. 8	Sept. 16-Oct. 13	Sept. 15-Oct. 12	Either sex

Late Archery

GMUs	Dates			Legal Deer
	1991	1992	1993	
103	Nov. 13-Dec. 8	Nov. 11-Dec. 8	Nov. 10-Dec. 8	Whitetail only antlerless or 3-pt. min.
118, 121, 124	Nov. 27-Dec. 15	Nov. 25-Dec. 15	Nov. 24-Dec. 15	Whitetail only; either sex
127, 166, 178	Nov. 27-Dec. 15	Nov. 25-Dec. 15	Nov. 24-Dec. 15	Antlerless or 3 pt. min.
209, 215, 233, 242, 272, 300, 304, 316, 346, 352, 364	Nov. 27-Dec. 8	Nov. 25-Dec. 8	Nov. 24-Dec. 8	Either sex
558, 584, 588, 636, 681	Nov. 27-Dec. 15	Nov. 25-Dec. 15	Nov. 24-Dec. 15	Antlerless or 2-pt. min. in GMUs 558, 584, 588, 636, and 681
417, 418, 426, 440, 448, 450, 460, 466, 480, 510, 512, 514, 516, 520, 524, 530, 556, 560, 572, 601, 607, 612, 615, 618, 638, 639, 648, 666, 669, 678	Nov. 27-Dec. 15	Nov. 25-Dec. 15	Nov. 24-Dec. 15	Either sex

Bow Areas	Dates			Legal Deer
	1991	1992	1993	
802	Nov. 27-Dec. 15	Nov. 25-Dec. 15	Nov. 24-Dec. 15	Either sex

806, 807	Nov. 27-Dec. 8	Nov. 25-Dec. 8	Nov. 24-Dec. 8	Either sex
820	Dec. 21-Jan. 5, 1992	Dec. 26-Jan. 10, 1993	Dec. 25-Jan. 9, 1994	Either sex

Extended Late Archery

GMUs	Dates			Legal Deer
	1991	1992	1993	
405, 410, 433, 442, 454, 484, 505, 506, 564, 568, 603, 624, 627*, 642, 660, 663, 667, 672, and deer areas 041 and 042	Nov. 27-Dec. 31	Nov. 25-Dec. 31	Nov. 24-Dec. 31	Either sex except antlerless or 2 pt. min. in GMU 433.

* Submarine Base Bangor within GMU 627 is antlerless only.

Muzzleloader Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched muzzleloader deer tag on his/her person.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equipment. Muzzleloader deer tag holders may apply for all either sex, antlerless only, and branched antler deer special hunting permits.

High Buck Hunt

GMUs	Dates			Legal Deer
	1991	1992	1993	
203, 301, 302, 450	Sept. 15-25	Sept. 15-25	Sept. 15-25	3-Pt. min.
Deer Areas 010, 040, 060	Sept. 15-25	Sept. 15-25	Sept. 15-25	3-Pt. min.

Early Muzzleloader

GMUs	Dates			Legal Deer
	1991	1992	1993	
119, 209, 242, 302, 304, 360, 368, 564, 666	Sept. 25-Oct. 8	Sept. 30-Oct. 13	Sept. 29-Oct. 12	Either sex
506	Oct. 5-11	Oct. 8-14	Oct. 8-14	Buck only
484, 603, 612, 624, 672	Sept. 25-Oct. 8	Sept. 30-Oct. 13	Sept. 29-Oct. 12	Buck only

Late Muzzleloader

GMUs	Dates			Legal Deer
	1991	1992	1993	
113	Nov. 27-Dec. 8	Nov. 25-Dec. 8	Nov. 24-Dec. 8	Whitetail only either sex

<u>130, 133, 136, 139, 181</u>	Nov. 27- Dec. 8	Nov. 25- Dec. 8	Nov. 24- Dec. 8	Antlerless or 3 pt. min.
304	Nov. 9-17	Nov. 14-22	Nov. 13-21	Buck only
410	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Either sex
478	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Antlerless or 2-pt. min.
501, 504, 550	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Either sex
580	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Buck only
576, 586	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	2-Pt. min.
602, 633 651, <u>666</u> , 684	Nov. 27- Dec. 15	Nov. 25- Dec. 15	Nov. 24- Dec. 15	Either sex
Muzzleloader Area 925	Dec. 1-31	Dec. 1-31	Dec. 1-31	Antlerless only

Firearm Restricted Deer Hunts Open To All Deer Hunters

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm, archery or muzzleloader deer tag on his/her person.

Hunting Method: Must use weapon in compliance with tag. Firearm restrictions apply in some GMUs.

GMUs	Weapon Permitted	Dates			Legal Deer
		1991	1992	1993	
410	Archery, Shotgun, Muzzleloader	Oct. 12-27	Oct. 17- Nov. 1	Oct. 16-31	Either sex
480	Archery, Shotgun, Muzzleloader	Oct. 12-27	Oct. 17- Nov. 1	Oct. 16-31	Either sex
564	Archery, Shotgun, Muzzleloader	Nov. 21- Dec. 15	Nov. 19- Dec. 15	Nov. 18- Dec. 15	Either sex
625	Archery	Sept. 11- Dec. 15	Sept. 16- Dec. 15	Sept. 15- (Dec. 15) Oct. 31	Either sex

Private Land Management Opportunities

Kapowsin Tree Farm (GMU 401 - Champion)

Hunting Method	Open Season	Special Restrictions
<u>Archery</u>	Sept. 15-Oct. 12	Antlerless or 2 pt. min.
<u>Modern Firearm:</u>		
<u>General</u>	Oct. 16-31	2 pt. min.
<u>Late Buck</u>	Nov. 18-21	2 pt. min.
<u>Muzzleloader</u>	Nov. 24-Dec. 5	Antlerless or 2 pt. min.

BLACK BEAR

Bag Limit: Fall general - One (1) black bear.

Tag Sale Deadline: Bear tags must be purchased by midnight of the day, preceding modern firearm deer season opener. Actual dates are: Oct. 11, 1991; Oct. 16, 1992; Oct. 15, 1993.

PURSUIT ONLY SEASON

It is lawful to pursue or tree black bears during established pursuit-only seasons, provided any bear pursued or treed is NOT killed or injured.

Aug. 1-31, 1991, 1992, and 1993, in GMUs 100-111, GMU 113 outside of Selkirk Grizzly Bear Recovery Zone*, 118-124 and GMUs 200 and 206.

OPEN SEASON

(Bear may be killed.)

Eastern Washington*

Sept. 1-Oct. 25, 1991, 1992, and 1993, except restrictive season below in Walla Walla and Columbia counties outside of Umatilla National Forest and CLOSED to hunting with hounds Sept. 1-5 in GMUs 203, 218, 224, 231, 239, and 242.

Oct. 12-25, 1991; Oct. 17-25, 1992; Oct. 16-25, 1993; in Columbia and Walla Walla counties outside Umatilla National Forest.

* Use of hounds and bait to hunt black bear prohibited in that part of GMU 113 within the Selkirk Grizzly Bear Recovery Zone*.

* Selkirk Grizzly Bear Recovery Zone: (Pend Oreille County): Beginning at the junction of the Canadian-Washington border and State Route 31 by Boundary Lake; then east along the Canadian border to the Idaho border; then south along the Idaho-Washington border to the ridge top between Bath Creek and Lamb Creek at Section 1, Township 35 North, Range 45 East; then west along said ridge top to USFS Road 310; then west along USFS Road 310 to the peak of Gleason Mountain; then west along USFS Trail 162 to Hungry Mountain; then south and west along the ridge top between Fourth of July Creek and Middle Creek to the mouth of LeClerc Creek; then north along the ridge top between the Pend Oreille River and the West Branch LeClerc Creek (Dry Canyon Ridge) to Sullivan Lake Road; then north and east along Sullivan Lake Road to Sullivan Lake; then north along the east shoreline of Sullivan Lake to Sullivan Lake Road; then north and west along Sullivan Lake Road to the city limits of Metaline Falls; then north along the city limits of Metaline Falls to State Route 31; then north along State Route 31 to the point of beginning. (See Washington Atlas & Gazetteer or Colville National Forest map.)

Western Washington

Aug. 1-Oct. 27, 1991; Aug. 1-Nov. 1, 1992; Aug. 1-Oct. 31, 1993, EXCEPT Sept. 1-Oct. 27, 1991; Sept. 1-Nov. 1, 1992; Sept. 1-Oct. 31, 1993; in GMUs 669, 678, and 681 and Sept. 11-Oct. 27, 1991; Sept. 16-Nov. 1, 1992; and Sept. 15-Oct. 31, 1993, in Bow Area 802. CLOSED in GMUs 485 and 522.

HOUND HUNTING CLOSURES

Use of hounds is prohibited in GMU 684, and Bow Area 802.

TOOTH SUBMITTAL

Bear: Each hunter who takes a bear must submit the small premolar tooth behind the canine tooth of upper and lower jaw for age determination. Tooth envelopes are available from Department of Wildlife regional offices.

REPORT CARDS

Each successful hunter must fill out and return a Game Harvest Report Card to the Department of Wildlife within ten days after taking a deer or bear.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 93-06-066
PROPOSED RULES
LIQUOR CONTROL BOARD
 [Filed March 1, 1993, 3:50 p.m.]

Original Notice.

Title of Rule: WAC 314-12-030 Requirement that true party of interest be listed on license; WAC 314-16-190 Class H restaurant—Qualifications; WAC 314-16-196 Class H restaurant—Floor space requirements—Conditions for service bar only premises; and WAC 314-20-070 Claims for defective keg beer—Replacement of overaged packaged beer—Procedures.

Purpose: WAC 314-12-030, to determine true party or parties of interest or net profits and further explain what ownerships are required on the license; WAC 314-16-190, to further define and clarify what constitutes a class H restaurant, establish reporting of sales requirements, requires that such restaurants be open to the public at least five days a week, five hours per day between the hours of 11:00 a.m. and 11:00 p.m., provides for excluding cover charges from the food/liquor ratio and makes an exception for customary holiday food/entertainment packages and Sunday brunches, and specifies what may be considered food items; WAC 314-16-196, to clarify how much of a business with a class H liquor license must be maintained for the service of food in order to retain the class H license; and WAC 314-20-070, to further establish the criteria when a retail licensee may ask for a claim adjustment when beer in barrels is determined to be unsalable due to defect in the container.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.010.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Implementation of WAC 314-12-030: Lester C. Dalrymple, 1025 East Union, Olympia, 753-6259; Implementation of WAC 314-16-190, 314-16-196 and 314-20-070: Gary Gilbert, 1025 East Union, Olympia, 586-3052; and Enforcement: Gary Gilbert, 1025 East Union, Olympia, 586-3052.

Name of Proponent: [Liquor Control Board], governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 314-12-030, the addition to this rule defines true party of interest, uses gross sales instead of net profits as criterion for substantial business interests, allows for exceptions for substantial interest such as rental and franchise agreements, employee bonus, repayments on loans, etc; WAC 314-16-190, the proposed changes would further define and clarify the criteria for a class H restaurant, what constitutes full meal service, what may and may not be counted as to the food/liquor sales ratio and other requirements for class H licensees; WAC 314-16-196, requires that 51 percent of the total area of the premises be allocated for the cocktail lounge and dining room areas; specifies that other customer service areas such as waiting rooms; card rooms; dance areas, located outside the cocktail lounge, cannot exceed twice the square footage of the primary dining and cocktail lounge areas; and WAC 314-20-070, the rule is revised to provide for claims by a retailer against a wholesaler, manufacturer or importer for defective containers deliv-

ered to a retailer wherein the product is unsalable and for the replacement of overaged packaged [packages]. The revisions clarify the circumstances under which beer may be returned and claim adjustments made on behalf of the retailer.

Proposal Changes the Following Existing Rules: See Purpose and Explanation of Rule above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

WAC 314-12-030, 314-16-196 and 314-20-070, does not impact small business; and WAC 314-16-190, the establishment of more detailed criteria should be advantageous to small businesses who may experience confusion with existing requirements.

Hearing Location: Liquor Control Board, 5th Floor Board Room, 1025 East Union, Olympia, WA 98504, on April 14, 1993, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, Public Information Officer, 1025 East Union, P.O. Box 43080, Olympia, WA 98504-3080, by April 6, 1993.

Date of Intended Adoption: April 14, 1993.

March 1, 1993
 Paula O'Connor
 Chairman

AMENDATORY SECTION (Amending Order 176, Resolution No. 185, filed 3/11/86)

WAC 314-12-030 (~~License to reflect true party in interest—Display of licenses.~~) **Requirement that true party of interest be listed on license.** (1) Pursuant to the requirements of RCW 66.24.010(1), any license issued shall be issued in the name(s) of the true party or parties in interest. (~~No licensee shall pay to any person, as compensation for services or otherwise, more than ten percent of the net profits of the licensed business, unless the name of said person appears on the license.~~)

(2) (~~All licenses (except certificates of approval and agent's licenses) shall be prominently displayed on the licensed premises.~~) For purposes of this section, "true party" shall apply to any person or entity having a substantial interest in the business conducted on the premises to be licensed.

(3) For purposes of this section, "substantial interest" shall mean any of the following:

(a) Receipt of, or the right to receive, more than ten percent of the gross sales from the licensed business during any calendar or fiscal year of the licensed business.

Gross sales, as used in this section, shall include the entire gross receipts of every kind and nature from the sales and services made in, upon, or from the premises, whether on a credit or cash basis, whether operated by the licensee or manager, except:

Any rebates or refunds to customers;

The licensee's cost of meals and beverage provided to employees;

The amount of sales tax receipts or admission taxes;

(b) An investment in the licensed business of ten thousand dollars or more; or

(c) Ownership of stock constituting more than ten percent of the issues or outstanding stock of the licensed business.

(4) For purposes of this section, "substantial interest" shall not mean:

(a) A bonus paid to an employee, if the employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation, or the bonus is based on a written incentive/bonus program and is not out of the ordinary for the services rendered;

(b) Repayment of a loan or payment on a contract to purchase property unless the loan or contract holder exercises control over or participates in the management of the licensed business;

(c) Reasonable payment for rent on a fixed or percentage basis under a bona fide lease or rental obligation unless the lessor or property manager exercises control over or participates in the management of the business;

(d) Payment of franchise fees on a fixed or percentage basis under a bona fide franchise agreement;

(e) Payment of dividends to corporate stockholders.

AMENDATORY SECTION (Amending Order 240, Resolution No. 249, filed 3/15/88)

WAC 314-16-190 Class H restaurant—Qualifications. (1) Definitions: For the purpose of this section:

(a) Complete meals means any combination of foods consisting of an entree and at least one additional course that is prepared and cooked on the premises and, except as provided in subsection (6) of this section, requires the use of dining implements for consumption.

(b) Entree means the main course of a meal to include meat, fish, fowl, eggs, vegetarian meat substitutes, pasta, or any combination thereof. Except as provided in subsection (6) of this section, such entree must be heated by means of baking, roasting, broiling, or grilling.

(c) Minimum food service means sandwiches and/or short orders such as deep fried foods, hors d'oeuvres, soup, or chili. Snacks such as peanuts, popcorn, and chips are not sufficient to meet the minimum food service requirement.

(2) All restaurant applicants for a Class H license, in addition to furnishing all requested material and information relating to the premises applied for and their personal qualifications, shall establish to the satisfaction of the board that the premises will commence as, and continue to operate as, a bona fide restaurant as required by RCW 66.24.400 and 66.24.410(2).

~~((2))~~ (3) A restaurant applicant for a Class H license shall be subject to the following requirements which are conditions precedent to action by the board on the application:

(a) The applicant shall furnish to the board a detailed blueprint of the entire premises to be licensed drawn to scale of one-fourth inch to one foot. This blueprint shall include the kitchen equipment layout plus a detailed listing of the kitchen equipment and its approximate value. The kitchen equipment shall include, at a minimum, adequate refrigeration, oven, grill, cooktop, and/or broiler to support the menu.

(b) Prior to delivery of the license the board shall receive a verification from its enforcement officer, based upon an inspection of the premises, that the kitchen equip-

ment designated in (a) of this subsection is in place and is operational.

~~((3))~~ (4) In any case where the board has a concern as to the applicant's qualifications, based on the applicant's experience; the adequacy of the proposed facility; the proposed method of operation; the applicant's financial stability; or for any other good and sufficient reason, the board may require such applicant to submit figures reflecting operation as a restaurant for a period to be designated by the board. The submission of these operating figures shall be a condition precedent to the board making a decision on a license application. Any applicant required to submit operating figures for a period designated by the board, shall not thereby be deemed to have acquired a vested right to have the license applied for issued merely because the requested figures have been submitted.

~~((4))~~ (5) To demonstrate to the satisfaction of the board that a Class H restaurant as defined in RCW 66.24.410(2) is maintained in a substantial manner as a place for preparing, cooking and serving of complete meals, a Class H restaurant shall maintain daily average gross retail food sales of one hundred dollars or more, and such food sales shall amount to thirty percent or more of the restaurant's total food-liquor sales.

~~((5))~~ (6) Each Class H restaurant licensee shall submit ~~((semi-annual))~~ reports annually, or as directed by the board in writing, on forms provided by the board, showing its gross food and liquor sales. Sales of food and liquor made by a Class H licensee under a Class I license shall be included as a part of the licensee's gross food and liquor sales. ~~If ((for two successive semi-annual reports,))~~ a Class H restaurant's daily average gross retail food sales are less than one hundred dollars, or its retail food sales are less than thirty percent of its total food-liquor sales, such restaurant shall be ineligible to retain its Class H license. Further, each Class H restaurant licensee shall conspicuously display or provide to any patron upon request, a menu offering a variety of at least five entrees accompanied by such other foods as to constitute a complete meal. One of the five entrees may consist of pizza or a deep fried food. Where salad bars or other buffet-type meals are offered, one or more entrees may be included to count toward the five entree requirement.

~~((6))~~ (7) The restaurant area of any Class H restaurant shall be open to the public for service of complete meals, with a minimum selection of five entrees, at least five days a week, unless otherwise authorized in writing by the board to alleviate demonstrated hardship, and such service of complete meals shall be available to the public for five hours a day between the hours of 11:00 a.m. and 11:00 p.m. on any day liquor is offered for sale, service or consumption, unless otherwise authorized in writing by the board to alleviate demonstrated hardship. The hours of complete meal service shall be conspicuously posted for public viewing. A chef or cook shall be on duty during the hours when complete meal service is available. At all other times when the restaurant area is not open for service of complete meals, but liquor is offered for sale, service or consumption on the licensed premises, ~~((sandwiches and/or short orders of))~~ minimum food service shall be available for sale to the public. Notice of such minimum food service availability

shall be conspicuously posted in all areas where liquor is being served.

~~((7))~~ (8) In the event a Class H restaurant licensee shall fail to comply with any of the foregoing requirements, and such licensee has been notified that they will not be eligible to retain its Class H license, such licensee may petition the board setting forth unusual, extenuating and mitigating circumstances for the failure to comply and the board may consider such reasons and may grant an extension of the Class H license under such terms and conditions as the board determines are in the best interest of the public.

~~((8))~~ Licensees who presently hold a Class B liquor license and who apply for a Class H liquor license in lieu thereof, in order to demonstrate to the satisfaction of the board that the business such applicant has been operating is primarily that of a restaurant, must submit and establish the following data and information:

~~(a)~~ Sales figures for ninety days preceding the in lieu application showing total sales, segregated as to the following categories:

- ~~(i)~~ Food sales for on premises consumption;
- ~~(ii)~~ Food sales for off premises consumption;
- ~~(iii)~~ Beer and/or wine sales for on premises consumption;
- ~~(iv)~~ Beer and/or wine sales for off premises consumption;

~~(v)~~ Miscellaneous sales, including but not limited to, cigarettes, candies, packaged snack foods, and where such activity has been conducted the income from games, gambling, cover charges, etc.

~~(b)~~ That for a period of at least ninety days prior to the date of filing the Class H license application, the gross food sales for on premises consumption as set forth in ~~(a)(i)~~ of this subsection constituted fifty one percent or more of total food liquor sales for on premises consumption.

~~While the requirements of (a) and (b) of this subsection must be established before the board will give consideration to the issuance of an in lieu Class H license, the fact that an applicant meets those criteria does not establish a vested right that such license shall issue.)~~ (9) The licensee shall maintain the ingredients necessary to provide complete meals including at least five different entrees during those times as required in subsection (6) of this section and minimum food service at all other times. Such ingredients shall be fresh, palatable, and relate to the menu so posted or available to the public.

(10) The refusal or failure by any licensee or employee thereof to provide complete or minimum food service in subsection (6) of this section shall be *prima facie* evidence of a violation of this section.

(11) Licensees assessing customers a mandatory premises entry fee which includes a cover charge, meal charge, and/or other charges may not apply the mandatory food sales charge to the food/liquor ratio: *Provided*, That customary holiday food/entertainment packages and Sunday brunches are not subject to the provisions of this subsection.

(12) Meals provided to employees by Class H licensees may be applied to the food/liquor ratio to the extent that the amount applied does not exceed the licensees per meal cost. The recordkeeping requirements in WAC 314-16-160 apply to employee meals that are included as a part of the food/liquor ratio.

(13) Nonliquor ingredients (pop, bottled water, lime, olives, etc.) served in an alcoholic beverage shall not be considered food sales. Soft drinks, juices, bottled water, etc., sold without an alcohol ingredient may be counted as food sales as long as they are sold and accounted for (rung up) as a separate item.

AMENDATORY SECTION (Amending WSR 92-14-025, filed 6/22/92, effective 7/23/92)

~~WAC 314-16-196 Class H ((license issued to premises without a cocktail lounge)) restaurant—Floor space requirements—Conditions for service bar only premises.~~

(1) Before the board shall issue a Class H license to a bona fide restaurant, the applicant shall ~~((present, and receive the approval of the board for))~~ submit, as a part of or in addition to the blueprint required by WAC 314-16-190 (2)(a), a scale drawing one-quarter inch equals one foot ~~((scale drawing))~~ of the proposed premises indicating that the area designated as the primary dining room(s) comprises at least ~~((the simple majority of area when combined with the lounge area-))~~ fifty-one percent of the total area allocated for the cocktail lounge and dining room areas, except:

(a) Banquet rooms are ~~((not considered primary dining area or neutral space. Neutral area will))~~ permitted without limitations as to number or size;

(b) Other customer service areas, i.e., waiting rooms, game rooms, card rooms, and bandstand/dance areas located outside the cocktail lounge shall not exceed twice the total square footage of the primary dining and cocktail lounge area combined. ~~((A service bar(s) may be approved in lieu of the cocktail lounge))~~ Written board approval is required: *Provided, however*, That the board may approve variations to the floor space requirement of this subsection where the applicant/licensee can demonstrate to the satisfaction of the board that the proposed layout would best suit the available floor space.

~~((Neutral area is defined as all patron areas within the licensed premises that are dedicated to activities other than the service of food or alcoholic beverages (i.e., hallways, waiting rooms, rest rooms, game rooms, card rooms, and bandstand/dance areas) located outside the cocktail lounge.))~~

(2) ~~((These premises not having cocktail lounges shall have the location of their))~~ Class H licensees/applicants may have a service bar(s) ~~((approved))~~ without regard to the floor space requirements of subsection (1) of this section, in lieu of a cocktail lounge on the following conditions:

(a) Location of the service bar(s) shall be approved, in writing, by the board.

(b) Service of liquor from such service bar(s) will be by the licensee, or licensee's employees or customers may order and pick up their drinks at the service bar(s).

(c) Liquor sale, service and consumption may take place only during hours that the full restaurant menu is available and a chef or cook is on duty.

(3) A Class H licensed restaurant having a service bar(s) ~~((in lieu of a cocktail lounge shall be eligible for))~~ may with written board approval have the added activity of live music ~~((with board approval)).~~

(4) If the board issues a Class H license to a bona fide restaurant which has a service bar in lieu of an approved cocktail lounge and the licensee subsequently applies for

approval to install a cocktail lounge (~~in place of the previously approved service bar operation;~~) the board will process such a change in the same manner as an application for a new Class H license (i.e. notice will be ~~(given by posting)~~ posted at the premises, notice will be given to local officials, and nearby churches and schools will be notified(; ete.)).

AMENDATORY SECTION (Amending WSR 92-14-028, filed 6/22/92, effective 7/23/92)

WAC 314-20-070 (~~(Bad order)~~) Claims for defective keg beer—Replacement of overaged packaged beer—Procedures. (~~(Bad order claims shall be made, adjusted and record thereof preserved as follows:)~~)

(1) (~~No bad order claim shall be allowed except by a brewer or beer importer;~~) In the case of beer in barrels, beer which is not in salable condition due to defective beer or a defective container may be returned by the retailer to the beer wholesaler for a claim adjustment. The brewer or supplier may make a credit adjustment to the wholesaler for such claim;

(2) No (~~bad order~~) claim adjustment shall be accepted unless the same shall be made by the retailer within ten days after the defect in the beer or container has been discovered;

(3) (~~No bad order claim shall be accepted unless the same is made by the retailer in quadruplicate upon forms furnished by the board;~~)

(4) ~~After the claim has been made out in quadruplicate, one copy (blue) shall be torn from the book and retained by the retailer; one copy (yellow) shall be torn from the book and retained by the wholesaler in those cases where the wholesaler acts as agent of the brewer in accepting the claim; the original and one copy (pink) shall be torn from the book and forwarded to, or retained by, the brewer or beer importer for action upon the claim;~~

(5) ~~At the time of making the final adjustment of the claim, the brewer or beer importer shall mail to the board the pink copy, endorsing thereon the action taken by the brewer or beer importer, together with a certification that in his opinion the claim was valid to the amount allowed;~~

(6) ~~All adjustments of bad order claims shall be made by check issued by the brewer or beer importer and payable to the retailer, bearing the bad order claim number or numbers for which adjustment is made;~~

(7) All documentary evidence relating to the claim shall be preserved by the retailer (~~and~~), beer wholesaler, brewer, or beer importer for two years after the date (~~of submission~~) of the claim;

(8) (4) No brewer, beer wholesaler, or beer importer shall allow, or shall any retailer make claim for (~~a bad order claim~~) adjustment for defective keg beer unless the container or the beer is in fact defective;

(9) (5) In the case of package beer, other than beer in barrels, beer which is not in a salable condition or overaged may be returned by a retail licensee to the beer wholesaler from whom the beer was purchased, provided it is immediately replaced by the beer wholesaler with an identical quantity, type and brand of beer: *Provided further*, That if the brand of beer is not presently in the beer wholesaler's stock and is not available to the wholesaler in the immediate future, a cash refund may be made to the

retail licensee upon the approval of the board first being obtained;

(10) (6) Beer different from that ordered which has been delivered in error to a retail licensee may be returned to a beer wholesaler and either replaced with that beer which was ordered or a cash refund may be made upon the approval of the board first being obtained: *Provided*, That the error in delivery shall be discovered and corrected within eight days of the date the delivery was made;

(11) (7) Wholesalers who replace unsalable or overaged packaged beer as provided in subsection ((9)) (5) of this section, shall maintain complete records of all such transactions, with such records to be readily available for inspection by authorized employees of the board;

(12) (8) Salable or unsalable beer may be returned by a retail licensee or by a governmental agency who has seized the same to the beer wholesaler selling such beer in the event the retailer goes out of the business of selling beer at retail, and in such case a cash refund may be made upon return of the beer, provided that consent of the board is first had and obtained;

(13) (9) Except as provided herein, no other adjustment, by way of cash refund or otherwise, shall be made by the beer wholesaler, brewer or beer importer.

WSR 93-06-067
PROPOSED RULES
CENTRALIA COLLEGE
[Filed March 1, 1993, 4:30 p.m.]

Original Notice.
Title of Rule: WAC 132L-133-020 Organization—Operation—Information.

Purpose: To amend hours of operation during the summer months.

Statutory Authority for Adoption: RCW 28B.50.090(10).

Statute Being Implemented: RCW 42.17.280.

Summary: Summer hours of operation (between approximately June 16 and August 31) are 7:30 a.m. to 5:00 p.m. Monday through Thursday and 7:30 a.m. to 11:30 a.m. on Friday, except legal holidays.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jack R. Kalmbach, Hanson Administration Building, (206) 736-9391, Ext 233.

Name of Proponent: Centralia College, public.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule provides information about the hours of operation of Centralia College.

Proposal Changes the Following Existing Rules: Current hours of operation are 8 a.m. to 5 p.m. Monday through Friday, except legal holidays. This proposal changes the hours of operation during the summer (between approximately June 16 and August 31) to 7:30 a.m. to 5:00 p.m. Monday through Thursday and 7:30 a.m. to 11:30 a.m. on Friday.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Centralia College, Hanson Administration Building, Boardroom #122, on May 6, 1993, at 4:30 p.m.

Submit Written Comments to: Jack Kalmbach, Dean of Administration, Centralia College, by May 3, 1993.

Date of Intended Adoption: May 6, 1993.

February 10, 1993

Jack R. Kalmbach

Dean of Administration

CENTRALIA COLLEGE, DISTRICT 12
CHAPTER 132L-133
ORGANIZATION

AMENDATORY SECTION (Amending WSR 90-05-005, filed 2/9/90)

WAC 132L-133-020 Organization—Operation—Information. (a) Organization. Centralia College is established in Title 28B RCW as a public institution of higher education. The institution is governed by a five-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(b) Operation. The administrative office is located at the following address: Hanson Administration Building, Corner of Walnut and Rock Streets. The mailing address is 600 West Locust, Centralia, WA 98531.

The operating hours are 8 a.m. to 5 p.m., Monday through Friday, except legal holidays for fall, winter and spring quarters (approximately September 1 through June 15). Summer hours (approximately June 16 through August 31) are 7:30 a.m. to 5:00 p.m. Monday through Thursday, and 7:30 a.m. to 11:30 a.m. on Friday, except holidays. Educational operations are located at the following addresses: 600 West Locust, Centralia and East County Center, Morton.

(c) Additional and detailed information concerning the educational offerings may be obtained from the catalog, copies of which are available at the following address: Admissions Office, 600 West Locust, Centralia, WA 98531.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 93-06-074
PROPOSED RULES
DEPARTMENT OF WILDLIFE

[Filed March 2, 1993, 4:30 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-28-022 Game management units (GMUs)—Special game areas—Boundary descriptions.

Purpose: To amend WAC 232-28-022 Game management units (GMUs)—Special game areas—Boundary descriptions.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This amendment will modify boundary descriptions of game management units and special game areas.

Reasons Supporting Proposal: Advises hunters of proper area for hunting.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, AD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Tony de la Torre, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal Changes the Following Existing Rules: Amends boundary descriptions for hunting seasons.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Cavanaugh's River Inn, North 700 Division Street, Spokane, WA 99202, on April 16-17, 1993, at 8:00 a.m.

Submit Written Comments to: Rich Poelker, 600 Capitol Way North, Olympia, WA 98501-1091, by April 5, 1993.

Date of Intended Adoption: April 16-17, 1993.

March 3, 1993

Richard J. Poelker

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 556, filed 6/1/92, effective 7/2/92)

WAC 232-28-022 Game management units (GMUs)—Special game areas—Boundary descriptions.

REGION ONE

GMU 100-Curlew (Ferry and Okanogan counties): Beginning at Republic; then south along Highway 21 to the northern boundary of the Colville Indian Reservation; then east along the Reservation boundary to the Stall Creek Road, USFS #310; then north on #310 to USFS Road #250; then north to the Kettle Crest Trail #13; then north on Trail #13 to the Deer Creek-Boulder Creek Road; then west on the Deer Creek-Boulder Creek Road to the Kettle River at Curlew; then north along the Kettle River to the Canadian Border near Danville; then west along the border to the Kettle river near the Ferry Customs Office; then south along the Kettle River to the mouth of Toroda Creek and the Toroda Creek Road; then southwest along the Toroda Creek Road to Wauconda and Highway 20; then southeast on Highway 20 to Republic to the point of beginning. (See Colville National Forest map)

GMU 103-Boulder (Ferry County): Beginning at Lake Roosevelt at the mouth of the Kettle River; then south along Lake Roosevelt to the north boundary of the Colville Indian

Reservation; then west along the Reservation boundary to the Stall Creek Road, USFS Road #310; then north on #310 to USFS Road #250; then north on #250 to the Kettle Crest Trail #13; then north on Trail #13 to the Deer Creek Boulder Creek Road; then west on the Deer Creek-Boulder Creek Road to the Kettle River at Curlew; then north along the Kettle River to the Canadian Border near Danville; then east along the border to the Kettle River near Laurier then south along the Kettle River to its mouth to the point of beginning. (See Colville National Forest map)

GMU 105-Kelly Hill (Stevens County): Beginning at the Kettle River on the Canadian border near Laurier; then south along the Kettle River to its mouth at Lake Roosevelt; then northeast along Lake Roosevelt to the Canadian border; then west along the border to the Kettle River near Laurier to the point of beginning. (See Washington Atlas and Gazetteer)

GMU 108-Douglas (Stevens County): Beginning at the bridge over Lake Roosevelt near Northport; then southwest along Lake Roosevelt to the bridge over Lake Roosevelt near Kettle Falls (Highway 395); then south east on Highway 395 into Colville and Highway 20; then east on Highway 20 the edge of town and the Colville-Aladdin-Northport Road; then north and west on the Colville-Aladdin-Northport Road to the town of Northport and Highway 25; then through town to the Lake Roosevelt bridge to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 111-Aladdin (Stevens and Pend Oreille counties): Beginning at Lake Roosevelt at the Canadian Border; then south along Lake Roosevelt to the bridge over the lake near Northport (Highway 25); then into Northport on Highway 25 to the Colville-Aladdin-Northport Road; then east and south along the Colville-Aladdin-Northport Road to Highway 20 near Colville; then east on Highway 20 to the Pend Oreille River near Tiger; then north along the Pend Oreille river to the Canadian border; then west along the border to Lake Roosevelt to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 113-Selkirk (Pend Oreille County): Beginning on the Pend Oreille River at the Canadian border; then south along the Pend Oreille River to the Idaho border near Newport; then north along the Idaho-Washington border to the Canadian border; then west along the Canadian border to the Pend Oreille River to the point of beginning. (See Washington Atlas & Gazetteer or Colville National Forest map)

GMU 118-Chewelah (Stevens and Pend Oreille counties): Beginning at Colville; then east on Highway 20 to the Pend Oreille River near Tiger; then south along the Pend Oreille River to the bridge over the river at Usk; then west on the McKenzie Road to the West Side Calispell Road and the Flowery Trail Road; then west on the Flowery Trail Road to Chewelah and Highway 395; then north on Highway 395 to Colville to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 119-Boyer (Stevens and Pend Oreille counties): Beginning on the Pend Oreille River at the bridge near Usk; then west on the McKenzie Road to the Westside Calispell Road and the Flowery Trail Road; then west on the Flowery Trail Road to Chewelah and Highway 395; then south on

Highway 395 to Highway 231; then south on Highway 231 to Springdale; then east on Highway 292 to Highway 395 at Loon Lake; then south on Highway 395 to Deer Park; then east on the Deer Park-Milan Road to Highway 2, then northeast on Highway 2 to the Idaho border at Newport; then north along the Idaho border to the Pend Oreille River; then north along the Pend Oreille River to the bridge at Usk and point of beginning. (See Washington Atlas & Gazetteer)

GMU 121-Huckleberry (Stevens County): Beginning at the bridge over Lake Roosevelt near Kettle Falls; then south on Highway 395 to Highway 231; then south on Highway 231 to the northeast corner of the Spokane Indian Reservation; then west along the north boundary of the Reservation to Lake Roosevelt; then north along Lake Roosevelt to the Highway 395 bridge near Kettle Falls to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 124-Mount Spokane (Spokane, Stevens and Pend Oreille counties): Beginning at the Idaho-Washington border at Newport; then south on Highway 2 to the Deer Park-Milan Road; then west on the Deer Park-Milan Road to Deer Park and Highway 395; then north on Highway 395 to Highway 292 at Loon Lake; then west on Highway 292 to Springdale and Highway 231; then south on Highway 231 to the northeast boundary of the Spokane Indian Reservation; then south along the east boundary of the Indian Reservation (Chamokane Creek) to the Spokane River; then east along the Spokane River to the Washington-Idaho border; then north along the border to Newport and point of beginning. (See Washington Atlas & Gazetteer)

GMU 127-Mica Peak (Spokane County): Beginning at Spokane; then south along State Highway 195 to the Spokane-Whitman County line; then east along Spokane-Whitman County line to the Washington-Idaho line; then north along the Washington-Idaho line to the Spokane River; then west along the Spokane River to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 130-Cheney (Spokane and Lincoln counties): Beginning at Spokane; then south along State Highway 195 to the Spokane-Whitman County line; then west along the north boundary of Whitman and Adams counties to U.S. Highway No. 395; then northeast along U.S. Highway 395 to Sprague; then north along State Highway No. 231 to its junction with U.S. Highway No. 2; then east along U.S. Highway No. 2 to Reardan; then north along state Highway No. 231 to the Spokane River; then up the Spokane River to Spokane to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 133-Roosevelt (Lincoln County): Beginning at Reardan; then north along State Highway 231 to the Spokane River; then west along the Spokane River to Lake Roosevelt; then west along Lake Roosevelt to Coulee Dam; then southeast on State Highway 174 to Wilbur and U.S. Highway 2; then east along Highway 2 to Reardan and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 136-Harrington (Lincoln County): Beginning at the town of Grand Coulee; then southeast along State Highway No. 174 to its junction with U.S. Highway No. 2 at Wilbur; then east along U.S. Highway No. 2 to its junction with U.S. Highway No. 231 three miles west of Reardan; then south

along Highway No. 231 to its junction with U.S. Highway No. 395; then southwest along U.S. Highway No. 395 to the Adams County line at Sprague Lake; then west along the Adams-Lincoln County line to the Grant County line; then north along the Grant-Lincoln County line to Grand Coulee and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 139-Steptoe (Whitman County): Beginning at Colfax; then west along State Highway 127 to Dusty and continuing west along State Highway No. 26 through LaCrosse to the west Whitman County line (Palouse River); then north along the west Whitman County line, east along the north Whitman County line and south along the east Whitman County line to the Moscow-Pullman Highway; then west along the Moscow-Pullman-Colfax Highway to Colfax and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 142-Almota (Whitman County): Beginning at Clarkston; then down the Snake River to the mouth of the Palouse River; then up the Palouse River to the Washtucna-LaCrosse Highway (State Highway No. 26); then east along the highway through LaCrosse to State Highway 127 to Dusty; then continuing east along State Highway 127 to Colfax; then southeast along the Colfax-Pullman-Moscow Highway to the Washington-Idaho line; then south along the state line to Clarkston and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 145-Mayview (Garfield and Asotin counties): Beginning at the mouth of Alpowa Creek and its junction with U.S. Highway No. 12; then west along U.S. Highway No. 12 to its junction with State Highway 127 (Central Ferry Highway); then north along the Highway to the Snake River; then east up the Snake River to the mouth of Alpowa Creek and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 148-Starbuck (Walla Walla, Columbia, and Garfield counties): Beginning at Central Ferry; then south along State Highway No. 127 to Dodge Junction; then southwest along U.S. Highway No. 12 to the town of Waitsburg and the Touchet River; then west along the river to its junction with the Ayer Road at Harsha; then north along the Ayer Road to the Snake River at Ayer; then east along the Snake River to Central Ferry and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 151-Eureka (Walla Walla County): Beginning at the Washington-Oregon State line on the Columbia River (near Wallula Junction); then north up the Columbia River to the Snake River; then northeast up the Snake River to Ayer; then south along the Ayer Road to State Highway No. 124 and the Touchet River at Harsha; then east up the river to Waitsburg and U.S. Highway 12; then southwest along Highway 12 to Walla Walla and State Highway No. 125; then south along State Highway No. 125 to the Washington-Oregon State line; then west along the state line to the Columbia River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 154-Blue Creek (Walla Walla and Columbia counties): Beginning at the Washington-Oregon State line on State Highway No. 125 (south of Walla Walla); then

north along State Highway No. 125 to U.S. Highway No. 12; then northeast along Highway 12 to the Payne Hollow Road at Long Station; then south along the Payne Hollow-Jasper Mountain-Mt. Pleasant Road to the Lewis Peak Road; then south along the Lewis Peak Road to its termination at the Mill Creek Watershed Intake Trail; then southwest along the trail to the Washington-Oregon State line; then west along the state line to State Highway No. 125 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 157-Watershed, Mill Creek Watershed area (Walla Walla, Columbia counties): Starting at the Mill Creek Watershed Intake Trail (No. 3211) on the Washington-Oregon State line; then northeast along the Intake Trail to the Skyline Drive Road (No. 64); then south along the road to the Washington-Oregon State line; then due west to the point of beginning. (See Umatilla Forest map)

GMU 160-Touchet (Walla Walla, and Columbia counties): Beginning at Dayton; then south along the North Touchet River Road to its junction with the Skyline Drive Road at Manila Springs; then southwest along the Skyline Drive Road to its junction with the Mill Creek Watershed Intake Trail (No. 3211); then west along the Intake Trail to the Lewis Peak Road; then north along the Lewis Peak-Mt. Pleasant-Jasper Mountain-Payne Hollow Road to U.S. Highway 12 at Long Station; then north along said highway to Dayton and the point of beginning. (See Washington Atlas & Gazetteer and Umatilla National Forest map)

GMU 161-Eckler (Columbia County): Beginning at Dayton; then east along the Patit Creek Road to its junction with the Hartsock-Maloney Mountain Road; then south and west along the Maloney Mountain Road (No. 4625) to the Skyline Drive Road (No. 46); then south along the Skyline Drive Road to its junction with the North Touchet River Road at Manila Springs; then north along the North Touchet River Road to Dayton and the point of beginning. (See Washington Atlas & Gazetteer and Umatilla National Forest map)

GMU 163-Marengo (Columbia, and Garfield counties): Beginning at Dayton; then east along the Main Patit Road to its junction with the Hartsock-Maloney Mountain Road; then north down the Hartsock Grade Road to the Tucannon Road; then south along the Tucannon Road to the Blind Grade Road; then east up the Blind Grade Road to the Linville Gulch Road; then north down the Linville Gulch Road to U.S. Highway No. 12; then west and south along Highway 12 to Dayton and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 166-Tucannon (Columbia, and Garfield counties): Beginning on the Tucannon River Road at its junction with the Hartsock Grade Road; then south up the Hartsock Grade Road to its junction with the Maloney Mountain Road; then southwest along the Maloney Mountain Road (No. 4625) to the Skyline Drive Road (No. 46); then south along the Skyline Drive Road to its junction with the Teepee Road (No. 4608); then east along the Teepee Road to Teepee Camp; then east along the Teepee Oregon Butte-Bullfrog Springs Diamond Peak Trail to Diamond Peak; then east along the Diamond Peak Road (No. 4030) to the Mountain Road (No. 40); then north along the Mountain Road to its

junction with the elk drift fence at the Forest Boundary; then north and west along the fence to the Tucannon Road; then north along the Tucannon Road to the Hartsock Grade Road and the point of beginning. (See Washington Atlas & Gazetteer and Umatilla National Forest map)

GMU 169-Wenaha (Columbia, Garfield and Asotin counties): Beginning on the Skyline Drive Road at the Washington-Oregon State line; then north along the road to Godman Springs and the Teepee Road (No. 4608); then east along the Teepee Road to Teepee Camp; then east along the Teepee Oregon Butte-Bullfrog Springs Diamond Peak Trail to Diamond Peak; then east on the Diamond Peak Road (No. 4030) to the Mountain Road (No. 40); then south along the Mountain Road to the South Boundary Road (No. 4039); then west along the road to the Three Forks Trail (No. 3133); then west down said trail to Crooked Creek; then south on Crooked Creek to the Washington-Oregon State line; then due west along the line to Skyline Road and the point of beginning. (See Umatilla National Forest map)

GMU 172-Mountview (Garfield and Asotin counties): Beginning at the junction of State Highway 129 and Mill Road at Anatone; then southwest on the Mill Road & Bennett Ridge Road-West Mountain Road (No. 1290) to the Big Butte-Mt. Misery Road (No. 4304); then west along the road to the Mountain Road (No. 40); then south on the road to the South Boundary Road (No. 4039); west along the South Boundary Road to the Three Forks Trail (No. 3133); then down said trail to Crooked Creek; then down the creek to the Washington-Oregon State line; then east along the line to State Highway No. 129; then north on Highway 129 to Anatone and the point of beginning. (See Washington Atlas & Gazetteer and Umatilla National Forest map)

GMU 175-Lick Creek (Garfield and Asotin counties): Beginning at the junction of the Mountain Road (No. 40) and National Forest Boundary (south of Pomeroy); then south along the Mountain Road to its junction with the Wenatchee Guard Station-Anatone Road; then east along the road to the National Forest Boundary at Big Butte; then northwest along the boundary fence to the Cloverland-Wenatchee Guard Station Road; then northeast along the Cloverland Road to the Campbell Grade Road; then down the Campbell Grade Road to the South Fork Asotin Creek Road; then down South Fork Asotin Creek Road to Asotin Creek; then down Asotin Creek to Charley Creek; then up Charley Creek to the elk drift fence; then west along the elk fence to its junction with the Mountain Road (No. 40) and the point of beginning. (See Umatilla National Forest map)

GMU 178-Peola (Garfield and Asotin counties): Beginning on the Snake River at the mouth of Asotin Creek; then up Asotin Creek to Charley Creek; then up Charley Creek to the elk drift fence; then northwest along the fence to the Tucannon Road; then down the Tucannon Road to the Blind Grade Road; then up Blind Grade to the Linville Gulch Road; then down the Linville Gulch Road to U.S. Highway No. 12; then east along Highway 12 to the mouth of Alpowa Creek on the Snake River; then up the Snake River to the mouth of Asotin Creek and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 181-Couse (Asotin County): Beginning at the mouth of Asotin Creek on the Snake River; then south along the Snake River to the Grande Ronde River; then west up the Grande Ronde River to State Highway No. 129; then northeast along Highway 129 to Anatone; then west and south along the Mill Road-Bennett Ridge Road-West Mountain Road to the National Forest Boundary at Big Butte (Road No. 4304); then northwest along the Forest Boundary fence to the Cloverland Road; then northeast on that road to the Campbell Grade Road; then down that road to the South Fork Asotin Creek Road; then down that road to Asotin Creek; then down Asotin Creek to the Snake River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 184-Joseph (Asotin County): Beginning at the mouth of the Grande Ronde River; then west along the river to the mouth of Joseph Creek; then south up Joseph Creek to the first Joseph Creek bridge and the Joseph Creek Road; then south up said road to the Washington-Oregon state line; then east along the line to the Snake River; then north down the Snake River to the Grande Ronde River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 185-Black Butte (Asotin County): Beginning at State Highway No. 129 on the Washington-Oregon State line; then north along Highway 129 to the Grande Ronde River; then east down the river to the mouth of Joseph Creek; then south up Joseph Creek to the first Joseph Creek bridge and the Joseph Creek Road; then south up said road to the Washington-Oregon state line; then west along the line to State Highway No. 129 and the point of beginning. (See Washington Atlas & Gazetteer)

REGION TWO

GMU 200-Tunk (Okanogan and Ferry counties): Beginning at Tonasket, then south along the Okanogan River to the north boundary of the Colville Indian Reservation, then east along the Reservation boundary to State Route 21 south of Republic, then north along State Route 21 to Republic and State Route 20, then west along State Route 20 to Tonasket to the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 203-Pasayten (Okanogan and Whatcom counties): Beginning at the eastern boundary of the Pasayten Wilderness and its junction with the Canadian border, then south along the wilderness boundary to Trail #341, then west along Trail #341 to the Iron Gate Road and Trail #343, then west along Trail #343 to its junction with the Pasayten Wilderness boundary, then west along the wilderness boundary to the Hidden Lakes Trail (#477) then west along Hidden Lakes Trail to Drake Creek, then southwest down Drake Creek and the Lost River to the Pasayten Wilderness boundary and the Robinson Creek Trail #478, then north up the Robinson Creek Trail to the junction of the Ferguson Lake Trail, then west to Silver Lake, then west to the West Fork Trail crossing of the West Fork of the Pasayten River, then west to Oregon Basin and the Pasayten Wilderness boundary, then west and north along the boundary to the Canadian border, then east along the border to the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 206-Bonaparte (Okanogan and Ferry counties): Beginning at the town of Tonasket, then north along the

Okanogan River and the east shore of Osoyoos Lake to the Canadian border, then east along the Canadian border to the Kettle River near the Ferry Customs office, then south along the Kettle River to the mouth of Toroda Creek, then southwest along Toroda Creek to Toroda Creek Road (#502 and #9495), then southwest along Toroda Creek Road to its junction with State Route 20 at Wauconda, then west along State Route 20 to Tonasket and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 209-Wannacut (Okanogan County): Beginning at the Canadian border on Lake Osoyoos, then south along the west shore of Lake Osoyoos and the Okanogan River to the bridge at Tonasket, then south on County Road #7 (#9437) to the North Pine Creek-Aeneas Lake Road (#9400) junction, then southwest on that road to the Horse Springs Coulee Road (#4371) junction, then northwest on that road to the Loomis-Nighthawk Highway (#9425) junction-near Spectacle Lake, then west on Loomis-Nighthawk Highway to Loomis, then north on the Loomis-Nighthawk Highway (#9425) past Palmer Lake to the Canadian border station near Nighthawk, then east on the U.S.-Canada boundary to Lake Osoyoos and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 215-Sinlahekin (Okanogan County): Beginning at the Canadian border station near Nighthawk, then south through Nighthawk and past Palmer Lake on the Nighthawk-Loomis Highway (#9425) to Loomis, then east on the Loomis-Tonasket Highway (#9425) to the Horse Springs Coulee Road (#4371) junction near Spectacle Lake, then south on that road to the North Pine Creek-Aeneas Lake Road (#9400), then east on that road to the Okanogan River, then south along the Okanogan River to the town of Riverside, then north on U.S. Highway 97 to its junction with the South Pine Creek Road (#9410), then west on South Pine Creek Road to its junction with the Conconully-Loomis Road (#4015), then south on Road #4015 to Conconully, then north on the North Fork Salmon Creek Road (#2361, Road 38 and 2820) over Lone Frank Pass to the junction with Road #39, then north on Road #39 to Long Swamp, then east along the Middle Fork Toats Coulee Road (#39) to the junction with the Iron Gate Road (#500), then northwest along the Iron Gate Road to its end, then north and east along trails #533 and #341 to the Pasayten Wilderness boundary, then north along that boundary to the Canadian border, then east along the border to the Nighthawk border station and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 218-Chewuch (Okanogan County): Beginning at the junction of the Iron Gate Road (#500) and the Pasayten Wilderness boundary, then southeast on the Iron Gate Road to the Middle Fork Toats Coulee Creek Road (#39), then west and south on the Middle Fork Toats Coulee Creek Road past Long Swamp to the Boulder Creek Road (#37), then southwest down Boulder Creek Road to the East Chewuch River Road (#9137) then south to Winthrop and State Route 20, then northwest on State Route 20 to the Okanogan County line, then northwest along the Okanogan County line through Harts Pass to Oregon Basin, then east to Silver Lake, then due east to the intersection of Ferguson Lake Trail and Middle Fork Trail #478, then south on Trail

#478 to the Pasayten Wilderness boundary, then northeast along that boundary to Lost River, then northeast up Lost River and Drake Creek to Hidden Lake Trail #477, then east along Trail #477 to the Pasayten Wilderness boundary at Eight-Mile Pass, then east along the wilderness boundary to its junction with Trail #342 near Hicky Hump, then north along Trail #342 to its junction with Trail #343 at Two Bear camp, then east along Trail #343 to the Iron Gate Road to the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 224-Pearrygin (Okanogan County): Beginning at the town of Conconully, then north along County Road 2361, and the N. Fork Salmon Creek Road (#38) to its junction with Road 39, SW along Road 39 to the Boulder Creek Road (#37), then southwest along the Boulder Creek Road to the East Chewuch River Road (#9137), then south down the East Chewuch River Road to Winthrop, then south and east along State Route 20 to the Loup Loup summit, then north along the North Summit Road (#42) and County Road 2017 to Conconully and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 231-Gardner (Okanogan County): Beginning at the town of Twisp, then northwest along State Route 20 to the Okanogan County line, then south along the county line to Copper Pass and the North Fork Twisp River Trail #426, then southeast along Trail #426 to the Twisp River Road, then southeast along the Twisp River Road to the town of Twisp and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 233-Pogue (Okanogan County): Beginning at the town of Riverside, then north along U.S. Highway 97 to the South Pine Creek Road (#9410), then west on South Pine Creek Road to the Conconully-Loomis Road (#4015), then south along Road #4015 to Conconully, then south along County Road 2017 and the North Summit Road (#42) to State Route 20 near Loup Loup summit, then east on State Route 20 to the town of Okanogan and the Okanogan River, then north up the Okanogan River to Riverside and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 239-Chiliwist (Okanogan County): Beginning at the town of Okanogan, then west on State Route 20 to State Route 153, then south along State Route 153 to Pateros and the Columbia River, then north up the Columbia and Okanogan rivers to Okanogan and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 242-Alta (Okanogan County): Beginning at Pateros, then northwest on State Route 153 to Twisp, then west on the Twisp River Road (County Road 9114 and Forest Road #4440) to Roads End Campground, then northwest on the North Fork Twisp River Trail #426 to Copper Pass and the Okanogan County line, then southeast along the county line to the junction of South Fork Gold Creek Road (#4330) and the South Navarre Road (#8200), then southeast along Road (#8020) to the Antoine Creek Road (#8140), then southeast along Road (#8140) to U.S. Highway 97, then north on U.S. Highway 97 to Wells Dam, then upriver to Pateros and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 248-Big Bend (Douglas and Grant counties): Beginning at Mansfield; then west along State Route 172 to Road B N.E.; then north on B N.E. and the West Foster Creek Road to State Route 17; then east along State Route 17 to the Chalk Hills Road (Road K N.W.); then north along the Chalk Hills Road (K & L N.E.) to Road 28 N.E.; then north along Road L N.E. for 4 miles to the east boundary of Range 26 E; then north to the Columbia River; then up the Columbia River to Grand Coulee Dam; then south along the Feeder Canal and the west side of Banks Lake to a point due east from Road 9 N.E.; then west from that point and along Road 9 N.E. through Mold to State Route 17; then north along State Route 17 to Sim's Corner (Jct. State Routes 17 & 172); then west on State Route 172 to Mansfield and the point of beginning. (See official road map of Douglas County)

GMU 254-Saint Andrews (Douglas and Grant counties): Beginning at Sim's Corner (Jct. of State Routes 17 and 172); then south on State Route 17 to Road 9 N.E.; then east on Road 9 N.E. (through Mold) to a point due east on the west shore of Banks Lake; then south along the west shore of Banks Lake to State Route 2; then west along State Route 2 to State Route 172; then north and east along State Route 172 through Mansfield to Sim's Corner and the point of beginning. (See official road map of Douglas County)

GMU 260-Foster Creek (Douglas County): Beginning at Bridgeport; then down the Columbia River to Bonita Flat; then east along the Bonita Flat Road to the town site of Dyer; then south along the Dyer Hill Road and the N. Division Road to Road 20 N.E.; then east along Road 20 N.E. (Dyer Hill Rd.) to the W. Foster Creek Rd.; then north along the West Foster Creek Road to State Route 17; then east along State Route 17 to the Chalk Hills Road (K N.E.); then north along the Chalk Hills Road (K & L N.E.) to Road 28 N.E.; then north along Road L N.E. for 4 miles to the east boundary of Range 26 E; then north to the Columbia River; then down the Columbia River to Bridgeport and the point of beginning. (See official road map of Douglas County)

GMU 262-Withrow (Douglas County): Beginning at Orondo; then up the Columbia River to the Bonita Flat Road; then east along the Bonita Flat Road to the town site of Dyer; then south along the Dyer Hill Road and the N. Division Road to Road 20 N.E. (Dyer Hill Rd.); then east along Road 20 N.E. to Road B N.E. (W. Foster Ck. Rd.); then south on Road B N.E. to State Route 172; then west and south on State Route 172 to State Route 2; then west along State Route 2 to Orondo and the point of beginning. (See official road map of Douglas County)

GMU 266-Badger (Douglas County): Beginning at Orondo; then down the Columbia River to the Rock Island Grade Road (includes Turtle Rock Island); then north along the Rock Island Grade Road to the Titchenal Canyon Road; then northeast along the Titchenal Canyon Road to the Alstown Road; then east to Alstown; then north and east along the Alstown Road to Road K S.W.; then north along Road K to State Route 2; then west along State Route 2 to Orondo and the point of beginning. (See official road map of Douglas County)

GMU 269-Moses Coulee (Douglas and Grant counties): Beginning near Rock Island Dam at the junction of State Route 28 and the Rock Island Grade Road; then north along the Rock Island Grade Road to the Titchenal Canyon Road; then northeast along the Titchenal Canyon Road to the Alstown Road; then east to Alstown; then north and east along the Alstown Road to Road K S.W.; then north along Road K to State Route 2; then east along State Route 2 to the Moses Coulee Road; then south along the Moses Coulee Road to the Grant & Douglas County line; then south along the Sagebrush Flat Road to Road J N.W.; then south along Road J N.W. to the Overen Road (Road 20 N.W.); then west along the Overen Road to the Baird Springs Road; then southwest along the Baird Springs Road across State Route 28 to the Crescent Bar Road; then south along the Crescent Bar Road to the Columbia River; then up the Columbia River to the Rock Island Grade Road and the point of beginning. (See official road maps of Douglas and Grant counties)

GMU 272-Beezley (Grant and Douglas counties): Beginning at the town of Grand Coulee, then southwest along the west shore of Banks Lake to State Route 2, then west along State Route 2 to Moses Coulee Road, then south along Moses Coulee Road to the Grant-Douglas County line; then south along the Sagebrush Flats Road to Road J N.W.; then south along Road J N.W. to the Overen Road, (Road 20 N.W.); then west along the Overen Road to the Baird Springs Road, then southwest along Baird Springs Road across State Route 28 to the Crescent Bar Road, then southwest along Crescent Bar Road to the Columbia River, then down the Columbia River to Interstate 90, then northeast along Interstate 90 to the Beverly Burke Road (Road R S.W.), then south along Beverly Burke Road to Frenchman Hills Road, then east along Frenchman Hills Road to O'Sullivan Dam Road, then east along O'Sullivan Dam Road to State Route 17, then south along State Route 17 to the Grant-Adams County line (Road 12 S.E.), then east and north along the Grant County line to the town of Grand Coulee and the point of beginning except Private Lands Wildlife Management Area 201 (Wilson Creek). (See official road maps of Grant and Douglas counties)

GMU 278-Wahluke (Grant and Adams counties): Beginning at the Columbia River at Interstate 90, then northeast along Interstate 90 to the Beverly Burke Road (Road R S.W.); then south along Beverly Burke Road to Frenchman Hills Road; then east along Frenchman Hills Road to O'Sullivan Dam Road; then east along O'Sullivan Dam Road to State Route 17, then south along State Route 17 to State Route 26; then east along State Route 26 to State Route 24 at Othello; then south and west along State Route 24 to the Columbia River at Vernita Bridge; then up the Columbia River to Interstate 90 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 281-Ringold (Franklin, Adams, and Grant counties): Beginning at the Columbia River and U.S. Highway 395 at Pasco, then up the Columbia River (including all islands) to State Route 24 at Vernita Bridge; then east and north along State Route 24 to State Route 26 at Othello; then east along State Route 26 to State Route 17; then south along State Route 17 to U.S. Highway 395; then south along

U.S. Highway 395 to the Columbia River at Pasco and the point of beginning. The Hanford Nuclear Site and the Saddle Mountain National Wildlife Refuge are closed to unauthorized public entry. (See Washington Atlas & Gazetteer)

GMU 284-Kahlotus (Adams and Franklin counties): Beginning at the Columbia River and U.S. Highway 395 at Pasco; then north along U.S. Highway 395 to State Route 17; then north along State Route 17 to the Grant & Adams County line (Road 12 S.E.); then east and north along the Grant & Adams County line to the Lincoln County line; then east along the Adams-Lincoln County line to the Whitman County line; then south along the Adams-Whitman County line to the Palouse River; then down the Palouse River to the Snake River; then down the Snake River to the Columbia River; then up the Columbia River to U.S. Highway 395 and the point of beginning. (See Washington Atlas & Gazetteer)

REGION THREE

GMU 300-Manson (Chelan County): Beginning at the town of Chelan; then down the Chelan River Gorge to the Columbia River; then north along the Columbia River to Wells Dam; then southwest along Highway 97 to the Antoine Creek Road (USFS #8140); then west along Antoine Creek Road to Forest Road #8020 near Cooper Mountain; then northwest along Road #8020 to junction of Road #4330 near Fox Peak; then northwest along the ridge separating the Chelan and Methow-Twisp drainages (Sawtooth Ridge) to McAlester Mountain; then southeast along the ridge between Rainbow Creek and Boulder Creek to the Stehekin River; then south along Lake Chelan shore to the town of Chelan to the point of beginning. (See Wenatchee National Forest Recreation map and Washington Atlas and Gazetteer)

GMU 301-Clark (Chelan County): That portion of Chelan County that lies within the Glacier Peak Wilderness Area and that portion of the Lake Chelan National Recreation Area west of McAlester Mountain and running southwest along the ridge between Rainbow Creek and Boulder Creek to the Stehekin River; then continuing south along Lake Chelan to the south boundary of the National Recreation Area. (See Wenatchee National Forest Recreation map)

GMU 302-Alpine (Kittitas and Chelan counties): Those lands within Kittitas and Chelan counties east of the Pacific Crest Trail that lie within the Alpine Lakes Wilderness Area. (See Wenatchee National Forest Recreation map)

GMU 304-Chiwawa (Chelan County): Beginning at Coles Corner on Highway 2; then north along Highway 207 to Highway 209 near Lake Wenatchee; then south on Highway 209 to the Eagle Creek Road #7520; then northeast on Road #7520 to French Corral and Forest Road #5800; then east along Roads #5800 and #5700 to the Entiat River near Ardenvoir; then north along the Entiat River to the Glacier Peak Wilderness Boundary; then south and west along the Glacier Peak Wilderness Boundary to the Pacific Crest Trail; then south to Highway 2 at Stevens Pass; then east on Highway 2 to Coles Corner. (See Wenatchee National Forest Recreation map)

GMU 306-Slide Ridge (Chelan County): Beginning on the Entiat River at the Glacier Peak Wilderness Boundary (near

the mouth of Larch Lakes Creek); then south along the Entiat River to the mouth of Fox Creek; then east on Fox Creek to Fourmile Ridge Trail #1445; then east on Trails #1445 and #1448 to the Slide Ridge Road #8410 at Stormy Mountain; then north on Road #8410 to Twenty-five Mile Creek; then north on Twenty-five Mile Creek to Lake Chelan; then north and west along the south shore of Lake Chelan to the Lake Chelan National Recreation Area Boundary near Riddle Creek; then south and west along the Recreation Area and Glacier Peak Wilderness Boundaries to the Entiat River. (See Wenatchee National Forest Recreation map)

GMU 308-Entiat (Chelan County): Beginning at the mouth of the Entiat River near the town of Entiat; then northwest along the Entiat River to the mouth of Fox Creek; then east along Fox Creek to the Fourmile Ridge Trail #1445 then east along Trail #1445 and #1448 to the Slide Ridge Road #8410 at Stormy Mountain; then north along Road #8410 to Twenty-five Mile Creek; then North along Twenty-five Mile Creek to Lake Chelan; then southeast along Lake Chelan and the Chelan River Gorge to the Columbia River; then southwest along the Columbia River to the mouth of the Entiat River. (See Wenatchee National Forest Recreation map)

GMU 314-Mission (Kittitas and Chelan counties): Beginning at the mouth of the Colockum Creek on the Columbia River; then west along Colockum Creek and the Colockum Pass Road (#10) to the Naneum Ridge Road (#9); then northwest along Naneum Ridge Road and Mission Ridge to the Liberty-Behive Road #9712; then northwest along Road #9712 to Road #9716; then north along Road #9716 to Highway 97 at Swauk Pass; then northwest along the Kittitas-Chelan County line and Trail #1226 to the Alpine Lakes Wilderness Boundary at Navaho Peak, then north along the Alpine Lakes Wilderness Boundary to Icicle Creek near Black Pine Horse Camp; then east along Icicle Creek to the Wenatchee River; then south and east along the Wenatchee and Columbia Rivers to the mouth of Colockum Creek. (See Wenatchee National Forest Recreation map)

GMU 316-Swakane (Chelan County): Beginning at the mouth of the Wenatchee River; then north along the Columbia River to the Entiat River; then north along the Entiat River to Road #5700 near Ardenvoir; then west along Roads #5700 and #5800 to French Corral; then west along the Eagle Creek Road #7520 to Highway 209; then north along Highway 209 to Highway 207 near Lake Wenatchee; then south along Highway 209 to Highway 2 at Coles Corner; then west along Highway 2 to Stevens Pass; then south along the Chelan-King County Line to the Alpine Lakes Wilderness Boundary; then east and south along the Alpine Lakes Wilderness Boundary to Icicle Creek; then east along Icicle Creek to the Wenatchee River; then east along the Wenatchee River to its mouth on the Columbia River. (See Wenatchee National Forest Recreation map)

GMU 328-Naneum (Kittitas and Chelan counties): Beginning at the intersection of Highway 97 and Lower Green Canyon Road; then north along Lower Green Canyon Road to the East Highline Canal (T19N, R18E, S28); then east along the canal to the Colockum Pass Road #10; then northeast along the Colockum Pass Road to the Naneum

Ridge Road #9; then northwest along the Naneum Ridge Road and Mission Ridge to the Liberty Beehive Road #9712; then northwest along Road #9712 to Road #9716; then north along Road #9716 to Highway 97 at Swauk Pass; then south along Highway 97 to the Lower Green Canyon Road. (See Wenatchee National Forest Recreation map & Department of Wildlife map)

GMU 329-Quilomene (Kittitas and Chelan counties): Beginning on Interstate 90 at the Columbia River near Vantage; then north along the Columbia River to the mouth of Tekieson Creek; then up Tekieson Creek to Road #14; then north along Roads 14, 14.17 and 14.14 to the top of Cape Horn cliffs; then north along the cliff top to the northern point of Cape Horn; then southwest along the stock fence to Road #14.14; then west on Road 14.14 to the switch backs in Sections 19 and 20; then north from the boundary sign on the section lines between Sections 17, 18, 19 and 20; T20N, R28 E.W.M. to the boundary sign on Road 14 in the northwest corner of Section 17; then north and west to Davies Canyon; then east along Davies Canyon to the Columbia River; then north along the Columbia River to mouth of Colockum Creek; then southwest along Colockum Creek and Colockum Road (Road #10) to the East Highline Canal (T18N, R20E, S17); then east along the canal and Interstate 90 to the Columbia River at Vantage. (See Department of Wildlife map)

GMU 330-West Bar (Kittitas County): Beginning at the mouth of Tekieson Creek on the Columbia River; then up Tekieson Creek to Road #14; then north on Road 14, 14.14 and 14.17 to the top of the Cape Horn Cliffs; then north along the cliff top to the north end of Cape Horn; then southwest along the stock fence to Road 14.14; then west on Road #14.14 to the switch backs in Sections 19 and 20; then north from the boundary sign on the section lines between Sections 17, 18, 19, and 20, T20N, R21 E.W.M. to the boundary sign on Road 14 in the northwest corner of Section 17; then north and west to Davies Canyon; then east along Davies Canyon to the Columbia River; then south along the Columbia River to the mouth of Tekieson Creek. (See Department of Wildlife map)

GMU 334-Ellensburg (Kittitas County): Beginning at the intersection of Highway 97 and Lower Green Canyon Road; then north along the Lower Green Canyon Road to the East Highline Canal (Sec. 28, Twp. 19N., R. 18E); then east and south along the canal past Interstate 90 to the pump station; then south and west along the upper most branch of the canal to Highway 821 and the Yakima River (a point about one mile south of Thrall); then north along the Yakima River to Damman Road; then south on Damman Road and Shushuskin Canyon to the South Branch Extension Canal; then west along the canal to where it crosses Manastash Road; then north along the South Branch Canal to Taneum Creek; then east along Taneum Creek to the Yakima River; then northeast along the river to Thorp Highway; then east along the Thorp Highway and Highway 10 to Highway 97; then north along Highway 97 to Lower Green Canyon Road. (See Wenatchee National Forest Recreation map & Department of Wildlife map) (This is a Kittitas County Closure area for high power rifle hunting of both deer and elk. Contact Kittitas County for more details)

GMU 335-Teaway (Kittitas County): Beginning at Swauk Pass on Highway 97; then northwest along the Kittitas-Chelan County line and Trail #1226 to the Alpine Lakes Wilderness Boundary at Navaho Peak; then west along the Alpine Lakes Wilderness Boundary to the King-Kittitas County line at Kendal Peak; then south along the King-Kittitas County line to Interstate 90; then east along Interstate 90 to Cle Elum; then east along Highway 10 to Highway 97; then northeast on Highway 97 to Swauk Pass. (See Wenatchee National Forest Recreation map)

GMU 336-Taneum (Kittitas County): Beginning at Cle Elum; then west along Interstate Highway 90 to the Pacific Crest Trail at Snoqualmie Pass; then southeast along the Pacific Crest Trail to Blowout Mountain; then southeast along the divide between the Naches and Yakima River drainages and Trail #1388 to Peaches Ridge and Trail #1363; then north along Trail #1363 to Trail #1367; then east along Trail #1367 to South Fork Taneum Creek; then east along Taneum Creek to the Yakima River; then north (downstream) on the Yakima River to the Thorp Highway Bridge; then northwest along the Thorp Highway, State Highway 10 and State Highway 903 to Cle Elum. (See Wenatchee National Forest Recreation map)

GMU 340-Manastash (Kittitas County): Beginning at the junction of Taneum Creek and the South Branch Highline Canal; then west up Taneum Creek and South Fork Taneum Creek to USFS Trail #1367; then west on Trail #1367 to Trail #1363 (Peaches Ridge Trail), to the Naches-Yakima River Divide; then southeast along Trail #1388 and the ridge top dividing the Manastash and Wenas-Umtanum drainages to the junction of the Observatory Road, (Twp. 17 N., R. 17 E.W.M., Section 20) then south on the Observatory Road to the Wenas-Ellensburg Road; then east on the Wenas-Ellensburg Road to Umtanum Creek; then down Umtanum Creek to the Yakima River; then up the Yakima River to the Damman Road; then south to the Wenas-Ellensburg Road; then south on the Wenas-Ellensburg Road to the South Branch Highline Canal; then along the canal to Taneum Creek and the beginning. (See Wenatchee National Forest Recreation map)

GMU 342-Umtanum (Kittitas and Yakima counties): Beginning at Yakima then north along the Yakima River to Umtanum Creek; then up Umtanum Creek to the Wenas-Ellensburg Road; then west along the Wenas-Ellensburg Road to the Observatory Road; then north along the Observatory Road to the Road junction at the top of the ridge (Section 20, T17N, R.17 E.W.M.); then west and north along the top of the ridge dividing Manastash and Umtanum-Wenas drainages to USFS Trail #1388 and Forest Road 1701; then along Road 1701 to Highway 410 to the junction of I-82 and the Yakima River. (See Wenatchee National Forest map and Washington Atlas & Gazetteer)

GMU 346-Little Naches (Yakima & Kittitas counties): Beginning at the Junction of Highway 410 and Forest Road 1701; then north on Road 1701 to Trail #1388; then northwest along Trail #1388 to the Pacific Crest Trail at Blowout Mountain; then south along the Pacific Crest Trail to State Highway 410 at Chinook Pass; then east along State Highway 410 to point of beginning. (See Wenatchee National Forest Recreation map)

GMU 352-Nile (Yakima County): Beginning at Highway 410 at its junction with Forest Road 1500 (Eagle Rock); then west along the 1500 Road to the McDaniel Lake Road (USFS Road #1502); then west along the McDaniel Lake Road to the junction of the North Fork and the South Fork of Rattlesnake Creek; then up the North Fork of Rattlesnake Creek to Richmond Mine Trail #973; then north along Richmond Mine Trail to the Bumping Lake Road; then north along Bumping Lake Road to Highway 410; then east along Highway 410 to Eagle Rock and the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 356-Bumping (Yakima County): Beginning at the intersection of Highway 12 and USFS Road #1500; then north along Road #1500 to McDaniel Lake Road (USFS Road #1502); then west on McDaniel Lake Road to the junction of North Fork and South Fork of Rattlesnake Creek; then up the North Fork of Rattlesnake Creek to Richmond Mine Trail #973; then north along Richmond Mine Trail to the Bumping Lake Road; then north along the Bumping Lake Road to Highway 410; then west along Highway 410 to the Pacific Crest Trail at Chinook Pass; then south along the Pacific Crest Trail to Highway 12 at White Pass; then east along Highway 12 to the point of beginning. (Lands within the boundary of Mt. Rainier National Park along the Pacific Crest Trail are not open to hunting.) (See Wenatchee National Forest Recreation map)

GMU 360-Bethel (Yakima County): Beginning at the junction of Highway 410 and Highway #12; then west along Highway 12 to the junction with USFS Road #1500; then north and east along Road #1500 to its junction with Highway 410 at Eagle Rock; then southeast along Highway 410 to its junction with Highway 12 and the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 364-Rimrock (Yakima County): Beginning at the junction of Highway 12 and Jump-off Road (USFS Road #1302); then southwest along Jump-off Road to Divide Ridge Trail #1127 at Jump-off Lookout; then southeast along Divide Ridge Trail #1127 to Strobach Springs; then west to Blue Slide Lookout; then south on jeep trail to Blue Lake; then south along jeep trail to the Darland Mountain Road and the north boundary of the Yakima Indian Reservation; then west along the reservation boundary to the Pacific Crest Trail; then north along the Pacific Crest Trail to Highway 12 at White Pass; then east along Highway 12 to the junction with Jump-off Road and the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 366-Rimrock-Cowiche (Yakima County): GMUs 364 (Rimrock) and 368 (Cowiche) (See Wenatchee National Forest Recreation map)

GMU 368-Cowiche (Yakima County): Beginning at the junction of Highway 12 and Jump-off Road (USFS Road #1302); then southwest along Jump-Off Road to Divide Ridge Trail #1127 at Jump-off Lookout; then southwest along Divide Ridge Trail #1127 to Strobach Springs; then west to Blue Slide Lookout; then south on jeep trail to Blue Lake; then south along jeep trail to the Darland Mountain Road and the north boundary of the Yakima Indian Reservation; then east along the reservation boundary to the Yakima River and Highway 12; then north and west along Highway

12 to the point of beginning. (See Wenatchee National Forest Recreation map & Washington Atlas & Gazetteer)

GMU 370-Priest Rapids (Kittitas, Yakima and Benton counties): Beginning at the Interstate 90 bridge at Vantage; then west along Interstate 90 to the East Highline Canal (which is approximately 1/4 mile west of Boylston Road); then southwest along the canal to Highway 821 and the Yakima River, at a point about one mile south of Thrall; then southeast along the Yakima River to the Mabton-Sunnyside Road; then south along the Mabton-Sunnyside Road; then south along the Yakima Indian Reservation Boundary to the Yakima-Klickitat county line; then east along the county line to the Alderdale Road; then south along the Alderdale Road to Highway 14 and the Columbia River; then upstream along the Columbia River to the point of beginning at Vantage. (See Washington Atlas & Gazetteer)

REGION FOUR

GMU 405-Chuckanut (Whatcom and Skagit counties): Beginning at the Canadian border and the Silver Lake Road; then south along the Silver Lake Road to the Mount Baker Highway; then southwest along the Mount Baker Highway to the Mosquito Lake Road; then south along the Mosquito Lake Road to ~~((the Blue Mountain Road; then east to Peterson Creek and the Musto Marsh Road; then south to Skookum Creek; then west down Skookum Creek to its mouth; then northwest down the South Fork Nooksack River to Saxon Bridge; then west on the Saxon Bridge Road to))~~ Highway 9; then south along Highway 9 through Sedro Woolley to the town of Arlington and the Stillaguamish River; then down the Stillaguamish River through Stanwood and West Pass to Skagit Bay; then west and north through Skagit Bay, Deception Pass, Rosario Strait ~~((and Bellingham Channel to Samish Bay and))~~ then east through Guemes Channel to Hat Island and then north to Samish Island; then east along the shoreline to Edison; then north along the shoreline to the Whatcom County line; then west and north along the Whatcom County line to the Canadian border; then east along the Canadian border to the point of beginning. (See Washington Atlas & Gazetteer; this description is not easily found on base maps. Contact the ~~((Region 4))~~ Mill Creek office for more information.)

GMU 410-Islands (San Juan, Island counties): All islands in San Juan County as well as Whidbey ~~((and))~~, Camano ~~((islands and))~~, Cypress ~~((and))~~, Sinclair, and Guemes islands in Skagit County. (See Washington Atlas & Gazetteer)

GMU 417 Bald Mountain (Whatcom and Skagit counties): Beginning at the intersection of Baker Lake Highway and Grandy Creek (Sec. 31, T35N, R8E); then east along Baker Lake Highway to the intersection with Burpee Hill Road; then due east to the west shoreline of Shannon Lake; then north along the west shorelines of Shannon Lake and Baker Lake to the upper Baker River; then continue north up the Baker River to the confluence of Sulphide Creek; then northwest up Sulphide Creek to the 4500 ft. elevation line; then along the 4500 ft. elevation line across the east, southeast, south, southwest, and west base of Mount Baker to the headwater of Clearwater Creek; then down Clearwater Creek to the 1620 ft. elevation line; then west along the

1620 ft. elevation line to the headwater of Porter Creek; then down Porter Creek to the Mosquito Lake Road; then south along Mosquito Lake to Hutchinson Creek; then continue south down Hutchinson Creek to the S.F. Nooksack River; then southeast up the S.F. Nooksack River to Christie Creek; then up Christie Creek to Crown Pacific Logging Road #151 (North Lyman Mountain); then south along CP Road #151 and the eastern ridge of Lyman Mountain to CP Road #150 to CP Road #130; then continue south along CP Road #130 to CP Road #100; then east along CP Road #110 to the Hamilton mainline road; then south along the Hamilton mainline road (approximately .25 mile) to the intersection with DNR Road SW-HO-2900 (Josephine Truck Trail); then east along the SW-HO-2900 Road, SW-HO-2000, and SW-HO-2400 Road to the Baker Lake Highway; then east along the Baker Lake Highway to the intersection of Grandy Creek (Sec. 31, T35N, R8E); and the point of beginning.

GMU 418-Nooksack (Whatcom and Skagit counties): Beginning at the point where Jackman Creek meets ((~~State Highway 20~~)) the Skagit River (east of Concrete); then northeast up Jackman Creek to the range line between Range 9 and 10E; then north along this range line to the boundary of the North Cascades National Park; then north along the North Cascades Park boundary to the Canadian border; then west along the Canadian border to the Silver Lake Road; then south along the Silver Lake Road to the Mount Baker Highway; then southwest along the Mount Baker Highway to the Mosquito Lake Road; then south along the Mosquito Lake Road to ((~~the Blue Mountain Road; then east to Peterson Creek and the Musto Marsh Road; then south to Skookum Creek; then west down Skookum Creek to its confluence with the South Fork Nooksack River; then west down the South Fork Nooksack River to the Saxon Bridge; then west on the Saxon Bridge Road to Highway 9; then south along Highway 9 to its intersection with State Highway 20 (east of Sedro Woolley); then east along Highway 20~~)) Highway 9; then south along Highway 9 to its intersection with State Highway 20 (east of Sedro Woolley); then west along State Highway 20 to its intersection with Highway 9; then south along Highway 9 to the Skagit River; then east along the main channel of the Skagit River to Jackman Creek (east of Concrete) and the point of beginning. (See Washington Atlas & Gazetteer or Mt. Baker/Snoqualmie National Forest map)

GMU 426-Diablo (Skagit and Whatcom counties): The Ross Lake National Recreation Area and the adjoining corridor between the Pasayten Wilderness Area and the northeast boundary of the south segment of North Cascades National Park. (See Washington Atlas & Gazetteer)

GMU 433-Cavanaugh (Skagit and Snohomish counties): Beginning at the intersection of State Highway ((~~20 and State Highway 9 at~~)) 9 and the Skagit River (south of Sedro Woolley); then south along State Highway 9 to Arlington; then east along the Arlington-Darrington Highway 530 to Darrington; then north along the Sauk Valley Road to the Skagit River (at Rockport); then west along the State Highway ((~~20 to Sedro Woolley~~)) 9 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 440-Suiattle (Skagit and Snohomish counties): Beginning at the intersection of State Highway 20 and the

Sauk Valley Road at Rockport; then south along the Sauk Valley Road to Darrington and the Sauk River to the Suiattle River; then along that river to the Glacier Peak Wilderness Area boundary; then north and east along that boundary to the line between Ranges 12 and 13 E.; then north on that range line to the North Cascades National Park boundary; then west and north along the North Cascades Park boundary and the Ross Lake National Recreation Area boundary to the range line between range 9 and 10 E.; then south along this range line to the Jackman Creek drainage; then southwest down the Jackman Creek drainage to State Highway 20; then east along State Highway 20 to Rockport and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 442-Tulalip (Snohomish and King counties): Beginning at the mouth of the Stillaguamish River; then up the Stillaguamish River to Arlington; then northeast along the Arlington-Darrington Highway to the Trafton School at Trafton; then southeast along the Jim Creek-Trafton Road (242nd St. N.E.) to the City of Seattle power transmission line; then southwest along the transmission line to the point where it crosses the Jordan Road in Sec. 20, T31N, R6E; then southeast along the Jordan Road to Granite Falls; then south along the Menzel Lake-Lake Roesiger Roads to the Woods Creek Road; then south on Woods Creek Road to Monroe; then south on Highway 203 to the Snoqualmie River at Duvall; then north down the Snoqualmie River to the Snohomish River and down the Snohomish River to Puget Sound; then north along the shore of Puget Sound to the mouth of the Stillaguamish River and the point of beginning. (See Washington Atlas & Gazetteer or Mt. Baker/Snoqualmie National Forest map)

GMU 448-Stillaguamish (Snohomish and Skagit counties): Beginning at Sultan; then east along U.S. Highway 2 to Stevens Pass; then north along the Pacific Crest Trail to Henry M. Jackson Wilderness Area boundary; then north along this boundary to the North Fork Skykomish Trail No. 1051; then west on Trail No. 1051 to Forest Service Road 63, then west on Forest Service Road 63 to Quartz Creek Trail (No. 1050); then north on Trail 1050 to Curry Gap; then east on Trail 650 along the crest between Sloan Creek and the North Fork of the Skykomish River drainages to June Mountain, near the headwaters of Sloan Creek (Sec. 25, T29N, R13E); then north along the Glacier Peak Wilderness Area boundary to the Suiattle River; then west along the Suiattle River to the Sauk ((~~River; then south up the Sauk River~~)) Valley Road (SR 530); then south on the Sauk Valley Road (SR 530) to Darrington; then west along the Darrington-Arlington Highway to the Trafton School at Trafton; then southeast along the Jim Creek-Trafton Road (242nd St. N.E.) to the City of Seattle power transmission lines; then southwest along the transmission line to the point where it crosses the Jordan Road in Sec. 20, T31N, R6E; then southeast along the Jordan Road to Granite Falls; then south along the Menzel Lake-Lake Roesiger Roads to the Woods Creek Road; then south on Woods Creek Road to Highway 2 (Skykomish-Monroe Highway); then east along Highway 2 to Sultan to the point of beginning. (See Washington Atlas & Gazetteer or Mt. Baker/Snoqualmie National Forest map)

GMU 450-Cascade (Skagit and Snohomish counties): Beginning at the Glacier Peak Wilderness boundary and the Skagit County/Chelan County line at the headwaters of the Middle Fork Cascade River and then west and southerly along the Glacier Peak Wilderness boundary to the Skagit County/Snohomish County line. In Snohomish County, continue south along the Glacier Peak Wilderness boundary to June Mountain near the headwaters of Sloan Creek (Sec. 25, T29N, R13E); then west along the 650 trail along the crest between Sloan Creek and the North Fork of the Skykomish River drainages to Curry Gap; then south along the Quartz Creek Trail (No. 1050) to Forest Service Road 63; then east on Road 63 to its end at the 1051 Trail and east up Trail 1051 to the Henry M. Jackson Wilderness boundary; then south and east along that boundary to the Snohomish/Chelan County line; then north along the Snohomish/Chelan County line to the Skagit County line; then north along the Skagit/Chelan County line to the point of beginning. (See Washington Atlas & Gazetteer and Mt. Baker/Snoqualmie National Forest map)

GMU 454-Issaquah (King and Snohomish counties): Beginning at the mouth of the Snohomish River near Everett; then southeast up the Snohomish River to Duvall; then south along State Highway 203 to Fall City; then southwest along the Fall City-Preston Road to Interstate 90; then east on Interstate 90 to State Highway 18; then southwest along State Highway 18 to its intersection with the Raging River; then south up that river to its junction with the posted boundary of the City of Seattle Cedar River Watershed; then along that posted boundary to its junction with the boundary of the City of Tacoma Green River Watershed (CTGRW); then south along the CTGRW posted boundary to Weyerhaeuser Road 5200 near Lynn Lake; then down the 5200 Road for approximately 7.6 miles to its junction with U.S. Highway 410; then west along U.S. Highway 410 and State Highway Nos. 164 and 18 through Auburn to U.S. Highway 99; then north along Highway 99 to the Redondo Beach junction; then due west to Puget Sound; then north along Puget Sound to the mouth of the Snohomish River and the point of beginning. (See Mt. Baker/Snoqualmie National Forest map and Washington Atlas & Gazetteer)

GMU 460-Snoqualmie (King and Snohomish Counties): Beginning at the intersection of State Highway 203 and U.S. Highway 2; then east along U.S. Highway 2 to Stevens Pass and the Pacific Crest Trail; then south along the Pacific Crest Trail to its junction with the City of Seattle Cedar River Watershed posted boundary; then west along the posted boundary to its intersection with the headwaters of the Raging River; then down the Raging River to its intersection with State Highway 18; then along State Highway 18 to its junction with Interstate Highway 90 (I-90); then west along I-90 to its junction with the Preston-Fall City Road; then north along the Preston-Fall City Road to State Highway 203; then north on State Highway 203 to the point of beginning. (See Mt. Baker/Snoqualmie National Forest map and Washington Atlas & Gazetteer)

GMU 466-Stampede (King County): Beginning at intersection of the Pacific Crest Trail (USFS Trail 2000) and the posted boundary for the City of Seattle Cedar River

Watershed; then south along the Pacific Crest Trail to ~~((its junction with the Naches Pass Trail at Pyramid Peak; then west on the Naches Pass Trail to Twin Camps and))~~ USFS Road 7035 ~~((; then along))~~, north of Pyramid Peak; then west on this road to USFS Road ((7035)) 7032 to USFS Trail 1172 and its intersection with USFS Road 7012 (Champion Creek Rd.); then down Road 7012 to the posted boundary of the City of Tacoma Green River Watershed; then east and north along that boundary and the City of Seattle Cedar River Watershed posted boundary to the point of beginning. (See Mt. Baker/Snoqualmie National Forest map and Washington Atlas & Gazetteer)

GMU 472-White River (King and Pierce counties): Beginning at the junction of State Highway 410 and the north boundary of Mount Rainier National Park; then west along the north park boundary to the Carbon River; then down the Carbon River to its intersection with the Bonneville Power Transmission line; then up the powerline to South Prairie Creek; then up South Prairie Creek to New Pond Creek; then up New Pond Creek to its intersection with Champion 923 Road.; then north on Champion 923 Road to Champion 92 Road; then east on Champion 92 Road to Champion 93 Road; then northwest on Champion 93 Road to Champion 931 Road; then east on Champion 931 Road to Champion 9 Road; then northeast on Champion 9 Road to Champion 96 Road; then east on Champion 96 Road to Champion 9601 Road; then east on Champion 9601 Road to Old Pond Creek to the White River; then down White River to the first set of Bonneville Power Transmission lines; then up the powerline to where it intersects State Highway 410; then east along State Highway 410 to Weyerhaeuser Road 5200; then up that road for approximately 7.6 miles to its junction with the City of Tacoma Green River Watershed posted boundary; then east along that posted boundary and USFS Trail 1172 to USFS Road ~~((7035))~~ 7032; then east along ~~((that))~~ this road to ~~((its intersection with the Naches Pass Trail at Twin Camps))~~ USFS Road 7035; then east along ~~((the Naches Pass Trail))~~ this road to the Pacific Crest Trail (USFS Trail 2000) ~~((near))~~ north of Pyramid Peak; then south along the Pacific Crest Trail to the Mount Rainier National Park boundary near Sourdough Gap; then north and west along the park boundary to the point of beginning except Private Lands Wildlife Management Area 401 (Champion). Boundaries of PLWMA 401 are clearly marked. (See Washington Atlas & Gazetteer and Mt. Baker/Snoqualmie National Forest map)

GMU 478-Mashel (Pierce County): Beginning where the Bonneville Power Transmission line crosses the Orville Road at the Puyallup River Bridge; then northerly along the Bonneville Power Transmission line to the Carbon River to the west boundary of Mt. Rainier National Park; then south along the park boundary to the Nisqually River; then west down the Nisqually River to Alder Lake; then continuing west down Alder Lake and the Nisqually River to the Weyerhaeuser 1000 (Main) Line (Vail-Eatonville Truck Trail) Bridge; then east on the 1000 line to its junctions with Highway 7 (Mountain Highway) and Highway 161 (Eatonville-LaGrande Road); then east and north along Highway 161 through Eatonville to its junction with Orville Road E. (Kapowsin-Eatonville Road); then north along that road through Kapowsin to the point of beginning at the

junction of the Bonneville Power Transmission line and the Orville Road except Private Lands Wildlife Management Area 401 (Champion). Boundaries of PLWMA 401 are clearly marked. (See Mt. Baker/Snoqualmie National Forest map or Washington Atlas & Gazetteer)

GMU 480-South Islands (Pierce County): Anderson and Ketron islands. (See Washington Atlas & Gazetteer)

GMU 484-Puyallup (Pierce and King counties): Beginning at the mouth of the Nisqually River; then up the Nisqually River to its junction with the Weyerhaeuser 1000 line, then east along the Weyerhaeuser 1000 line to its intersection with State Highways 7 and 161; then north along State Highway 161 to its intersection with the Orville Road; then north along the Orville Road to the Puyallup River Bridge where it intersects the Bonneville Power Transmission line; then up the powerline to South Prairie Creek; then up South Prairie Creek to New Pond Creek; then up New Pond Creek to its intersection with Champion 923 Road; then north on Champion 923 Road to Champion 92 Road; then east on Champion 92 Road to Champion 93 Road; then northwest on Champion 93 Road to Champion 931 Road; then east on Champion 931 Road to Champion 9 Road; then northeast on Champion 9 Road to Champion 96 Road; then east on Champion 96 Road to Champion 9601 Road; then east on Champion 9601 Road to Old Pond Creek; then down Old Pond Creek to the White River; then down White River to the first set of Bonneville Power Transmission lines; then up the powerline to where it intersects State Highway 410; then west along State Highway 410 to where it intersects State Highway 164; then west along State Highway 164 through Auburn to Old Highway 99; then north along Old Highway 99 to Redondo Junction; then due west to Puget Sound; then south along the shoreline of Puget Sound to the mouth of the Nisqually River and the point of beginning except Private Lands Wildlife Management Area 401 (Champion). Boundaries of PLWMA 401 are clearly marked. (See Washington Atlas & Gazetteer or Mt. Baker/Snoqualmie National Forest map)

GMU 485-Green River (King County): Beginning at the junction of the Green River and the west boundary of the Tacoma Watershed; then south and east along the watershed boundary to the USFS 7012 Road (Champion Creek Road); then northwest along that road and the posted GMU 485 boundary to where it meets USFS Road 5063; then east, then north along that road to its junction with the USFS 5060 Road near the headwaters of Friday Creek; then north along that road to the Tacoma Watershed boundary; then west along the Tacoma Watershed boundary to the Green River and the point of beginning. (See Mt. Baker/Snoqualmie National Forest map and Washington Atlas & Gazetteer)

GMU 490-Cedar River (King County): Beginning at the junction of the Cedar River and the western posted boundary of the City of Seattle Cedar River Watershed; then north and east along said posted boundary to Yakima Pass; then continue south and west along that posted boundary and to the point of beginning. Note that the City of Seattle enforces trespass on lands owned or controlled by the city. (See Mt. Baker/Snoqualmie National Forest map and Washington Atlas & Gazetteer)

REGION FIVE

GMU 501-Lincoln (Lewis, Thurston, Pacific and Grays Harbor counties): Beginning at the intersection of Interstate 5 and State Highway 6, then west on State Highway 6 to the Stevens Road, then northwest on Stevens Road to Elk Creek Road (Doty), then west on Elk Creek Road to the 7000 Road, then west on the 7000 Rd. to the 7800 Rd., then west on the 7800 Rd. to the 720 Rd., then northeast on the 720 Rd. to Garrard Creek Road, then northeast on the Garrard Creek Road to Oakville and U.S. Highway 12, then east on U.S. 12 to Interstate 5, then south on Interstate 5 to State Highway 6 and point of beginning. (See Washington Atlas & Gazetteer)

GMU 504-Stella (Cowlitz County): Beginning at the mouth of the Cowlitz River at the Columbia River, then west down the Columbia to the mouth of Germany Creek, then north up Germany Creek to State Highway 4, then east on Highway 4 to Germany Creek Road, then north on Germany Creek Road to IP 1000 Road, then north on IP 1000 to the IP 1050 Road, then east on IP 1050 Road to the 2200 Rd., then east and south to the 2000 Rd., then south on the 2000 Rd. to the Delameter Road (Woodside Road), then east on Delameter Road to State Highway 411, then north on Highway 411 to PH 10 Road (Four Corners), then east to Cowlitz River, then south down the Cowlitz River to the Columbia River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 505-Mossyrock (Lewis County): Beginning on Interstate 5 and the Cowlitz River, then northeast up the Cowlitz River to Mayfield Lake and the U.S. Highway 12 bridge, then east on Highway 12 to Winston Creek Road, then south and east to Longbell Road and Perkins Road, then northeast on Perkins Road to Swofford Road, then north on Swofford Road to Ajlune Road, then east on Ajlune Road to Riffe Lake, then east along the south shore to the Cowlitz River and up the Cowlitz River to the USFS 23 Road (Cispus Road) Bridge, then south and east to the C Line Road, then east to the Bennet Road, then east to U.S. Highway 12, then west on Highway 12 to State Highway 7 (Morton), then north on State Highway 7 to State Highway 508, then west on Highway 508 to Centralia/Alpha Road, then west and north on Centralia/Alpha Road to Salzer Valley Road, then west to Summa Street and Kresky Road, then north on Kresky Road to Tower Street, then on Tower Street to State Highway 507, then west on Highway 507 Cherry, Alder and Mellen streets to Interstate 5, then south on Interstate 5 to the Cowlitz River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 506-Willapa Hills (Wahkiakum, Pacific, and Lewis counties): Beginning at PeEll and the Muller Road; then south on the Muller Road to the 1000 Road; then south on the 1000 Road to the 1800 Road; then south on the 1800 Road to the 500 Road; then southeast on the 500 Road to State Highway 407; then south on State Highway 407 (Elochoman Valley Road) to State Highway 4; then east on State Highway 4 to State Highway 409; then south on State Highway 409 to the Columbia River/Puget Island Bridge; then west along Columbia River to the mouth of the Deep River; then north along the Deep River to State Highway 4; then northwest on State Highway 4 to the Salmon Creek

Road; then north on the Salmon Creek Road to the Bonneville Powerline Road; then north on the Bonneville Powerline Road to State Highway 6; then east on State Highway 6 to the town of PeEll and the point of beginning. (See Washington Atlas & Gazetteer, Forest Protection Map "Willapa Hills")

GMU 510-Stormking (Lewis County): Beginning on U.S. Highway 12 at the Silver Creek Bridge; then north up Silver Creek to Silverbrook Road, then east to USFS 47 Rd., then north on USFS 47 to USFS 85, then west on USFS 85 to Silver Creek, then southwest on Silver Creek to Lynx Creek, then north on Lynx Creek and its northern most tributary to USFS 85 Rd., then northwest on the USFS 85 Rd. to Catt Creek, then north on Catt Creek to the Nisqually River, then west down the Nisqually River to State Highway 7, then south on Highway 7 to U.S. Highway 12 (Morton), then east on Highway 12 to Silver Creek and point of beginning. (See Gifford Pinchot National Forest map)

GMU 512-Sawtooth (Lewis County): Beginning on U.S. Highway 12 at the Silver Creek bridge, then north up Silver Creek to Silverbrook Road, then east to USFS 47 Rd., then north on USFS 47 Rd. to USFS 85 Rd., then west on USFS 85 to Silver Creek, then southwest on Silver Creek to Lynx Creek, then north on Lynx Creek and its northern most tributary to USFS 85 Rd., then north on 85 Rd. to Catt Creek, then northwest down Catt Creek to the Nisqually River, then east up the Nisqually River to Horse Creek, then east up Horse Creek to USFS 52 Rd. (Skate Creek Road), then southeast on USFS 52 to the Cowlitz River, then southwest down the Cowlitz River to Smith Creek, then up Smith Creek to U.S. Highway 12, then west on U.S. Highway 12 to Silver Creek and point of beginning. (See Gifford Pinchot National Forest map and/or Washington Atlas & Gazetteer)

GMU 514-Tatoosh (Lewis County): Beginning at USFS 52 Rd. (Skate Creek) and the Cowlitz River (at Packwood), then northwest on USFS 52 Rd. to Horse Creek, then down Horse Creek to the Nisqually River and the southern boundary of Mt. Rainier National Park, then north and east along the Nisqually River and south park boundary to the Cascade Crest Trail, then south along the Cascade Crest Trail to U.S. Highway 12, then northwest and southwest on Highway 12 To USFS 1270 Rd., then north on USFS 1270 to the Cowlitz River, then southwest down the Cowlitz River to the USFS 52 Rd. and point of beginning. (See Gifford Pinchot National Forest map)

GMU 516-Packwood (Lewis and Skamania counties): Beginning at the mouth of Cispus River, then east up the Cispus River to the USFS 56 Rd. (Midway G.S. Road), then east on the USFS 56 Rd. to the USFS 5603 Rd., then east on the USFS 5603 to the Yakima Indian Reservation boundary and the Cascade Crest; then north along the Reservation boundary to Cispus Pass and the Cascade Crest Trail, then north along the Cascade Crest Trail to the U.S. Highway 12 (White Pass), then northwest and southwest on Highway 12 to USFS 1270 Rd. (Sec. 31, T14N, R10E), then north on USFS 1270 to the Cowlitz River, then southwest down the Cowlitz River to the mouth of Smith Creek, then south up Smith Creek to U.S. Highway 12, then southwest down Highway 12 to Bennet Road, then west on the Bennet Road

to the C Line Road, then west to the USFS 23 Rd. (Cispus Road), then west and north to the Cowlitz River, then west down the Cowlitz River to the mouth of the Cispus River and point of beginning. (See Gifford Pinchot National Forest map)

GMU 520-Winston (Cowlitz, Lewis and Skamania counties): Beginning at the intersection of Interstate 5 and the Cowlitz River, then south down the Cowlitz River to the Toutle River, then east up the Toutle River to the North Fork Toutle River, then up the North Fork Toutle River to the Green River, then east up the Green River to USFS 2612 Rd., then east on 2612 to USFS 26 Rd. (Ryan Lake Road), then north on USFS 26 Rd. to the Cispus River, then west down the Cispus to the Cowlitz River, then west down the Cowlitz River to Riffe Lake, then west along the south shore to Ajlune Road, then west to Swofford Road, then south on Swofford Road to Perkins Road, then southwest and northwest on Perkins Road and Longbell Road to Winston Creek Road, then northwest on Winston Creek Road to State Highway 12, then west on State Highway 12 to the Mayfield Lake bridge, then southwest down Mayfield Lake and the Cowlitz River to Interstate 5 and point of beginning. (See Washington Atlas & Gazetteer)

GMU 522-Loo-wit (Cowlitz and Skamania counties): Beginning on the North Fork Toutle River at the mouth of Hoffstadt Creek, then southeast up the North Fork Toutle River to the Weyerhaeuser 3001 Rd., then southeast along the 3001, 3000, and 3090 roads to the headwaters of the South Fork Castle Creek, then due south to the South Fork Toutle River, then east along South Fork Toutle to its headwaters and Mount St. Helens crater edge; then east along the crater edge to the headwaters of Ape Canyon, then down Ape Canyon Creek to the USFS Smith Creek Trail then north up USFS Smith Creek Trail to USFS 99 Rd., then north along USFS 99 to USFS 26, then north to Strawberry Lake Creek, then west down Strawberry Lake Creek to the Green River, then across the Green River to Grizzly Creek, then up Grizzly Creek to Grizzly Lake, then west up the western inlet to its headwaters, then west to the headwaters of Coldwater Creek, then west down Coldwater Creek to Coldwater Lake, then southwest along the northwest shore to the old Weyerhaeuser 3500 Rd., then west along the 3500, 3530, 3540, 3130, 3120 roads to the intersection with Hoffstadt Creek, then down Hoffstadt Creek to the North Fork Toutle River and point of beginning. (See Gifford Pinchot National Forest map)

GMU 524-Margaret (Cowlitz, Skamania and Lewis counties): Beginning on the North Fork Toutle River at the mouth of the Green River, then southeast up the North Fork Toutle River to the mouth of Hoffstadt Creek, then up Hoffstadt Creek to the 3120 Rd., then east along the 3120, 3130, 3540, 3530 and 3500 roads to Coldwater Lake, then northeast along the northwest shoreline to Coldwater Creek, then up Coldwater Creek to its headwaters and east to the headwaters of Grizzly Lake, then east down the west inlet creek to Grizzly Lake, then down Grizzly Creek to the Green River and the mouth of Strawberry Lake Creek, then up Strawberry Lake Creek to the USFS 26 Rd. (Ryan Lake Road), then north on the USFS 26 Rd. to the USFS 2612 Rd., then west on USFS 2612 Rd. to the Green River, then

down the Green River to its mouth and point of beginning. (See Gifford Pinchot National Forest map)

GMU 530-Ryderwood (Cowlitz, Lewis, Wahkiakum counties): Beginning south of the town of Doty on State Highway 6; then east on State Highway 6 to Chehalis and Interstate 5; then south on Interstate 5 to the Cowlitz River; then south along the Cowlitz River to Castle Rock and the PH 10 Road (Four Corners); then west on the PH 10 Road to State Highway 411; then south on State Highway 411 to Delameter Road (Woodside Drive); then southwest on Delameter Road to the 2000 Road; then west on the 2000 Road to the 2200 Road; then north and west on the 2200 Road to the IP 1050 Road; then west on the IP 1050 Road to the IP 1000 Road; then south on the IP 1000 Road to the Germany Creek Road; then south on the Germany Creek Road to State Highway 4; then west on State Highway 4 to Germany Creek; then south along Germany Creek to its mouth at the Columbia River; then west along the Columbia River and the Cathlamet Channel to the Puget Island Bridge on State Highway 409; then north on State Highway 409 to State Highway 4; then west on State Highway 4 to State Highway 407 (Elochoman Valley Road); then northwest on State Highway 407 (Elochoman Valley Road) to the 500 Road; then west on the 500 Road to the 1800 Road; then north on the 1800 Road to the 1000 Road; then north on the 1000 Road to the Muller Road; then north on Muller Road to PeEll and State Highway 6; then north on State Highway 6 to south of Doty and the point of beginning. (See Washington Atlas & Gazetteer, Forest Protection Map "Willapa Hills")

GMU 550-Coweeman (Cowlitz County): Beginning at the mouth of the Cowlitz River, then north to the Toutle River, then east along the Toutle River to the South Fork Toutle River, then up the South Fork Toutle to the 4950 Rd., then south and east on the 4950 Rd. to the 235 Rd., then south on the 235, 200, 245, 134, 133, 130 and 1680 roads to the 1600 Rd., then southeast along the 1600 and 1400 roads to the Kalama/Coweeman summit, then south along the 1420 Rd. to the 1425 Rd., then southwest along the 1425 Rd. to the 6400 Rd., then southwest down the 6400 Rd. to the 6000 Rd., then east to the 6450 Rd., then southeast approximately one mile on the 6450 Rd. to the Arnold Creek Road, then southeast on Arnold Creek Road to Dubois Road, then to State Highway 503, then west on State Highway 503 to Cape Horn Creek, then down Cape Horn Creek to Merwin Reservoir and the Lewis River, then down the Lewis River to the Columbia River, then down the Columbia River to the mouth of the Cowlitz River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 554-Yale (Cowlitz County): Beginning on State Highway 503 at its crossing of Cape Horn Creek, then east on Highway 503 to 6690 Rd. (Rock Creek Road), then northeast on the 6690 and 6696 roads to West Fork Speelyai Creek, then down Speelyai Creek to State Highway 503, then northeast on Highway 503 to Dog Creek, then down Dog Creek to Yale Reservoir, then south and west down Yale Reservoir, Lewis River, and Merwin Reservoir to Cape Horn Creek, then up Cape Horn Creek to State Highway 503 and point of beginning.

GMU 556-Toutle (Cowlitz County): Beginning on State Highway 503 (Lewis River Road) and USFS 81 Rd. (Merrill Lake Road) intersection, then north on USFS 81 Rd. to Weyerhaeuser 7200 Rd., then northeast on the 7200 Rd. to the 7400 Rd., then northwest on the 7400 Rd. to the 5500 Rd., then east and north on the 5500 and 5670 roads to the South Fork Toutle River, then east up the South Fork Toutle River to a point due south of the headwaters of the South Fork Castle Creek (Sec. 1, TWP 8N R4E), then north to the headwaters of South Fork Castle Creek, then down South Fork Castle Creek to Weyerhaeuser 3092 Rd., then west on the 3092 Rd. to 3090 Rd., then northwest on the 3090, 3000 and 3001 roads to the North Fork Toutle River, then down the North Fork Toutle River to the South Fork Toutle River, then south-east up the South Fork Toutle River to the 4950 Rd., then south on the 4950, 235, 200, 245, 243A, 134, 133, 130, and 1680 roads to the 1600 road, then southeast on the 1600 and 1400 roads to the Kalama/Coweeman summit, then south on the 1420 Rd. to the 1425 Rd., then southwest along the 1425 Rd. to the 6400 Rd., then southwest on the 6400 Rd. to the 6000 Rd., then east up the 6000 Rd. to the 6450 Rd., then southwest on the 6450 Rd. approximately one mile to the Arnold Creek Road, then southeast on Arnold Creek and Dubois roads to State Highway 503, then east on State Highway 503 to the 6690 Rd. (Rock Creek Road); then northeast on the 6690 and 6696 roads to the West Fork Speelyai Creek, then down Speelyai Creek to State Highway 503, then northeast on State Highway 503 to USFS 81 Rd. and point of beginning. (See Washington Atlas & Gazetteer)

GMU 558-Marble (Cowlitz and Skamania counties): Beginning on State Highway 503 (Lewis River Road) and USFS 81 Rd. intersection, then north on USFS 81 Rd. to Weyerhaeuser 7200 Rd., then northeast on the 7200 Rd. to the 7400 Rd., then northwest on the 7400 Rd. to the 5500 Rd., then east and north on the 5500 and 5670 roads to the South Fork Toutle River, then east up the South Fork Toutle River to Mount St. Helens crater and along crater to headwaters of Ape Canyon, then east down Ape Canyon Creek to Smith Creek Trail then north up USFS Smith Creek Trail to USFS 99 Rd., then northeast on USFS 99 Rd. to USFS 25 Rd., then south on USFS 25 Rd. to the Muddy River, then south down the Muddy River to the North Fork Lewis River, then west down the North Fork Lewis River, Swift Reservoir to Yale Reservoir and Dog Creek, then north up Dog Creek to State Highway 503, then southwest to USFS 81 Rd. and point of beginning. (See Gifford Pinchot National Forest map)

GMU 560-Lewis River (Skamania, Klickitat, Yakima and Lewis counties): Beginning at Trout Lake, north to the USFS 80 Rd., then north to ((the)) USFS ((82 Rd.)) 17 Road (Mt. Adams Recreational Road), then northeast to USFS 82 Road, then northeast on the USFS 82 Rd. to the Yakima Indian Reservation boundary (Sec. 16, T7N, R11E), then north along Reservation boundary (Cascade Crest) to USFS 5603 Rd., then west to the USFS 56 Rd., then west to the Cispus River, then northwest down the Cispus River to the USFS 26 Rd. (Ryan Lake Road), then west and south on the USFS 26 Rd. to USFS 99 Rd., then northeast to the USFS 25 Rd., then south to Muddy River, then south down the Muddy River to the North Fork Lewis River, then west to the USFS 90 Rd. bridge (Eagle Cliff), then east on USFS 90

Rd. to USFS 51 Rd., then southeast to USFS 30 Rd., then northeast on the USFS 30 Rd. to USFS 24 Rd., then southeast to the State Highway 141, then northeast on State Highway 141 to Trout Lake and point of beginning. (See Gifford Pinchot National Forest map)

GMU 564-Battle Ground (Clark and Skamania counties): Beginning on the Interstate 5 at the Lewis River Bridge and the Lewis River; then northeast along the Lewis River (Cowlitz-Clark County line) to the Merwin Dam; then on a southeast line to the transmission line; then south on the transmission line to the County Road 20; then southeast on County Road 20 to the Pup Creek Road; then southeast on Pup Creek Road to County Road 16; then southeast on County Road 16 through Yacolt to County Road 12; then southeast on County Road 12 to Dole Valley Road; then south on the Dole Valley Road to Rock Creek Road; then southeast and south on the DNR 1000 Road to DNR 1500 Road; then east on DNR 1500 Road to N.E. 412 Ave.; then south on N.E. 412th Ave. to Skye Road; then east and south on the Skye Road to Washougal River Road; then south on Washougal River Road to State Highway 140; then southeast on State Highway 140 to Cape Horn Road; then south on Cape Horn Road to the Columbia River; then west down the Columbia River (including islands in Washington) to the Lewis River; then north along the Lewis River to the Interstate 5 Bridge and the point of beginning. (See Washington Atlas & Gazetteer, Forest Protection Map "St. Helens West")

GMU 568-Washougal (Clark and Skamania counties): Beginning at Merwin Dam on the Lewis River and Lake Merwin; then northeast along Lake Merwin (Cowlitz-Clark County line) to Canyon Creek; then southeast along Canyon Creek to N.E. Healy Road; then east on N.E. Healy Road to USFS Road 54; then east on USFS Road 54 to USFS Road 37; then northwest on USFS Road 37 to USFS Road 53; then south on USFS Road 53 to USFS Road 4205 (Gumboat Road); then south on USFS Road 4205 to USFS Road 42 (Green Fork Road); then southwest on USFS Road 42 to USFS Road 41 (Sunset Hemlock Road) at Sunset Falls; then east on USFS Road 41 to USFS Road 406 at Lookout Mountain; then southeast on USFS Road 406 to the boundary of the Gifford Pinchot National Forest; then due east on the National Forest boundary to Rock Creek; then southeast along Rock Creek to Stevenson and the Columbia River; then west down the Columbia River (including the islands in Washington) to the Cape Horn Road; then north on the Cape Horn Road to State Highway 140; then west on State Highway 140 to the Washougal River Road; then northwest on the Washougal River Road to the Skye Road; then northwest on the Skye Road to N.E. 412th Ave.; then northwest on DNR 1500 Road to DNR 1000 Road; then north and west on DNR 1000 Road to Dole Valley Road; then north on the Dole Valley Road to County Road 12; then northwest on County Road 12 to Moulton and County Road 16; then northwest on County Road 16 through Yacolt and Amboy to the Pup Creek Road; then northwest on the Pup Creek Road to County Road 20; then north on County Road 20 to the transmission line; then north on the transmission line to Merwin Dam on the Lewis River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 572-Siouxon (Skamania and Clark counties): Beginning at the Yale Dam and Yale Lake; then north along Yale Lake (Cowlitz-Clark County line) to the North Fork Lewis River and Lewis River (old river bed); then northeast along the Lewis River to the Swift Creek Reservoir; then east along the Swift Creek Reservoir to Eagle Cliff Bridge and USFS Road 90; then east on USFS Road 90 to USFS 51 (Curly Creek Road); then southeast on USFS Road 51 to USFS Road 30; then north on USFS Road 30 to USFS Road 24 (Twin Butte Road); then south on USFS Road 24 to USFS Road 60 (Carson Guler Road); then southwest on USFS Road 60 to USFS Road 65 (Panther Creek Road); then southwest on USFS Road 65 to the Wind River Highway; then northwest on the Wind River Highway to Stabler; then west on Hemlock Road to USFS Road 41 (Sunset-Hemlock Road); then west on the USFS Road 41 to Sunset Falls and USFS Road 42 (Green Fork Road); then northeast on USFS Road 42 to USFS Road 4205 (Gunboat Road); then north on USFS Road 4205 to USFS Road 53; then northwest on USFS Road 53 to USFS Road 54 (N.E. Healy Road); then west on USFS Road 54 to Canyon Creek; then north along Canyon Creek to the Lewis River; then northeast along the Lewis River to the Yale Dam and the point of beginning. (See Gifford Pinchot National Forest map, and Forest Protection Map "St. Helens West")

GMU 574-Wind River (Skamania County): Beginning at Little Lookout Mountain on USFS Road 41 (Sunset-Mowich Butte); then east on USFS Road 41 to Stabler; then east on the Hemlock Road to the Wind River Road; then southeast on the Wind River Road to USFS Road 65 (Panther Creek Road); then north on USFS Road 65 to Old State Road; then east to the USFS Road 60 (Carson-Guler Road); then northeast on USFS Road 60 to USFS Road 24 and State Highway 141 to USFS Road 86; then south on USFS Road 86 to USFS Road 1840; then south on USFS Road 1840 to USFS Road 18 (Oklahoma Road); then south on USFS Road 18 to Willard and the Little White Salmon River; then south on the Little White Salmon River to the Columbia River; then west along the Columbia River to the mouth of Rock Creek; then northwest along Rock Creek through Stevenson to the south boundary of Gifford Pinchot National Forest; then on the south boundary of Gifford Pinchot National Forest due west to USFS Road 4100-406; then northwest on USFS Road 4100-406 to USFS Road 41 and the point of beginning. (See Washington Atlas & Gazetteer, Gifford Pinchot National Forest map)

GMU 576-White Salmon (Klickitat, Yakima, and Skamania counties): Beginning at the mouth of the Klickitat River (Lyle) to the Fisher Hill Bridge, then north along the Fisher Hill Road (P-2000) to the Gravel Pit Road, then west to the B-Z Corners-Glenwood Road, then southwest to Highway 141 (B-Z Corners), then north to Trout Lake, then west on Highway 141 to USFS 86 Rd., then south to the USFS 1840 Rd., then south on the USFS 1840 Rd. to the USFS 18 Rd. (Oklahoma Road), then south on the 18 Rd. to Willard and the Little White Salmon River, then south down the Little White Salmon River to the Columbia River, then east up the Columbia River to the Klickitat River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 580-Sixprong (Klickitat and Yakima counties): Beginning on State Highway 14 at Sundale, then east to the Goldendale-Goodnoe Hills Road; then northwest along Goldendale-Goodnoe Hills Road to Dot Road; then north along the Dot Road to Cleveland; then along the Goldendale-Bickleton Road to the Yakima County line; then east along the Yakima County line to Alderdale Road; then southeast along the Alderdale Road to State Highway 14 and Columbia River; then west along the state line to Sundale and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 584-Goodnoe (Klickitat County): Beginning at the U.S. Highway 97 bridge on the Columbia River (Maryhill), then north on Highway 97 to Satus Pass and the Yakima Indian Reservation, then east along south Reservation boundary to the Yakima County line, then east to Goldendale/Bickleton Road, then southwest to Cleveland and Dot Road, then south to Goldendale/Goodnoe Hills Road, then southeast to State Highway 14, then west to Sundale and mouth of Chapman Creek, then west down the Columbia River to U.S. Highway 97 bridge and point of beginning. (See Washington Atlas & Gazetteer)

GMU 586-Glenwood (Klickitat County): Beginning at B-Z Corners and State Highway 141, then north on State Highway 141 to Trout Lake and the USFS 80 Rd., then north to the USFS ((82)) 17 Rd., then ((north)) northeast to USFS 82 Rd., then northeast on USFS 82 Rd. to the Yakima Indian Reservation boundary (Sec. 16, T7N, R11E, then ((east)) south along the ((south)) Reservation boundary to ((Summit Creek Primary Road, then south to the Klickitat River and the Truck Cut Road, then west)) King Mountain and the southwest corner of the reservation (Sec. 27, T7N, R11E.), then east along boundary (approximately one mile) to the end of King Mountain Road, then north to the northern boundary of the Reservation at Sec. 2, T7N, R11E, then east to the northeastern corner of section 4, T7N, R12E, then southeasterly along boundary to Summit Creek Primary Road, then south to the Glenwood/Goldendale Road, then northwest on the Glenwood/Goldendale Road to the Gravel Pit Road, then south on the Lakeside Road to the B-Z Corners/Glenwood Road, then southwest to B-Z Corners and point of beginning. (See Washington Atlas & Gazetteer and DNR Mt. Adams Quadrangle map)

GMU 588-Grayback (Klickitat County): Beginning at Highway 97 bridge across Columbia River (Maryhill), then west down the Columbia River to Lyle and the mouth of the Klickitat River, then up the Klickitat River to the Fisher Hill Bridge, then north along the Fisher Hill Road (P-2000) to the Lakeside Road, then north on the Lakeside Road to the Gravel Pit Road, then ((north)) northwest to the Glenwood/Goldendale Road, then east ((to the Truck Cut Road, then north to the Summit Creek Primary Road, then)) and southeast on the Glenwood/Goldendale Road to the Summit Creek Primary Road, then northeast to the Yakima Indian Reservation boundary, then east along the southern boundary of the Reservation to Highway 97 (Satus Pass Highway), then south on Highway 97 to Maryhill and point of beginning. (See Washington Atlas & Gazetteer)

REGION SIX

GMU 601-Hoko (Clallam County): Beginning at the mouth of the Hoko River, then up the river to State Highway 112; then southeast along State Highway 112 to its junction with the Hoko-Ozette Road; then southeast along the Hoko-Ozette Road to the Olympic National Park boundary; then north along the Olympic National Park boundary to the Makah Indian Reservation boundary; then east and north along the Makah Indian Reservation boundary to the Strait of Juan de Fuca; then southeast along the shore of the Strait of Juan de Fuca to the mouth of the Hoko River and the point of beginning. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 602-Dickey (Clallam County): Beginning at the mouth of the Clallam River, then up the river to State Highway 112; then south along State Highway 112 to its junction with the Burnt Mountain Road; then southwest along the Burnt Mountain Road to its junction with U.S. Highway 101; then southwest along U.S. Highway 101 to the junction with the LaPush Road; then southwest along LaPush Road to the Olympic National Park boundary; then north along the Olympic National Park boundary to the Hoko-Ozette Road; then northeast along the Hoko-Ozette Road to its junction with State Highway 112; then northwest along State Highway 112 to the Hoko River; then down the Hoko River to its mouth and the Strait of Juan de Fuca; then east along the shore of the Strait of Juan de Fuca to the mouth of the Clallam River and the point of beginning. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 603-Pysht (Clallam County): Beginning at the mouth of the Clallam River; then up the river to the State Highway 112; then south along State Highway 112 to its junction with the Burnt Mountain Road; then southwest along the Burnt Mountain Road to its junction with U.S. Highway 101; then east along U.S. Highway 101 to the point where the highway enters the Olympic National Park, about one mile west of Lake Crescent; then north and east along the Olympic National Park boundary to the Elwha River; then north down the Elwha River to its mouth and the Strait of Juan de Fuca; then west along the shore of the Strait of Juan de Fuca to the mouth of the Clallam River and the point of beginning. EXCEPT that part of the Lower Elwha Indian Reservation within this boundary. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 607-Soleduck (Clallam County): Beginning at Forks, then south along U.S. Highway 101 to the Bogachiel River; then east up the Bogachiel River to the Olympic National Park boundary; then north and east along the Olympic National Park boundary to its intersection with U.S. Highway 101; then west and south along U.S. Highway 101 to Forks to the point of beginning. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 612-Goodman (Jefferson and Clallam counties): Beginning at LaPush on the Pacific Ocean, then east along the LaPush Road to its junction with U.S. Highway 101

north of Forks; then south along U.S. Highway 101 to the Pacific Ocean below the mouth of the Hoh River; then north along the Pacific Ocean to LaPush and the point of beginning; EXCEPT that part of the Hoh Indian Reservation and the Olympic National Park within this boundary. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 615-Clearwater (Jefferson County): Beginning at the junction of Bogachiel River and U.S. Highway 101, then east up the Bogachiel River to the Olympic National Park boundary; then south, east and west along the Olympic National Park boundary to where it meets the boundary of the Quinault Indian Reservation; then west along the Quinault Indian Reservation boundary to U.S. Highway 101; then north and east along U.S. Highway 101 to the Bogachiel River and point of beginning; EXCEPT that part of the Olympic National Park within this boundary. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 618-Matheny (Jefferson and Grays Harbor counties): Those lands between the Queets and Quinault Rivers that are outside the Olympic National Park and outside the Quinault Indian Reservation. (See Olympic National Forest map)

GMU 621-Olympic (Jefferson, Clallam and Mason counties): Beginning at the junction of U.S. Highway 101 and the Elwha River, then south up the Elwha River to the Olympic National Park boundary; then east and south along Olympic National Park boundary to the North Fork of the Skokomish River; then south down the North Fork of the Skokomish River to Lake Cushman; then southeast along the west shore of Lake Cushman to Cushman Upper Dam; then east along the Power Dam Road to its intersection with Lake Cushman-Hoodsport Road; then southeast on Lake Cushman-Hoodsport Road to U.S. Highway 101 and Hood Canal; then north along Hood Canal to Dabob Bay and Quilcene Bay to East Quilcene Road at the north end of Quilcene Bay; then west along East Quilcene Road to its junction with Chimacum Center Road; then south along Chimacum Center Road to Quilcene and U.S. Highway 101; then north and west along U.S. Highway 101 to the Elwha River and the point of beginning. EXCEPT that part of the Lower Elwha Indian Reservation within this boundary. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 624-Coyle (Clallam and Jefferson counties): Beginning at the mouth of the Elwha River, then south up the Elwha River to U.S. Highway 101; then east and south along U.S. Highway 101 to Quilcene; then north on the Chimacum Center Road to its junction with East Quilcene Road; then east on the East Quilcene Road to Quilcene Bay; then south along the east shore of Quilcene Bay to Dabob Bay and Hood Canal; then north along the shore of Hood Canal to Puget Sound; then north through Admiralty Inlet to Port Townsend and Juan de Fuca Straits (including Marrowstone Island); then west along the south shore line of Juan de Fuca Straits to the mouth of the Elwha River and the point of beginning; EXCEPT all of Indian Island in Jefferson County. (See updated Olympic National Forest

and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 625-Indian Island (Jefferson County): Indian Island in Jefferson County. (See Washington Atlas & Gazetteer)

GMU 627-Kitsap (Kitsap, Mason, Pierce and King counties): Beginning at the town of Allyn on State Highway 3; then north along Highway 3 to Belfair; then north up the "Old Belfair Highway" to its junction with the Bear Creek-Dewatto Road; then west on Bear Creek-Dewatto Road to the Mason-Kitsap County line; then west along the Mason-Kitsap county line to Hood Canal; then north along the shoreline of Hood Canal to Puget Sound at Hansville; then south through Puget Sound to Nisqually Reach and Case Inlet; then north up Case Inlet to the town of Allyn and the point of beginning; also Vashon Island. (See Washington Atlas & Gazetteer)

GMU 633-Mason (Mason County): Beginning at the Mason-Thurston County Line on U.S. Highway 101 at Oyster Bay; then north and east through Oyster Bay, Totten Inlet-Dana Passage and Case Inlet to the town of Allyn on State Highway 3; then north along Highway 3 to Belfair; then north up the "Old Belfair Highway" to its junction with the Bear Creek-Dewatto Road; then west on the Bear Creek-Dewatto Road to its junction with the Dewatto-Holly Road; then west along the Mason-Kitsap County Line to Hood Canal; then south through Hood Canal to Hoodsport and U.S. Highway 101; then south along Highway 101 to the Mason-Thurston County Line and the point of beginning. (See the Washington Atlas & Gazetteer)

GMU 636-Skokomish (Grays Harbor and Mason counties): Beginning at the junction of the Lake Cushman-Hoodsport Road and U.S. Highway 101 at Hoodsport; then south down U.S. Highway 101 to its junction with the Shelton Dayton-Matlock Road (County Road 9010); then west to the town of Matlock; then west on the Matlock-Deckerville Road and Middle Satsop Road to the Kelly Road (C-500 Line); then north on the Kelly Road to its junction with the L-600 Line (Canyon River Road, Road 2260); then west on the L-600 line to USFS Road 22 (Montesano-Gridale Road); then north on USFS Road 22 through Gridale; then west and south on USFS Road 22 to where it crosses the East Fork of the Humptulips River; then upstream on the East Fork Humptulips River to the most northern point crossed by the range line 7W.W.M. and 8W.W.M., then north on this range line to its junction with Road 2302 (USFS Road 2204-200); then east and north on Road 2302 to the Olympic National Park Boundary; then east along the Olympic Park boundary to the North Fork of the Skokomish River; then south down the North Fork of the Skokomish River to Lake Cushman; then southeast along the west shore of Lake Cushman to Cushman Upper Dam; then east along the Power Dam Road to its intersection with Lake Cushman-Hoodsport Road; then southeast on Lake Cushman-Hoodsport Road to U.S. Highway 101 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 638-Quinault Ridge (Grays Harbor and Jefferson counties): Beginning at the Olympic National Park boundary at the northwest corner of Lake Quinault; then southwest along the south shore of Lake Quinault to the boundary of

the Quinault Indian Reservation; then southwest along this boundary to U.S. Highway 101; then south along U.S. Highway 101 to Quinault Ridge Road (Forest Service Road #2258); then northeast along the Quinault Ridge Road to the Forest Service Road #2280; then east along Forest Service Road #2280 to the Forest Service Road #2220; then north and south along that road to the Forest Service Road #2204; then northeast along Forest Service Road #2204 to the 2204-200 Spur Road; then north along this spur road to the boundary of the Olympic National Park; then west along the Olympic National Park Boundary to Lake Quinault and the point of beginning. (See Olympic National Forest map)

GMU 639-Humtulpils (Grays Harbor County): Beginning at the junction of U.S. Highway 101 and the Quinault Ridge Road (Forest Service Road #2258); then northeast along Quinault Ridge Road to the Forest Service Road #2280; then east along Forest Service Road #2280 to the Forest Service Road #2220; then north and south along Forest Service Road #2220 to the Forest Service Road #2204; then northeast along Forest Service Road #2204 and the 2204-200 Spur Road to a point crossed by the range line between range 7W.W.M. and 8W.W.M.; then south on this range line to the most northern point crossed by the East Fork of the Humtulpils River; then downstream on the East Fork of the Humtulpils to the USFS 22 Road; then west and south along USFS 22 Road to its junction with the Donkey Creek Road; then southwest along the Donkey Creek Road (Forest Service Road #22) to its junction with U.S. Highway 101; then north along U.S. Highway 101 to its junction with the Quinault Ridge Road (Forest Service Road #2258) and the point of beginning. (See Olympic National Forest map)

GMU 642-Copalis (Grays Harbor County): Beginning at the U.S. Highway 101 bridge crossing the Hoquiam River in the City of Hoquiam; then north along U.S. Highway 101 to the boundary of the Quinault Indian Reservation; then southwest along the Quinault Indian Reservation boundary to the Pacific Ocean; then south along the shore of the Pacific Ocean to Grays Harbor; then east along the north shore of Grays Harbor to the mouth of the Hoquiam River; then north along the Hoquiam River to U.S. Highway 101 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 648-Wynoochee (Grays Harbor County): Beginning at the junction of U.S. Highway 101 and the Donkey Creek Road; then northeast along the Donkey Creek Road (Forest Service Road #22) to its junction with the Donkey Creek-Grisdale Road; continuing east on this road (Forest Service Road #22) to Camp Grisdale (south of Wynoochee Lake); then south along the Grisdale-Montesano Road (Forest Service Road #22) to the junction with the L-600 line (Canyon River Road, Road 2260); then east along the L-600 line to the concrete bridge over the West Fork of the Satsop River in Sec. 15, T.21N., R.7W.W.M.; then south down the West Fork and the main stream of the Satsop River to U.S. Highway 12; then west along U.S. Highway 12 to its junction with U.S. Highway 101 in Aberdeen; then west and north along U.S. Highway 101 to its junction with the Donkey Creek Road and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 651-Satsop (Grays Harbor, Mason and Thurston counties): Beginning at the U.S. Highway 12 Bridge on the Satsop River, then upstream on the Satsop River to its junction with the West Fork of the Satsop River; then up the West Fork of the Satsop to the concrete bridge on the L-600 Road (Canyon River Road, Road 2260); then east on the L-600 Line to its junction with the Kelly Road; then south on the Kelly Road to the Middle Satsop Road; then east on the Middle Satsop and Matlock-Deckerville Roads to the town of Matlock; then east on the Shelton-Matlock Road (County Road 9010) to its junction with U.S. Highway 101; then south on U.S. Highway 101 to its junction with State Route #8, then west on State Route 8 to its junction with U.S. Highway 12; then west along Highway 12 to the Satsop River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 658-North River (Grays Harbor and Pacific counties): Beginning at the U.S. Highway 101 bridge across the Chehalis River in Aberdeen; then west along the Chehalis River to the river mouth; then west along the southern shore of Grays Harbor to the Pacific Ocean; then south along the Pacific Ocean to Willapa Bay; then east in Willapa Bay to the mouth of the Willapa River; then east up the Willapa River to U.S. Highway 101 in the City of Raymond; then north along U.S. Highway 101 to the Chehalis River Bridge and the point of beginning; also Rennie Island. (See Washington Atlas & Gazetteer)

GMU 660-Minot Peak (Grays Harbor and Pacific counties): Beginning at the junction of U.S. Highway 101 and U.S. Highway 12 in Aberdeen; then south along U.S. Highway 101 to the Smith Creek Road; then east along the Smith Creek Road to its junction with the North River Road; then east along the North River Road through Brooklyn and continuing east along the Brooklyn-Oakville Road to the town of Oakville; then north along U.S. Highway 12 to Elma; then west along U.S. Highway 12 to U.S. Highway 101 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 663-Capitol Peak (Grays Harbor and Thurston counties): Beginning at the intersection of Highway 8 and Highway 12 near Elma; then southeast along U.S. Highway 12 to its junction with the Moon Road; then north on the Moon Road to the Gate-Mima Road; then northeast on Gate-Mima Road to Waddell Creek Road; then northeast and then northwest on Waddell Creek Road to Delphi Road; then north on the Delphi Road to U.S. Highway 101; then west on Highway 101 to Highway 8; then west on Highway 8 to Elma and Highway 12 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 666-Deschutes (Thurston County): Beginning at the mouth of the Nisqually River; then south on the Nisqually River to old Pacific Highway (Mounts Road); then southwest on old Pacific Highway (Mounts Road) to Highway 510; then southeast on Highway 510 to Yelm Highway; then southwest and west on the Yelm Highway to Spurgeon Creek Road; then south on the Spurgeon Creek Road to Rainier Road; then northwest on Rainier Road to Stedman Road; then west and south on Stedman Road to Waldrick Road; then west on Waldrick Road to Pacific Highway S.E. (Old Highway 99); then north on Pacific Highway S.E. (Old

Highway 99) to McCorkle Road; then west on McCorkle Road to 113th Avenue; then west on 113th Avenue to Littlerock Road; then north on Littlerock Road to 110th Avenue; then west on 110th Avenue to Delphi Road; then north on Delphi Road to U.S. Highway 101; then northwest on Highway 101 to the Mason-Thurston county Line at Oyster Bay; then northeast and southeast through Totten Inlet, Dana Passage and Nisqually Reach to the mouth of the Nisqually River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 667-Skookumchuck (Thurston and Lewis counties): Beginning at the old Pacific Highway (Mounts Road) Bridge on the Nisqually River; then upstream on the Nisqually River to Alder Lake; then along the north shore of Alder Lake to the town of Elbe and Highway 7; then south on Highway 7 to Highway 508 at Morton; then west on Highway 508 to the Centralia-Alpha Road; then west on the Centralia-Alpha Road and Salzer Road to Pearl Street; then north on Pearl Street to Highway 507; then northwest on Highway 507 to Interstate 5 then north on Interstate 5 to U.S. Highway 12; then west on Highway 12 to Moon Road; then north on Moon Road to the Gate-Mima Road; then northeast on the Gate-Mima Road to Waddell Creek Road; then northeast on the Waddell Creek Road to the Delphi Road; then south on the Delphi Road to 110th Avenue; then east on 110th Avenue to Littlerock Road; then south on Littlerock Road to 113th Avenue; then east on 113th Avenue to McCorkle Road; then east on McCorkle Road to Pacific Highway S.E. (Old Highway 99); then south on Pacific Highway S.E. (Old Highway 99) to Waldrick Road; then east on Waldrick Road to Stedman Road; then north and east on Stedman Road to Rainier Road; then southeast on Rainier Road to Spurgeon Creek Road; then north on Spurgeon Creek Road to the Yelm Highway; then east and northeast on Yelm Highway to Highway 510; then northwest on Highway 510 to Pacific Highway; then northeast on Pacific Highway to the Nisqually River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 669-Palix (Pacific County): Beginning at the U.S. Highway 101 Bridge across the Willapa River in Raymond; then west along the Willapa River to Willapa Bay; then south along the east shore of Willapa Bay to the mouth of the North Nemah River; then northeast up the North Nemah River and Williams Creek to the North Nemah Road Crossing (or North Nemah A Line); then east on the North Nemah A Line to the Williams Creek A Line; then northeast on the Williams Creek A Line to the C2000 Line to the Trap Creek A Line; then east on the Trap Creek A Line (on the north side of the Trap Creek Lookout) to the Bonneville Power Line Road; then north on the Bonneville Powerline Road to its junction with State Highway 6; then northwest along Highway 6 to its junction with U.S. Highway 101 in the City of Raymond; then north along U.S. Highway 101 to the bridge across the Willapa River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 672-Fall River (Pacific, Lewis and Grays Harbor counties): Beginning at the junction of U.S. Highway 101 and State Highway 6 in Raymond; then east along State Highway 6 to Doty Road (Stevens Road); then northwest on Stevens Road to the Elk Creek Road (in Doty); then west on

the Elk Creek Road to the 7000 Road; then west on the 7000 Road to the 7800 Road; then west on the 7800 Road to the 720 Road; then northeast on the 720 Road to Garrard Creek Road; then north on the Garrard Creek Road to the Brooklyn-Oakville Road; then east along the Brooklyn-Oakville Road, North River Road, to the Smith Creek Road; then southwest along the Smith Creek Road to U.S. Highway 101; then south on U.S. Highway 101 to its junction with State Highway 6 and the point of the beginning. (See Washington Atlas & Gazetteer)

GMU 678-Nemah (Pacific and Wahkiakum counties): Beginning at the mouth of the North Nemah River on Willapa Bay; then northeast up the North Nemah River and Williams Creek to the North Nemah Road Crossing (or North Nemah A Line); then east on the North Nemah A Line to the Williams Creek A Line to the C2000 line to the Trap Creek A Line; then east along the Trap Creek A Line (north side of Trap Creek Lookout) to the Bonneville Powerline Road; then south along the Powerline Road to the Salmon Creek Road; then southwest along the Salmon Creek Road to State Highway 4; then west along State Highway 4 to its junction with U.S. Highway 101 at Johnson's Landing and continuing west along U.S. Highway 101 to the Naselle River bridge; then down the Naselle River to Willapa Bay; then north along the shore of Willapa Bay to the mouth of the North Nemah River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 681-Bear River (Pacific and Wahkiakum counties): Beginning at the Deep River Bridge on State Highway 4; then down the Deep River to the Columbia River; then west along the Columbia River to the mouth of the Wallacut River; then up the Wallacut River to U.S. Highway 101; then northwest on U.S. Highway No. 101, north on Alternate U.S. Highway No. 101 and northeast on U.S. Highway 101 to the Bear River; then down the Bear River to Willapa Bay; then north along the shore of Willapa Bay to the mouth of the Naselle River and up the Naselle River to U.S. Highway 101; then east along U.S. Highway 101 to its junction with State Highway 4 at Johnson's Landing; then southeast along State Highway 4 to the Deep River Bridge and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 684-Long Beach (Pacific County): The Long Beach Peninsula and those lands west of the following line; beginning at the mouth of Bear River; then up the Bear river to U.S. Highway 101; then southwest along U.S. Highway 101 to Alternate U.S. Highway 101; then south along Alternate U.S. Highway 101 to U.S. Highway 101; then southeast along U.S. Highway 101 to the Wallacut River; then down the Wallacut River to the Columbia River. (See Washington Atlas & Gazetteer)

DEER AREA DESCRIPTIONS

Deer Area No. 001 Champion North (Pierce County): Beginning at the point where the Bonneville Power Transmission Line crosses the Carbon River (about 14 miles northwest of Carbonado); then south and west up the Carbon River to where it intersects State Highway No. 165; then south and east along State Highway No. 165 to where it intersects the Mt. Rainier National Park boundary; then south along said boundary to where it intersects the North Fork

Puyallup River; then north and west down the North Fork Puyallup River and the Puyallup River to where it intersects the Bonneville Power Transmission Line (about three miles south of Orting); then north and east along said power transmission line to the point of beginning. (See Washington Atlas & Gazetteer)

Deer Area No. 002 Champion South (Pierce County): Beginning at the point where Champion's 1 Road crosses the Puyallup River (approximately 1 1/2 miles NE of Kapowsin) then southeast up the Puyallup River to the confluence with Deer Creek; then south up Deer Creek to where it intersects the 243 Road; then northwest along the 243 Road to where it intersects the 24 Road; then southwest along the 24 Road to where it intersects the 3270 Road; then west along the 3270 Road to where it intersects the 327 Road; then southwest along the 327 Road to where it crosses Busy Wild Creek (near Lake Lorraine); then west down the Busy Wild Creek to its confluence with the North Fork Mashel River; then up the North Fork Mashel River (about 1 mile) to the point nearest the southernmost extension of the 311 Road (T16N, R6E, Sec. 19, SW 1/2 of SW 1/2); then in a line to the 311 Road; then along 311 Road to where it intersects the 3113 Road; then north along the 3113 Road to where it intersects the 843 Road; then along the 843 Road to where it intersects the 84 Road; then along the 84 Road to where it intersects the 8 Road; then north along the 8 Road to where it intersects the 82 Road; then along the 82 Road to where it intersects the township line between Townships 16 & 17 North, W.M.; then west on said line to where it intersects the range line between Ranges 4 & 5 East, W.M.; then north on said line to northwest corner of Sec. 31, T17N, R5E; then east on section line between sections 30 and 31, T17N, R5E to 1/4 corner (Champion ownership); then north from said corner along ownership line to the point closest to the southernmost extension of the 0-100 Road (approx. 3/4 mile); then in a northwest line to the 0-100 Road, then along the 0-100 Road to where it intersects with Ohop Creek; then northwest along Ohop Creek to where it empties into Lake Kapowsin; then northeast along the east shore of Lake Kapowsin to the point closest to the start of the 1 Road; then along the 1 Road to point of beginning. (See Washington Atlas & Gazetteer)

Deer Area No. 010 Pyramid (Chelan County): That part of GMUs 306 and 304 beginning at the Glacier Peaks Wilderness and Lake Chelan; then south along Lake Chelan to Corral Creek Campground; then west to the intersection of trail #1433 and Butte Trail #1440; then northwest along Butte Trail #1440 to South Pyramid Trail #1439; then southwest to intersection of trail #1437; then due west to Trail #1434; then northwest to Trail #1435; then south to Trail #1400; then southeast to Garland Creek; then west to Garland Peak; then north along trail #1408 to Trail #1515; then south to Trail #1530; then west to trail #1509; then south to Trail #1527; then north to Estes Butte and continuing along the Glacier Peaks Wilderness boundary to beginning. (See Wenatchee National Forest map)

Deer Area No. 030 Squaw Creek (Benton, Kittitas, Yakima counties): That portion of GMU 370 north of State Highway 24. (See Washington Atlas and Gazetteer)

Deer Area No. 031 Patterson (Benton and Klickitat counties): Beginning at the junction of Highway No. 14 at Patterson; then west on Highway No. 14 to Alderdale Road; then north on Alderdale Road (including section 22 of Township 5N, R23E) to Smith Road; then east on Smith Road to McKinley Springs Road; then northeast on McKinley Springs Road to Horrigan Road; then east on Horrigan Road to Highway No. 221; then south on Highway No. 221 to Highway No. 14 and point of beginning. (See Washington Atlas and Gazetteer)

Deer Area No. 040 Foss River (King County in the Alpine Lakes Wilderness Area): Beginning at the intersection of the Dingford Creek Trail (USFS Trail 1005) and the Alpine Lakes Wilderness Area boundary; then north along USFS Trail 1005 to Little Myrtle Lake; then in a northeast line approximately one-half mile to Marlene Lake; then down the tributary from Marlene Lake to its intersection with USFS Trail 1072 near Lake Dorothy; then north along USFS Trail 1072 to its intersection with the Alpine Lakes Wilderness Area boundary; then north and east along the wilderness boundary to the Pacific Crest Trail at Hope Lake; then south along the Pacific Crest Trail to Ridge Lake; then in a northwest direction approximately one-half mile to Gravel Lake; then down the Gravel Lake tributary to Goat Creek; then down Goat Creek to its intersection with Alpine Lakes Wilderness Area boundary; then north and west along the wilderness area boundary to the point of beginning. (See Washington Atlas and Gazetteer)

Deer Area 041 Pilchuck (Snohomish and King counties): Beginning at the mouth of the Stillaguamish River; then up the Stillaguamish River to Arlington; then northeast along Highway 530 to a point in Section 10, T32N, R7E where it intersects with the City of Seattle power transmission line; then southwest along the transmission line to the point where it crosses the divide between Jim Creek and the north fork of Canyon Creek (Section 11, T31N, R7E), then down the north fork of Canyon Creek and Canyon Creek to the south fork Stillaguamish River, then down the Stillaguamish River to Jordan Road, then along Jordan Road to Granite Falls then south along Menzel Lake Road to the Pilchuck River Road (P-5000); then east on P-5000 Road to Culmback Dam (Spada Lake); then southeast on Culmback Dam Road to Sultan Basin Road at Olney Pass; then south on Sultan Basin Road to Kellogg Lake Road to U.S. Highway 2 east of Sultan; then west on Highway 2 to Monroe; then south on Highway 203 to Duvall; then north down the Snoqualmie River to the Snohomish River and down the Snohomish River to Puget Sound; then north along the shore of Puget Sound to the mouth of the Stillaguamish River and the point of beginning. (See Washington Atlas and Gazetteer or Mount Baker/Snoqualmie National Forest map.)

Deer Area 042 Tolt (King and Snohomish counties): Beginning at intersection of Highway 202 and the Tokul Creek Road S.E. (near Snoqualmie Falls); then north on Tokul Creek Road S.E. and onto S.E. 53rd Way then onto the S.E. 53 Road; then along S.E. 53rd Road to its junction with the Weyerhaeuser mainline; then north on Weyerhaeuser mainline road through Gate 4 onto the Weyerhaeuser mainline truck road; then north on Weyerhaeuser mainline truck road (approximately 23 miles)

to its junction with Proctor Creek Road; then north on Proctor Creek Road to its junction with Highway 2; then west on Highway 2 to its junction with Highway 203 at Monroe; then south on Highway 203 to its junction with Highway 202; then east along Highway 202 to the point of beginning. (See Washington Atlas and Gazetteer or Weyerhaeuser Recreational Map and Thomas Brothers Guide.)

Deer Area No. 060 Olympic Wilderness (Clallam, Jefferson, Grays Harbor and Mason counties): The Buckhorn, Colonel Bob, Mt. Skokomish, the Brothers and Wonder Mountain Wilderness areas of Olympic National Forest. (See Olympic National Forest map for these primitive roadless areas)

Deer Area No. 061 Marrowstone Island (Jefferson County): Marrowstone Island in Jefferson County. (See Washington Atlas and Gazetteer)

ELK AREA DESCRIPTIONS

Elk Area No. 001 Trinidad (Grant (~~and~~), Douglas, Okanogan, Adams, and Franklin counties): All of Douglas (~~and~~), Grant, Okanogan, Adams, and Franklin counties except closed in the corridor described as follows: Beginning at East Wenatchee and (~~following a line parallel to and one-half mile north and east of Highway No. 28 from East Wenatchee to a point in Grant County one-half mile north of SR 28 on~~) Highway 28 and proceeding along Highway 28 to Road "U" N.W. in Grant County; then south on Road "U" N.W. to Road "9" N.W.; then west on Road "9" N.W. to (~~the~~) Ancient Lake Road; then south on the Ancient Lake Road to the northwest corner of Sec. 8, T19N, R23E W.M. (yellow cattle guard); then west to midstream of the Columbia River; then north up midstream of the Columbia River to East Wenatchee and the point of beginning. (See official road map of Douglas and Grant counties)

Elk Area No. 002 Caribou (Kittitas County): Beginning at the Highline Canal; then north along the Reecer Creek Road and USFS 35 Road to the junction at the USFS 3517 Road; then east and south along USFS 3517 Road and Lillard Hill Road to the Bonneville Powerlines; then east along the Bonneville Powerlines to the Colockum Pass-Brushy Road (cattle guard); then east along the Brushy Road to the Crossover Road; then south along the Crossover Road to the Perkins/Caribou junction; then east along the Perkins Road to the Beacon Ridge Road; then south along the Beacon Ridge Road to the Old Vantage Highway; then south along a county service road to Interstate #90; then west along Interstate #90 to the Highline Canal near the Stevens Road; then northwest along the Highline Canal to the point of beginning. (See Department of Wildlife map)

Elk Area No. 003 Kingsbury (Chelan, Kittitas counties): That portion of GMU 314 which lies east of the Stemilt Creek, Stemilt Creek Road, Stemilt Hill Road, Stemilt Loop Road and Jump Off Ridge Road. (See Washington Atlas & Gazetteer)

Elk Area No. 004 Wenatchee (Chelan, Kittitas and Okanogan counties): GMUs 300, 304, 306, 308, 316, that portion of 302 which lies in Chelan County; and that portion of 314 which lies west of the following boundaries: Begin-

ning at the mouth of the Stemilt Creek at the Columbia River, south up Stemilt Creek to the Stemilt Creek Road to the Stemilt Hill Road; then east and south along the Stemilt Hill Road to the Stemilt Loop Road; then east along the Jump Off Road to the Jump Off Ridge Road (Bonneville Powerlines); then south along the Jump Off Ridge Road to the Naneum Ridge Road. (See Washington Atlas & Gazetteer)

Elk Area No. 025 Backbone (Lewis County): Beginning at State Highway No. 12 at the Pacific Crest Trail; then northwest and southwest along State Highway No. 12 to Coal Creek in Sec. 1, Twp. 13N., R 9 E.W.M.; then north along the range line between Ranges 9 and 10 E.W.M., across the Cowlitz River to the Gifford Pinchot National Forest boundary in the NE corner of Sec. 1, Twp. 13N., R 9 E.W.M.; then southwest along the National Forest Boundary to the Skate Creek Road (first contact) in Sec. 9, Twp. 13N., R 9 E.W.M.; then northwest along the Skate Creek Road to the mouth of Horse Creek and the south boundary of Mt. Rainier National Park; then east along the south Park boundary to the Pacific Crest Trail; then south along the Pacific Crest Trail to State Highway No. 12 and the point of beginning. (See Gifford Pinchot National Forest map)

Elk Area No. 029 Toledo (Lewis (~~County~~) and Cowlitz counties): Beginning at (~~the Cedar Creek Bridge~~) Interstate 5 and State Highway 505 junction, then east along State Highway (~~No.~~) 505 (~~then northeast up Cedar Creek approximately 4 miles to the Weyco 1970 line; then north and west along the Weyco 1970 line approximately 3.5 miles to the Weyco 1800 line; then north along the Weyco 1800 line approximately 1 mile to the Evans Road; then southwest along the Evans Road to the Layton Road; then south along the Layton Road to State Highway No. 505; then east and southeast along State Highway No. 505 to Cedar Creek Bridge and the~~) through the city of Toledo to the Layton Road, then north along the Layton Road to the Evans Road, then east along the Evans Road to the Weyerhaeuser 1800 line to the Weyerhaeuser 1890 line to State Highway 504, then west along State Highway 504 to the Tower Road, then west on Tower Road to the junction of Tower Road and State Highway 504, then west on State Highway 504 to Interstate 5, then north on Interstate 5 to the junction with State Highway 505 and point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 030 Reecer Creek (Kittitas County): Beginning at the Highline Canal; then north along the Reecer Creek Road and USFS 35 Road to the junction of the USFS 3517 Road; then east and south along the USFS 3517 Road and Lillard Hill Road to the Wilson Creek Road to the Highline Canal; then west along the Highline Canal to the point of beginning. (See Wenatchee National Forest map)

Elk Area No. 031 Shushuskin (Kittitas County): Beginning at Damon Road and the Yakima River; then west along Damon Road to Manastash Road; then west on Manastash Road to Cove Road; then south on Cove Road to Umtanum Creek; then east (downstream) along Umtanum Creek to the Yakima River; then north along the Yakima River to the point of beginning. (See Washington Atlas and Gazetteer)

Elk Area No. 032 Malaga (Kittitas and Chelan counties): Beginning at the power line on the Columbia River (approximately 3/4 mile downstream from Colockum Creek); then west and south along the Powerline Road to the intersection with the North Fork Tarpiscan Creek Road (Section 9, T20N, R21E); then north and west along North Fork of Tarpiscan Creek Road to Colockum Pass Road (Section 9, T20N, R21E); then south and west on Colockum Pass Road to section line between Sections 8 and 9 as well as Sections 4 and 5 (T20N, R21E) and Sections 32 and 33 (T21N, R21E); to Mose Carr Road; then west and north on Mose Carr Road to Jumpoff Road; then south and west on Jumpoff Road to Shaller Road; then north and west on Shaller Road to Upper Basin Loop Road; then north and west on Upper Basin Loop Road to Wheeler Ridge Road; then north on Wheeler Ridge Road to the Basin Loop Road (pavement) in Section 10 (T21N, R20E); then north on the Basin Loop Road to Wenatchee Heights Road; then west on Wenatchee Heights Road to Squilchuck Road; then south on Squilchuck Road to Beehive Road (USFS Road 9712); then northwest on Beehive Road to USFS Road 7100 near Beehive Reservoir; then north and west on USFS Road 7100 to Peavine Canyon Road (USFS Road 7101); then north and east on Peavine Canyon Road to Number Two Canyon Road; then north on Number Two Canyon Road to Crawford Street in Wenatchee; then east on Crawford Street to the Columbia River; then south and east along the Columbia River to the powerline south of Colockum Creek and point of beginning. (See Washington Atlas and Gazetteer)

Elk Area No. 033 Peshastin (Chelan County): Beginning at Crawford Street and the Columbia River in Wenatchee; then west on Crawford Street and Number Two Canyon Road to USFS #7101 Road (Peavine Canyon); then west on USFS #7101 Road to Mission Creek Road; then north on Mission Creek Road to USFS #7104 Road (Sand Creek); then west on USFS #7104 Road (Sand Creek) to Camas Creek; then west up Camas Creek to where Camas Creek crosses USFS #7200 Road, T22N, R18E, Section 4; then north along USFS #7200 Road to Highway #97; then north on Highway #97 to USFS #7300 Road (Mountain Home Road); then north on the USFS #7300 Road to the Wenatchee River at Leavenworth; then down the Wenatchee River and Columbia River to the point of beginning. (See Washington Atlas and Gazetteer)

Elk Area No. 034 Parke Creek (Kittitas County): Beginning at the Highline Canal on Parke Creek Road; then north to the BPA Powerlines; then west along BPA Powerlines (through Sections 22, 16, 8, 5, and 6) to the Cook Canyon Road; then north on Cook Canyon Road to Bonneville Powerlines (Section 19); then west along Bonneville Powerlines to Wilson Creek Road; then south on the Wilson Creek Road to the Highline Canal; then southeast along the Highline Canal to point of beginning. (See Department of Wildlife map)

Elk Area No. 039 Backbone (Lewis County): Legal description same as Elk Area No. 025 (Backbone) (See Gifford Pinchot National Forest Map)

Elk Area No. 051 Doty (Lewis and Pacific counties): Beginning on State Highway 6 at the town of Adna, then west on Highway 6 to Stevens Road, then northwest on

Stevens Road to Elk Creek Road (Doty), then west on Elk Creek Road to the 7000 Road, then west on the 7000 Road to the 7800 Road, then west on the 7800 Road to the 720 Road, then northeast on the 720 Road to Garrard Creek Road, east on Garrard Creek Road to Manners Road, then south on Manners Road to Lincoln Creek Road, then east along Lincoln Creek Road to Ingalls Road, then south and east on Ingalls and Bunker Creek roads to the town of Adna and point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 052 Mayfield (Lewis County): Beginning at the junction of Highway 12 and the Winston Creek Road; then southeast and north along the Winston Creek Road, Longbell, Perkins, Green Mountain roads to Riffe Lake; then west and northwest along the shoreline of Riffe Lake to the Cowlitz River; then west along the Cowlitz River to Highway 12; then west along Highway 12 to the Winston Creek Road and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 053 Randle (Lewis County): Beginning at State Highway 12 and the Cispus Road in the town of Randle; then east along Highway 12 to the Bennett Road approximately one mile east of Cora Bridge; then west on Bennett and Cline roads to the Cispus Road; then north on said road to the town of Randle and the point of beginning. (See Gifford Pinchot National Forest map)

Elk Area No. 054 Boistfort (Lewis County): Beginning at the town of Vader; then west along State Highway 506 to the Wildwood Road; then north along the Wildwood Road to the Abernathy 500 line gate (Sec. 20, T11N, R3W, Willamette Meridian); then northwest along the 500, 540, and 560 lines to the Weyerhaeuser 813 line; then northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Sec. 15, T12N, R4W((+))) ; then west along the Pe Ell/McDonald Road to the Lost Valley Road; then northeast along the Lost Valley Road to the Boistfort Road; then north along the Boistfort Road to the King Road; then east along the King Road to the town of Winlock and State Highway 603; then south along Highway 603 to the Winlock/Vader Road; then south along said road to the town of Vader and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 055 East Valley (Wahkiakum County): Within one mile on either side of the line beginning at Wilson Creek Park on East Valley Road; then west on East Valley Road to the junction with Middle Valley Road (4.5 miles); then north along Middle Valley Road to the junction of Oat Field Road (2.5 miles). (See Washington Atlas & Gazetteer)

Elk Area No. 057 Carlton (Lewis County): That part of unit 514 (Tatoosh) lying east of Highway No. 123 and north of Highway No. 12. (See Gifford Pinchot National Forest map)

Elk Area No. 058 West Goat Rocks (Lewis County): Goat Rocks Wilderness west of the Cascade Crest Trail. (See Gifford Pinchot National Forest map)

Elk Area No. 059 Mt. Adams Wilderness (Skamania and Yakima counties): The Mt. Adams Wilderness (See Gifford Pinchot National Forest map)

Elk Area No. 061 Mt. Tebo (Mason County): Beginning at the junction of the North Fork and South Fork of the Skokomish River; then northwest along the South Fork to the boundary of Olympic National Park; then east along the National Park boundary to the North Fork of the Skokomish River; then southeast down the North Fork of the Skokomish River through Lake Cushman; then south down the North Fork of the Skokomish River to the South Fork of the Skokomish River and the point of beginning. (See Olympic National Forest Map)

Elk Area No. 065 Willapa Valley (Pacific County): That part of Pacific County within two miles of State Highway 6 between Menlo and the eastern most junction of Elk Prairie Road and State Highway 6. (See Washington Atlas & Gazetteer)

Elk Area No. 066 Twin Valley (Grays Harbor County): Beginning in the City of Hoquiam at the junction of U.S. Highway No. 101 and the East Hoquiam Road; then north on the East Hoquiam Road to its junction with the East Hoquiam Cutoff Road in Sec. 21, T19N, R9 W.W.M.; then east on the East Hoquiam Cutoff Road to its junction with the Wishkah Road; then south on the Wishkah Road to its junction with the Wishkah-Wynoochee Crossover Road in Sec. 35, T19N, R9 W.W.M.; then east on the Wishkah-Wynoochee Crossover Road to its junction with the Donovan Corkey A line; then north on the A line to its junction with the A 2200; then east on the A 2200 Road to its junction with the A 2210; then south on the A 2210 Road to a point crossed by the township line between Twp 20N and 19N; then east on the township line to its junction with the Wynoochee River Road; then south along the Wynoochee River Road to U.S. Highway No. 12; then west along U.S. Highway 12 to its junction with U.S. Highway No. 101 in the City of Aberdeen, then west on U.S. Highway 101 to the City of Hoquiam and junction with the East Hoquiam Road and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 067 South Willapa (Pacific County): Beginning in the City of South Bend at the junction of U.S. Highway 101 and the Skidmore Slough C-line; then south on the Skidmore Slough C-line to its junction with the B-line in Sec. 11, T13N, R9 W.W.M.; then southeast on the B-line to its junction with the A-line in Sec. 18, T13N, R8 W.W.M.; then east and north on the A-line to its junction with the South Fork Willapa Road; then east along the South Fork Willapa Road to State Highway No. 6, Sec. 10, ((Twp. {Twp.}) Twp. 13 N., R. 8 W.W.M.; then northwest on State Highway No. 6 to its junction with U.S. Highway 101; then southwest on U.S. Highway 101 to its junction with the Skidmore Slough C-line and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 069 Chinook (Pacific County): Beginning at the junction of U.S. Highway 101 and Lingenfelter Road west of the town of Chinook; then northwest on Prest Road to its junction with Chinook Valley Road; then west on Chinook Valley Road to its intersection with the east branch of the Wallicut River; then north along the Wallicut River to its intersection with Highway 101; then west on Highway 101 to the junction of Highway 101 alternate; then south on Highway 101 alternate to Highway 101; then east on

Highway 101 to Prest Road and the point of beginning. (See Washington Atlas & Gazetteer)

BOW AND ARROW AREA DESCRIPTIONS

Bow Area No. 802 Long Island (Pacific County): Long Island in Pacific County. (See Washington Atlas & Gazetteer map)

Bow Area No. 806 Rattlesnake (Yakima County): Beginning at the point where USFS Road #1500 crosses Little Rattlesnake Creek, near Hanging Tree Campground; then southwest up Little Rattlesnake Creek to USFS Road #1500; then north along Road #1500 to USFS Trail #1101 (MJB Trail); then northwest along MJB Trail to USFS Trail #1114; then north along Trail #1114 to USFS Trail #981; then west along Trail #981 to USFS Trail #982; then northeast along Trail #982 to USFS Trail #973; then northwest along Trail #973 to the North Fork of Rattlesnake Creek; then down the North Fork to the junction with South Fork of Rattlesnake Creek; then up the South Fork to USFS Road #1502; then east on Road #1502 to USFS Road #1500; then east on Road #1500 to Little Rattlesnake Creek and the point of beginning. (See Wenatchee National Forest map)

Bow Area No. 807 Ahtanum (Yakima County): That part of GMU 368 which lies west of the following boundary; beginning at the junction of the North and South fork of Ahtanum Creek; then northwest up North Fork of Ahtanum Creek to Nasty Creek; then north up Nasty Creek to the Nasty Creek-Cowiche Road (DNR Road #C1050); then north on Road #C1050 to South Fork of Cowiche Creek; then east down South Fork Cowiche Creek to the power line which crosses near the mouth of Reynolds Creek; then northwest along the powerline to Jump-off (USFS Road #1302). Except closed east of a north south line drawn between the South Fork and North Fork of Ahtanum Creek two miles west of the Tampico Store. (See Wenatchee National Forest map)

Bow Area No. 808 Acme (Whatcom County): Beginning at the town of Acme; then north on Highway No. 9 to the junction of the Strand Road; then east on the Strand Road and over the Van Zandt Dike following the south boundaries of Sections 21, 22 and 23 of Twp. 38 N, R 5 E to the Mosquito Lake Road; then south along the Mosquito Lake Road to the Blue Mountain Road; then east to Peterson Creek and the Musto Marsh Road; then south to Skookum Creek; then west along Skookum Creek to the South Fork Nooksack River; then continue west along the South Fork Nooksack River to the mouth of Christy Creek; then south along Christy Creek to its source; then west to Ennis Creek; then west along Ennis Creek to the Ennis Creek Road; then west along Ennis Creek Road to the Wickersham Road; then west along the Wickersham Road to Highway No. 9; then north along Highway No. 9 to Acme and the point of beginning. (See Washington Atlas & Gazetteer)

Bow Area No. 820 Malott (Okanogan County): Beginning south of the town of Riverside, then south down the Okanogan River to Highway 97 bridge at mouth of river, then west on Highway 97 through the town of Brewster to the Indian Dan Canyon Road, then north to Paradise Hill Road; then east and south along the Paradise Hill Road to the Hanford Cutoff (approximately 1/2 mile south of Rat

Lake Road), then west on Hanford Cutoff to the North Star Road, then north on North Star Road to junction with Chiliwist Road then east on Chiliwist Road to junction with Olema/Cook Mt. Road, then north on Olema/Cook Mt. Road to its junction with Highway 20, then east on Highway 20 to the junction with Buzzard Lake Road, then north on Buzzard Lake Road to the junction with Windy Hill Road, then east on Windy Hill Road to its junction with Spring Coulee/Salmon Creek Road, then north on Spring Coulee/Salmon Creek Road to the junction with Green Lake Road, then north on Green Lake Road to the Conconully Highway then northwest on the Conconully Highway to the junction with the Riverside Cutoff Road, then northeast of the Riverside Cutoff Road to the town of Riverside and the Okanogan River and the point of beginning. (See Washington Atlas & Gazetteer)

Bow Area No. 831 Hamilton (Skagit County): Beginning at the point where State Highway No. 20 crosses Child's Creek approximately one mile west of Lyman; then east along Highway No. 20 to the Burpee Hill Road at Concrete; then north along said road to the Baker Lake Highway; then west along said highway to the DNR Road N. 2400; then continue west along said line to the DNR 2000 line; then north along said line to the DNR 2800 line; then west along said line to the DNR 2900 line; then west along said line to the Scott Paper Mainline; then north along said line to the Scott Paper 110 line; then continue west along said line to where it crosses Child's Creek; then south down said creek to State Highway No. 20 and point of beginning. (See Washington Atlas & Gazetteer)

MUZZLELOADER AREA DESCRIPTIONS

Muzzleloader Area No. 908 Acme (Whatcom County): Same as Bow Area No. 808. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 910 Cle Elum (Kittitas County): Beginning at Easton; then southeast along the main BPA Powerlines to the Fowler Creek Road (4517); southeast on Spur Road 117 to Granite Creek Trail #1326; then south on Trail #1326 to the top of South Cle Elum Ridge; then east along the ridge on Trail #1326 to Spur Road 111; then east on Road 111 to the Peoh Point Road (3350); then southeast on Road 3350 to the junction with Road 3352; then east on Road 3352 to the Cedar Creek Road; then south on the Cedar Creek Road to the Morrison Canyon Road; then southeast on the Morrison Canyon Road to Interstate Highway 90; then east on I-90 to Exit 106 and junction with Highway 97; then north on Highway 97 to Hungary Junction Road and east on Hungary Junction Road to Look Road; then north on Look Road and east on Alford Road to the Wilson Creek Road; then north on Wilson Creek Road to the Lillard Hill Road; northwest on Lillard Hill Road to USFS Road 3517; then northwest on USFS Road 3517 to the Reecer Creek Road, USFS Road 35, then south on USFS Road 35 to USFS Road 3507 and then northwest on USFS Road 3507 to Spur Road 120 (Snowshoe Ridge Road); then west on Spur Road 120 (Snowshoe Ridge Road) to Spur Road 114; then north and south on Spur Road 114 to Spur Road 116; then north on Spur Road 116 to USFS Road 9718; then southwest on USFS Road 9718 (Cougar Gulch Road) through the town of Liberty to Highway 97; then

north on Highway 97 to USFS 9738, Blue Creek; then west on USFS 9738 to USFS 9702 Dickey Creek; then west on Road 9702 to the North Teanaway Road; then south to the junction with Middle Fork Teanaway Road; then west on Middle Fork Road 1/4 mile to Teanaway Campground; then south up #17 Canyon Road to Cle Elum Ridge Road; then west ((~~on~~)) along Cle Elum Ridge Road and south to the bottom of #5 Canyon Road; then south to Highway 903 and Bullfrog Road (Portland Mini-Mart); then south on Bullfrog Road to Interstate Highway 90; then west on Interstate Highway 90 to Easton and point of beginning. (See Wenatchee National Forest map and Washington Atlas and Gazetteer)

Muzzleloader Area No. 921 Baleville (Pacific County): Beginning at the junction of the Hammond Road and U.S. Highway 105; then north on the Hammond Road to the radio towers; continue north on the D 2100 line to its junction with the D-line; then northwest along the D-line (also known as the Rayonier 2720) to its junction with the Rayonier 2700 line, then southwest on the Rayonier 2700 line to its junction with Highway 105; then east on Highway 105 to the Hammond Road and point of beginning. (See Washington Atlas & Gazetteer.)

Muzzleloader Area No. 925 Ritzville (Adams County): Beginning at the junction of Interstate 90 and S.R. 261 near the town of Ritzville, then south along S.R. 261 to Washtucna, then east on S.R. 26 to the Whitman County line, then north along the Adams, Whitman County line to where it intersects the Lincoln, Adams County line, then north along the Adams, Lincoln County line to Interstate 90, then west along Interstate 90 to point of beginning. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 940 Coal Creek (Skagit County): Beginning at the point where State Highway No. 20 crosses Childs Creek approximately one mile west of Lyman; then north up said creek to Crown Pacific 110 Road; then west along said road to Crown Pacific 130 Road; then west along said road to Crown Pacific 132 Road; then continue west along said road to where it crosses Hansen Creek; then south down Hansen Creek to State Highway No. 20; then east along State Highway No. 20 to Childs Creek and point of beginning.

Muzzleloader Area No. 944 Clemen (Yakima County): That portion of GMU 342 beginning at the junction of Highway #410 and USFS Road #1701 (Big Bald Mountain Road); then north to USFS Road #1712; then east on USFS Road #1712 (Clemen Ridge Road) to the east edge of Meyster Canyon; then along the east side of Meyster Canyon to the elk fence; then west along the elk fence to Waterworks Canyon and Highway #410 and to point of beginning. (See Wenatchee National Forest map)

Muzzleloader Area No. 950 Toutle Mountain (Cowlitz County): Beginning at the confluence of the South Fork Toutle River and the North Fork Toutle River; then up the S.F. Toutle River to Johnson Creek; then up Johnson Creek to the Weyerhaeuser Company 4400 [440] Road; then northeast on the 440 [4400] Road to the 2421 Road; then north to the 2400 Road; then east on the 2400 Road to Alder Creek; then north down Alder Creek to the North Folk

Toutle River; then west down the North Fork Toutle River to the confluence with the South Fork Toutle River and point of beginning. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 961 Hoko River (Clallam County): Within one mile of the Hoko County Road between Highway 112 and the Olympic National Park boundary near Lake Ozette. (See Olympic National Forest Map)

Muzzleloader Area No. 962 Elwha (Clallam County): Beginning at the U.S. Highway 101 Bridge on the Elwha River; then south on the Elwha River to the Olympic National Park boundary; then along Olympic National Park boundary to the section line between Sections 32 and 33 of T 30 N, R 7 W. W. M.; then north on the section lines to U.S. Highway 101; then east on U.S. Highway 101 to Elwha River and point of beginning. (See Washington Atlas and Gazetteer)

Goat Unit 2-1 Mount Chopaka:

Permit Area: Okanogan County within the following described boundary: Beginning where the Similkameen River crosses the Canadian boundary near Mt. Chopaka; then south down said river and up Palmer Lake and Sinlahekin Creek to Toats Coulee Creek; then west up said creek and north up the North Fork Toats Coulee Creek to Snowshoe Mountain and the Canadian boundary; then east along the Canadian boundary to the Similkameen River and point of beginning; **EXCEPT CLOSED** in Township 39 North, Range 25EWM, which includes Grandview Mountain.

Goat Unit 2-2 Methow Area:

Permit Area: Okanogan County within the following described boundary: Beginning at the Town of Twisp, westerly along the Twisp River Road (County Road #4440) to roads end; westerly up the Twisp Pass Trail #432 to Twisp Pass and the Okanogan County line; northerly along the Chelan-Okanogan County line through Washington Pass to the Cascade Summit; northerly along the Cascade Summit and the Okanogan County line to Harts Pass; southeast down Harts Pass (Road #5400) to Lost River; then along the Lost River-Mazama Road to Mazama; then southeasterly along State Highway 20 to Twisp and the point of beginning.

Goat Unit 3-1 East Stevens Pass:

Permit Area: Chelan County within the following described boundary: Beginning at Stevens Pass; then north along the Cascades Summit to Cady Pass and the source of the Little Wenatchee River; then down the Little Wenatchee River, Lake Wenatchee and the Wenatchee River to U.S. Highway 2; then north and west along U.S. Highway 2 to Stevens Pass and point of beginning **EXCEPT** those lands within 1/2 mile of Alpine Lookout.

Goat Unit 3-2 North Wenatchee Mountains:

Permit Area: Chelan County south of the Stevens Pass Highway, west of the Blewett Pass Highway, and north of Ingalls Creek, and Kittitas County north of the following described line: Beginning at Ingalls Peak; then down Fortune Creek to the Cle Elum River; then up the Cle Elum River to the Cascade Summit at Deception Pass.

Goat Unit 3-3 Goat and Davis Mountains:

Permit Area: Kittitas County west of the Cle Elum River, north of the Waptus River, and east and south of Trail Creek Trail.

Goat Unit 3-4 Snoqualmie:

Permit Area: Kittitas County within the following described boundary: Beginning at Snoqualmie Pass; then north along the Cascade Crest to Deception Pass and the headwaters of the Cle Elum River; then south along the Cle Elum River to the Trail Creek Trail #1322; then southwest along the Trail Creek Trail to the Waptus River Trail #1310; then southeast along the Waptus River Trail to the Cle Elum River at the Salmon la Sac campground; then south along the Cle Elum River to the Cooper Pass Road (USFS Road 4600); then west along the Cooper Pass Road, through Cooper Pass to the road end near the Kachess River; then south along the Kachess River and Kachess Lake to Interstate Highway 90; then west along Interstate Highway 90 to Snoqualmie Pass and point of beginning.

Goat Unit 3-5 Cle Elum:

Permit Area: Kittitas and Chelan counties within the following described boundary: Beginning at the point where Interstate Highway 90 crosses the Cle Elum River; then north along the Cle Elum River to Fortune Creek; then east along Fortune Creek to Ingalls Peak and the headwaters of Ingalls Creek; then south and east along Ingalls Creek to U.S. Highway 97; then south along U.S. Highway 97 and State Highway 970 to Interstate 90 at Cle Elum; then west along Interstate 90 to the Cle Elum River and point of beginning.

Goat Unit 3-6 Naches Pass:

Permit Area: Yakima and Kittitas counties within the following described boundary: Beginning at Chinook Pass; then north along the Pacific Crest Trail to Naches Pass; then east to USFS Road 19 and continuing to State Highway 410; then west along State Highway 410 to Chinook Pass and point of beginning.

Goat Unit 3-7 Bumping River:

Permit Area: Yakima County within the following described boundary: Beginning at White Pass and the Pacific Crest Trail; then north to Forest Trail #980; then north to USFS Road 18; then north to State Highway 410; then east to State Highway 12; then west along State Highway 12 and back to point of beginning; **EXCEPT** Timberwolf Mountain, which is closed.

Goat Unit 3-8 Bumping River:

Permit Area: Yakima County within the following described boundary: Beginning at White Pass and the Pacific Crest Trail; then north to Forest Trail #980; then north to USFS Road 18; then north to State Highway 410; then east to State Highway 12; then west along State Highway 12 and back to point of beginning; **EXCEPT** Timberwolf Mountain, which is closed.

Goat Unit 3-9 Tieton River:

Permit Area: Yakima County within the following described boundary: Beginning at White Pass and Pacific Crest Trail; then south to the Yakima Indian Reservation boundary; then east to USFS Road 1137; then west to USFS Road 1000; then north to USFS Road 12; then north to State Highway 12; then west on State Highway 12 to point of beginning.

Goat Unit 4-1 Ruth Creek Area:

Permit Area: Whatcom County within the Mt. Baker Wilderness of the Mt. Baker-Snoqualmie National Forest north of the North Fork Nooksack River.

Goat Unit 4-3 Chowder Ridge:

Permit Area: Whatcom County within the following described boundary: Beginning where Wells Creek intersects the North Fork Nooksack River; then up Wells Creek to Bar Creek; then southwest up Bar Creek to the Mazama Glacier; then continue southwest up Mazama Glacier to the summit of Mt. Baker; then northwest between Roosevelt Glacier and Coleman Glacier to Kulshan Cabin and the headwaters of Kulshan Creek and Grouse Creek to Smith Creek; then north down Smith Creek to Glacier Creek; continue north down Glacier Creek to the North Fork Nooksack River; then east along the North Fork Nooksack River to Wells Creek and the point of beginning.

Goat Unit 4-4 Lincoln Peak:

Permit Area: Whatcom County within the following described boundary: Beginning where Glacier Creek intersects with the Mt. Baker Highway (State Highway 547); then south up Glacier Creek to Smith Creek; then south up Smith Creek to Grouse Creek; then continue up Grouse Creek in a south direction to Kulshan Creek; then southeast up Kulshan Creek to Kulshan Cabin; then continue southeast between Roosevelt Glacier and Coleman Glacier to the summit of Mt. Baker; then south down Eastern Glacier to Baker Pass and the Baker Pass Trail #603 (5,000 ft.); then west along Baker Pass Trail #603 to the Ridley Creek Trail (#690); then northwest on the Ridley Creek Trail to Ridley Creek; then down Ridley Creek to the Middle Fork Nooksack River; then west down the Middle Fork Nooksack River to the Mosquito Lake Road; then north on the Mosquito Lake Road to the Mt. Baker Highway (State Highway 542); then north and east on Mt. Baker Highway (State Highway 542) to Glacier Creek and the point of beginning.

Goat Unit 4-6 Dillard Creek:

Permit Area: Whatcom County within the following described boundary: Beginning at the intersection of USFS Road 3725 and the Baker Lake Road (USFS Road 394); then west along USFS Road 3725 to Sulphur Creek; then northwest up Sulphur Creek to the Baker Pass Trail (#603) to Baker Pass (5,000 ft. elevation); then northeast up Eastern Glacier to the summit of Mt. Baker; then southeast down Park Glacier to the headwaters of Park Creek; then continue southeast down Park Creek to the Baker Lake Road (USFS Road 394); then south along the Baker Lake Road (USFS Road 394) to USFS Road 3725 and the point of beginning.

Goat Unit 4-7 Avalanche Gorge:

Permit Area: Whatcom County within the following described boundary: Beginning at the intersection of the Baker Lake Road (USFS Road 394) and Park Creek; then northwest up Park Creek to Park Glacier; then continue northwest up Park Glacier to the summit of Mt. Baker; then northeast down Mazama Glacier to the 6,500 ft. elevation; then east to the Portals; then continue east along the ridge line to Coleman Pinnacle; then northeast along the Camp Kiser Trail #683 (Ptarmigan Ridge) to the extreme southeast extension of Kulshan Ridge; then due east to the Lake Ann Trail #600; then east along the Lake Ann Trail #600 to the boundary of North Cascades National Park; then south and east along the Park boundary to the Baker River and down the Baker River to the Baker Lake Road (USFS Road 394); then west along the Baker Lake Road (USFS Road 394) to Park Creek and the point of beginning.

Goat Unit 4-8 East Ross Lake:

Permit Area: Whatcom County within the following described boundary: Beginning at the point the U.S.-Canada boundary meets the east boundary of North Cascades National Park; then south along the Park boundary to Stetattle Creek; then south down Stetattle Creek to Gorge Lake; then southwest along Gorge Lake to State Highway 20; then east and north along State Highway 20 to Ross Dam; then north along the east shoreline of Ross Lake (Note: Exclude Ruby Arm) to Devil's Creek; then east up Devil's Creek to a tributary extending south to ridge line between Jerry Lakes and a pinnacle of Jack Mountain (7,292 ft. elevation); continue south over this ridge line into the Crater Creek Basin and Crater Creek; then down Crater Creek to its confluence with Ruby Creek; then east up Ruby Creek to Granite Creek; then continue east up Granite to the Cascades Summit; then north along the Cascades Summit to the U.S.-Canada boundary; then west along the Canadian line to the east boundary of North Cascades National Park and the point of beginning. (Notice: Jack Mountain not included in Goat Unit 4-8, East Ross Lake. See description for Goat Unit 4-9, Jack Mountain.)

Goat Unit 4-9 Jack Mountain:

Permit Area: Whatcom County within the following described boundary: Beginning at the confluence of Ruby Creek and Crater Creek; then north up Crater Creek to the ridge line between Jerry Lakes and a pinnacle of Jack Mountain (7,292 ft. elevation); continue due north to Devil's Creek; then west down Devil's Creek to Ross Lake; then south along the east shoreline of Ross Lake to Ruby Arm; then easterly up Ruby Arm and Ruby Creek to the confluence of Crater Creek and the point of beginning.

Goat Unit 4-10 Majestic Mountain:

Permit Area: Whatcom and Skagit counties within the following described boundary: Beginning at the intersection of Pyramid Creek and State Highway 20; then south up Pyramid Creek to the North Cascades National Park boundary; then east along the Park boundary to the Cascades Summit; then north along the Cascades Summit to Granite Creek; then west down Granite Creek to Ruby Creek and Ruby Arm; then continue west along Ruby Arm to Ross

Lake and Ross Dam; then southwest from Ross Dam to State Highway 20; then southwest and northwest along State Highway 20 to Pyramid Creek and the point of beginning.

Goat Unit 4-12 Mt. Tommy Thompson:

Permit Area: Skagit County within the following described boundary: Beginning at the confluence of Illabot Creek on the Skagit River; then east up Illabot Creek to its headwaters; then continue east over the ridge line to the northernmost extension of Buck Creek; then north over the ridge line at 6,921 foot elevation to the southernmost extension of Muchler Creek; then northeast down Muchler Creek to Kindy Creek; then north down Kindy Creek to the Cascade River; then north and west down the Cascade River to the Skagit River; then west down the Skagit River to Illabot Creek and the point of beginning.

Goat Unit 4-14 Mt. Buckindy:

Permit Area: Skagit and Snohomish counties within the following described boundary: Beginning at the confluence of Buck Creek on the Suiattle River; then east up the Suiattle River to Sulphur Creek; then continue east up Sulphur Creek to Dome Creek; then north to Sinister Mountain and the Cascades Summit; then north along the Cascades Summit to Mt. Formidable; continue north into the headwaters at the Middle Fork Cascade River; then west down the Middle Fork Cascade River to the main Cascade River; continue west along the Cascade River to Kindy Creek; then south up Kindy Creek to Muchler Creek; then southwest up Muchler Creek to its southernmost extension; then continue southwest over the ridgetop at 6,921 foot elevation to the northernmost extension of Buck Creek; then continue southwest down Buck Creek to the Suiattle River and the point of beginning.

Goat Unit 4-16 Glacier Peak:

Permit Area: Snohomish County within the following described boundary: Beginning at Tenpeak Mountain on the Cascades Crest; then northeast to three lakes (approximately 1.75 miles northeast of Tenpeak Mountain); then north and west down the Suiattle River to Mill Creek; then up the Mill Creek Trail (#790) and the Pacific Crest Trail (#2000) to Mica Lake, Fire Creek Pass, and Glacier Creek; continuing down Glacier Creek to the White Chuck River; then up the White Chuck River to White Mountain at the Cascade Crest, then northeast along Cascade Crest to Tenpeak Mountain and the point of beginning.

Goat Unit 4-18 Sauk River Area:

Permit Area: Snohomish County within the following described boundary: Beginning at the confluence of the Whitechuck River and Pugh Creek; then south up Pugh Creek to Round Lake; then south to USFS Trail #646; then west and south down this trail to the North Fork Sauk River; then east up said river to Sloan Creek; then up Sloan Creek to June Mountain; then due south to USFS Trail #1051; then east along said trail to the Pacific Crest Trail (#2000); then north along the Pacific Crest Trail to White Mountain; then down the Whitechuck River to the confluence with Pugh Creek and the point of beginning.

Goat Unit 4-21 Liberty Mountain:

Permit Area: Snohomish County within the following described boundary: Beginning at the Boulder River bridge on the Darrington-Arlington Highway (State Highway 530) to the town of Darrington; then east along said highway to the Darrington-Clear Creek Road (USFS Road 20); then southeast along that road to the bridge over Clear Creek; then south up Clear Creek to the confluence with Helena Creek and southeast up Helena Creek to Windom Lake; then southeast over an unnamed ridge to Independence Lake and down USFS Trail #712 to intersection with USFS Road 4060; then south down said road to the South Fork Stillaguamish River; then west down said river to Canyon Creek; then northeast up Canyon Creek, North Fork Canyon Creek and Meadow Creek to Tupso Creek; then east up Tupso Creek to its easternmost point; then continue northeast to Boulder River; then north down Boulder River to the bridge on State Highway 530 and the point of beginning.

Goat Unit 4-23 Twin Peaks:

Permit Area: Snohomish County within the following described boundary: Beginning at the intersection of Falls Creek and the Mt. Loop Highway (USFS Road 322); then west up Falls Creek and along USFS Trail #645 to USFS Road 3006; then south down said road to the Mountain Loop Highway; then east and north on said highway to Falls Creek and the point of beginning.

Goat Unit 4-24 Sloan Peak:

Permit Area: Snohomish County with the following described boundary: Beginning at the confluence of the South Fork and the North Fork of the Sauk River; then east up to the North Fork Sauk River to Sloan Creek; then south and southeast up Sloan Creek to June Mountain; then due south to USFS Trail #1051; then southwest along said trail to USFS Road 63; then continue southwest on said road to Silver Creek; then north up Silver Creek to Silver Lake; then north on USFS Trail #708 to Glacier Creek; then west along said creek to the South Fork Sauk River; then north down the South Fork Sauk River to the confluence of the North Fork Sauk River and the point of beginning.

Goat Unit 4-25 Vesper Peak:

Permit Area: Snohomish County within the following described boundary: Beginning at the Mountain Loop Highway bridge over Bear Creek (approximately three miles east of Verlot); then east up said highway to USFS Trail #707; then southwest on said trail (between Sperry Peak and Morning Star Peak) to the Sultan River; then west down said river and Spada Lake to Culmback Dam; then north up unnamed creek to the Pilchuck-Sultan divide; then northwest along said divide to Ritz Creek; then northeast down Ritz Creek to the Pilchuck River; then northwest down said river to Wilson Creek; then northwest up Wilson Creek to Ashland Lakes on the Pilchuck-Stillaguamish divide; then north down Black Creek and Bear Creek drainage to the Mountain Loop Highway bridge over Bear Creek and the point of beginning.

Goat Unit 4-30 Tolt River:

Permit Area: King and Snohomish counties within the following described boundary: Beginning at the point the Tolt River intersects the Weyerhaeuser Mainline Truck Road (approximately one mile west of the Tolt River South Fork Reservoir); then north along said road to the junction with State Highway 2; then east along said highway to the junction with the South Fork Skykomish River; then east and south up said river to the confluence of Money Creek; then west up Money Creek to Lake Elizabeth; then west to the headwaters of the South Fork Tolt River near Lake Elizabeth; then west down the South Fork Tolt River to the point of beginning. Except closed: All of the Mount Index and Mount Persis as follows: Beginning at confluence of South Fork Skykomish River and Index Creek; then west up said creek and its northern fork to Ink Lake; then west up the ridge to the 4,915 elevation point; then southwest down the ridge (approximately one and one-half miles) to the confluence of Titacae Creek and the North Fork Tolt River; then west along said river to the Weyerhaeuser Mainline Truck Road; then north along said road to State Highway 2; then east along said highway to where it intersects the South Fork Skykomish River; then east along said river to the point of beginning.

Goat Unit 4-32 Foss River:

Permit Area: King and Snohomish counties within the following described boundary: Beginning at intersection of U.S. Highway 2 and the King County line at Stevens Pass; then south along the King County line to the headwaters of the Middle Fork Snoqualmie River near Dutch Miller Gap; then west and south down said river to the confluence with the Dingford Creek; then north and east up said creek to its headwaters intersection with USFS Trail #1005; then north up said trail to Little Myrtle Lake; then west and north to Marlene Lake (approximately 4 miles); then north down the stream outlet from Marlene Lake to the junction with USFS Trail #1002 near Dorothy Lake; then north along said trail to the junction with the East Fork Miller River headwaters; then north down said river to the confluence with the South Fork Skykomish River; then east up said river to the junction with U.S. Highway 2; then east along said highway to the point of beginning.

Goat Unit 4-34 Pratt River:

Permit Area: King County within the following described boundary: Beginning at the point where the Weyerhaeuser Mainline Truck Road intersects the Middle Fork Snoqualmie River (near the confluence of the North Fork and Snoqualmie Rivers); then northeast up the Middle Fork Snoqualmie to its headwaters near Dutch Miller Gap at the King County line; then south along the King County line to Snoqualmie Pass and the intersection with Interstate 90; then west along Interstate 90 to the point nearest the Middle Fork Snoqualmie River (approximately one mile east of North Bend); then north and east up the Middle Fork Snoqualmie River and to the point of beginning. Except closed: Snoqualmie Mountain and the watersheds of Denny Creek and South Fork of the Snoqualmie above Denny Creek.

Goat Unit 4-38 Corral Pass:

Permit Area: Pierce County within the following described boundary: Beginning where Goat Creek intersects the Corral Pass Road; then southeast up Goat Creek to the Cascade Crest; then north along the Crest to USFS Trail #1188; then northwest along said trail to USFS Trail #1176; then north along said trail to Corral Pass; then west along Corral Pass Road to its intersection with Goat Creek and the point of beginning.

Goat Unit 5-2 Tatoosh:

Permit Area: Lewis County within the following described boundary: Beginning at the junction of the southern Mount Rainier National Park boundary and State Highway 123; then south along State Highway 123 to U.S. Highway 12; then southwest along said highway to Skate Creek Road (USFS Road 52); then northwest along said road to the junction of Morse Creek Road (old road to Longmire Campground); then north along said road to the Mount Rainier National Park boundary; then east along the southern park boundary to the point of beginning.

Goat Unit 5-3 Smith Creek:

Permit area: Lewis County within the following described boundary: Beginning at the town of Randle; then east along U.S. 12 to USFS Road 21; then southeast along USFS Road 21 to Road 22; then northeast and northwest along USFS Road 22 to Road 23; then east and northwest on Road 23 to Road 25; then north along Road 25 to Randle and point of beginning.

Goat Unit 5-4 Goat Rocks:

Permit Area: Lewis County south of the White Pass Highway (U.S. Highway 12) and east of the Johnson Creek Road (USFS Road 1302).

Goat Unit 6-1 Elwha River:

Permit Area: Clallam and Jefferson counties outside Olympic National Park and west of the Dungeness River.

Goat Unit 6-2 Quilcene River:

Permit Area: Clallam and Jefferson counties outside Olympic National Park, east of the Dungeness River and north of the Dosewallips River.

Goat Unit 6-3 Hamma Hamma River:

Permit Area: Jefferson and Mason counties outside Olympic National Park and south of the Dosewallips River.

MOOSE

Moose Unit 1 Selkirk Mountains:

Permit Area: GMU 113.

Moose Unit 2 Mt. Spokane:

Permit Area: GMU 124.

Moose Unit 3 Chewelah:

Permit Area: GMU 118.

Moose Unit 4 Boyer:

Permit Area: GMU 119.

BIGHORN SHEEP

Sheep Unit 1 Okanogan:

Permit Area: Okanogan County west of the Okanogan River.

Sheep Unit 2 Vulcan Mountain:

Permit Area: Ferry County north of the Kettle River.

Sheep Unit 3 Tucannon River:

Permit Area: The Tucannon River drainage in Columbia and Garfield counties.

Sheep Unit 5 Umtanum:

Permit Area: That part of Yakima County north of Wenas Creek and that part of Kittitas County south of Interstate 90.

Sheep Unit 6 Murray:

Permit Area: That part of Yakima County north of Wenas Creek and that part of Kittitas County south of Interstate 90.

Sheep Unit 8 Mountainview:

Permit Area: That part of Asotin County within the following described boundary: Beginning at Anatone; thence west along the main Big Butte-Mount Misery Road to its junction with the Mountain Road (#40); thence south along the Mountain Road to the West Fork of Grouse Creek; thence southeast down Grouse Creek to the Oregon-Washington boundary; thence east along said boundary to State Highway 129; thence north along Highway 129 to Anatone and point of beginning.

Sheep Unit 9 Blackbutte:

Permit Area: That part of Asotin County within the following described boundary: All of GMU 184 (Joseph), 185 (Blackbutte), and that part of GMU 181 (Couze) that drains into the Grande Ronde River between the mouth of the Grande Ronde River and State Highway No. 129.

Sheep Unit 10 Mt. Hull:

Permit Area: That part of Okanogan County within the following described boundary: Beginning at Oroville; then south along Highway 97 to the Swanson's Mill Road (old Mt. Hull Road) near Lake Andrews, then east to the Dry Gulch Road; then north to the Molson Grade Road; then west to Oroville and the point of beginning.

Sheep Unit 11 Wenaha Wilderness:

Permit Area: The Crooked Creek drainage in Asotin, Garfield, and Columbia counties within the boundary of GMU 169.

LYNX

Permit Area: That part of Okanogan County west of the Okanogan River except closed within the following described boundary: Beginning at Okanogan, then west along State Highway 20 to Twisp; then north along the Methow River to the Chewuch River; then north along the Chewuch River to the Pasayten Wilderness boundary; then east and north along boundary to the U.S.-Canada border; then east along said border to U.S. Highway 97; then south along U.S. Highway 97, to Okanogan and point of beginning.

COUGAR PERMIT AREA DESCRIPTIONS

Unit	Description
1	Pend Oreille—GMU 113
2	Colville—GMUs 108, 111, 118, and 119
3	Republic—GMUs 100, 103, 105, 200, and 206
4	Spokane—GMUs 121 and 124
5	Blue Mountains—GMUs 145 through 185
6	Okanogan—GMUs 203, 209-242, and 300
7	Wenatchee—GMUs 301-368
8	Nooksack—GMU 418
9	Skagit—GMUs 426, 433, 440-448, and 450
10	Snoqualmie—GMUs 454, 460, 466, 472, 490
11	Olympic Peninsula—GMUs 601-651, and 663
12	Rainier—GMUs 478, 484, 505, 510, 512, 514, 516, 666, and 667
13	Cowlitz—GMUs 520, 530, 550, 556, and 558
14	Skamania—GMUs 560, 568, 572, 574, and 576

PRIVATE LANDS WILDLIFE MANAGEMENT AREA

Area Description

PLWMA 201 - Wilson Creek (Grant County): This area surrounds Billy Clapp Lake directly north of the town of Stratford and northwest of the town of Wilson Creek. The legal description is T22N, R29E.; North 1/2 of Section 3, Section 4* except southeast 1/4 of southeast 1/4; Sections 5, 6, 8, and 9. T23N, R29E, Sections 5, 7, 8, 13, 14, 17, and 18; Section 19 except for northwest 1/4 of the southwest 1/4; Sections 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29; southeast 1/4 of Section 30; Sections 31, 32*, 33, 34*, and 35. T23N, R28E, Section 2, Section 3 except west 1/4; Section 4 except southwest 1/4 and east 1/2 of southeast 1/4; Section 5; Section 6 except west 1/4; Sections 7 and 8; Section 9 except east 1/2 of southeast 1/4; north 1/2 of Section 10 except west 1/4; Section 11 except south 1/4; Section 15; Section 16 except northeast 1/4; Sections 17, 18, 19, 20, 21, 22, and 23; west 1/4 of Section 24*; Sections 26*, 27, 28, 29, 30, and 33; west 1/2 of Section 34 except south 1/4; Section 35. T24N, R29E, west 1/2 of Section 32. T24N, R28E, Section 35. *Public lands within the external boundaries are not part of the PLWMA.

PLWMA 401 - Champion (Pierce County): Beginning at the intersection of Champion haul road (Champion 1 Rd.) and the Camp One Road near the town of Kapowsin; then southwest along Champion 1 Rd. to east side of Lake Kapowsin; then along east side of Lake Kapowsin to Ohop Creek; then up Ohop Creek to Champion ownership line; then along ownership line to NW corner Section 31, T17N, R5E; then south along section line to 1/4 corner Section 6, T16N, R5E; then easterly along Weyerhaeuser/Champion ownership line to intersection with Busy Wild Creek; then up Busy Wild Creek to intersection with Champion ownership on the section line between Sections 10 & 15, T15N, R6E; then west and south along DNR/Champion ownership line and Plum Creek Timber Co./Champion ownership line to most southerly point of Champion ownership (northwest of Ashford, WA); then easterly along Champion ownership line to DNR/Champion ownership line; then north and east to USFS/Champion ownership line; then north along USFS/Champion ownership line to SW corner Section 31,

T16N, R7E; then east along USFS/Champion ownership line to SE corner Section 31, T16N, R7E; then north along USFS/Champion ownership to NW corner Section 32, T16N, R7E; then east along Plum Creek Timber Co./USFS ownership line to NE corner Section 32, T16N, R7E; then south along USFS/Champion ownership line to SE corner Section 32, T16N, R7E; then east along USFS/Champion ownership line to Mount Rainier National Park Boundary; then north along Mount Rainier National Park Boundary to NE corner Section 33 T17N, R7E; then following north and east along USFS/Champion ownership line to intersection with SR 165 near the NE corner Section 24, T17N, R7E; then northwest along SR 165 to intersection with Carbon River; then down Carbon River to the Carbonado/Electron powerline; then south and west along the powerline to Champion's 12 road; then south and west along the 12 road to the Fisk Road; then south along the Fisk Road to the King Creek Gate; then north and west along the Brooks Road BPA Transmission line; then southwest along BPA Transmission line to the Puyallup River (excluding all small, private ownership); then up Puyallup River to intersection with Champion haul road bridge; then south along Champion haul road to point of beginning.

**WSR 93-06-075
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed March 3, 1993, 8:20 a.m.]

Original Notice.

Title of Rule: Pesticide penalty matrix schedule in chapter 16-228 WAC.

Purpose: To adopt into rule a pesticide penalty assignment schedule to determine penalties for violations of the pesticide laws and rules.

Statutory Authority for Adoption: Chapters 15.58 and 17.21 RCW.

Statute Being Implemented: RCW 15.58.260 and 17.21.315.

Summary: Chapters 17.21 and 15.58 RCW provide for civil penalties for violations of the pesticide laws and rules. These rules will provide a basis for setting penalties for certain violations.

Name of Agency Personnel Responsible for Drafting: Cliff Weed, Program Manager, P.O. Box 42560, Olympia, WA 98504-2560, 902-2040; Implementation and Enforcement: Art G. Losey, Assistant Director, P.O. Box 42560, Olympia, WA, 902-2010.

Name of Proponent: Washington State Department of Agriculture, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: To provide for a fair and uniform manner in which to set penalties commensurate with the seriousness of the violation. These rules will place the department's pesticide penalty matrix into rule.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: On April 6, 1993, at 7:00 p.m., Chelan County PUD, 327 North Wenatchee Avenue, Wenatchee, WA; on April 7, 1993, at 7:00 p.m., 1507 North First Street, Yakima, WA 98901; and on April 8, 1993, at 7:00 p.m., Natural Resources Building, Conference Room #172, 1111 Washington Street, Olympia, WA.

Submit Written Comments to: Washington State Department of Agriculture, Pesticide Management Division, P.O. Box 42560, Olympia, WA 98504-2560, by April 8, 1993, 5:00 p.m.

Date of Intended Adoption: April 29, 1992 [1993].

March 3, 1993

Art G. Losey

Assistant Director

NEW SECTION

WAC 16-228-905 Statement of purpose—Penalty assignment. For the purpose of fair, uniform determination of penalty as set forth in WAC 16-228-910 through 16-228-930, the director hereby declares:

(1) Regulatory action is necessary to deter violations of the pesticide laws and rules, and to educate persons about the consequences of such violation(s); and

(2) Any regulatory action taken by the department against any person who violates the provisions of chapter 17.21 RCW, chapter 15.58 RCW, and/or rules adopted thereunder shall be commensurate with the seriousness of the violation under the circumstances; and

(3) Each person shall be treated fairly in accordance with the rules set forth in this chapter.

NEW SECTION

WAC 16-228-910 Definitions—Penalty assignment. In addition to the definitions set forth in RCW 17.21.020, RCW 15.58.030, and WAC 16-228-010, the following shall apply to WAC 16-228-905 through 16-228-930:

(1) "Adverse effect(s)" means a possibility of pesticide exposure that could cause damage or injury to humans, animals, plants, or the environment.

(2) "Knowingly" means that the alleged violator knew or should have known that conditions existed that would result in adverse effect(s) or knew that a violation would occur.

(3) "Level of violation" means that the alleged violation is a first, second, third, fourth, fifth, or more violation(s).

(a) First violation. This means the alleged violator has committed no prior incident(s) which resulted in a violation or violations within three years of committing the current alleged violation.

(b) Second violation. This means the alleged violator committed one prior incident which resulted in a violation or violations within three years of committing the current alleged violation.

(c) Third violation. This means the alleged violator committed two prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(d) Fourth violation. This means the alleged violator committed three prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(e) Fifth or more violation. This means the alleged violator committed at least four prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(4) "Not probable" means that the alleged violator's conduct more likely than not would not have an adverse effect.

(5) "Probable" means that the alleged violator's conduct more likely than not would have an adverse effect.

(6) "Unknowingly" means that the alleged violator did not act knowingly.

(7) "Violation" means commission of an act or acts prohibited by chapter 17.21 RCW, chapter 15.58 RCW, and/or rules adopted thereunder.

(d) The extent to which the alleged violation is part of a pattern of the same or substantially similar conduct by others which necessitates a greater deterrent factor.

(4) Mitigating factors. The department may consider circumstances reducing the seriousness of the violation including, but not limited to, the following:

(a) A voluntary disclosure of a violation by the alleged violator.

(b) The low magnitude of the harm, or potential harm, including quantity and/or degree, caused by the violation.

NEW SECTION

WAC 16-228-920 Penalty assignment schedule—Table A.

WAC 16-228-920 Penalty assignment schedule—TABLE A Pesticide use, application, disposal, licensing, distribution, recommendation, and label violations (See WAC 16-228-930 for other dispositions of alleged violations, including warning letters.)

NEW SECTION

WAC 16-228-915 Calculation of penalty. (1) Median penalty selection. In the disposition of administrative cases, the department shall determine the penalty by first determining the penalty assignment schedule table listed in either WAC 16-228-920 or 16-228-925 that is applied based on the type of violation alleged. The department shall then determine the penalty range based on the level of violation, adverse effect(s) at the time of the incident(s) giving rise to the violation, and the knowledge of the alleged violator. The median penalty is then selected as the penalty unless a proportionate adjustment is required and/or there are aggravating or mitigating factors as provided herein. The median penalty under Table A listed in WAC 16-228-920 may be proportionately adjusted and/or aggravated to a level more than the maximum penalty listed for the violation in the penalty assignment schedule table. The median penalty under Table B listed in WAC 16-228-925 may be proportionately adjusted and/or aggravated to a level more than the maximum penalty listed for the violation. The median penalty under Table A and B may not be proportionately adjusted and/or mitigated to a level less than the minimum penalty listed for the violation.

(2) Proportionate adjustment of median penalty. The department reserves the right to proportionately increase the civil penalty and proportionately decrease the licensing action when circumstances in the particular case demonstrate the ineffectiveness of the licensing action as a deterrent including but not limited to violations by persons who are not licensed and violations by certified private applicator(s), or proportionately decrease the civil penalty and proportionately increase the licensing action when circumstances in the particular case demonstrate the ineffectiveness of a civil penalty action as a deterrent.

(3) Aggravating factors. The department may consider circumstances enhancing the seriousness of the violation, including, but not limited to, the following:

(a) Each separate additional incident of violation(s) alleged within a single notice of intent to have been committed by the alleged violator within the same calendar year.

(b) The high magnitude of the harm, or potential harm, including quantity and/or degree, caused by the violation.

(c) The similarity of the current alleged violation to previous violations that occurred within three years of the current alleged violation.

Table with 7 columns: LEVEL OF VIOLATION, ADVERSE EFFECT(S), UNKNOWNINGLY (MINIMUM, MEDIAN, MAXIMUM), KNOWINGLY (MINIMUM, MEDIAN, MAXIMUM). Rows include First, Second, Third, Fourth, Fifth or More violations, categorized by 'Not probable' and 'Probable'.

NEW SECTION

WAC 16-228-925 Penalty assignment schedule—Table B.

WAC 16-228-925 Penalty Assignment Schedule-TABLE B
Records, posting of storage for category one pesticides, removal of examination material, and impersonating state official other violations not listed in Table A (See WAC 16-228-930 for other dispositions of alleged violations, including warning letters.)

LEVEL OF VIOLATION	ADVERSE EFFECT(S)	UNKNOWINGLY			KNOWINGLY		
		MINIMUM	MEDIAN	MAXIMUM	MINIMUM	MEDIAN	MAXIMUM
First	1a. Not probable	\$100	\$150 and \$200	\$200	\$150	\$200 and \$250	\$250
		1 day	2 days	3 days	2 days	3 days	4 days
			SUSPENSION			SUSPENSION	
	1b. Probable	\$150	\$200 and \$250	\$250	\$200	\$250 and \$300	\$300
		1 day	2 days	3 days	2 days	3 days	4 days
			SUSPENSION			SUSPENSION	
Second	1a. Not probable	\$200	\$250 and \$300	\$300	\$250	\$300 and \$350	\$350
		2 days	3 days	4 days	3 days	4 days	5 days
			SUSPENSION			SUSPENSION	
	1b. Probable	\$250	\$300 and \$350	\$350	\$300	\$350 and \$400	\$400
		2 days	3 days	4 days	3 days	4 days	5 days
			SUSPENSION			SUSPENSION	
Third	1a. Not probable	\$300	\$350 and \$400	\$400	\$350	\$400 and \$450	\$450
		3 days	4 days	5 days	4 days	5 days	6 days
			SUSPENSION			SUSPENSION	
	1b. Probable	\$350	\$400 and \$450	\$450	\$400	\$450 and \$500	\$500
		3 days	4 days	5 days	4 days	5 days	6 days
			SUSPENSION			SUSPENSION	
Fourth	1a. Not probable	\$400	\$450 and \$500	\$500	\$450	\$500 and \$550	\$550
		4 days	5 days	6 days	5 days	6 days	7 days
			SUSPENSION			SUSPENSION	
	1b. Probable	\$450	\$500 and \$550	\$550	\$500	\$550 and \$600	\$600
		4 days	5 days	6 days	5 days	6 days	7 days
			SUSPENSION			SUSPENSION	
Fifth or More	1a. Not probable	\$500	\$550 and \$600	\$600	\$550	\$600 and \$650	\$650
		5 days	6 days	7 days	6 days	7 days	8 days
			SUSPENSION			SUSPENSION	
	1b. Probable	\$550	\$600 and \$650	\$650	\$600	\$650 and \$750	\$750
		5 days	6 days	7 days	6 days	7 days	8 days
			SUSPENSION			SUSPENSION	

NEW SECTION

WAC 16-228-930 Other dispositions of alleged violations. Nothing herein shall prevent the department from:

- (1) Choosing not to pursue a case administratively.
- (2) Issuing a warning letter in lieu of pursuing administrative action.
- (3) Negotiating settlement(s) of cases on such terms and for such reasons as it deems appropriate. Prior violation(s) covered by a prior settlement agreement may be used by the department for the purpose of determining the appropriate penalty for the current alleged violation(s) if not prohibited by the agreement.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-228-900 Penalties.

**WSR 93-06-076
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**
[Filed March 3, 1993, 8:23 a.m.]

Original Notice.

Title of Rule: Rights of persons aggrieved by pesticide violations in chapter 16-10 WAC.

Purpose: To adopt into rule procedures for persons aggrieved of pesticide violations in order to work within the Administrative Procedure Act, chapter 34.05 RCW.

Statutory Authority for Adoption: Chapter 17.21 RCW.
Statute Being Implemented: RCW 17.21.310.

Summary: These rules outline procedures and rights of a person aggrieved by a pesticide violation.

Reasons Supporting Proposal: RCW 17.21.340 provides for certain rights for persons aggrieved by a pesticide violation.

Name of Agency Personnel Responsible for Drafting: Dannie McQueen, Rules Coordinator, P.O. Box 42560, Olympia, WA, 902-1809; Implementation and Enforcement: Art G. Losey, Assistant Director, P.O. Box 42560, Olympia, WA 902-2010.

Name of Proponent: Washington State Department of Agriculture, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 17.21.340 provides certain rights for persons aggrieved by a pesticide violation. These rules will provide the procedures for an aggrieved person of a pesticide violation to file a petition for reconsideration on a final order issued by the department and at the same time work within the requirements of the Administrative Procedure Act, chapter 34.05 RCW.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: On April 6, 1993, at 7:00 p.m., Chelan County PUD, 327 North Wenatchee Avenue, Wenatchee, WA; on April 7, 1993, at 7:00 p.m., Yakima Valley Inn, 1507 North First Street, Yakima, WA 98901; and on April 8, 1993, at 7:00 p.m., Natural Resources Building, Conference Room #172, 1111 Washington Street, Olympia, WA.

Submit Written Comments to: Washington State Department of Agriculture, Pesticide Management Division, P.O. Box 42560, Olympia, WA 98504-2560, by April 8, 1993, 5:00 p.m.

Date of Intended Adoption: April 29, 1993.

March 3, 1993
Art G. Losey
Assistant Director

**Chapter 16-10 WAC
RIGHTS OF PERSONS AGGRIEVED PESTICIDE
VIOLATIONS**

NEW SECTION

WAC 16-10-010 Definitions. The following definitions are applicable to sections of this chapter concerning rights of persons aggrieved by violations under chapter 17.21 RCW and rules adopted under chapter 17.21 RCW.

(1) A "person aggrieved" by a violation is defined as a person who has reasonable grounds to believe that he or she has been subjected to harm or an unreasonable risk by such violation.

(2) A "complainant" is defined as a person who has requested an inspection of an area in which a pesticide violation is believed to have occurred.

(3) "Person" is defined as any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

NEW SECTION

WAC 16-10-020 Rights of complainants. If an inspection is conducted by the department of an area in which a pesticide violation is believed to have occurred, a complainant shall:

(1) Be promptly provided with the department's decision, as set forth in the "notice of intent to assess civil penalty and/or deny, suspend, or revoke a license," or in any document issuing a warning or determining no action; the department will endeavor to provide notice concurrently with the department's service of such document on the alleged violator.

(2) Be entitled, upon written request to the department, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available pursuant to chapter 17.21 RCW: *Provided*, That in any adjudicative proceeding under chapter 34.05 RCW the identity of complainant shall be disclosed to the alleged violator upon request of the alleged violator.

(3) Be otherwise entitled to those rights of persons aggrieved as set forth in WAC 16-10-030, if aggrieved, except that the complainant shall be provided, automatically without request, a copy of the final order referred to therein.

NEW SECTION

WAC 16-10-030 Rights of person aggrieved. A person aggrieved shall:

(1) Be entitled to be notified promptly of any final action taken by the department pursuant to an investigation under chapter 17.21 RCW; the department will provide notice concurrently with service of notice on the violator: *Provided*, That such person has made timely written application to the department requesting such notice. Written application to the department requesting such notice shall be received no later than the date of service of a final order.

(2) Within thirteen days of the date of mailing of a final order to a person aggrieved, the person aggrieved may request in writing that the director reconsider the matter, shall specify in writing why said person believes the penalty

decision is inappropriate, and shall serve such request on the violator.

(3) Upon reconsideration, the director will reconsider the entire matter including any written statement submitted by any party, and may adjust the penalty decision set forth in the final order if the director finds that the penalty was inappropriate.

(4) If such person is aggrieved by the director's order on reconsiderations, within twenty days of service of the order he or she may request in writing an adjudicative proceeding under chapter 34.05 RCW, shall specify in writing why the person believes the penalty decision is inappropriate, and shall serve such request on the alleged violator. The subject of such proceeding shall be limited to the appropriateness of the penalty decision of the director on reconsideration based on a review of the record as supplemented by any new evidence received by the presiding officer. The alleged violator shall be given notice and an opportunity to participate in the proceeding by the department. The proceeding shall be heard by a presiding officer who has not heard the adjudicative proceeding on the merits against the alleged violator. Chapter 34.05 RCW and chapter 16-08 WAC shall govern the conduct of such proceeding and any review thereon.

(5) Upon the filing of any request for proceeding pursuant to subsection (2) of this section, any final order of the director shall be automatically stayed pending resolution of such request and expiration of any time period for pursuing additional relief. The director shall provide written notice to the alleged violator of any such resolution, thereby reinstating the rights of the alleged violator to seek further relief.

**WSR 93-06-077
PROPOSED RULES
PERSONNEL BOARD
[Filed March 3, 1993, 8:34 a.m.]**

Continuance of WSR 93-02-038.

Title of Rule: WAC 356-26-060 Certification—General methods.

Purpose: This rule provides general guidelines regarding the referral process when a request for certification has been made.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-1770; Implementation and Enforcement: Department of Personnel.

Rule is not necessitated by federal law, federal or state court decision.

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on March 11, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by March 9, 1993.

Date of Intended Adoption: March 11, 1993.

February 19, 1993
Marilyn Glenn
Acting Secretary

WSR 93-06-078
PROPOSED RULES
PERSONNEL BOARD
[Filed March 3, 1993, 8:37 a.m.]

Continuance of WSR 92-18-059, 92-22-040, 92-24-099, 93-02-041, and 93-04-098.

Title of Rule: WAC 356-35-010 Disability—Reasonable accommodation—Separation—Appeals.

Purpose: This rule describes procedures and entitlements for an employee who needs to be reasonably accommodated or separated from employment due to a disability.

Statutory Authority for Adoption: RCW 41.06.040.
Statute Being Implemented: RCW 41.06.150.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-1770; Implementation and Enforcement: Department of Personnel.

Rule is not necessitated by federal law, federal or state court decision.

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on March 11, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by March 9, 1993.

Date of Intended Adoption: March 11, 1993.

February 19, 1993
Marilyn Glenn
Acting Secretary

WSR 93-06-079
PROPOSED RULES
PERSONNEL BOARD
[Filed March 3, 1993, 8:39 a.m.]

Original Notice.

Title of Rule: WAC 356-30-260 Probationary period—Provisions—Status of employee.

Purpose: This rule provides guidelines on the purpose and the length of probationary periods.

Statutory Authority for Adoption: RCW 41.06.040.
Statute Being Implemented: RCW 41.06.150.

Summary: This proposal will address specific lengths of time for designated probationary periods, as required by statute.

Reasons Supporting Proposal: This will implement a legislative change in the 1992 legislature addressing longer probationary periods for certified staff at the Washington State School for the Deaf and School for the Blind.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-1770; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Washington State School for the Deaf and School for the Blind, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Currently this rule establishes a probationary period for all employees who receive appointments to permanent positions from the open competitive and reemployment registers. These probationary periods will last from six to twelve months as determined by the State Personnel Board. This proposal will allow different lengths of probationary periods for all certificated staff at the Washington State School for Deaf and School for the Blind.

Proposal Changes the Following Existing Rules: This rule proposal will allow for other lengths of probationary periods, to address any positions which may be specifically required by statute.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on April 8, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by April 6, 1993.

Date of Intended Adoption: April 8, 1993.

February 23, 1993
Marilyn Glenn
Acting Secretary

AMENDATORY SECTION (Amending Order 383, filed 9/23/91, effective 11/1/91)

WAC 356-30-260 Probationary period—Provisions—Status of employee. (1) Employees who receive appointments to permanent positions from the open competitive register and the reemployment register shall serve a probationary period of six to twelve months as determined by the personnel board. The personnel board shall designate a probationary period of six months for all positions in a class unless they determine that job requirements of the class require a longer period (up to twelve months) to provide adequate training and/or evaluation. The personnel board shall apply the following criteria for approving probationary periods of longer than six months:

(a) The work of the majority of the positions in the class is of such a nature that performance of the full range of duties cannot be properly evaluated within six months after an appointment.

OR

(b) Work of the class is cyclical in nature and the workload cycle cannot be completed within six months after an appointment.

OR

(c) Work is of such a nature that extended formalized training is required prior to the full assumption of duties.

(d) When a classification has been specifically required by statute to serve a longer probationary period, such as certificated staff at the Washington State School for the Deaf and School for the Blind.

PROPOSED

All positions in a class shall have the same probationary period.

(2) All persons at time of appointment shall be notified in writing by the agency of the length of their probationary period. When the probationary period for a class is increased beyond six months, the increased probationary period shall apply only to persons appointed after the effective date of the change.

(3) The probationary period will provide the appointing authority with the opportunity to observe a new employee's work, to train and aid the new employee in adjustment to the position, and to terminate any employee whose work performance fails to meet the required standards.

(4) Employees who, during their probationary period, go on leave without pay shall have their probationary period extended by the number of calendar days they are on leave without pay including any intervening nonworking days.

(5) Employees shall have their probationary period extended by the number of calendar days in excess of 30 in which the employee is not at work including any intervening nonwork days if:

(a) Work is missed due to sick leave, vacation leave, military training leave, shared leave or miscellaneous leave; or

(b) Work is missed by employees of the departments of social and health services, corrections or veterans affairs due to an assault that occurred on the job and who are receiving compensation in an amount equal to full pay, as provided in chapters 72.01 and 72.09 RCW; or

(c) Work is missed due to any combination of leave identified in (5)(a) and (b) of this section which when added together exceeds 30 calendar days.

(6) Work missed during the probationary period due to holidays shall be counted as part of the required probationary period.

(7) When an employee accepts a temporary appointment to a higher class in the same series in the same work unit while serving in a probationary period, the probationary period shall continue for the lower class.

(8) Permanent appointment of a probationary employee shall be automatic unless the person is dismissed under provision of WAC 356-30-270.

(9) Veterans and their widows who have not remarried and are in probationary status will be granted seniority preference only within ranks of probationary employees and will not be granted preference within the ranks of the permanent employees until they acquire permanent status.

WSR 93-06-080
PROPOSED RULES
PERSONNEL BOARD
 [Filed March 3, 1993, 8:40 a.m.]

Continuance of WSR 93-02-039.

Title of Rule: WAC 356-15-060 Shift premium provision and compensation.

Purpose: This rule describes under what circumstances employees would be compensated for shift premium.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-1770; Implementation and Enforcement: Department of Personnel.

Rule is not necessitated by federal law, federal or state court decision.

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on April 8, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by April 6, 1993.

Date of Intended Adoption: April 8, 1993.

February 19, 1993

Marilyn Glenn

Acting Secretary

WSR 93-06-082
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)
 [Filed March 3, 1993, 8:45 a.m.]

Original Notice.

Title of Rule: Chapter 388-60 WAC, Domestic violence perpetrator program standards.

Purpose: To provide standards for batterers' treatment programs to use as a base.

Statutory Authority for Adoption: 1992 HB 1884.

Statute Being Implemented: 1992 HB 1884.

Summary: Provide the knowledge of standards necessary to the programs.

Reasons Supporting Proposal: Outlines standards for programs providing treatment for batterers, provide lists of certified treatment providers to courts who wish to sentence offending batterers to treatment.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barbara Gilbertson, Children's Administration, 586-2380.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on April 27, 1993, at 10:00.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Mailstop 5805, Department of Social and Health Services, Olympia, 98504, FAX 664-0118 or SCAN 366-0118, by April 26, 1993.

Date of Intended Adoption: April 28, 1993.

March 3, 1993

Rosemary Carr

Acting Director

Administrative Services

**Chapter 388-60 WAC
DOMESTIC VIOLENCE PERPETRATOR PRO-
GRAM STANDARDS**

NEW SECTION

WAC 388-60-005 Scope. The scope of this chapter is to establish domestic violence perpetrator program standards. As authorized under ESHB 1884, April 1991 and RCW 26.50.150, programs providing treatment to perpetrators only of domestic violence shall meet this chapter's domestic violence perpetrator program standards that:

- (1) Accept perpetrators of domestic violence into treatment to satisfy court orders; or
- (2) Represent the programs as ones that treat domestic violence perpetrators.

NEW SECTION

WAC 388-60-120 Treatment focus. (1) The program shall focus treatment primarily on ending the physical, sexual, and psychological violence, holding the perpetrator accountable for:

- (a) Such perpetrator's violence; and
 - (b) Changing such perpetrator's behavior.
- (2) The program shall base the perpetrator's treatment on strategies and philosophies which do not blame the victim. The program shall include education about individual, cultural, and family dynamics of domestic violence.

NEW SECTION

WAC 388-60-130 Treatment modality. (1) The domestic violence perpetrator programs shall require participants to participate in weekly group treatment sessions unless there is a documented, clinical reason for another modality. Other therapies may be concomitant with the weekly group treatment sessions described under this chapter, but may not substitute for the domestic violence perpetrator program treatment sessions. The department shall define other examples of therapies as:

- (a) Individual therapy;
- (b) Marital therapy;
- (c) Family therapy;
- (d) Substance abuse evaluations or therapy;
- (e) Medication reviews; or
- (f) Psychiatric interviews.

(2) The foremost goal of a perpetrator's treatment is to increase the victim's safety by changing the perpetrator's abusive behavior. Concomitant marital or family therapy may not be consistent with the goal of victim safety. In such cases, the program should not pursue these concomitant with domestic violence perpetrator treatment.

NEW SECTION

WAC 388-60-140 Program policies and procedures. The program complying with the Washington standards for domestic violence perpetrator programs shall adopt and implement treatment program policies and procedures which address, at a minimum, the following issues:

- (1) Victim safety. The program shall:

(a) Have policies and procedures which adequately assess the safety of the victim of the perpetrator.

(b) Take the following steps to protect the safety of the victim:

(i) Notify the victim of the applicant's acceptance or rejection for treatment services;

(ii) Encourage victims to make plans to protect themselves and their children; and

(iii) Inform victims of the availability of outreach, advocacy, emergency services, and safety planning offered by domestic violence victim programs.

(2) Nondiscrimination. The programs shall not discriminate against any applicant based on:

- (a) Race;
- (b) Age;
- (c) Gender;
- (d) Disability;
- (e) Religion;
- (f) Marital status;
- (g) Political affiliation;
- (h) Educational attainment;
- (i) Socio-economic class;
- (j) Ethnicity;
- (k) National origin; or
- (l) Sexual orientation.

When feasible, the programs shall provide culturally sensitive services. The programs shall review program curricula, publications, and audio-visual materials to ensure adherence to these standards of cultural sensitivity and nondiscrimination.

(3) Screening authority and responsibilities. The programs shall operate within the following scope of authority and responsibility:

(a) Authority to accept or reject all referrals;

(b) Develop and utilize criteria for acceptance or rejection for treatment services; and

(c) Accept responsibility to and shall have authority to impose any conditions on participation in treatment services that the program deems appropriate.

(4) Rights of participants.

(a) The programs shall acknowledge the:

(i) Obligation to provide the highest level of quality service to participants; and

(ii) Rights of participants to be treated with respect and dignity.

(b) Program staff, board, and volunteers shall:

(i) Not engage in, condone, or tolerate acts of sexual harassment or exploitation of employees, student interns, program participants, or battered victims of participants; and

(ii) Establish a climate in all relationships with colleagues and participants based on respect for one another.

(5) Confidentiality.

(a) Right to confidentiality. Programs shall adhere to the standards of confidentiality promulgated in chapter 18.19 RCW for registered counselors. Communications between the participant and the program shall be confidential unless specifically exempted from confidentiality by the participant's release of information or by law.

(b) Waiver of confidentiality—mandatory releases. To facilitate communication necessary for periodic safety checks and case monitoring, the program shall require the perpetrator to sign the following releases:

(i) A release for the program to:

(A) Inform the victim and victim's community advocates and legal advocates that the perpetrator is in treatment with the program; and

(B) Provide information for safety purposes to the victim and the victim's community/legal advocates.

(ii) A release to prior and current treatment agencies to provide information on the perpetrator to the program; and

(iii) A release for the program to provide information on the perpetrator to relevant legal entities including:

(A) Lawyers;

(B) Courts;

(C) Parole;

(D) Probation;

(E) Child protective services; and

(F) Child welfare services.

(iv) A release for the program to notify any person whose safety appears to be at risk for the participant's potential for violence and lethality, including but not limited to:

(A) The victim;

(B) Any children;

(C) Significant others;

(D) Victims advocates; or

(E) Police.

(c) Optional releases. Programs may require a participant to sign a release permitting the program to provide the victim with periodic reports regarding the participant's participation. Programs are not required to obtain this release or to provide this information to victims.

(d) Victim confidentiality. The program shall treat information provided by the victim to the program as confidential unless the victim provides explicit permission for the disclosure of the information. If a new offense has occurred, the victim will be asked to contact the appropriate law enforcement agency and the local domestic violence victim's program.

(e) Confidentiality in group activities. The program counseling and educational groups shall be:

(i) Confidential, except as provided under subsection (5)(b) of this section; and

(ii) Closed to those other than participants, program staff and/or volunteer group leaders, and others specifically invited by the group leaders. Others specifically invited by group leaders may include:

(A) Professionals and those offering interpretation services for the deaf and/or hearing impaired or language translation/interpretation; and

(B) Others bringing specific information critical to the group.

(f) The program shall obtain a written agreement for confidentiality with all participants and invited guests. The confidentiality agreement shall prohibit disclosure of identities of participants or participant-specific information except as specific participants provide written permission for disclosure.

(g) The program shall only audio or video tape group sessions when all participants grant a written consent. The consent form shall detail the specific uses for the tape to which the participant consents. The program shall obtain additional consent statements from each participant to permit use of the tape for other than the purposes specified in the original consent.

(6) Intake/assessment. The program shall conduct an individual, complete, clinical intake/assessment interview of a perpetrator and compile a written document, including, at a minimum:

(a) Current and past violence history;

(b) A complete diagnostic evaluation;

(c) A substance abuse assessment;

(d) History of threats of homicide or suicide;

(e) History of ideation of homicide or suicide;

(f) A lethality risk assessment;

(g) Possession of, access to, or a history of use of weapons;

(h) Degree of obsessiveness and dependency on the perpetrator's victim;

(i) History of episodes of rage;

(j) History of depression and other mental health problems;

(k) History of having sexually abused the battered victim and others;

(l) History of the perpetrator's domestic violence victimization and/or sexual abuse victimization;

(m) Access to the battered victim;

(n) Criminal history;

(o) Assessment of cultural issues;

(p) Assessment of learning disabilities, literacy, and special language needs; and

(q) Review of other diagnostic evaluations of the perpetrator.

(7) Treatment plan.

(a) The program shall base a participant's treatment on the clinical intake/assessment. The program shall develop a treatment plan that adequately and appropriately addresses the needs of the individual participant.

(b) The program shall:

(i) Evaluate whether a participant should be required to engage in drug and alcohol, mental health, or other treatment services while the person is a participant in the program;

(ii) Develop a treatment plan accordingly; and

(iii) Make appropriate referrals outside the agency. If treatment by other providers is contra-indicated, then the program shall determine prioritization of treatment.

(c) Programs shall consider issues relating to the participant's prior victimization in designing the treatment plan.

(i) Programs shall consider the appropriateness of domestic violence victim services for participants who present extensive histories of prior victimization.

(ii) In light of consistent research findings that victims of domestic violence are female in ninety-five percent of domestic violence incidents, the program shall give special consideration to female participants with regard to prior domestic violence victimization.

(8) Contract with program participants. The program shall require a participant to enter into a formal contract for services. The program's contract shall include, at a minimum, the following elements:

(a) Statement of program treatment philosophy consistent with these program standards, including:

(i) No victim blaming;

(ii) Stop all forms of battering;

(iii) Holding the abuser accountable; and

(iv) Primary concern for the safety of victims.

(b) An Agreement to cooperate with program rules;
 (c) An agreement to:
 (A) Stop violent and threatening behaviors;
 (B) Be nonabusive and noncontrolling in relationships;
 (C) Develop and adhere to a responsibility plan;
 (D) Comply with all court orders;
 (E) Cooperate with the rules for group participation; and
 (F) Execute all necessary documents for release of information to battered victims, law enforcement, the courts, probation, and others as appropriate and as described under subsection (5)(b) and (c) of this section.

(d) Attendance policies and consequences of inadequate attendance;

(e) The expectation of active participation, including sharing personal experiences, values, and attitudes, and completing group activities and assignments;

(f) Other program expectations, such as written exams, concurrent treatment requirements, rules regarding possession of weapons, and any other conditions on participation in the program;

(g) Criteria for administrative and contractual discharge and completion of treatment;

(h) The right to confidentiality within the specified limits, and the requirement that participants safeguard the confidentiality of other group members;

(i) Duty of the program to warn and protect victims, law enforcement, and third parties related to any risk of serious harm posed by the participant;

(j) Requirement that the participant:

(i) Provide documents related to prior violence, prior or concurrent treatment services; or

(ii) Execute appropriate releases to authorize document provision by others with whom the participant has had privileged communication.

(k) Fees/methods of payment; and

(l) Drug and alcohol policy, including the requirement that the client attend sessions free of drugs or alcohol.

(9) Program educational curriculum requirements. The program shall identify and utilize an educational curriculum for program participants. The program shall address at least the following topics and issues:

(a) Belief systems which legitimize and sustain violence against women, and/or use of violence or threat of violence to establish power and control over a partner;

(b) Definitions of abuse, battering, and domestic violence as described in the program standards within this chapter;

(c) Accountability of batterers for their actions and the need to avoid victim-blaming;

(d) Forms of abuse including:

(i) Physical;

(ii) Emotional and sexual abuse;

(iii) Economic manipulation or domination;

(iv) Property destruction;

(v) Stalking;

(vi) Terroristic threat; and

(vii) Acts jeopardizing the well-being and safety of battered partners, children, pets, other family members, and friends.

(e) Washington state law and practice regarding domestic violence;

(f) Opportunities for each participant to identify all of their abusive conduct, the pattern of that conduct, and cultural supports which legitimize or excuse that conduct;

(g) Techniques for achieving nonabusive or noncontrolling conduct;

(h) Opportunities to examine values or beliefs which facilitate abuse;

(i) Adverse legal and social consequences for batterers;

(j) Impact of abuse and battering of children and incompatibility of violence and abuse with responsible parenting;

(k) Necessity of meeting financial and legal obligations to family members; and

(l) Opportunity and assistance for a participant to develop a responsibility plan to ensure accountability for the participant's commitment to divest all abusive power and control over the victim.

(10) Minimum treatment period. The program shall:

(a) Define the minimum treatment period as the period of time required for the participant to complete the criteria for completion of treatment defined by the program. The program may not define satisfactory completion of treatment solely as a certain period of time or a certain number of sessions; and

(b) At a minimum, equate the treatment period to twelve or more months of accountability to the program. The program's twelve-month minimum treatment period shall include attendance at a minimum of:

(i) Twenty-six weekly group sessions; and

(ii) Monthly face-to-face contact with the treatment provider for the remaining six-month period.

(11) Satisfactory completion of treatment. The program shall establish written criteria for satisfactory completion of treatment. At a minimum, the program shall include the following criteria for completion of treatment:

(a) Completion of the minimum treatment period requirements;

(b) Attendance at weekly group sessions and all other required treatment periods;

(c) Cooperation with group rules throughout treatment services;

(d) Cessation of violence and threats of violence while a participant in the program;

(e) Cessation of other abusive and controlling conduct while a participant in the program;

(f) Adherence to the participant's responsibility plan;

(g) Compliance with court orders; and

(h) Compliance with other conditions and provisions of the contract for treatment services, such as compliance with substance abuse treatment requirement.

(12) Notification of completion of treatment. The program shall:

(a) Notify the court of completion of treatment by any court-mandated participant;

(b) When feasible, notify the victim of completion of treatment by the participant; and

(c) Specify only that:

(i) The participant has been given a contractual discharge which is based on adequate compliance with the contract and any court order.

(13) Reoffense and noncompliance. The program shall establish and implement written policies regarding conse-

quences for reoffense and noncompliance with program policies.

(14) Termination without completion of treatment.

(a) The program shall develop guidelines for discharge so that:

(i) Discharge decisions are uniform and predictable; and

(ii) Discrimination does not occur against any participant, except as the program is not able to provide adequate treatment services based on the stage of its current development, personnel, or resources, based on:

(A) Race,

(B) Age;

(C) Gender;

(D) Disability;

(E) Religion;

(F) Martial status;

(G) Political affiliation;

(H) Educational attainment;

(I) Socio-economic class;

(J) Ethnicity;

(K) National origin; or

(L) Sexual orientation.

(b) The program shall document, in writing, noncompliance with the program participant contract, with a court order, probation agreement, or group rules.

(c) The program shall determine if termination of a participant's treatment without completion shall be made when the following circumstances occur:

(i) Continued abuse, particularly physical violence;

(ii) Failure to maintain regular attendance;

(iii) Failure to make appropriate use of the treatment program;

(iv) Failure to comply with other treatment conditions or provisions which are part of the participant's contract, such as involvement in a recovery program for drugs and alcohol, failure to continue involvement with mental health treatment;

(v) Failure to pay fees;

(vi) Violation of any of the group rules; and

(vii) Violation of any provisions of a court order.

(d) The program shall use consistent procedures to notify the court of termination without completion of court-mandated clients.

(e) The program shall establish and maintain procedures for notification of victims of termination without completion of treatment.

NEW SECTION

WAC 388-60-150 Treatment staff qualifications. (1) Paid and volunteer treatment staff.

(a) All paid and volunteer staff with direct treatment contact with participants shall be:

(i) Registered as counselors or certified as mental health professionals as required under chapter 18.19 RCW; and

(ii) Free of criminal convictions involving moral turpitude.

(b) Each paid or volunteer staff person, including persons providing supervision, shall have participated in:

(i) A minimum of thirty hours of training in domestic violence from an established domestic violence victim program; and

(ii) A minimum of thirty hours of training from:

(A) An established domestic violence perpetrator treatment services program complying with these program standards; or

(B) Out-of-state domestic violence perpetrator treatment program which would meet these standards.

(c) During the two-year period beginning on the date of adoption of these standards, a program which has not yet completed administrative procedures for certification but which meets those requirements shall be deemed an "established domestic violence perpetrator treatment program complying with these program standards."

(d) Each paid or volunteer staff person providing direct treatment to participants shall have completed a minimum of two hundred fifty hours of a combination of supervised direct treatment contact with perpetrators and domestic violence victim advocacy services. Of the required two hundred fifty hours, a paid or volunteer staff person shall complete a minimum of one hundred twenty-five hours in supervised direct treatment contact with perpetrators.

(e) Each paid or volunteer staff person providing direct treatment to participants shall hold at least a bachelor's degree, or year-for-year experience equivalent to a bachelor's degree.

(2) Trainees. The program shall consider as a trainee a paid or volunteer staff person who has not completed a minimum of two hundred fifty hours of a combination of supervised direct treatment contact with perpetrators and domestic violence victim advocacy services. A trainee may serve as a co-facilitator of groups, but a trainee may not have sole responsibility for facilitation of groups, except in programs in which a qualified supervisor is present on-site, as defined under subsection (3) of this section.

(3) Staff providing supervision of treatment staff.

(a) Each program shall have at least one person providing supervision to paid and volunteer treatment staff who meets all of the following requirements:

(i) Has a minimum of three years of experience working with both perpetrators and victims of domestic violence;

(ii) Has had a minimum of one year of experience in group facilitation;

(iii) Has completed a minimum of five hundred hours of supervised direct treatment contact with perpetrators and domestic violence victim advocacy services. Of the five hundred hours, the person providing supervision shall complete a minimum of two hundred fifty hours in supervised direct treatment contact with perpetrators; and

(iv) Holds at least a master's degree or year-for-year experience equivalent to a master's degree.

(b) Either on-site or off-site supervision may be provided by a person meeting the qualifications required under subsection (3)(a) of this section. The programs shall establish and implement policies, procedures, and supervision schedules ensuring adequate supervision for all treatment staff.

NEW SECTION

WAC 388-60-160 Orientation and continuing professional education requirements. (1) The program shall provide orientation for new paid and volunteer staff to acquaint the staff with the program's philosophy, organization, curriculum, policies, procedures, and goals.

(2) The program shall provide paid and volunteer staff with ongoing training and supervision by a trainer with expertise in domestic violence victim services and perpetrator treatment.

(3) A paid or volunteer staff:

(a) Member having direct treatment contact with participants shall complete a minimum of twenty hours of continuing professional education within each calendar year;

(b) Member's education shall include four or more hours of training per year on issues of sexism, racism, and homophobia, and their relationship to domestic violence;

(c) Member's training in domestic violence, alcohol/drug abuse, mental health, or other issues relating to the treatment of domestic violence perpetrators shall qualify that member's training as continuing professional education; and

(d) Member may obtain continuing professional education through classes, seminars, workshops, video or audio tapes, or other self-study programs.

NEW SECTION

WAC 388-60-170 Cooperation with domestic violence victim programs. The program shall show evidence of establishing and maintaining cooperative relationships with local domestic violence victim programs, including:

(1) Evidence of establishment of referral mechanisms between the domestic violence victim services programs; and

(2) Batterer treatment programs.

NEW SECTION

WAC 388-60-180 Knowledge of law and justice system practices. The program shall show evidence of an understanding of the laws pertaining to domestic violence and the operation of the justice system. At a minimum, programs shall be familiar with:

(1) State laws regulating the response to domestic violence by the criminal justice system;

(2) Relief available to victims of domestic violence afforded by:

(a) Washington domestic violence law and civil protection orders;

(b) Criminal no-contact orders; and

(c) Civil restraining orders.

(3) Local law enforcement, prosecution, and court and probation policies regarding domestic violence cases.

WSR 93-06-083
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
(Hop Commission)
[Filed March 3, 1993, 9:00 a.m.]

Original Notice.

Title of Rule: Amending WAC 16-532-120 Labeling.
Purpose: Require baled hops grown in Washington state to be identified as to variety.

Statutory Authority for Adoption: RCW 15.65.280 and WAC 16-532-020 (10)(k).

Statute Being Implemented: Chapters 15.65 and 34.04 [34.05] RCW.

Summary: Requires baled hops grown in Washington state to be identified as to variety.

Reasons Supporting Proposal: Identifies variety in baled hops.

Name of Agency Personnel Responsible for Drafting: Ann George, Washington Hop Commission, 504 North Naches, Yakima, (509) 453-4749; Implementation and Enforcement: Washington Hop Commission, 504 North Naches, Yakima, (509) 453-4749.

Name of Proponent: Washington Hop Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Adds variety labeling to bales of hops.

Proposal Changes the Following Existing Rules: Adds variety labeling requirements.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: 504 North Naches Avenue, Suite 9, Yakima, WA, on April 6, 1993, at 9:00 a.m.

Submit Written Comments to: Washington Hop Commission, 504 North Naches, Suite 5, Yakima, WA 98901, by April 6, 1993.

Date of Intended Adoption: April 6, 1993.

March 2, 1993

Mary A. Martin Toohey
Assistant Director

AMENDATORY SECTION (Amending Resolution No. 88-01, filed 6/10/88)

WAC 16-532-120 Labeling. (1) Each lot of hops must be identified by the crop year produced, grower number and lot designation, and variety stenciled on each bale.

(a) A three-digit grower number will be assigned by the Washington hop commodity board (commission) prior to the annual harvest.

(b) The first marking will consist of the last digit of the crop year, the letter "G" and a hyphen, followed by the three-digit grower number and lot designation (example: 8G-000-01).

(c) The first marking shall be affixed on the head or top of the bale and shall be in characters approximately two inches high.

(d) The second marking will consist of the hop variety, utilizing the following abbreviations:

- AQ - Aquila
- BA - Banner
- BG - Brewer's Gold
- CA - Cascade
- CN - Centennial
- CH - Chinook
- CL - Cluster
- ER - Eroica

EX - Experimental
FU - Fuggle
GA - Galena
HA - Hallertauer
HE - Hersbrucker
MH - Mt. Hood
LI - Liberty
NB - Northern Brewer
NU - Nugget
OL - Olympic
OT - Other
SA - Saaz
SP - Spalter
PE - Perle
TE - Tettnanger
WI - Willamette

(e) The second marking shall be affixed immediately below the first marking on the head or top of the bale, and shall be in characters approximately two inches high.

(2) In addition to any other brands, labels, stencils or other marks customarily used by hop handlers to identify their own trademarks, labels or firm names, all baled hops shall be branded, labeled, stenciled or marked with one distinctive identifying marking, defined or designated by the hop commodity board (commission), which shall identify the hops as having been grown in the state of Washington.

(a) This mark or identification shall be stenciled in letters at least one inch in height and shall read: "WASHINGTON," or "GROWN IN WASHINGTON," as prescribed by the hop commodity board (commission).

(b) This mark or identification shall be affixed in a suitable position on the head or top of the bale, in the area generally used by the federal/state inspectors to stencil their own identification mark and in the same general area where the grower's "G" number (~~is~~) and variety identification are applied.

(c) At no time shall the said identification marking appear on the face or sides of the bales, as these areas are considered to be for the use of the dealer or handler for trademarks, shipping markings, bale numbers, firm insignias, etc.

(d) The approved identification marking shall be affixed by the federal/state inspector prior to the drawing of samples for federal/state inspection, and, no hops may be sampled for this purpose unless said markings have been affixed thereto in compliance with the regulations prescribed by the hop commodity board (commission).

(e) Handlers who offer hops for sale in foreign countries where only shipping markings are permitted on the bales or containers, may apply to the hop commodity board (commission) for permission to blot out or remove the identifying marking.

WSR 93-06-086
PROPOSED RULES
OFFICE OF MARINE SAFETY
 [Filed March 3, 1993, 10:44 a.m.]

Original Notice.

Title of Rule: Chapter 317-01 WAC, General information.

Purpose: To describe general information about the Office of Marine Safety.

Statutory Authority for Adoption: Chapter 88.46 RCW.
 Statute Being Implemented: Chapter 88.46 RCW.

Summary: The proposed rule provides a general description of the Office of Marine Safety.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joel Greene, 711 State Avenue N.E., Olympia, 664-9110.

Name of Proponent: Office of Marine Safety, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule describes the Office of Marine Safety and identifies its mailing address and office location.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Office of Marine Safety Conference Room, 711 State Avenue N.E., 2nd Floor, Marina View Building, Olympia, WA, on April 8, 1993, at 4:00 p.m.

Submit Written Comments to: Geri Nelson, P.O. Box 42407, Olympia, WA 98504-2407, by April 7, 1993.

Date of Intended Adoption: April 13, 1993.

February 24, 1993

Barbara Herman
 Administrator

Chapter 317-01 WAC
GENERAL INFORMATION

NEW SECTION

WAC 317-01-010 Description. The office of marine safety was established by the legislature in 1991 to promote marine safety and to protect this state's natural resources.

NEW SECTION

WAC 317-01-020 Address of office. Persons wishing to obtain information or to make submissions or requests of any kind shall address their correspondence to:

Office of Marine Safety
 P.O. Box 42407
 Olympia, WA 98504-2407

NEW SECTION

WAC 317-01-030 Location of office. Persons wishing to come to the office may come to:

Office of Marine Safety
 Marina View Building
 711 State Avenue NE, 2nd Floor
 Olympia, WA 98506

WSR 93-06-087
PROPOSED RULES
OFFICE OF MARINE SAFETY
[Filed March 3, 1993, 10:46 a.m.]

Original Notice.

Title of Rule: Chapter 317-02 WAC, Public access to information and records.

Purpose: To ensure compliance by the Office of Marine Safety with the provisions of RCW 42.17.250 - 42.17.340.

Statutory Authority for Adoption: RCW 42.17.250-[42.17.]340.

Statute Being Implemented: RCW 42.17.250-[42.17.]340.

Summary: The proposed rule establishes the procedure to assure public access to information and records of the Office of Marine Safety.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joel Greene, 711 State Avenue N.E., Olympia, 664-9110.

Name of Proponent: Office of Marine Safety, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule ensures that the office is in compliance with public records legislation and describes the process to assure public access to records and information.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Office of Marine Safety Conference Room, 711 State Avenue N.E., 2nd Floor, Olympia, WA, on April 8, 1993, at 4:00 p.m.

Submit Written Comments to: Geri Nelson, P.O. Box 42407, Olympia, WA 98504-2407, by April 7, 1993.

Date of Intended Adoption: April 13, 1993.

February 24, 1993
Barbara Herman
Administrator

Chapter 317-02 WAC
PUBLIC ACCESS TO INFORMATION AND RE-
CORDS

NEW SECTION

WAC 317-02-010 Public records. The purpose of this chapter shall be to ensure compliance by the office of marine safety with the provisions of RCW 42.17.250 through 42.17.340 dealing with public records.

NEW SECTION

WAC 317-02-020 Definitions. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of fiscal form or characteristic.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording sounds, or symbols, or combination thereof, and

all papers, maps, magnetic or paper tapes, photographic films, magnetic punchcards, discs, drums, and other documents.

(3) "Office" means the office of marine safety.

NEW SECTION

WAC 317-02-030 Public records available. All records of the office of marine safety as defined in WAC 317-02-020 are deemed available for public inspection and copying pursuant to these rules, except as provided in WAC 317-02-080.

NEW SECTION

WAC 317-02-040 Public records officer. The office of marine safety public records officer shall be The person so designated shall be officed in the Marina View Building, 711 State Avenue NE, 2nd Floor, Olympia, Washington. The public records officer shall be responsible for implementation of the office's rules and regulations regarding release of public records, coordinating staff efforts of the office in this regard and generally ensuring compliance of the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

NEW SECTION

WAC 317-02-050 Requests for public records. Subject to the provisions of subsection (3) of this section, public records are obtainable by members of the public when those members of the public comply with the following procedures.

(1) A request shall be addressed to the public records officer. Such request shall include the following:

(a) The name of the person requesting the record.

(b) The time of day and calendar date on which the request was made.

(c) If the matter requested is referenced within the current index maintained by the office, a reference to the requested record as it is described in such current index.

(d) If the requested matter is not identifiable by reference to the office's current index, a statement that identifies the specific record requested.

(e) A verification that the records requested shall not be used to compile a commercial sales list.

(2) The public records officer shall inform the member of the public making the request whether the requested record is available for inspection and copying at Olympia, Washington.

(3) When it appears that a request for records is made by or on behalf of a party to a lawsuit or a controversy to which the office is also a party (or when such a request is made by or on behalf of an attorney for such a party) the request shall be referred to the assistant attorney general assigned to the office for appropriate response.

NEW SECTION

WAC 317-02-060 Availability for public inspection and copying of public records—Office hours. Public records shall be available for inspection and copying during the normal business hours of the office of marine safety. For the purposes of this chapter, the normal office hours

shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

NEW SECTION

WAC 317-02-070 Inspection and copying cost. (1) No fee shall be charged for inspection of public records.

(2) The office of marine safety shall impose a reasonable charge for providing copies of public records and for the use by any person of office equipment to copy records; such charges shall not exceed the amount necessary to reimburse the office for its actual costs incident to such copying. Actual costs shall include the labor costs of staff, machine cost, and paper cost necessary to provide copies of requested records.

(3) Copying of public documents will normally be done by the office of marine safety personnel.

(4) No document shall be physically removed by a member of the public from the area designated by the office of marine safety for the public inspection of documents for any reason whatsoever.

(5) When a member of the public requests to examine an entire file or group of documents, as distinguished from a request to examine certain individual documents which can be identified and supplied by themselves, the office of marine safety shall be allowed a reasonable time to inspect the file to determine whether information protected from disclosure by section 31, chapter 1, Laws of 1973, as amended, is contained therein, and the office shall not be deemed in violation of its obligation to reply promptly to requests for public documents by reason of causing such an inspection to be performed.

NEW SECTION

WAC 317-02-080 Exempted records. In accordance with RCW 42.17.310, the following personal and other records shall be exempt from public inspection and copying:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.

(2) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(3) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(4) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(5) Information revealing the identity of persons who file complaints with investigative law enforcement or penology agencies, except as the complainant may authorize.

(6) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(7) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(8) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(9) Preliminary drafts, notes, recommendations, and intra-office memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(10) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(11) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(12) The residential addresses and residential telephone numbers of the employees or volunteers of a public agency which are held by the office in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(13) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(14) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(15) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for:

(a) A ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750; or

(b) Highway construction or improvement as required by RCW 47.28.070.

(16) The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily unidentifiable person or persons.

NEW SECTION

WAC 317-02-090 Denial of request. Each denial of a request for a public record shall be accompanied by a written statement to the person requesting the record clearly specifying the reasons for denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. Such statement shall be sufficiently clear and complete to permit the director or his or her

designee to review the denial in accordance with WAC 317-01-100.

NEW SECTION

WAC 317-02-100 Review of denials of public record requests. (1) Any person who objects to the denial of a request for a public record may petition the public records officer for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) After receiving a written request for review of a decision denying a public record, if the public records officer determines to affirm the denial, then the written request shall immediately be referred to the assistant attorney general assigned to the office. The assistant attorney general shall promptly consider the matter and either affirm or reverse such denial.

(3) Administrative remedies shall not be considered exhausted until the public records officer has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever first occurs.

NEW SECTION

WAC 317-02-110 Records index. (1) The office shall make available to all persons at its offices in Olympia, a current index which provides identifying information as to the following records issued, adopted, or promulgated by the office:

(a) Those statements of policy and interpretations of policy, statute, and the constitution which have been adopted by the office;

(b) Administrative staff manuals and instructions to staff that affect a member of the public;

(c) Planning policies and goals, and interim and final planning decisions;

(d) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others.

(2) A system of indexing for identification and location of the following records is hereby established by the office:

(a) Final orders entered after June 30, 1990, issued in adjudicative proceedings as defined in RCW 34.05.010(1) that contain an analysis or decision of substantial importance to the office in carrying out its duties.

(b) Declaratory orders entered after June 10, 1990, that contain an analysis or decision of substantial importance to the office in carrying out its duties.

(c) Interpretive statements as defined in RCW 34.05.010(8).

(d) Policy statements entered after June 30, 1990, as defined in RCW 34.05.010(14).

(3) A system of indexing shall be as follows:

(a) The indexing system will be administered by the office's rules coordinator and located in the Marina View Building, Olympia, Washington.

(b) Copies of all indexes shall be available for public inspection and copying in the manner provided for the inspection and copying of public records.

(c) The rules coordinator shall establish and maintain a separate index for each item contained in subsection (2)(a) through (d) of this section as follows:

(i) The index shall list all final orders and declaratory orders selected by the office that contain decisions of substantial importance to the office which orders shall be listed alphabetically by the titles of the hearing or controversy and shall contain a phrase describing the issue or issues and relevant citations of law.

(ii) Interpretive statements and policy statements shall be indexed by the applicable program administered by the office.

(d) The rules coordinator shall update all indexes at least once a year and shall revise such indexes when deemed necessary by the office.

NEW SECTION

WAC 317-02-120 Availability. The current index promulgated by the office shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

WSR 93-06-088

PROPOSED RULES

OFFICE OF MARINE SAFETY

[Filed March 3, 1993, 10:49 a.m.]

Original Notice.

Title of Rule: Chapter 317-03 WAC, Regional marine safety committees.

Purpose: To establish guidelines and procedures for the regional marine safety committees.

Statutory Authority for Adoption: RCW 88.46.110.

Statute Being Implemented: RCW 88.46.110.

Summary: The proposed rule establishes guidelines and procedures for the regional marine safety committees.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nina Carter, 711 State Avenue N.E., Olympia, 664-9110.

Name of Proponent: Office of Marine Safety, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule establishes guidelines and procedures for four regional marine safety committees, including their boundaries, the necessity of a written plan, and the elements of that plan.

Proposal does not change existing rules.

No Small Business Economic Impact Statement Required by Chapter 19.85 RCW.

Hearing Location: Office of Marine Safety Conference Room, 711 State Avenue N.E., 2nd Floor, Marina View Building, Olympia, WA 98501, on April 8, 1993, at 4:00 p.m.

Submit Written Comments to: Geri Nelson, P.O. Box 42407, Olympia, WA 98504-2407, by April 7, 1993.

Date of Intended Adoption: April 13, 1993.

February 24, 1993

Barbara Herman
Administrator

**Chapter 317-03 WAC
REGIONAL MARINE SAFETY COMMITTEES**

NEW SECTION

WAC 317-03-010 Regional marine safety committees. (1) There are hereby established four regional marine safety committees:

(a) Strait of Juan de Fuca/northern Puget Sound which includes all waters north of Tatoosh Island located at 48 degrees 23' north, and all waters in the Strait of Juan de Fuca from Tatoosh Island easterly to Pt. Partridge located at the entrance to Admiralty Inlet including Sequim Bay and Discovery Bay, and southerly through Admiralty Inlet to a line bearing due west true from Double Bluff Light to Olele Pt., and all Washington state waters to the north of Pt. Partridge including the eastern part of the Strait of Juan de Fuca and all state waters of the San Juan Islands including Haro Straits, Boundary Pass, Rosario Straits, Fidalgo Bay, Padilla Bay, Samish Bay, Bellingham Bay, Hale Pass, and Lummi Bay along with Washington state waters in the Straits of Georgia up to the International Border line between Canada and the United States at 49 degrees north latitude including Birch Bay, Semiahmoo Bay, and Drayton Harbor.

(b) Southern Puget Sound which includes all state waters south of a line drawn due west true from Double Bluff Light to Olele Pt., and all state waters inside of the entrance to Deception Pass located on the northwest tip of Whidbey Island at latitude 48 degrees 24' north longitude 122 degrees 40' west including Similk Bay and from the North entrance of the Swinomish Channel at the Highway Bridge south through Skagit Bay including Crescent Harbor and Penn Cove down through Saratoga Passage into Possession Sound to Possession Pt. including Port Susan and Everett Harbor.

(c) Grays Harbor/Pacific Coast which includes all coastal waters including all bays, harbors, and rivers navigable by seagoing vessels west of the northern extremity of Tatoosh Island at latitude 48 degrees 23' north and running southeasterly to the southern extremity of Cape Disappointment at latitude 46 degrees 16' north.

(d) Columbia River which includes all state navigable waters east of the Columbia River Demarcation Line. The Demarcation Line is a line drawn from the seaward extremity of the Columbia River North Jetty (above water) 155 true to the seaward extremity of the Columbia River South Jetty (above water). The eastern boundary shall extend upstream on the main tributary of the Columbia to the cities of Pasco, Kennewick, and Richland located in Washington, including the Port of Benton port facilities, inclusive of the north and south contiguous banks of Washington and Oregon respectively of the Columbia River (bank to bank). This boundary is inclusive of the Willamette River from the mouth of the Oregon City Falls but exclusive of the Snake River. This is a joint committee with the state of Oregon.

(2) Each committee shall be comprised of six persons appointed by the administrator for a term of three years. The Columbia River committee will be appointed jointly with the state of Oregon.

(3) Each committee shall be responsible for planning for the safe navigation and operation of tankers, barges, and other vessels within each region.

(4) The administrator or his or her designee shall chair each of the regional committees.

NEW SECTION

WAC 317-03-020 Regional marine safety plans. (1) Each committee shall prepare a regional marine safety plan encompassing all vessel traffic within the region. The plans shall consider:

(a) Requirements for tug escorts and speed limits for tankers and other commercial vessels;

(b) A review and evaluation of the adequacy of and any change in:

(i) Anchorage designations and sounding checks;

(ii) Communications systems;

(iii) Commercial and recreational fishing, recreational boaters, and other small vessel congestion in shipping lanes; and

(iv) Placement and effectiveness of navigational aids, channel design plans, and traffic routings from port construction and dredging projects;

(c) Procedures for routing vessels during emergencies that impact navigation;

(d) Management requirements for vessel control bridges;

(e) Special protection for environmentally sensitive areas;

(f) Suggested mechanisms to ensure that the provisions of the plan are fully and regularly enforced; and

(g) A recommendation as to whether establishing or expanding vessel traffic safety systems within the regions is desirable.

(2) Each regional marine safety plan shall be submitted to the office for approval within one year after the regional marine safety committee is established.

(3) The office shall review the plans for consistency with the rules and guidelines and shall approve the plans or give reasons for their disapproval.

(4) Upon approval of a plan, the office shall implement those elements of the plan over which the state has authority. If federal authority or action is required, the office shall petition the appropriate agency or congress.

(5) The Coast Guard, the Federal Environmental Protection Agency, the Army Corps of Engineers, and the Navy shall be invited to attend the meetings of each regional marine safety committee.

(6) Each committee shall establish subcommittees to involve all interested parties in the development of the plans.

(7) The plan of each committee, when submitted to the administrator, shall include a summary of public comments as well as any minority reports and recommendations.

(8) Not later than July 1st of each even-numbered year, each regional marine safety committee shall report its findings and recommendations to both the marine oversight board established in RCW 90.56.450 and the office concerning vessel traffic safety in its region and any recommenda-

tions for improving tanker, barge, and other vessel safety in the region by amending the regional marine safety plan. The regional committees shall also provide technical assistance to the marine oversight board.

(9) The regional safety committees shall recommend to the office the need for, and the structure and design of, an emergency response system for the Strait of Juan de Fuca and the Pacific Coast.

(10) The regional marine safety committees shall study federal requirements for tow equipment for barges carrying oil in bulk. The committees shall review standards for: Wire rope specifications, catenary, the design of related on-board equipment, number of cables, back-up or barge retrieval systems in case of cable break, and the operation, maintenance, and inspection of cables and other tow equipment. The committees shall submit their report to the office within one year after the committees are established.

NEW SECTION

WAC 317-03-030 Elements of the plan. Each regional safety plan will consider all of the following:

- (1) Requirements for tug escorts for tankers;
- (2) Requirements for tug escorts for other commercial vessels;
- (3) Requirements for speed limits for tankers;
- (4) Requirements for speed limits for other commercial vessels;
- (5) Anchorage designations and sounding checks;
- (6) Communication systems;
- (7) Commercial and recreational fishing, recreational boaters, and other small vessel congestion in shipping lanes;
- (8) Placement and effectiveness of navigational aids;
- (9) Channel design plans;
- (10) Traffic routings from port construction and dredging projects;
- (11) Procedures for routing vessels during emergencies that impact navigation;
- (12) Management requirements for vessel control bridges;
- (13) Special protection for environmentally sensitive areas;
- (14) Enforcement mechanisms;
- (15) Adequacy of vessel traffic systems;
- (16) Review the need for and structure and design of an emergency response system for the Strait of Juan de Fuca and the Pacific Coast; and
- (17) Study federal requirements for tow equipment for barges carrying oil in bulk.

WSR 93-06-089
PROPOSED RULES
OFFICE OF MARINE SAFETY
 [Filed March 3, 1993, 10:52 a.m.]

Original Notice.

Title of Rule: WAC 317-10-060 Plan submittal.

Purpose: To provide guidelines for protecting information provided in an oil spill contingency plan from public disclosure.

Statutory Authority for Adoption: Chapter 88.46 RCW.

Statute Being Implemented: Chapter 88.46 RCW.

Summary: Owner/operator or plan submitter may request oil spill contingency plan information be withheld from public disclosure through a letter to the administrator. Holds owner/operator or plan submitter responsible for costs in any actions brought under chapter 42.17 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Sutherland, 711 State Avenue N.E., Olympia, 664-9110.

Name of Proponent: Office of Marine Safety, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule change provides clear guidelines to those who are required to submit vessel oil spill contingency plans regarding the protection of information from public disclosure. The proposed language clarifies the existing language and eliminates an erroneous citing. The new language will streamline the process and ensure the state is not held liable.

Proposal Changes the Following Existing Rules: It expands and clarifies existing language and removes an erroneous citing.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Office of Marine Safety Conference Room, 711 State Avenue N.E., 2nd Floor, Marina View Building, Olympia, WA, on April 8, 1993, at 4:00 p.m.

Submit Written Comments to: Geri Nelson, P.O. Box 42407, Olympia, WA 98504-2407, by April 7, 1993.

Date of Intended Adoption: April 13, 1993.

February 24, 1993
 Barbara Herman
 Administrator

AMENDATORY SECTION (Amending WSR 91-22-086, filed 11/5/91, effective 1/1/92)

WAC 317-10-060 Plan submittal. (1)(a) Plans for tank vessels of three thousand gross tons or more shall be submitted to the office within six months after adoption of this chapter.

(b) All other covered vessels shall submit plans to the office within eighteen months after adoption of this chapter.

(2)(a) Any covered vessel that first begins operating after the adoption of this chapter shall submit a plan to the office at least sixty-five calendar days prior to the beginning of operations in Washington waters, with the exception of covered vessels which fall under the jurisdiction of the Washington maritime commission pursuant to chapter 88.44 RCW, as amended by sections 901 through 907, chapter 200, Laws of 1991.

(b) Covered vessels which fall under the jurisdiction of the Washington maritime commission pursuant to chapter 88.44 RCW, as amended by sections 901 through 907, chapter 200, Laws of 1991, shall be incorporated into the maritime commission contingency plan pursuant to WAC 317-10-080.

(3) Three copies of the plan and appendices shall be delivered to:

Contingency Plan Review
Washington Office of Marine Safety
P.O. Box 42407
Olympia, WA 98504-2407

WSR 93-06-090
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Chiropractic Examiners)
[Filed March 3, 1993, 10:57 a.m.]

(4)(a) Tank vessel plans may be submitted by:

(i) The tank vessel owner or operator;

(ii) The owner or operator of a facility where the tank vessel unloads cargo, in conformance with requirements under WAC 317-10-050(1); or

(iii) A primary response contractor approved by the office pursuant to WAC 317-10-090, in conformance with requirements under WAC 317-10-050(1).

(b) Cargo and passenger vessel plans may be submitted by:

(i) The vessel owner or operator;

(ii) The agent for the vessel, in conformance with requirements under WAC 317-10-050(1); or

(iii) A response contractor approved by the office pursuant to WAC 317-10-090, in conformance with requirements under WAC 317-10-050(1).

(c) Plans for covered vessels which fall under the jurisdiction of the Washington maritime commission pursuant to chapter 88.44 RCW, as amended by sections 901 through 907, chapter 200, Laws of 1991, may be submitted by the Washington maritime commission, in conformance with requirements under WAC 317-10-050(1).

(5) A single plan may be submitted for multiple vessels of the same vessel type, provided that the plan contents meet the requirements in this chapter for each vessel listed.

~~(6) ((The plan submitter may request that proprietary information be kept confidential under RCW 43.21B.160.))~~
An owner, operator, or plan submitter may request information contained in an oil spill contingency plan be protected from public disclosure. The request must be made in a letter to the administrator and signed by the owner, operator, or plan submitter making the request. The information to be protected must be identified clearly by plan section, page number, paragraph, and, if possible, sentence. In addition to identifying the information to be protected, the request must also identify the legal basis justifying that request.

(7) The owner, operator, or plan submitter is solely responsible for all costs incurred, including reasonable attorney fees, in defending any action for public disclosure brought under chapter 42.17 RCW. In addition, the owner, operator, or plan submitter may bring an injunctive action pursuant to RCW 42.17.350.

(8) If the office receives a request for public disclosure of information that an owner, operator, or plan submitter has requested protection, the office will:

(a) Notify the owner, operator, or plan submitter when a request is made;

(b) Notify the owner, operator, or plan submitter of any proceedings initiated to compel disclosure; and

(c) Withhold the information until released by the owner, operator, or plan submitter or until a court order requires disclosure.

Original Notice.

Title of Rule: WAC 246-806-090 Board approved continuing education, 246-806-100 Prior approval not required, 246-806-110 License renewal—Affidavit of compliance with continuing education requirements, 246-806-130 Lapsed and inactive licensees—Requirements for reinstating or activating a license, 246-806-140 AIDS prevention and information education requirements, 246-806-160 Temporary permits—Issuance and duration and 246-806-190 Registration of chiropractic x-ray technicians; and repealing WAC 246-806-150 Temporary permits—Recognized jurisdictions.

Purpose: To amend the WACs relating to continuing education; basic housekeeping changes and repealing the WAC for recognized jurisdictions for temporary permits.

Statutory Authority for Adoption: RCW 18.25.017.

Statute Being Implemented: RCW 18.25.020.

Summary: WAC 246-806-090, the board wants to amend the list of approved continuing education subjects; WAC 246-806-100, amend the reference to the old WAC number and replace with the new WAC number; WAC 246-806-110, amend the reference to the old WAC number and replace with the new WAC number; WAC 246-806-140, amend the section which applies to the licensee being required to submit evidence of AIDS training with their renewal; WAC 246-806-160, amend the expiration period of the temporary permit; WAC 246-806-190, delete the grandfather provision for chiropractic x-ray technicians; and WAC 246-806-150, repeal.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Vicki Brown, 1300 S.E. Quince Street, Olympia, 586-8437.

Name of Proponent: Board of Chiropractic Examiners, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: To amend the rules regarding board approved continuing education; housekeeping changes to the WACs referred to in the rules; amending the AIDS requirement for renewal of license; amending the length of time for temporary permits; amending the grandfather provision for chiropractic x-ray technicians and repealing the temporary permits—recognized jurisdictions.

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

No small business economic impact statement required by chapter 19.85 RCW.

Hearing Location: West Coast SeaTac Hotel, 18220 Pacific Highway South, Seattle, WA 98188, on April 8, 1992 [1993], at 1:00 p.m.

Submit Written Comments to: Vicki Brown, P.O. Box 47868, Olympia, WA 98504-7868, by April 6, 1993.

Date of Intended Adoption: April 8, 1993.

February 17, 1993

Vicki Brown

Program Manager

AMENDATORY SECTION (Amending Order 297B, filed 8/11/92, effective 9/11/92)

WAC 246-806-090 Board approved continuing education. (1) Licensed chiropractors will be responsible for obtaining 25 hours of board approved continuing education over the preceding year to be submitted with annual renewal of their license.

(2) The board approves ~~((the following subject material for continuing chiropractic education credit))~~ any educational symposium conducted by the Washington State Chiropractic Association's professional development committee in the following subjects:

- (a) Diagnosis and treatment of the ((spine)) spinal column or immediate articulations ((within the scope of practice));
- (b) ~~((X-ray/))~~ Diagnostic imaging;
- (c) Adjustive techniques of the musculoskeletal system;
- (d) Detection of ((#)) subluxations;
- (e) ~~((Physical examination))~~ Any clinical science relating to health and disease;
- (f) ~~((Hygiene))~~ Patient management;
- (g) ~~((Symptomatology))~~ Impairment within the scope of Washington scope of practice;
- (h) ~~((Neurology))~~ CPR once every three years;
- (i) ~~((Spinal pathology))~~ Dietary advice as it relates to the general health;
- (j) ~~((Spinal orthopedies))~~ Chiropractic philosophy;
- (k) ~~((Patient/case management;))~~ Ethics and jurisprudence; and
- (l) ~~((Impairment within the scope of practice; ((m)) CPR once every three years; ((n)) Dietary advice; and ((o)) Chiropractic philosophy))~~ HIV and/or AIDS information.

(3) The Washington State Chiropractor Association will provide documentation of attendance by participants of a WSCA sponsored program. Non-WSCA program providers must provide documentation of attendance to the participants.

(4) Subjects ((matter)) not approved for continuing education credit:

- (a) Business management;
- (b) ~~((Subject matter not directly relating to the chiropractic clinical scope of))~~ Practice building portions of practice building seminars that directly satisfy approved subjects will be accepted towards continuing education; and
- (c) ~~((Practice building; and; ((d)) Conduct))~~ Scope prohibited by Washington state statutes or rules governing chiropractic practice.

~~((4))~~ (5) A formal video continuing education program that meets the requirements of this section is acceptable provided that the video viewing is accompanied by a moderator and/or a panel knowledgeable in the video contents to comment thereon and answer questions or conduct discussions.

~~((5))~~ The individual or organization responsible for a continuing education presentation must provide documentation of attendance to the participants.

(6) Credit for hours of continuing education in a board approved continuing education program can be counted only once per year toward the annual continuing education requirement regardless of the number of times that program

~~is attended. Licensed chiropractors serving as teachers or lecturers in board approved continuing education programs receive credit on the same basis as the doctors attending the program.))~~

AMENDATORY SECTION (Amending Order 111B, filed 2/12/91, effective 3/15/91)

WAC 246-806-100 Prior approval not required. (1) It will be unnecessary for a chiropractor to inquire into the prior approval of any continuing chiropractic education. The board will accept any continuing chiropractic education that falls within these regulations and relies upon each individual chiropractor's integrity in complying with this requirement.

(2) Continuing chiropractic education program sponsors need not apply for nor expect to receive prior board approval for a formal continuing chiropractic education program. The number of creditable hours may be determined by counting the contact hours of instruction and rounding to the nearest quarter hour. The board relies upon the integrity of program sponsors to present continuing chiropractic education that constitutes a meritorious learning experience and complies with RCW 18.25.070.

(3) The board will conduct a random compliance audit of renewal applicants. If the board determines that the applicant has not obtained continuing chiropractic education that falls within the subject matter defined in WAC ~~((14-12-155))~~ 246-806-090 and the guidelines for symposium approval in WAC ~~((14-12-155))~~ 246-806-090, then the application for renewal will be denied.

AMENDATORY SECTION (Amending Order 111B, filed 2/12/91, effective 3/15/91)

WAC 246-806-110 License renewal—Affidavit of compliance with continuing education requirements. (1) In conjunction with his or her annual application for renewal of license, a licensee shall submit, on a form provided by the board, an affidavit of compliance with the continuing education requirement of RCW 18.25.070.

(2) In addition to the affidavit of compliance, the licensee shall submit such further and other evidence and documentation to substantiate the affidavit of compliance as the board may request in any individual case and which shall include a certificate of attendance and a brochure or syllabus for each course attended. It shall be the responsibility of the licensee to maintain and provide such evidence and/or documentation on request of the board.

(3) The board will conduct a random compliance audit of renewal applicants. If the board determines that the applicant has not obtained continuing chiropractic education that falls within the subject matter defined in WAC ~~((14-12-155))~~ 246-806-090 then the application for renewal will be subject to denial.

AMENDATORY SECTION (Amending Order 111B, filed 2/12/91, effective 3/15/91)

WAC 246-806-130 Lapsed and inactive licenses—Requirements for reinstating or activating a license. (1) A licensee who allows his or her license to lapse for more than three years must: Pay all back renewal fees plus penalty fee and submit proof of continuing education courses

during the time the license was lapsed. If the licensee cannot submit proof of continuing education courses during the time the license was lapsed he/she will be required to be reexamined as provided for in RCW 18.25.040.

(2) A licensee who has placed his/her license on inactive status and now requests to activate the license shall submit to the board, in writing, a request to activate his/her license from inactive status. Provided, that a licensee who's [whose] license has been inactive for more than three years may be reexamined as provided for in RCW 18.25.040 at the board's discretion. The request to activate a license must include the following:

(a) An applicable fee, per WAC ~~((114-12-136))~~ 246-806-990.

(b) Updated chronology from date license was placed into inactive status.

(c) Proof of four hours of AIDS education as defined in WAC ~~((114-12-200))~~ 246-806-140.

(d) Documentation of any continuing education courses taken during the time his/her license was inactive.

AMENDATORY SECTION (Amending Order 111B, filed 2/12/91, effective 3/15/91)

WAC 246-806-140 AIDS prevention and information education requirements. (1) Definitions.

(a) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(b) "Office on AIDS" means that section within the department of social and health services or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.

(2) Application for licensure. Effective January 1, 1989, persons applying for licensure shall submit, in addition to the other requirements, evidence to show compliance with the educational requirements of subsection ~~((4) or shall certify that the required education will be obtained prior to the applicant's first license renewal))~~ (3) of this section.

(3) ~~((Renewal of licenses. Effective for the renewal period beginning June 1, 1989 through May 31, 1990 all persons making application for licensure renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (4).~~

~~(4))~~ AIDS education and training.

(a) Acceptable education and training. The board will accept education and training that is consistent with the model curriculum available from the office on AIDS. Such education and training shall be a minimum of four clock hours and may include, but is not limited to, the following: Etiology and epidemiology; testing and counseling; infection control guidelines; clinical manifestations and treatment; legal and ethical issues to include confidentiality; and psychosocial issues to include special population considerations. Education may be obtained by formal lecture, video program or home study programs.

(b) Implementation. Effective June 1, 1989, the requirement for licensure, renewal, or reinstatement of any license on lapsed, inactive, or disciplinary status shall include completion of AIDS education and training. All persons affected by this section shall show evidence of

completion of an education and training program, which meets the requirements of ~~((subsection))~~ (a) of this subsection.

(c) Documentation. The licensee shall:

(i) Certify, on forms provided, that the minimum education and training has been completed after January 1, 1987;

(ii) Keep records for two years documenting compliance and description of the education;

(iii) Be prepared to validate, through submission of these records, that the required education has been obtained.

AMENDATORY SECTION (Amending Order 229B, filed 12/23/91, effective 1/23/92)

WAC 246-806-160 Temporary permits—Issuance and duration. (1) An applicant may request a temporary practice permit by submitting to the board:

(a) A completed application on forms provided by the department with the request for a temporary practice permit indicated;

(b) An application fee and a temporary practice permit fee as specified in WAC 246-806-990; and

(c) Written verification directly from all states in which the applicant ~~((is or was licensed))~~ has a license, attesting that the applicant has ~~((or had))~~ a license in good standing and is not subject to charges or disciplinary action for unprofessional conduct or impairment.

(2) The board shall issue a one-time-only temporary practice permit unless the board determines a basis for denial of the license or issuance of a conditional license.

(3) The temporary permit shall expire ~~((upon the issuance of a license by the board, initiation of an investigation of the applicant by the board, or seven months, whichever occurs first.~~

~~(4) An applicant who receives a temporary practice permit and does not complete the application process shall not be issued another temporary practice permit, even upon submission of a new application in the future))~~ immediately upon:

(a) The issuance of a license by the board;

(b) Initiation of an investigation of the applicant by the board;

(c) Failure to pass the examinations given by the board;

or
(d) Three months, whichever occurs first.

An applicant who has failed the examination, must apply for and take the next examination for which he/she is eligible.

AMENDATORY SECTION (Amending Order 229B, filed 12/23/91, effective 1/23/92)

WAC 246-806-190 Registration of chiropractic x-ray technicians. (1) Chiropractic doctors shall employ only board registered technicians to operate x-ray equipment.

(2) Application. An x-ray technician may apply for registration by submitting to the board:

(a) Proof of satisfactory completion of a course of classroom instruction of at least forty-eight hours which has been approved by the board in accordance with subsection (4) of this section; and

(b) Verification of passing a proficiency examination in radiologic technology, which is approved by the board. A passing grade shall be seventy-five percent or a standardized score approved by the board. If the applicant fails the initial examination, the applicant may reapply to take the examination one additional time without additional classroom instruction. If the applicant fails a second examination, the applicant shall complete an additional sixteen hours of classroom instruction prior to reapplying for a third examination.

(3) Exceptions.

~~((a) For a period of one hundred and eighty days from the effective date of this rule a technician who has performed chiropractic radiographic procedures routinely for a minimum of:~~

~~(i) Two continuous calendar years immediately preceding application may register without examination.~~

~~(ii) One calendar year preceding application may take the examination after completing at least twenty hours of board approved radiologic technology instruction. If the technician applying under this subsection does not pass the examination, the technician shall complete at least twenty-four additional hours of classroom instruction addressing the subjects listed in subsection (4) of this section prior to re-examination.~~

~~(b)) An applicant who holds a current active registration, license, or certification from a national certifying agency or other governmental licensing agency whose standards for registration, licensure or certification are equal to or exceed the standards under these rules may register without examination.~~

(4) Course approval. An individual may request board approval of a course of classroom instruction for x-ray technicians by submitting the following information to the board no later than ninety days prior to the first day of instruction:

(a) An outline of the course of instruction, which shall include:

- (i) Physics and equipment;
- (ii) Principles of radiographic exposure;
- (iii) Radiation protection;
- (iv) Anatomy and physiology; and
- (v) Radiographic positioning and procedures.

(b) Proficiency examination;

(c) Verification that the course instructor has on-campus or postgraduate faculty status in the field of radiology with a board approved chiropractic college; and

(d) Any other information deemed necessary by the board to make a determination.

(5) Continuing education. A registered chiropractic x-ray technician shall submit an affidavit certifying the completion of six hours of continuing education over the preceding year when applying for annual renewal.

(a) The board approves continuing education of subject matter listed in subsection (4) of this section. Prior approval of continuing education programs is not required by the board.

(b) The board shall conduct random audits. If the board determines that the applicant has not obtained continuing education that falls within the subject matter defined in subsection (4), the board shall deny renewal of the registration.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-806-150 Temporary permits—Recognized jurisdictions.

WSR 93-06-091
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed March 3, 1993, 11:00 a.m.]

Original Notice.

Title of Rule: Responsibility for maintaining mailing address on file with the board.

Purpose: To allow the board to maintain contact with licensees and to proceed with administrative action when unable to locate the licensee.

Statutory Authority for Adoption: RCW 18.88.080 and 18.88.086.

Summary: The licensee has the responsibility to maintain a current address with the Board of Nursing. If the board is unable to contact the licensee at that address, they may proceed with administrative action by default.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Patricia O. Brown, R.N., M.S.N., 1300 S.E. Quince, Olympia, 753-2686.

Name of Proponent: Washington State Board of Nursing, public and governmental.

Rule is not necessitated by federal law, federal or state court decision.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Courtyard Marriott, North 401 Riverpoint Boulevard, Spokane, WA 99202, on April 16, 1993, at 1:30 p.m.

Submit Written Comments to: Washington State Board of Nursing, P.O. Box 47864, Olympia, WA 98504-7864, by April 15, 1993.

Date of Intended Adoption: April 16, 1993.

February 24, 1993
Patricia O. Brown, R.N., M.S.N.
Executive Secretary

NEW SECTION

WAC 246-839-115 Responsibility for maintaining mailing address on file with the board. It is the responsibility of each licensee to maintain a current mailing address on file with the board. The mailing address on file with the board shall be used for mailing of all official matters from the board to the licensee. If charges against the licensee are mailed by certified mail to the address on file with the board and returned unclaimed or are unable to be delivered for any reason, then the board shall proceed against the licensee by default under RCW 34.05.440.

WSR 93-06-094
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed March 3, 1993, 11:42 a.m.]

Original Notice.

Title of Rule: Reporting of blood lead levels. Requires laboratories testing blood specimens for lead to report results of those tests to the Department of Health.

Purpose: To establish a lead registry in the state similar to registries established for certain infectious diseases.

Statutory Authority for Adoption: RCW 43.20.050(3).

Statute Being Implemented: RCW 43.20.020(36).

Summary: Establishes lead poisoning as a reportable condition. Lists information which must be provided to the Department of Health from laboratories which test blood specimens for lead.

Reasons Supporting Proposal: A lead registry is necessary to determine the extent of the lead poisoning problem in Washington. A laboratory based reporting system has been recommended by CDC.

Name of Agency Personnel Responsible for Drafting: Jac Davies, Public Health Labs, Seattle, scan 245-2910; **Implementation and Enforcement:** Andy Ross, Epidemiology, Seattle, scan 245-2800.

Name of Proponent: Departments of Health and Labor and Industries, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: State Board of Health delegated authority to the Department of Health secretary to adopt rules for reporting.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Rule will make blood lead a reportable condition. Results of all blood lead tests performed in Washington must be submitted to the Department of health. The rule will allow the Department of health to track the extend of the lead poisoning problem in the state. It will also allow the Department of Labor and Industries to intervene in cases of industrial exposure of workers to lead. The rule primarily affects those organizations testing blood samples for lead in Washington, or those organizations sending samples out-of-state to be tested. The rule is written flexibly to allow each organization to establish its own reporting format for the department's approval.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The Department of Health has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons: The rule does not affect more than 10% of one industry or 20% of all industries. Only five laboratories in the state actually test for blood lead. According to the U.S. Department of Commerce there are over 300 businesses in the category of medical and dental laboratories. Some physicians, hospitals and clinics will also be affected by the proposed regulation if they send samples to out-of-state laboratories. There are almost 3000 physician offices and hospitals in the state. Fewer than 100 are expected to routinely submit blood samples for lead analysis, and most of these are sent to one

of the five in-state testing laboratories; and the rule will have a minor or negligible impact on the medical laboratories industry. Medical laboratories are already required under WAC to report some infectious diseases to the state. The proposed regulation adds one additional reportable illness. The regulation has been drafted with the cooperation of the affected laboratories and is designed to have minimal impact on laboratory operations.

Hearing Location: General Administration Auditorium, 11th and Columbia, Olympia, Washington 98504, on April 6, 1993, at 1:00 p.m.

Submit Written Comments to: Ann Foster, Rules Coordinator, 1300 S.E. Quince Street, P.O. Box 47902, Olympia, WA 98504-7902, by April 5, 1993.

Date of Intended Adoption: April 13, 1993.

March 3, 1993
 Bruce Miyahara
 Secretary

NEW SECTION

WAC 246-100-042 Reporting of blood lead levels.

(1) Pursuant to WAC 246-100-041, the state health officer finds as follows:

(a) Adverse health effects resulting from elevated levels of lead in the blood is a condition that has recently been acknowledged as a public health concern throughout the United States;

(b) Epidemiologic investigation based on reports of the results of blood level tests may contribute to the understanding of the condition, its prevalence within the state of Washington, and especially the extent to which the condition affects both children and those who may be exposed to lead in the work place;

(c) Rapid follow-up and appropriate management of potentially hazardous blood lead levels is necessary to assure safe public health, and assists in development of programs to prevent future lead over-exposure.

(2) **Definitions.** For the purposes of this section, the following words and phrases have the following meanings:

(a) "Blood lead level" means a measurement of lead content in whole blood.

(b) "Reporting organization" means any medical laboratory which performs blood lead analysis at a site within the state of Washington; or any individual or organization which sends blood specimens to an out-of-state medical laboratory for lead testing, including in-state organizations which receive blood specimens from other in-state individuals or organizations, and then send those specimens to an out-of-state testing laboratory.

(c) "Testing laboratory" means a medical laboratory which performs a blood lead analysis.

(3) **Reporting of blood lead levels.**

(a) A reporting organization shall report all blood lead levels to the department of health, including those which are within normal limits. The department of health shall send a copy of any report with a blood lead level equal to or greater than 40 microgram per deciliter, or 10 micrograms per deciliter in children less than 15 years of age, to the local health department serving the jurisdiction in which the tested person resides.

(b) An individual or organization which sends blood specimens to an out-of-state laboratory may fulfill its reporting obligation by arranging for the testing laboratory to submit adequate reports.

(c) Reports shall be made in a format approved by the department.

(d) For blood lead levels equal to or greater than 40 micrograms per deciliter, or equal to or greater than 20 micrograms per deciliter in children less than 15 years of age, the department must be notified by telephone, fax or mail no later than the last business day of the week in which the test was performed, or if the test was performed by an out-of-state laboratory the week during which the test result was received. Telephone reports must be supplemented by a written report submitted no later than the fifth business day of the next month after the telephone contact.

(e) For blood lead levels equal to or greater than 20 micrograms per deciliter, or equal to or greater than 10 micrograms per deciliter in children less than 15 years of age, a report shall be made to the department no later than the fifth business day of the next month after the month in which the test was performed, or if the test was performed by an out-of-state laboratory the month during which the test result was received.

(f) Information to be reported to the Department for blood lead levels specified in parts (3)(d) and (3)(e) shall include the following:

- (i) Name of the person tested;
- (ii) Name of the reporting organization;
- (iii) Name of the testing laboratory;
- (iv) Date specimen received;
- (v) Blood lead level of person tested;
- (vi) Name of health care provider ordering test;
- (vii) Address or telephone number of health care provider ordering test, if available;
- (viii) Date of birth or the age of the person tested, if available;
- (ix) Sex of person tested, if available;
- (x) Race and ethnicity of person tested, if available;
- (xi) Whether blood specimen is venous or capillary, if available;
- (xii) Free erythrocyte or zinc protoporphyrin or zinc protoporphyrin/heme ratio, if performed, when available;
- (xiii) Address and occupation of the person tested, or if a child the parents' occupation, if available;
- (xiv) Name, address and telephone number of the employer, or if a child the parents' employer, if available;

(g) For all other blood lead levels, the reporting organization must either report the information specified in (3)(f) or submit a monthly summary report by the fifth day of the next month. The monthly summary must be categorized by the number of tests performed on specimens for children less than 15 years of age and the number of tests performed for individuals 15 years of age or older. In each category the number of tests must be sorted by one of the following geographic indicators: patient county of residence, or patient postal zip code of residence, or provider county of practice, or provider postal zip code of practice.

(4) **Responsibilities of Health Care Providers.** Upon request of a representative of the department of health or the department of labor and industries, a health care provider who has ordered a blood lead test shall provide the patient's

address and telephone number to the department of health or the department of labor and industries, and when known the following information:

- (a) Circumstances of lead exposure;
- (b) Employer's name, address and telephone number, or, if a child, the same information on the employers of the parents;
- (c) Occupation of person tested, or, if a child, occupation of parents;
- (d) Type of industry of employer of person tested, or, if a child, type of industry of the employers of the parents;
- (e) Reason for drawing lead level.

(5) Confidentiality.

(a) The medical laboratory report and all patient information provided by the health care provider shall be maintained in a confidential manner as with other disease reports and are not subject to public disclosure in any form under which the patient may be identified.

(b) The department of labor and industries shall have full access to information collected pursuant to this section, for the purposes of research, analysis, and follow-up of blood lead levels.

(5) This rule shall apply to tests performed for blood specimens drawn between April 15, 1993 and April 14, 1996.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 93-06-095
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed March 3, 1993, 11:44 a.m.]

Original Notice.

Title of Rule: HIV/AIDS immunodeficiency.

Purpose: Allows the department to set eligibility standards for HIV/AIDS drugs and other treatments.

Statutory Authority for Adoption: RCW 43.70.120, 43.70.0401, and 43.20A.550.

Statute Being Implemented: RCW 43.70.120.

Summary: Financial eligibility criteria, including co-pay and assets limitations, for a program providing for HIV/AIDS drugs and treatments.

Reasons Supporting Proposal: Accept and administer federal funds for HIV/AIDS drugs and treatments.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dave Baird, Airdustrial Park, Building 9, Olympia, Washington, 586-4979.

Name of Proponent: Department of Health, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The WAC serves to define financial eligibility for both the AIDS prescription drug and HIV intervention

programs. It was promulgated in 1987 and revised in 1990 to codify the co-pay and income standards.

Proposal Changes the Following Existing Rules: Wac 246-130-040 currently sets the income level at 370% of the national poverty income guidelines (NPIG). The change will reduce the income level to 100% of the NPIG "unless extended to a higher level at the discretion of the department"; WAC 246-130-070 establishes a client co-pay when income exceeds 200% of NPIG and sets it at one-sixth of the income over 200% of the NPIG; and WAC 246-130-040 (3)(b) and (e) limits assets to \$10,000 not including one auto and the home a client lives in. The change will set the assets guideline to that of SSI, currently at \$2,000.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Seattle Central Community College, Room 1110, 1701 Broadway, Seattle, WA, on April 19, 1993, at 1 p.m.

Submit Written Comments to: Ann Foster, Rules Coordinator, Department of Health, P.O. Box 47902, Olympia, WA 98504-7902, by April 12, 1993.

Date of Intended Adoption: April 30, 1993.

March 3, 1993
Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-130-040 Financial eligibility. (1) The department will consider a patient eligible if he or she:

- (a) Has resources at or below the exemptions listed under subsection (3) of this section; and
- (b) Is not eligible for any other resources providing similar benefits to meet the costs of the treatment; and
- (c) Has gross monthly income at or below ~~((three))~~ one hundred ((seventy)) percent of the NPIG unless extended to a higher level at the discretion of the department; and
- (d) The total cost of program covered medications is in excess of the patient's share as computed in accordance with WAC 246-130-070.

(2) The department shall consider the following in determining resources:

- (a) Savings, property, and other assets;
- (b) Government and private medical insurance programs, including Medicaid, providing partial or full coverage for drug and treatments needed in the treatment of infection with HIV; and
- (c) Local funds raised for the purpose of providing financial support for a specified patient.

(3) The following exemptions shall not be considered in determining a patient's resources to pay for treatments covered by these regulations:

- (a) A home, defined as real property owned by a patient as a principal place of residence, together with the property surrounding and contiguous thereto not to exceed five acres; and
- (b) Commercial property, or property used for the purpose of producing income, except to the extent that its value does not exceed((s)) the ((sum of ten thousand dollars)) Social Security supplemental income assets limitations according to WAC 388-92-050;

- (c) Household furnishings;
- (d) An automobile; and
- (e) Savings, property, or other liquid assets, to the extent the value thereof does not exceed the ~~((sum of ten thousand dollars))~~ Social Security supplemental income assets limitations according to WAC 388-92-050.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-130-070 Patient participation. The patient shall be responsible for paying part of the cost of the treatment received in any month in which his or her income exceeds ~~((two hundred percent of))~~ the NPIG level determined by the department. The amount of the patient's share shall be ~~((one sixth))~~ one-fifth of the amount by which his or her income for the month exceeds ~~((two hundred percent of))~~ the NPIG level determined by the department.

WSR 93-06-001
PERMANENT RULES
PARKS AND RECREATION
COMMISSION

[Filed February 17, 1993, 2:37 p.m.]

Date of Adoption: January 29, 1993.

Purpose: Establishes a new type of camping area for human powered, beachable vessels (kayaks, canoes, etc.). Clarifies reservation times for Twin Harbor/Grayland Beach state parks. Corrects minor typographical errors; adds decriminalization section that was left out in previous filing.

Citation of Existing Rules Affected by this Order: Amending chapters 352-12 and 352-32 WAC.

Statutory Authority for Adoption: RCW 43.51.040.

Pursuant to notice filed as WSR 93-01-165 on December 23, 1992.

Effective Date of Rule: Thirty-one days after filing.

January 29, 1993

Mel Wortman

Chairman

AMENDATORY SECTION (Amending WSR 91-09-001, filed 4/4/91, effective 5/15/91)

WAC 352-32-010 Definitions. Whenever used in this chapter the following terms shall be defined as herein indicated:

(1) "Commission" shall mean the Washington state parks and recreation commission.

(2) "Director" shall mean the director of the Washington state parks and recreation commission.

(3) "Ranger" shall mean a duly appointed Washington state parks ranger who is vested with police powers under RCW 43.51.170, and shall include the park manager in charge of any state park area.

(4) "Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

(5) "Recreation vehicle" shall mean a vehicle/trailer unit, van, pickup truck with camper, motor home, converted bus, or any similar type vehicle which contains sleeping and/or housekeeping accommodations.

(6) "Standard campsite" shall mean a designated camping site which is served by nearby domestic water, sink waste, garbage disposal and flush comfort station. Each campsite includes a camp stove and picnic table.

(7) "Utility campsite" shall mean a standard campsite with the addition of electricity and one or all of the following utility hookups: Domestic water or sewer.

(8) "Primitive campsite" shall mean a campsite not provided with flush comfort station nearby and which may not have any of the amenities of a standard campsite.

(9) "Multiple campsite" shall mean a designated and posted camping facility encompassing two or more individual standard, utility or primitive campsites.

(10) "Camping" shall mean erecting a tent or shelter or arranging bedding, or both, or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

(11) "Group camping areas" are designated areas usually primitive with minimal utilities and site amenities and are for

the use of organized groups. Facilities and extent of development vary from park to park.

(12) "Emergency area" is an area in the park separate from the designated overnight camping area, which may be used for camping between the hours of 9 p.m. and 8 a.m. when no alternative camping facilities are available within reasonable driving distances.

(13) "State park area" shall mean any area under the ownership, management, or control of the commission, including trust lands which have been withdrawn from sale or lease by order of the commissioner of public lands and the management of which has been transferred to the commission, and specifically including all those areas defined in WAC 352-16-020. State park areas do not include the seashore conservation area as defined in RCW 43.51.655 and as regulated under chapter 352-36 WAC.

(14) "Environmental learning centers (ELC)" shall mean those designated specialized facilities (formerly called resident group camps) designed to promote outdoor camping experiences and environmental education by groups in a residential setting. A group can be formalized group or an organized collection of families wishing to camp or use the ELC. ELCs are located at Camp Wooten, Columbia County; Brooks Memorial State Park, Klickitat County; Sun Lakes State Park, Grant County; Deception Pass State Park, Island and Skagit Counties; Fort Flagler State Park, Jefferson County; Millersylvania State Park, Thurston County; Moran State Park, San Juan County; Fields' Spring State Park, Asotin County; and Sequim Bay State Park, Clallam County.

(15) "Public assembly" shall mean a meeting, rally, gathering, demonstration, vigil, picketing, speechmaking, march, parade, religious service, or other congregation of persons for the purpose of public expression of views of a political or religious nature for which there is a reasonable expectation that more than one hundred persons will attend based on information provided by the applicant. Public assemblies must be open to all members of the public, and are generally the subject of attendance solicitations circulated prior to the event, such as media advertising, flyers, brochures, word-of-mouth notification, or other form of prior encouragement to attend.

Alternatively, the agency director may declare an event to be a public assembly in the following cases: Where evidentiary circumstances and supporting material suggest that more than one hundred persons will attend, even where the applicant does not indicate such an expectation; or where there is reason to expect a need for special preparations by the agency or the applicant, due to the nature or location of the event.

(16) "Camping unit" shall mean a group of people (one or more persons) that is organized, equipped and capable of sustaining its own camping activity.

(17) "Residence" shall mean the long-term habitation of facilities at a given state park for purposes whose primary character is not recreational. "Residence" is characterized by one or both of the following patterns:

(a) Camping at a given park for more than twenty days within a thirty-day time period May 1 through September 30; or thirty days within a sixty-day time period October 1 through April 30. As provided in WAC 352-32-030(7), continuous occupancy of facilities by the same camping unit shall be limited to ten consecutive nights May 1 through

September 30 and fifteen consecutive nights October 1 through April 30 in one park, after which the camping unit must vacate the overnight park facilities for three consecutive nights. The time period shall begin on the date for which the first night's fee is paid.

(b) The designation of the park facility as a permanent or temporary address on official documents or applications submitted to public or private agencies or institutions.

(18) "Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor and a moped.

(19) "Upland" shall mean all lands lying above mean high water.

(20) "Special recreation event" shall mean a group recreation activity in a state park sponsored or organized by an individual or organization that requires reserving park areas, planning, facilities, staffing, or other services beyond the level normally provided at the state park to ensure public welfare and safety and facility and/or environmental protection.

(21) "Marine trail camping areas" are specially designated group camp areas identified with signs, that are near marine water ways, and that have varying facilities and extent of development.

AMENDATORY SECTION (Amending WSR 92-19-098, filed 9/17/92, effective 10/18/92)

WAC 352-32-030 Camping. (1) Camping facilities of the state parks within the Washington state parks and recreation commission system are designed and administered specifically to provide recreational opportunities for park visitors. Use of park facilities for purposes which are of a nonrecreational nature, such as long-term residency at park facilities, obstructs opportunities for recreational use, and is inconsistent with the purposes for which those facilities were designed.

No person or camping unit may use any state park facility for residence purposes, as defined (WAC 352-32-010(17)).

(2) No person shall camp in any state park area except in areas specifically designated and/or marked for that purpose or as directed by a ranger.

(3) Occupants shall vacate camping facilities by removing their personal property therefrom prior to 3:00 p.m., (or other appropriate, established time in parks where camping is reserved) if the applicable camping fee has not been paid or if the time limit for occupancy of the campsite has expired or the site is reserved by another party. Remaining in a campsite beyond the established checkout time shall subject the occupant to the payment of an additional camping fee.

(4) Use of utility campsites by tent campers shall be subject to payment of the utility campsite fee except when otherwise specified by a ranger.

(5) A campsite is considered occupied when it is being used for purposes of camping by a person or persons who have paid the camping fee within the applicable time limits or when it has been reserved through the appropriate procedures of the reservation system. No person shall take or attempt to take possession of a campsite when it is being

occupied by another party, or when informed by a ranger that such site is occupied, or when the site is posted with a "reserved" sign. In the case of a reserved site, a person holding a valid reservation for that specific site may occupy it according to the rules relating to the reservation system for that park. In order to afford the public the greatest possible use of the state park system on a fair and equal basis, campsites in those parks not on the state park reservation system will be available on a first-come, first-serve basis. No person shall hold or attempt to hold campsite(s), for another camping unit for present or future camping dates, except as prescribed for multiple campsites. Any site occupied by a camping unit must be actively utilized for camping purposes.

(6) One person may register for one or more sites within a multiple campsite by paying the multiple campsite fee (WAC 352-32-250(6)). Registration preference will be given to multiple camping units who want to use multiple sites. An individual may register and hold a multiple campsite for occupancy on the same day by other camping units. Multiple campsites in designated reservation parks are reservable under the reservation system.

(7) In order to afford the general public the greatest possible use of the state park system, on a fair and equal basis, and to prevent residential use, continuous occupancy of facilities by the same camping unit shall be limited to ten consecutive nights in one park, after which the camping unit must vacate the site for three consecutive nights, May 1 through September 30, not to exceed twenty days in a thirty-day time period; and fifteen consecutive nights in one park, after which the camping unit must vacate the site for three consecutive nights, October 1 through April 30, not to exceed thirty days in a sixty-day time period. This limitation shall not apply to those individuals who meet the qualifications of WAC 352-32-280 and 352-32-285.

(8) Only one camping unit with a maximum of eight people shall be permitted at a campsite, unless otherwise authorized by a ranger. The number of vehicles occupying a campsite shall be limited to one car or one recreational vehicle: *Provided*, That one additional vehicle without built-in sleeping accommodations may occupy a designated campsite when in the judgment of a ranger the constructed facilities so warrant. The number of tents allowed at each campsite shall be limited to the number that will fit on the designated or developed tent pad as determined by a ranger.

(9) Persons traveling by bicycles, motor bikes or other similar modes of transportation and utilizing campsites shall be limited to eight persons per site, provided no more than four motorcycles shall occupy a campsite.

(10) All persons camping in organized groups shall use designated group camp areas unless otherwise directed by a ranger and shall pay the applicable group camping fee.

A group can be any formalized group or an organized collection of families wishing to camp together.

Group camping areas other than marine trail camping areas, may be reserved in advance through contact with the local ranger. Any group must have a leader who has reached the age of majority who will be required to read and sign a "Group use permit and regulation form."

(11) Marine trail camping areas are for the exclusive use of persons traveling by human powered beachable vessels as their primary mode of transportation to the areas. Such

camping areas are not subject to the campsite capacity limitations as otherwise set forth in this section. Capacities for marine trail camping areas may be established by the ranger on an individual basis and are subject to change based upon the impacts to the area. All persons using such camping areas shall pay the applicable fee.

(12) Emergency camping areas set aside in certain state parks may be used only when all designated campsites are full but may not be used prior to 9:00 p.m. Persons using emergency areas must pay the standard campsite fee and must vacate the site by 8:00 the following morning.

((12)) (13) Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 92-19-098, filed 9/17/92, effective 10/18/92)

WAC 352-32-035 Campsite reservation. (1) Advance campsite reservations will be available in certain state parks as designated by the director.

(2) The period during which campsites may be reserved is from the Friday before Memorial Day through Labor Day, except for Twin Harbors and Grayland Beach State Parks where the period shall be May 1 through September 30, and except for Fort Canby State Park where the period shall be April 1 through September 30.

(3) Reservation requests can only be made for camping dates within the current calendar year.

(4) Requests for reservations may be made in writing and must be postmarked a minimum of fourteen days in advance of the first camping night requested. Written reservation requests postmarked on or after January 1 will be accepted; reservation requests postmarked prior to January 1 will be returned. Accepted reservation requests will be processed in order of arrival up to fourteen days in advance of Labor Day.

(5) Reservations may be made in person on or after April 1 at the park where camping is to occur.

(6) There will be a \$5.00 nonrefundable fee charged for each reservation made at each park, in addition to the standard campsite fee, regardless of the number of days reserved. Payment of the nonrefundable reservation fee and first night's camping fee must accompany the reservation request.

~~(7) ((Recreation, camping and reservation information may be obtained by calling the campsite information center on the toll free telephone number established for that purpose. No reservation may be made by telephone.~~

(8)) No individual may reserve a campsite in more than one state park, for one or more of the same days.

((9)) (8) Reservations for a specific campsite within a park will not be guaranteed.

((10)) (9) Campsites which have not been reserved may be used on a first-come-first-served basis without paying a reservation fee, if the site is occupied immediately.

((11)) (10) A raincheck will be issued for the camping fee paid for any confirmed reservation which is not used, provided a cancellation request is made by calling the campsite information center or the park in which the site is reserved, no less than twenty-four hours in advance of the first day of the reservation, or in writing to the park,

postmarked seven days in advance of the first day of the reservation. Rainchecks will be valid for one year from the date of issue, and may be used toward camping fees in any state park, or may accompany a subsequent reservation request in lieu of payment for the first night's camping fee.

((12)) (11) Campers will be declared no-show and forfeit their reservation as well as the reservation fee and the first night's camping fee if they have not cancelled or if the reservation is not claimed by 9:00 p.m. After this time, the site may be reassigned, unless late arrival arrangements are made with the park by telephone between the hours of 7:00 p.m. and 9:00 p.m. on the day of arrival.

((13)) (12) Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending Order 91, filed 2/25/86)

WAC 352-32-120 Firearms and/or weapons. No person shall possess a firearm with a cartridge in any portion of the mechanism within any upland state park area, nor shall any person discharge or propel across, in, or into any upland state park area as defined in WAC 352-32-010((17)) (13), a firearm, bow and arrow, spear, spear gun, harpoon, or air or gas weapon, or any device capable of injuring or killing any person or animal, or damaging or destroying any public or private property, except where the commission for good cause has authorized a special recreational activity upon finding that it is not inconsistent with state parks use.

AMENDATORY SECTION (Amending Order 105, filed 7/19/88)

WAC 352-32-285 Applicability of standard fees to volunteers in parks. The standard fees set forth in WAC 352-32-250 and 352-12-020 pursuant to RCW 43.51.060(6) shall not apply whenever any individual, group, organization, association, or agency shall volunteer to perform personal services in lieu of standard fees if the following conditions are met:

(1) The park manager has determined that the personal service is desirable;

(2) The service performed does not replace or supplant that which would otherwise be performed by parks employees or contractors;

(3) The service performed is not one commonly performed by members of an organized trade union;

(4) The service performed does not result in any type of development which will necessarily create future operating costs to the commission;

(5) The volunteer shall perform personal services under the following provisions.

(a) At least four hours of service are provided per day; alternatively

(b) At least twenty-eight hours of service are provided per seven-day week, spread over at least five days.

(c) If more than four hours, but less than twenty-eight hours of volunteer service are provided during a seven-day week, a prorated waiver of fees equivalent to (b) of this subsection may be offered by the park manager.

(d) Volunteer time accumulated may not be carried forward for credit in subsequent weeks.

(e) The waiver of standard fees shall apply only at the park where such personal services were performed.

The limit placed on any camper by WAC 352-32-030(~~(5)~~) (7) shall not apply to persons qualifying under this section. Continuous occupancy of facilities by the same person or persons qualifying under this section shall be limited to thirty consecutive nights, unless otherwise approved by the director or designee.

This section does not expand or limit the provisions of RCW 43.51.130 through 43.51.160.

AMENDATORY SECTION (Amending Order 59, filed 3/31/82)

WAC 352-12-050 Self-registration. In those marine park areas so posted by the commission, park visitors shall register for the use of marine facilities, overnight parking and onshore campsites, and pay the appropriate moorage (~~and~~), campsite fees (~~as provided for herein~~) or unattended vehicle overnight parking permit fee, on a self-registration basis, in accordance with all posted instructions. Failure to so register and pay (~~moorage and campsite~~) required fees may result in eviction from moorage and campsite space, in addition to any other penalty prescribed by law for violation of commission rules and regulations. Except as provided in WAC 352-12-060, any violation of this section is an infraction under chapter 7.84 RCW.

**WSR 93-06-002
PERMANENT RULES
PUGET SOUND**

AIR POLLUTION CONTROL AGENCY

[Filed February 18, 1993, 10:16 a.m., effective April 15, 1993]

Date of Adoption: February 11, 1993.

Purpose: To comply with the National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61) as amended in 1990, and to improve legibility and enforceability.

Citation of Existing Rules Affected by this Order: Repealing Regulation III, Sections 4.01, 4.02, 4.03, 4.04 and 4.05; and amending Regulation III, Sections 1.01 and 1.08.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 92-24-106 on December 2, 1992.

Effective Date of Rule: April 15, 1993.

January 17, 1993
Claude M. Williams, P.E.
Air Pollution Engineer

**AMENDATORY SECTION
REGULATION III SECTION 1.01 POLICY**

The Board has found that the use, production, and emission of toxic air contaminants into the atmosphere in the Puget Sound region poses a threat to the public health, safety, and welfare of the citizens of the region and causes degradation of the environment. Therefore the Board, in order to control the emission of toxic air contaminants and to provide for uniform enforcement of air pollution control

in its jurisdiction and to carry out the mandates and purposes of the Washington Clean Air Act, (~~and~~) the Federal Clean Air Act, and the National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61), declares the necessity of the adoption of this Regulation III pertaining to toxic air contaminants.

It is the policy of the Agency to continuously acquire and study available scientific information on toxic air contaminants, their sources, and their effect on the public health and welfare, and to develop and adopt strategies for effectively reducing or eliminating impacts from toxic air contaminants.

**AMENDATORY SECTION
REGULATION III SECTION 1.08 SPECIAL DEFINITIONS**

(a) **ACCEPTABLE SOURCE IMPACT LEVEL (ASIL)** means a concentration of a toxic air contaminant in the outdoor atmosphere in any area that does not have restricted or controlled public access that is used to evaluate the air quality impacts of a single source. There are three types of acceptable source impact levels: risk-based, threshold-based, and special. Concentrations for these three types of ASILs are established by the Board after public hearing and are listed in Appendix A of this Regulation III.

(b) **ADEQUATELY WET** means sufficiently mixed, saturated, penetrated, or coated with a continuous fine mist of water or an aqueous solution to prevent emissions.

(c) (~~(b)~~) **AMPERE-HOURS** means the integral of electrical current applied to a plating or anodizing tank (amperes) over a period of time (hours).

(d) (~~(e)~~) **ANTI-MIST ADDITIVE** means a chemical which reduces the hexavalent chromium emission rate from a tank.

(e) **ASBESTOS** means the asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentinite), crocidolite (riebeckite), or anthophyllite.

(f) **ASBESTOS-CONTAINING MATERIAL** means any material containing at least one percent (1%) asbestos as determined by polarized light microscopy using the Interim Method of the Determination of Asbestos in Bulk Samples contained in Appendix A of Subpart F in 40 CFR Part 763. This term does not include asbestos-containing roofing material, regardless of asbestos content, when the following conditions are met:

(1) The asbestos-containing roofing material is in good condition and is not peeling, cracking, or crumbling; and

(2) The binder is petroleum based, the asbestos fibers are suspended in that base, and individual fibers are still encapsulated; and

(3) The binder still exhibits enough plasticity to prevent the release of asbestos fibers in the process of removing it; and

(4) The building, vessel, or structure containing the asbestos-containing roofing material will not be demolished by burning or mechanical renovation/demolition methods that may release asbestos fibers.

(g) **ASBESTOS-CONTAINING WASTE MATERIAL** means any waste that contains asbestos-containing material. This term includes asbestos waste from control equipment,

materials used to enclose the work area during an asbestos project, asbestos-containing material(s) collected for disposal, or asbestos-contaminated waste, debris, containers, bags, protective clothing, or HEPA filters. This term does not include samples of asbestos-containing material taken for testing or enforcement actions.

(h) ASBESTOS PROJECT means the construction, demolition, repair, remodeling, maintenance, or renovation of any public or private building(s), vessel, structure(s), or component(s) involving the demolition, removal, encapsulation, salvage, disposal, or disturbance of any asbestos-containing material. This term includes the removal and disposal of asbestos-containing waste material from manufacturing operations that combine asbestos-containing material with any other material(s) to produce a product and the removal and disposal of stored asbestos-containing material or asbestos-containing waste material. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released.

(i) ASBESTOS SURVEY means an inspection using the procedures contained in 40 CFR 763.86, or an alternate method that has received prior written approval from the Control Officer, to determine whether materials or structures to be worked on, removed, or demolished, contain asbestos. In residential dwellings, asbestos samples may be taken by the resident owner of the dwelling.

(j) CERTIFIED ASBESTOS WORKER/SUPERVISOR means a person who is certified by the Washington State Department of Labor and Industries under WAC 296-65-010, 012, and 030 to undertake an asbestos project or, for federal employees working in a federal facility, trained in an equally effective program approved by the United States Environmental Protection Agency.

(k) ((d)) CHROMIC ACID ANODIZING means an electrolytic process by which a metal surface is converted to an oxide surface coating in a solution containing chromic acid.

(l) ((e)) CHROMIC ACID PLATING means an electrolytic process by which chromium is deposited on a base metal surface.

(m) ((f)) COLD SOLVENT CLEANER or COLD CLEANER means a degreasing tank in which a solvent with a true vapor pressure greater than 4.2 kPa (0.6 psia) is not heated at or above the boiling point.

(n) COLLECTED FOR DISPOSAL means sealed in a leak-tight container while adequately wet.

(o) COMPONENT means any equipment, pipe, structural member, or other item covered, coated, or manufactured from asbestos-containing material.

(p) CONTROLLED AREA means an area to which only certified asbestos workers, or other persons authorized by Section 3.05 of Regulation I or the Washington Industrial Safety and Health Act, have access. For residential dwellings, the controlled area is the interior of the dwelling.

(q) DEMOLITION means the wrecking, dismantling, removal of any load-supporting structural member on, or burning of, any building, vessel, structure, or portion thereof. For residential dwellings, a demolition means the wrecking, dismantling, or removal of any load-bearing structural member by the use of heavy equipment (such as a backhoe) or the burning of the building thereby rendering as perma-

nently uninhabitable, that portion of the building being demolished.

(r) EMERGENCY ASBESTOS PROJECT means an unplanned asbestos project necessitated by a sudden and unexpected event that will imminently endanger human health and safety either through exposure to asbestos fibers or loss of vital utilities. Such events may include earthquakes, floods, fire damage, non-routine failure or malfunction of equipment, or identification of additional asbestos-containing material discovered during an asbestos project.

(s) ((g)) ETHYLENE OXIDE AERATOR means any equipment, space, or room in which air is used to remove residual ethylene oxide from sterilized materials.

(t) ((h)) ETHYLENE OXIDE STERILIZER means any chamber or related piece of equipment that uses ethylene oxide or an ethylene oxide mixture in any sterilization or fumigation process.

(u) ((i)) FREEBOARD RATIO means the freeboard height (the distance from the top of the degreaser to the air/solvent vapor interface) divided by the width (lesser horizontal dimension) of the degreaser (measured at the top).

(v) HEPA FILTER means a high efficiency particulate air filter found in respirators and vacuum systems capable of filtering 0.3 micrometer mean aerodynamic diameter particles with 99.97% efficiency.

(w) LEAK-TIGHT CONTAINER means a dust-tight container, at least 6-mil thick, that encloses the asbestos-containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and polyethylene plastic.

(x) LOCAL EXHAUST VENTILATION AND COLLECTION SYSTEM means a system as described in Appendix J of EPA 560/565-024 (Guidance for Controlling Asbestos-Containing Materials in Buildings).

(y) OWNER OR OPERATOR means any person who owns, leases, operates, controls, or is responsible for activities at an asbestos project site, or an asbestos project operation, or both.

(z) ((j)) REFRIGERATED FREEBOARD CHILLER means a set of cooling coils situated above the condenser which operates at 2°C or less.

(aa) RESIDENTIAL DWELLING means any nonmultiple unit building containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include structures that are demolished or renovated as part of a commercial or public project. Nor does this term include any mixed-use building, structure, or installation that contains a residential unit.

(bb) ((k)) TOXIC AIR CONTAMINANT (TAC) means any air contaminant listed in Appendix A of this Regulation III or listed in the Administrative Regulations of the United States of America in 40 CFR Part 372, Subpart D, as both now exist or are hereinafter amended, and both of which by this reference are incorporated herein and made a part hereof.

(cc) ((l)) VAPOR DEGREASER means a degreasing tank in which the solvent is heated at or above the boiling point.

PERMANENT

(dd) **VISIBLE EMISSIONS** means any emissions that are visually detectable without the aid of instruments. This term does not include condensed uncombined water vapor.

(ee) **WASTE GENERATOR** means any owner or operator of a source whose act or process produces asbestos-containing waste material.

(ff) **WASTE SHIPMENT RECORD** means the shipping document required to be originated and signed by the owner or operator, used to track and substantiate the disposition of asbestos-containing waste material.

(gg) **WORKING DAY** means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

REPEALER

REGULATION III SECTION 4.01 PURPOSE

REPEALER

REGULATION III SECTION 4.02 DEFINITIONS

REPEALER

REGULATION III SECTION 4.03 NOTIFICATION REQUIREMENTS AND FEES

REPEALER

REGULATION III SECTION 4.04 PROCEDURES FOR ASBESTOS EMISSION CONTROL

REPEALER

REGULATION III SECTION 4.05 DISPOSAL OF ASBESTOS-CONTAINING WASTE MATERIAL

NEW SECTION

REGULATION III SECTION 4.01 APPLICATION REQUIREMENTS AND FEES

(a) **Application Requirements - Applicability.** It shall be unlawful for any person to cause or allow work on an asbestos project or demolition unless the owner or operator has obtained written approval from the Control Officer as follows:

(1) A written "Application to Perform an Asbestos Project" or an "Application to Perform a Demolition" shall be submitted on Agency-provided forms by the owner or operator for approval by the Control Officer before any work on an asbestos project or demolition begins. It shall be unlawful for any person to cause or allow any false or misrepresenting information on either form.

(2) The written application shall be accompanied by the appropriate application fee and a certification that an asbestos survey has been conducted.

(3) The written application for a demolition shall also include a certification that there is no known asbestos-containing material remaining in the area of the demolition.

(4) The duration of an asbestos project or demolition shall not exceed one (1) year beyond the original starting date and shall have a starting and completion date that is commensurate with the amount of work involved.

(5) A copy of the approved application and asbestos survey shall be available for inspection at the asbestos project or demolition site.

(6) Upon completion of an asbestos project or a demolition, a written "Notice of Completion" shall be filed with the Control Officer on forms provided by the Agency.

(7) Submission of an "Application to Perform an Asbestos Project" shall be prima facie evidence that the asbestos project involves asbestos-containing material.

(8) Application for multiple asbestos projects may be filed on one form, if the following criteria are met:

(A) The work will be performed continuously by the same contractor, and

(B) The structures are in a contiguous group, and

(C) The asbestos project specifications regarding location and dates are provided in detail, and

(D) All asbestos projects are bid as a group under the same contract.

(b) **Application Requirements - Advance Notification Period and Fee.** Any application required by Section 4.01(a) shall be considered incomplete until all the information required by Section 4.01(a) is received by the Control Officer and accompanied by the appropriate, non-refundable fee. The advance notification period and appropriate fee shall be determined by the following table:

		Advance Notification Period	Application Fee	Forms Required
Demolition	All	10 Working Days	\$ 25	1) Application to Perform a Demolition 2) Certification that no known Asbestos is Present
Asbestos Project	Residential	Prior Notification Required	\$ 25	Application to Perform an Asbestos Project
Asbestos Project	<10 linear ft <11 square ft	Prior Notification Required	\$ 25	Application to Perform an Asbestos Project
Asbestos Project	10 - 259 linear ft 11 - 159 square ft	10 Working Days	\$ 100	Application to Perform an Asbestos Project
Asbestos Project	260 - 999 linear ft 160 - 4,999 sq ft	10 Working Days	\$ 250	Application to Perform an Asbestos Project
Asbestos Project	1,000 - 9,999 linear ft 5,000 - 49,999 sq ft	10 Working Days	\$ 500	Application to Perform an Asbestos Project
Asbestos Project	10,000+ linear ft 50,000+ sq ft	10 Working Days	\$1,000	Application to Perform an Asbestos Project
Amendments	All Projects	Prior Notification Required	\$ 25 (3rd amendment & after)	Amended Copy of Approved Application
Emergencies	All projects that normally require a 10 working day notification period	Prior Notification Required	\$ 100 plus Normal Notification Fee	Emergency Waiver Request Letter (submitted by property owner)

(c) **Annual Applications.** In addition to the application requirements of Sections 4.01(a) and 4.01(b), the owner or operator of a facility may file for approval by the Control Officer an annual written application to conduct asbestos projects on one or more buildings, vessels, or structures at

the facility during each calendar year for the purpose of scheduled maintenance or emergency repairs. The requirements of Sections 4.01 (a)(1) through 4.01 (a)(4), 4.01 (a)(6), and 4.01(b) shall not apply to asbestos projects undertaken during the calendar year at the applicable facility if all of the following conditions are met:

(1) Annual Application - Restrictions.

(A) The annual written application shall be filed for approval by the Control Officer before commencing work on any asbestos project to be specified in an annual application.

(B) The total amount of asbestos-containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this section shall be limited to less than 260 linear feet on pipes and 160 square feet on other components.

(C) The application requirements of Sections 4.01(a) and 4.01(b) shall apply to any asbestos project involving at least 260 linear feet on pipes or 160 square feet on other components for each building, vessel, or structure at the facility, including residential dwellings.

(D) A copy of the written annual application shall be available for inspection at the property owner's or operator's office until the end of the calendar year.

(E) Asbestos-containing waste material generated from asbestos projects filed under an annual application may be stored for disposal at the facility if all of the following conditions are met:

(i) All asbestos-containing waste material shall be treated in accordance with Sections 4.03 (a)(1), 4.03 (a)(2), 4.03 (a)(3), and 4.03 (a)(4);

(ii) Accumulated asbestos-containing waste material collected during each calendar quarter shall be kept in a controlled storage area posted with one (1) or more asbestos warning signs and accessible only to authorized persons; and

(iii) All stored asbestos-containing waste material shall be deposited at a waste disposal site within ninety (90) calendar days after collection for disposal unless the asbestos-containing waste material is handled as dangerous waste in accordance with WAC 173-303. The waste disposal site shall be operated in accordance with the provisions of 40 CFR 61.154 or 61.155 and approved by the health department with jurisdiction.

(2) Annual Application - Reporting Requirements and Fees. Annual written applications required by Section 4.01 (c)(1) shall be submitted by the facility owner or operator on forms provided by the Agency and filed for approval by the Control Officer, accompanied by an annual fee of \$1,000.

(3) Annual Application - Quarterly Reporting Requirements. In addition to the written annual application requirements of Section 4.01 (c)(2), the facility owner or operator shall submit quarterly written reports to the Control Officer within fifteen (15) days after the end of each calendar quarter. Each quarterly report shall be submitted on forms provided by the Agency or in a format approved by the Control Officer.

(d) **Application Requirements - Amendments.** It shall be unlawful for any person to cause or allow any deviation from the information contained in a written application unless an amended application has been received and approved by the Control Officer. Amended applications required by this section shall be filed by the original applicant, received by the Control Officer no later than the last

filed completion date, and are limited to the following revisions:

(1) A change in the job size category because of additional asbestos-containing material. In this case, the fee shall be increased accordingly and the total fee shall be equal to, but not exceed, the fee amount provided for each job size category specified in Section 4.01(b);

(2) The asbestos project or demolition starting or completion date, provided the total duration of the work does not exceed one (1) calendar year beyond the original starting date. The commencement date of the original advance notification period shall apply with no additional waiting period required for amended applications filed in accordance with Section 4.01(d) and approved by the Control Officer. If an amended application results in a job size category that requires a waiting period as specified in Section 4.01(b) and the original application did not require a waiting period, the advance notification period shall commence on the approval date of the original application;

(3) Name, mailing address, and telephone number of the owner or operator of the asbestos project site or operation;

(4) Waste disposal site, provided the revised waste disposal site is operated in accordance with the provisions of 40 CFR 61.154 or 61.155 and approved by the health department with jurisdiction;

(5) Method of removal or compliance procedures, provided the revised work plan meets the asbestos emission control and disposal requirements of Sections 4.02 and 4.03;

(6) Description, size (total square feet or number of floors), and approximate age of the building, vessel, or structure at the original address or location; and

(7) Any other information requested by the Control Officer.

(e) **Advance Notification Period - Exemptions.** The Control Officer may waive the required ten (10) working day advance notification period in Section 4.01(b) for an asbestos project or demolition if the facility owner demonstrates to the Control Officer that there is an emergency as follows:

(1) **Emergency Asbestos Project.** The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for an asbestos project. The request shall be submitted for approval by the Control Officer and be accompanied by the required application and appropriate fee as required by Sections 4.01(a) and 4.01(b). Any request for approval of an emergency asbestos project shall include, at a minimum:

(A) The complete name, mailing address, and telephone number of the facility owner or operator, including the city, zip code, and county;

(B) The complete street address or location of the asbestos project site, including the city, zip code, and county;

(C) A description of the sudden and unexpected event including the date and hour that the emergency occurred; and

(D) An explanation of how the sudden and unexpected event has caused an emergency condition.

(2) **Emergency Demolition.** The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for a demolition if the request is accompanied by a copy of an order from a federal, state, or local government agency that requires demolition before the ten (10) working day advance notification period has elapsed. The request and copy of the

order shall be submitted for approval by the Control Officer and be accompanied by the required applications and appropriate fee as required by Sections 4.01(a) and 4.01(b). Any request for approval of an emergency demolition shall include, at a minimum:

(A) The complete name, mailing address, and telephone number of the owner or operator of the facility and the asbestos project, including the city, zip code, and county;

(B) The complete street address or location of the demolition site, including the city, zip code, and county;

(C) The name, title, and authority of the state or local government representative who has ordered the demolition;

(D) The reason why the demolition was ordered; and

(E) The dates on which the order was received and the demolition was ordered to begin.

NEW SECTION

REGULATION III SECTION 4.02 PROCEDURES FOR ASBESTOS EMISSION CONTROL

(a) **Asbestos Project - Requirements.** It shall be unlawful for any person to cause or allow work on an asbestos project unless an asbestos survey has been conducted and the following procedures are employed:

(1) Any work on an asbestos project shall be performed by certified asbestos workers under the direct, on-site supervision of a certified asbestos supervisor. This requirement shall not apply to certain limited asbestos projects conducted in accordance with Section 4.02(b) for residential dwellings.

(2) All asbestos-containing material shall be kept adequately wet while being removed from any structure, building, vessel, or component.

(3) No visible emissions shall result from an asbestos project.

(4) All asbestos-containing material that has been removed or may have fallen off components during the course of an asbestos project shall be:

(A) Kept adequately wet until collected for disposal; and

(B) Collected for disposal at the end of each working day; and

(C) Contained in a controlled area at all times until transported to a waste disposal site; and

(D) Carefully lowered to the ground or a lower floor, not dropped, thrown, slid, or otherwise handled in such a manner that may risk further damage to them; or

(E) Transported to the ground via dust-tight chutes or containers if they have been removed or stripped more than 50 feet above ground level and were not removed as a unit or in sections.

(5) Mechanical assemblies or components covered, coated, or manufactured from asbestos-containing material, removed as a unit or in sections, shall be contained in a leak-tight wrapping after wetting and labeled in accordance with Section 4.03 (a)(1)(C).

(A) For large components such as boilers, steam generators, and large tanks, the asbestos-containing material is not required to be removed or stripped if the component can be removed, stored, transported, and deposited at a waste disposal site or reused without disturbing or damaging the asbestos.

(B) Metal components such as valves, fire doors, and reactor vessels that have internal asbestos-containing material may avoid wetting and leak-tight wrapping if:

(i) All access to the asbestos-containing material is welded shut; or

(ii) The component has mechanical seals in place that separate the asbestos-containing material from the environment and these seals cannot be removed by hand; and

(iii) The components are labeled in accordance with Section 4.03 (a)(1)(C).

(6) Local exhaust ventilation and collection systems used on an asbestos project shall:

(A) Be maintained to ensure the integrity of the system; and

(B) When feasible, have one or more transparent plastic or glass viewing ports installed on the walls of the enclosure in such a manner that will allow for viewing of all components inside the enclosure. When available, existing windows may be utilized for viewing ports.

(7) Local exhaust ventilation and collection systems, control devices, and vacuum systems, used on an asbestos project shall be equipped with a HEPA exhaust filter, maintained in good working order, and exhibit no visible emissions.

(b) **Asbestos Project - Exemptions For Residential Dwellings.** The requirements of 4.02 (a)(1) shall not apply to asbestos projects conducted in a residential dwelling by the resident owner of the dwelling, except that the requirements of 4.02 (a)(1) shall apply to furnace interiors and direct-applied mudded asbestos insulation on hot water heating systems, which may not be removed by the resident owner.

(c) **Demolition - Requirements.** It shall be unlawful for any person to cause or allow the demolition of any building, vessel, structure, or portion thereof, unless all asbestos-containing materials have been removed from the area to be demolished. It shall be unlawful for any person to cause or allow any demolition that would disturb asbestos-containing material or prevent access to the asbestos-containing material for removal and disposal.

(d) **Demolition - Asbestos Removal Exemptions.** Asbestos-containing material need not be removed before the demolition of any building, vessel, structure, or portion thereof, if:

(1) The asbestos-containing material is on a component that is encased in concrete or other material determined by the Control Officer to be equally effective in controlling asbestos emissions. In this case, the application requirements of Section 4.01 shall apply and these materials shall be kept adequately wet whenever exposed during demolition until disposed of in accordance with Section 4.03 (a)(2); or

(2) The asbestos-containing material could not be removed prior to demolition because it was not accessible until after demolition began. In this case, the application requirements of Section 4.01 shall apply and the exposed asbestos-containing material and asbestos-contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Section 4.03 (a)(2); or

(3) The material was not accessible for removal because of hazardous conditions. Such conditions may include environments that are contaminated by toxic substances, structures or buildings that are structurally unsound and in

danger of imminent collapse, or other conditions that are immediately dangerous to life and health. Under such conditions, the facility owner or operator may submit a signed written request for conditional approval by the Control Officer to waive the requirements of Section 4.02(c).

In this case, the application requirements of Section 4.01 shall apply and the exposed asbestos-containing material and asbestos-contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Section 4.03 (a)(2). Evidence of the hazardous condition, as documented by a state or local government agency, shall accompany the written request in addition to the application and appropriate fee as required by Section 4.01. The request for exemption from Section 4.02(c) shall include, at a minimum:

(A) The complete name, mailing address, and telephone number of the owner or operator of the facility, including the city, zip code, and county;

(B) The complete street address or location of the demolition site, including the city, zip code, and county;

(C) The name, title, and authority of the state or local government representative who has determined the hazardous condition;

(D) A description of the hazardous condition that prevents the removal of asbestos-containing material prior to demolition, including the amount, type, and specific location(s) within the structure of such materials; and

(E) The procedures that will be used to prevent the release of asbestos fibers into the ambient air.

(e) **Alternative Control Measures.** The owner or operator of an asbestos project may submit a signed written request to use an alternative control measure that is equally effective in controlling asbestos emissions for conditional approval by the Control Officer. The written request shall include, at a minimum:

(1) The complete name, mailing address, and telephone number of the owner or operator of the asbestos project, including the city and zip code;

(2) The complete street address or location of the site, including the city, zip code, and county;

(3) A description of the material, including the type and percentage of asbestos in the material, total amount of material involved, and the specific location(s) of the material on the site; and

(4) The reason why an alternative control measure is required and a description of the proposed alternative control measure to be employed, including the procedures that will be used to prevent the release of asbestos fibers into the ambient air.

NEW SECTION

REGULATION III SECTION 4.03 DISPOSAL OF ASBESTOS-CONTAINING WASTE MATERIAL

(a) **Disposal Requirements.** It shall be unlawful for any person to cause or allow work on an asbestos project unless the following procedures are employed during the collection, processing, packaging, transporting, or deposition of any asbestos-containing waste material:

(1) Treat all asbestos-containing waste material as follows:

(A) Adequately wet all asbestos-containing waste material and mix asbestos waste from control devices,

vacuum systems, or local exhaust ventilation and collection systems with water to form a slurry;

(B) After wetting, seal all asbestos-containing waste material in leak-tight containers or wrapping to ensure that they remain adequately wet when deposited at a waste disposal site;

(C) Permanently label wrapped materials and each container with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the Occupational Safety and Health Administration. Permanently mark the label with the date the material was collected for disposal, the name of the waste generator, the name and affiliation of the certified asbestos supervisor, and the location at which the waste was generated;

(D) Ensure that the exterior of each container is free of all asbestos residue; and

(E) Exhibit no visible emissions during any of the operations required by this section.

(2) All asbestos-containing waste material shall be deposited within ten (10) calendar days after collection for disposal at a waste disposal site operated in accordance with the provisions of 40 CFR 61.154 or 61.155 and approved by the health department with jurisdiction. This requirement is modified by Section 4.01(c) for asbestos-containing waste material from asbestos projects conducted under annual applications.

(3) All asbestos-containing waste material, handled as dangerous waste in accordance with WAC 173-303, shall be excluded from the requirements of Sections 4.03 (a)(1)(C) and 4.03 (a)(2).

(b) **Alternative Storage Method - Asbestos Storage Facility.** The owner or operator of a licensed asbestos abatement company or disposal facility may apply to the Control Officer to establish a facility for the purpose of collecting and temporarily storing asbestos-containing waste material.

(1) It is unlawful to cause or allow the operation of a temporary asbestos storage facility without the prior written approval of the Control Officer.

(2) The owner or operator must submit a complete application for an asbestos storage facility on forms provided by the Agency. When approved, an Asbestos Storage Facility Authorization will be returned to be posted at the entrance to the facility.

(3) An asbestos storage facility shall meet the following general conditions:

(A) Asbestos-containing waste material must be stored in a container with a single piece liner at least 6 mil in thickness; and

(B) Said container must be in a secured building or in a secured exterior enclosure; and

(C) The container and enclosure must be locked except during transfer of asbestos-containing waste material; and

(D) Storage, transportation, disposal, and return of the waste shipment record to the waste generator will not exceed the 45-day requirement of 40 CFR Part 61.150.

(c) **Alternative Disposal Method - Asbestos-Cement Water Pipe.** Asbestos-cement water pipe used on public right-of-ways or public easements shall be excluded from the disposal requirements of Section 4.03 (a)(2) if the following conditions are met:

(1) Any asbestos-cement water pipe greater than one (1) linear foot in size may be buried on public right-of-ways or public easements if covered with at least three (3) feet or more of non-asbestos fill material; and

(2) All asbestos-containing waste material, including asbestos-cement water pipe fragments that are one (1) linear foot or less, protective clothing, HEPA filters, or other asbestos-contaminated material, debris, or containers, shall be subject to the requirements of this Regulation III, Article 4.

WSR 93-06-005

PERMANENT RULES

WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD

[Filed February 18, 1993, 11:27 a.m., effective February 18, 1993]

Date of Adoption: February 18, 1993.

Purpose: To provide guidance to the public in its dealings with the agency, designates a rules coordinator, outlines operating standards for administrative appeals, provides access to public records.

Statutory Authority for Adoption: Chapter 28C.18 RCW.

Pursuant to notice filed as WSR 93-02-045 on January 5, 1993.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Rules to take effect immediately upon filing to avoid a legal hiatus with resulting damage to the public welfare.

Effective Date of Rule: February 18, 1993.

February 18, 1993

Ellen O'Brien Saunders
Executive Director

Chapter 490-04B WAC

WORK FORCE TRAINING AND EDUCATION CO- ORDINATING BOARD

NEW SECTION

WAC 490-04B-010 Time and place of board meetings. The work force training and education coordinating board shall hold at least six regular meetings annually and such special meetings as may be requested by the chair of the board or by a majority of the members of the board and announced in accordance with law.

All regular and special meetings of the board are open to the general public, except for lawful executive sessions.

No official business may be conducted by the board except during a regular or special meeting.

Chapter 490-08B WAC

PRACTICE AND PROCEDURE

NEW SECTION

WAC 490-08B-010 Adoption of model rules of procedure. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250 are adopted for use by the work force training and education coordinating board. Those rules may be found in chapter

10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and procedural rules adopted by the board, the model rules prevail.

NEW SECTION

WAC 490-08B-020 Appointment of presiding officers. The board's executive director or his/her designee shall designate a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the executive director or his or her designee, or any combination of the above. Where more than one individual is designated to be the presiding officer, the executive director or his/her designee shall designate one person to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

NEW SECTION

WAC 490-08B-030 Method of recording. Proceedings shall be recorded by a method determined by the presiding officer, among those available under the model rules of procedure.

NEW SECTION

WAC 490-08B-040 Application for adjudicative proceeding. An application for adjudicative proceeding shall be in writing. Application forms are available at the following address: Building 17, Airdustrial Park, Olympia, Washington.

Written application for an adjudicative proceeding should be submitted to P.O. Box 43105, Olympia, Washington, 98504-3105 within twenty days of the agency action giving rise to the application unless provided for otherwise by statute or rule.

NEW SECTION

WAC 490-08B-050 Brief adjudicative procedures. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are adopted by reference. Brief adjudicative procedures shall be used in all matters related to adjudicative appeals filed under RCW 28C.10.120.

NEW SECTION

WAC 490-08B-060 Discovery. Discovery in adjudicative proceedings may be permitted at the discretion of the presiding officer. In permitting discovery, the presiding officer shall refer to the civil rules of procedure. The presiding officer may control the frequency and nature of discovery permitted and order discovery conferences to discuss discovery issues.

NEW SECTION

WAC 490-08B-070 Procedure for closing parts of hearings. Any party may apply for a protective order to close part of a hearing. The party making the request shall state the reasons for making the application to the presiding officer. If the other party opposes the request, a written response to the request shall be made within ten days of the request to the presiding officer. The presiding officer shall determine which, if any, parts of the proceeding shall be closed and state the reasons in writing within twenty days of receiving the request.

NEW SECTION

WAC 490-08B-080 Recording devices. No cameras or recording devices are allowed in those parts of proceedings that the presiding officer has determined shall be closed under WAC 490-08B-070, except for the method of official recording selected by the work force training and education coordinating board.

**Chapter 490-10 WAC
ORGANIZATION**

NEW SECTION

WAC 490-10-010 Organization—Operation—Information. (1) Organization. The work force training and education coordinating board is established in Title 28C.18 RCW. The composition of the board is established under chapter 28C.18.020 RCW.

The board employs an executive director, who acts as the chief executive officer of the board.

(2) Operation. The administrative office is located at the following address: Building 17, Airdustrial Park, Olympia, Washington, 98504-3105.

The office hours are eight o'clock a.m. to five o'clock p.m., Monday through Friday, except legal holidays.

**Chapter 490-13 WAC
DESIGNATION OF RULES COORDINATOR**

NEW SECTION

WAC 490-13-010 Rules coordinator. The rules coordinator for the work force training and education coordinating board is designated by the executive director and can be addressed at Building 17, Airdustrial Park, P.O. Box 43105, Olympia, Washington, 98504-3105.

**Chapter 490-276 WAC
ACCESS TO PUBLIC RECORDS**

NEW SECTION

WAC 490-276-010 Purpose. The purpose of this chapter is to ensure that the work force training and education coordinating board complies with the provisions of chapter 42.17 RCW dealing with public records.

NEW SECTION

WAC 490-276-020 Definitions. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including but not limited to, letters, words, pictures, sounds or symbols, combination thereof, and all papers, maps, magnetic or paper tapes, photographic files and prints, motion picture, film and video recordings, magnetic or punched cards, disks, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

(3) "The work force training and education coordinating board" is an agency organized by statute pursuant to RCW 28C.18.020 and shall hereafter be referred to as the "board." Where appropriate, the term "board" also refers to the staff and employees of the board.

NEW SECTION

WAC 490-276-030 Description of the work force training and education coordinating board. (1) The work force training and education coordinating board is a state agency established and organized under the authority of chapter 28C.18 RCW for the purpose of implementing the work force training and education responsibilities established by the legislature in RCW 28C.18.060. The administrative office of the board is located at Building 17, Airdustrial Park, within the city of Olympia, Washington.

(2) The board employs an executive director and other employees as designated by the executive director. A detailed description of the administrative organization of the agency is contained within the *Policies and Procedures Manual* for the work force training and education coordinating board, a current copy of which is available for inspection at the administrative office of the board.

NEW SECTION

WAC 490-276-040 Operations and procedures. (1) Formal decision-making procedures are established by the board through rules promulgated in accordance with the requirements of chapter 34.05 RCW, the Administrative Procedure Act.

(2) Informal decision-making procedures of the agency are set forth in the *Policies and Procedures Manual* referred to under WAC 490-276-030(2).

NEW SECTION

WAC 490-276-050 Public records available. All public records of the board, as defined in this chapter, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310, 41.17.315, or other statutes.

NEW SECTION

WAC 490-276-060 Public records officer. The board's public records shall be in the charge of the public records officer designated by the executive director of the board and shall be located in the board administrative office. The public records officer shall be responsible for the following: Implementation of the board's rules regarding release of public records, coordinating board employees in this regard, and generally ensuring compliance by board employees with the public records disclosure requirements in chapter 42.17 RCW.

NEW SECTION

WAC 490-276-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the board. For purposes of this chapter, the customary office hours shall be from eight o'clock a.m. to noon and from one o'clock p.m. to five o'clock p.m., Monday through Friday, excluding legal holidays.

NEW SECTION

WAC 490-276-080 Requests for public records. In accordance with the requirements of RCW 42.17.290 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the board which shall be available at the board's administrative office. The form shall be presented to the public records officer or, if the public records officer is not available, to any member of the board's staff at the board administrative office during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested record as it is described in such current index; and
- (e) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer, or person to whom the request is made, to assist the member of the public in succinctly identifying the public record requested.

NEW SECTION

WAC 490-276-090 Copying. No fee shall be charged for the inspection of public records. The board may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records as provided by RCW 42.17.300. Such charges shall not exceed the amount necessary to reimburse

the board for its actual costs incident to such copying. No person shall be released a record so copied until and unless the person requesting the copied public record has tendered payment for such copying to the appropriate board official. All charges must be paid by money order, cashier's check, or cash in advance.

NEW SECTION

WAC 490-276-100 Determination regarding exempt records. (1) The board reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 490-276-080 is exempt pursuant to the provisions set forth in RCW 42.17.310, 42.17.315, or other statute. Such determination may be made in consultation with the public records officer, the executive director of the board, or an assistant attorney general assigned to the board.

(2) Pursuant to RCW 42.17.260, the board reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an unreasonable invasion of personal privacy or impair a vital governmental interest: PROVIDED, HOWEVER, in each case, the justification for the deletion shall be explained fully in writing.

(3) Response to requests for a public record must be made promptly. For the purposes of this section, a prompt response occurs if the person requesting the public record is notified within five business days as to whether his request for a public record will be honored.

(4) All denials of a request for public records must be accompanied by a written statement, signed by the public records officer or his/her designee, specifying the reason for the denial, a statement of the specific exemption authorizing the withholding of the record, and a brief explanation of how the exemption applies to the public record withheld.

NEW SECTION

WAC 490-276-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement which constituted or accompanied the denial.

(2) The written request by a person demanding prompt review of a decision denying a public record shall be submitted to the executive director of the board, or his or her designee.

(3) Within two business days after receiving the written request by a person petitioning for a prompt review of a decision denying a public record, the executive director of the board, or his or her designee, shall complete such review.

(4) During the course of the review the executive director, or his or her designee, shall consider the obligations of the board to comply with the intent of chapter 42.17 RCW insofar as it requires providing full public access to official records, but shall also consider the exemptions provided in RCW 42.17.310 or other pertinent statutes, and the provisions of the statute which require the board to protect public records from damage or disorganization,

prevent excessive interference with essential functions of the agency, and prevent any unreasonable invasion of personal privacy by deleting identifying details.

NEW SECTION

WAC 490-276-120 Protection of public records.

Requests for public records shall be made at the administrative office of the board in Olympia, Washington. Public records and a facility for their inspection will be provided by the public records officer. Such records shall not be removed from the place designated. Copies of such records may be arranged according to the provisions of WAC 490-276-090.

NEW SECTION

WAC 490-276-130 Records index. (1) The board has available for the use of all persons a current index which provides identifying information as to the following records issued, adopted, or promulgated after September 1, 1991:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute, and the constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) The current index maintained by the board shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

NEW SECTION

WAC 490-276-140 Adoption of form. The agency has adopted and makes available a form for use by all persons requesting inspection and/or copying or copies of its public records. The form is available in the administrative office of the work force training and education coordinating board in Olympia.

WSR 93-06-006
PERMANENT RULES
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD

[Filed February 18, 1993, 11:28 a.m., effective February 18, 1993]

Date of Adoption: February 18, 1993.

Purpose: To repeal obsolete WAC and reference instead an interagency agreement between the Workforce Training and Education Coordinating Board and the Higher Education Coordinating Board regarding nondegree programs offered by degree-granting private vocational schools.

Citation of Existing Rules Affected by this Order: Amending WAC 490-100-250.

Statutory Authority for Adoption: RCW 28C.10.040(2).

Pursuant to notice filed as WSR 93-02-044 on January 5, 1993.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Rules to take effect immediately upon filing to avoid a legal hiatus with resulting damage to the public welfare.

Effective Date of Rule: February 18, 1993.

February 18, 1993

Ellen O'Brien Saunders

Executive Director

AMENDATORY SECTION (Amending WSR 91-08-029, filed 3/29/91, effective 3/29/91)

WAC 490-100-250 Degree-granting private vocational schools—Applicable rules. (See RCW 28C.10.040(4).)

(1) ~~((Institutional accredited degree granting private vocational schools.~~

~~(a) Pursuant to rules adopted by the higher education coordinating board, that agency will exempt from compliance with chapter 28B.85 RCW those degree programs that are covered by the institution's accreditation. For purposes of this exemption, the board recognizes those national and regional institutional accrediting agencies recognized by the council on postsecondary accreditation.~~

~~(b) The state board for vocational education or its successor agency will process the application of an institutionally accredited degree granting private vocational school which offers nondegree programs in accordance with chapter 28C.10 RCW. The license fee and bond or other security shall be based on the income derived from nondegree programs.~~

~~(2) Nonaccredited degree granting private vocational schools:~~

~~(a) The higher education coordinating board will process the application and collect the fee of nonaccredited degree-granting private vocational institutions when the majority of programs offered are degree programs. Nondegree programs will be reviewed by the state board for vocational education or its successor agency, as will student complaints regarding nondegree programs. A single surety bond or other security based on total tuition will be required and will name both agencies as obligees.~~

~~(b) The state board for vocational education or its successor agency will license nonaccredited degree granting private vocational schools when the majority of programs offered are nondegree programs and collect fees based on annual income from nondegree programs; *Provided, That*~~

~~the minimum initial fee shall be eight hundred dollars and the minimum renewal fee shall be four hundred dollars. Degree programs will be reviewed by the higher education coordinating board, as will student complaints regarding degree programs. Contributions to the tuition recovery fund will be required under WAC 490-100-180.~~

~~(3) If either the state board for vocational education or its successor agency or the higher education coordinating board revokes, suspends or fails to renew the license or authorization of an institution, it immediately will notify the other of such action.) Nondegree programs offered by degree-granting private vocational schools shall be regulated pursuant to the terms of an interagency agreement executed between the higher education coordinating board and the work force training and education coordinating board. Copies of said agreement are available from either agency on request.~~

**WSR 93-06-011
PERMANENT RULES
GAMBLING COMMISSION**

[Order 237—Filed February 19, 1993, 2:00 p.m.]

Date of Adoption: February 12, 1993.

Purpose: Complete listing of all field offices of the Washington State Gambling Commission, showing current locations and mailing addresses.

Citation of Existing Rules Affected by this Order: Amending WAC 230-02-035.

Statutory Authority for Adoption: RCW 9.46.070.

Pursuant to notice filed as WSR 93-01-133 on December 22, 1992.

Effective Date of Rule: Thirty-one days after filing.
February 18, 1993
Sharon M. Tolton
Rules Coordinator

AMENDATORY SECTION (Amending Order 200, filed 11/27/89, effective 12/28/89)

WAC 230-02-035 Field offices and operations. The administrative office of the commission and its staff is located at ~~((4511 Woodview Drive))~~ 649 Woodland Square Loop, S.E., Lacey, ((98504)) WA 98503-8121. The mailing address is: P.O. Box 42400, Olympia, WA 98504-2400. Commission offices located in other cities are as follows:

~~((CITY) PHONE NUMBER~~

Eastern Region

- ~~Spokane 99207 (509) 456-3167
123 East Indiana~~
- ~~Moses Lake 98837 (509) 765-0450
Ahlers Building, Suite A
310 S. Balsam~~
- ~~Yakima 98902 (509) 575-2820
901 Summitview, #230~~
- ~~Kennewick 99336 (509) 545-2056
500 N. Morain, Suite 1202~~

Northwest Region

~~Seattle 98134 (206) 464-6466
666 S. Dearborn
International Bldg.~~

Southwest Region

~~Tacoma 98405 (206) 593-2227
1201 S. Proctor~~

~~Vancouver 98663 (206) 696-6783
Suite 5, Angelo Plaza
1801 D Street~~

~~Olympia 98502 (206) 586-4392
2625C, Suite B,
Parkmont Lane S.W.))~~

City Telephone Number

Eastern Region

N 901 Monroe,
Rm. 240
Spokane 99201 (509) 456-3167

1031 Broadway
Moses Lake 98837 (509) 766-2305

901 Summitview, #230,
Yakima 98902 (509) 575-2820

500 N. Morain,
Suite 1202,
Kennewick 99336 (509) 545-2056

P.O. Box 2067,
Wenatchee 98801 (509) 662-0435

Northwest Region

Fisher Business Center
3500 188th St. SW,
Suite 601,
Lynnwood 98037 (206) 356-2968

King County Region

Valley 405 Business Park,
941 Powell Ave., SW,
Suite 103,
Renton 98055 (206) 277-7139

Southwest Region

Tacoma Mall Office
Building - 4301
Pine St. #307
Tacoma 98409-7206 (206) 593-2227

Suite 5, Angelo Plaza
1801 D Street,
Vancouver 98663 (206) 696-6783

Suite B, 2625C
Parkmont Lane, SW
Olympia 98502 (206) 586-4392

**WSR 93-06-032
PERMANENT RULES
HIGHER EDUCATION
PERSONNEL BOARD**

[Filed February 23, 1993, 3:34 p.m., effective April 1, 1993]

Date of Adoption: February 4, 1993.

Purpose: Repealing WAC 251-22-215 which specifies that excepted work period employees shall not be charged leave of absence without pay for partial days of authorized absence.

Citation of Existing Rules Affected by this Order: Repealing WAC 251-22-215 Leave of absence without pay—Excepted work period.

PERMANENT

Statutory Authority for Adoption: RCW 28B.16.100.
Pursuant to notice filed as WSR 93-01-141 on December 22, 1992.

Effective Date of Rule: April 1, 1993.

February 23, 1993
John A. Spitz
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 251-22-215 Leave of absence without pay—Excepted work period.

**WSR 93-06-033
PERMANENT RULES
HIGHER EDUCATION
PERSONNEL BOARD**

[Filed February 23, 1993, 3:35 p.m., effective April 1, 1993]

Date of Adoption: February 4, 1993.

Purpose: WAC 251-12-240 specifies which party has the burden of proof in all matters on appeal; and WAC 251-12-290 stipulates the Higher Education Personnel Board's responsibility in transmitting certified records to superior court.

Citation of Existing Rules Affected by this Order: Amending WAC 251-12-240 Burden of proof and 251-12-290 Superior court appeals—Preparation of record—Time limitations—Cost.

Statutory Authority for Adoption: RCW 28B.16.100.

Pursuant to notice filed as WSR 93-01-142 on December 22, 1992.

Effective Date of Rule: April 1, 1993.

February 23, 1993
John A. Spitz
Director

AMENDATORY SECTION (Amending Order 164, filed 12/30/87, effective 2/1/88)

WAC 251-12-240 Burden of proof. (1) The institution shall have the burden of proof at any hearing on appeal from a layoff, demotion, suspension, reduction in salary, separation (except for voluntary resignation or retirement), or dismissal ((the institution shall have the burden of proof)).

(2) ~~((At any hearing on appeal from an allocation, the burden of proof shall rest with the appellant.))~~ The appellant and/or the appellant's representative shall have the burden of proof in all other matters on appeal, including, but not limited to appeals from allocation.

(3) The party filing the exceptions shall have the burden of proof of demonstrating that the recommended decision or determination is in error at any hearing on exceptions ((to a hearing examiner's recommended decision per the provisions of WAC 251-12-085 or to a director's determination per the provisions of WAC 251-12-075, 251-12-600, or 251-17-170, the party filing the exceptions shall have the burden of proof)).

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-290 Superior court appeals—Preparation of record—Time limitations—Cost. Within thirty calendar days after service of the notice of appeal to the superior court((;)) in cases of suspensions, reductions, dismissals, or demotions or within such further time as the superior court may allow, the board shall transmit to the court a certified record, with exhibits, of the hearing; but by stipulation between the employing institution or related board and the employee the record may be shortened, and either party unreasonably refusing to stipulate to such limitation may be ordered by the court to pay the additional cost involved. The superior court may require or permit subsequent corrections or additions to the record.

**WSR 93-06-037
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**
(Public Assistance)

[Order 3516—Filed February 24, 1993, 12:58 p.m.]

Date of Adoption: February 24, 1993.

Purpose: Based on a mandatory federal requirement, effective January 1, 1993, an eligible child under nineteen years of age may receive Medicaid coverage.

Citation of Existing Rules Affected by this Order: Amending WAC 388-83-033 Children—Eligible to nineteen years of age, 388-83-130 Eligibility—Special situations, 388-82-115 Categorically needy medical assistance eligibility, 388-84-105 Medical application, and 388-99-010 Persons eligible for medically needy assistance.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: CFR 435.712 and 435.724.

Pursuant to notice filed as WSR 93-03-060 on January 15, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-83-033, "federal poverty level income guidelines" changed to "FPL"; WAC 388-84-105 (3)(b), deleted and replaced with new subsection (4); and WAC 388-82-115 replaces "recipient" with "client" and deletes two redundant statements for clarity in reading.

Effective Date of Rule: Thirty-one days after filing.

February 24, 1993

Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3307, filed 1/10/92, effective 2/10/92)

WAC 388-82-115 Categorically needy medical assistance eligibility. The department shall classify as eligible for categorically needy medical assistance:

- (1) A client who:
 - (a) In August 1972, received:
 - (i) Old age assistance (OAA);
 - (ii) Aid to blind (AB);
 - (iii) Aid to families with dependent children (AFDC); or

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(iv) Aid to the permanently and totally disabled (APTD); and

(b) Received retirement, survivors, and disability insurance (RSDI) benefits; and

(c) Is ineligible for OAA, AB, AFDC, or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

(2) A client who:

(a) Was entitled to RSDI benefits in August 1972; and

(b) Is ineligible for AFDC, family independence program (FIP), or supplemental security income (SSI) solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

(3) A family unit which becomes ineligible for AFDC before April 1, 1990, solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility; and

(b) A member of such family continues to be employed.

(4) A current (~~recipient~~) client of Title II, Social Security Administration (SSA) benefits who:

(a) Was a concurrent (~~recipient~~) client of Title II and SSI benefits;

(b) Is ineligible for SSI benefits and/or state supplementary payments (SSP); and

(c) Would be eligible for SSI benefits if the following are deducted from the current Title II benefit amount:

(i) All Title II cost-of-living benefit increases under P.L. 94-566, Section 503 received by the recipient since termination from SSI/SSP; and

(ii) All Title II cost-of-living benefit increases received during the time period in (c)(i) of this subsection by the (~~recipient's~~) client's spouse and/or other financially responsible family member living in the same household.

(5) (~~A recipient of~~) An SSI client, after January 1, 1981, who continues to be eligible for medical assistance (MA) under P.L. 96-265 and 99-643.

(6) A pregnant woman, with no other eligible children, who is ineligible for AFDC cash assistance solely because she has not reached the sixth month of pregnancy.

(7) A client who is denied AFDC or FIP cash payments solely because of a departmental recovery of an overpayment.

(8) A child (~~under seven years of age, who is born after September 30, 1983, and who meets the income and resource requirements of AFDC or FIP financial assistance~~) meeting residence, citizenship, and Social Security Number requirements whose family income is:

(a) Under one hundred eighty-five percent of the federal poverty level (FPL) for a child under one year of age; or

(b) Under one hundred thirty-three percent of the FPL for a child under six years of age;

(c) Under one hundred percent of the FPL for a child under eighteen years of age; or

(d) Effective January 1, 1993, under one hundred percent of the FPL for a child eighteen years of age.

(9) A family unit shall remain categorically eligible for medical assistance for nine calendar months beginning with the month of ineligibility for AFDC, when terminated before

April 1, 1990, from AFDC financial assistance solely because of:

(a) The loss of the thirty dollars plus one-third exemption; or

(b) The thirty-dollar income exemption.

(10) A child, born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year when the child remains a member of the mother's household.

(11) A family unit ineligible for AFDC or FIP financial assistance as a result (wholly or partly) of the collection or increased collection of child or spousal support (~~shall be eligible for medical assistance~~) for four months beginning with the month of ineligibility; provided the family unit:

(a) Received AFDC or FIP financial assistance in at least three of the six months immediately preceding the month of ineligibility; and

(b) Became ineligible for AFDC or FIP on or after August 16, 1984.

(12) A pregnant woman who does not meet the deprivation requirements of AFDC or FIP financial assistance if:

(a) She would meet the AFDC or FIP financial assistance income requirements if the number in the household is increased by one before being compared to the payment standard; and

(b) She meets the AFDC or FIP financial assistance resource requirements.

(13) An alien denied AFDC, FIP, or SSI cash assistance solely because of deeming of income of the alien's sponsors.

(14) A current disabled client receiving widow's or widower's benefits under section 202 (e) or (f) of the Social Security Act if the disabled client:

(a) Was entitled to a monthly insurance benefit for December 1983 under Title II of the Social Security Act;

(b) Was entitled to and received a widow's or widower's benefit for January 1984 based on a disability under section 202 (e) or (f) of the Social Security Act;

(c) Became ineligible for SSI/SSP in the first month in which the increase provided under section 134 of P.L. 98-21 was paid to the client;

(d) Has been continuously entitled to a widow's or widower's benefit under section 202 (e) or (f) of the act;

(e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under section 215(i) of the act, were disregarded;

(f) Is fifty through fifty-nine years of age; and

(g) Filed an application for Medicaid coverage before July 1, 1988.

(15) Effective January 1, 1991, any person receiving Title II widow/widower benefits under section 202 (e) or (f) of the SSA, if the person:

(a) Is not eligible for the hospital insurance benefits under Medicare Part A of Title XVIII;

(b) Received SSI/SSP payments in the month before receiving such Title II benefits;

(c) Became ineligible for SSI/SSP due to receipt of or increase in such Title II benefits; and

(d) Would be eligible for SSI/SSP if the amount of such Title II benefits or increase in such Title II benefits under section 202 (e) or (f) of the SSA, and any subsequent cost-of-living increases provided under section 215(i) of the act were disregarded.

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(16) A family unit suspended from FIP financial assistance because of increased earned income. This period of eligibility shall not exceed twelve months as determined by WAC 388-77-737.

(17) A family unit which becomes ineligible for FIP before April 1, 1990, solely because of increased hours of employment (~~shall remain categorically eligible for medical assistance~~) for four calendar months beginning with the month of ineligibility provided:

- (a) The family unit received FIP in at least three of the six months immediately preceding the month of ineligibility;
- (b) A member of such family continues to be employed.

(18) A disabled or blind client receiving Title II disabled adult childhood (DAC) benefits under section 202(d) of the SSA if the client:

- (a) Has attained eighteen years of age;
- (b) Lost SSI/SSP on or after July 1, 1988, due to receipt of or increase in DAC benefits; and
- (c) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under section 202(d) of the SSA and any subsequent cost-of-living increases provided under section 215(i) of the SSA act were disregarded.

AMENDATORY SECTION (Amending Order 3389, filed 5/19/92, effective 6/19/92)

WAC 388-83-033 Children—Eligible to ((eighteen)) nineteen years of age. (1) The department shall find a child who has not yet attained ((eighteen)) nineteen years of age eligible for Medicaid when the child meets citizenship, residence, and Social Security Number requirements under this chapter and the income requirement corresponding to the age levels under the following subsections:

(a) ((Effective January 1, 1992,)) A child ((born on or before September 30, 1983, but has not attained eighteen)) under nineteen years of age, shall be eligible as categorically needy when the family income is equal to or less than ((the AFDC income standards;

(b) ~~A child six years of age or older born on or after October 1, 1983, shall be eligible as categorically needy when the total family countable income does not exceed one hundred percent of the poverty income guidelines as published and updated by the secretary of health and human services)) one hundred percent of the federal poverty level (FPL). One hundred percent of the current ((federal poverty income guidelines)) FPL is:~~

	Family Size	Monthly
(i)	One	\$ 568
(ii)	Two	766
(iii)	Three	965
(iv)	Four	1,163
(v)	Five	1,361
(vi)	Six	1,560
(vii)	Seven	1,758
(viii)	Eight	1,956

(ix) For family units with more than eight members, add \$199 to the monthly income for each additional member.

((e)) (b) A child ((who attains)) one year of age, but ((has not attained)) under six years of age, shall be eligible as categorically needy when the total family countable income does not exceed one hundred thirty-three percent of the ((federal poverty income guidelines)) FPL as published and updated by the secretary of health and human services.

One hundred thirty-three percent of the current ((federal poverty income guidelines)) FPL is:

	Family Size	Monthly
(i)	One	\$ 755
(ii)	Two	1,019
(iii)	Three	1,283
(iv)	Four	1,547
(v)	Five	1,810
(vi)	Six	2,074
(vii)	Seven	2,338
(viii)	Eight	2,602

(ix) For family units with more than eight members, add \$264 to the monthly income for each additional member.

((d)) (c) An infant under one year of age shall be eligible as categorically needy when the infant is a member of a family whose total family countable income does not exceed one hundred eighty-five percent of the current ((federal poverty income guidelines)) FPL. See income guidelines as described under WAC 388-83-032 (3)(a).

(2) The department shall:
 (a) ~~((Find an infant under one year of age and born before January 1, 1991, eligible as categorically needy when the infant:~~

- (i) ~~Is born to a woman eligible for and receiving medical assistance on the date of the infant's birth; and~~
- (ii) ~~Remains a member of the mother's household and the mother remains eligible for medical assistance.~~

(b)) Find an infant under one year of age ((and born on or after January 1, 1991,)) eligible as categorically needy when the infant:

- (i) Is born to a woman eligible for and receiving medical assistance on the date of the infant's birth; and
- (ii) Remains a member of the mother's household.

((e)) (b) Not consider citizenship, application for, or possession of, a Social Security Number, income, or resource requirements for infants under this subsection.

(3) Effective January 1, 1991, regardless of citizenship or application for, or possession of a Social Security Number, the department shall determine a child from birth to eighteen years of age, eligible for state-funded medical services with the same medical coverage as categorically needy, if the:

- (a) Child is not eligible for any federally-funded Medicaid program; and
- (b) Child's total family countable income does not exceed one hundred percent of the current ((federal poverty income guidelines)) FPL. See income guidelines as described under subsection (1)((b))((a)) of this section.

(4) The department shall determine family income according to AFDC methodology, and apply the special situations as required under WAC 388-83-130.

(5) The department shall not consider resources in determining eligibility of a child under this section.

(6) A child shall remain eligible under this section until the later of the end of the month:

- (a) Of the child's birthday that exceeds the age requirement; or
- (b) In which the child receives inpatient services if:
 - (i) The child is receiving inpatient services on the last day of the month of the child's birthday that exceeds the age requirement; and

(ii) The child's stay for inpatient services continues into the following month or months; and

(iii) Except for the age requirement, the child would be eligible for assistance under this section.

(7) A child eligible under subsection (3) of this section if pregnant, shall remain eligible:

(a) Regardless of the changes in family income; and

(b) Through the end of the month including the sixtieth day from the day the pregnancy ends.

AMENDATORY SECTION (Amending Order 3174, filed 5/1/91, effective 6/1/91)

WAC 388-83-130 Eligibility—Special situations. (1) In determining eligibility for medical services, the department shall:

(a) Consider parent's income available whether or not actually contributed, when determining:

(i) Eligibility of a non SSI-related person under ~~((eighteen))~~ nineteen years of age residing in the same family unit with parents; ~~((except))~~ or

(ii) SSI-related eligibility of a person under eighteen years of age residing in the same family unit with parents.

(b) In determining a pregnant minor's medical eligibility, the department shall:

(i) Not consider the income of her natural, adoptive or stepparents unless the income is actually contributed; and

(ii) Consider a pregnant minor as living on her own.

(2) The department shall not allow the AFDC earned income exemption of thirty dollars plus one-third of remainder to clients:

(a) Applying solely for medical assistance, except for families applying for medical assistance who received AFDC or FIP cash assistance in any of the four preceding months; and

(b) After the client receives the thirty dollars plus one-third income disregard for a maximum of four consecutive months. A client is not eligible for the disregard until the client does not receive AFDC or FIP cash assistance for twelve consecutive months.

(3) For family units determined ineligible for AFDC or FIP cash assistance solely due to the requirements of WAC 388-24-050 or 388-77-210 that certain siblings be included in the assistance unit, at the applicant's option, such individuals and their income may be excluded from the assistance unit when determining eligibility of the remaining assistance unit members for categorically needy medical assistance.

(4) For family units determined ineligible for AFDC or FIP financial assistance solely due to the requirements of WAC 388-28-500(4) or 388-77-285 that income of the nonapplying parents of a minor parent be considered available to the assistance unit of the minor parent and such minor's child or children, such income shall be disregarded when determining eligibility of such minor's child or children.

(5) The department shall consider AFDC and FIP children sixteen and seventeen years of age, terminated from cash assistance, as eligible for Medicaid on the same basis as dependent children when termination was solely due to the:

(a) AFDC or FIP children ceasing to attend school; or

(b) AFDC children refusing to participate in the Job Opportunities and Basic Skills Training program.

(6) The department shall consider a person eligible for Medicaid when the person is denied AFDC or FIP cash assistance solely because:

(a) Of income and resources deemed available from the following person who is not a member of the AFDC or FIP unit, unless actually available to the assistance unit:

(i) Stepparent who is not legally liable for support of stepchildren;

(ii) Grandparent;

(iii) Legal guardian who is not a parent;

(iv) Alien sponsor; or

(v) Sibling.

(b) Of counting a sibling's income or resources or both to determine AFDC or FIP cash assistance when the sibling is residing in the same residence, unless the sibling actually contributes or makes available the income or resources or both to the AFDC or FIP assistance unit; and

(c) After July 1, 1989, a member of the family transferred a resource without receiving adequate compensation. If the family member is institutionalized, refer to chapter 388-95 WAC.

(7) The department shall consider a person eligible for Medicaid when the person is denied SSI cash assistance solely because of income and resources deemed available from an alien sponsor.

AMENDATORY SECTION (Amending Order 3285, filed 11/19/91, effective 12/20/91)

WAC 388-84-105 Medical application. (1) The department shall accept and process applications for medical programs as described under subsections of WAC 388-38-010, 388-38-030, 388-38-040, 388-38-045, and 388-38-050 except as specified under this section.

(2) The department shall accept applications for medical programs without delay.

(a) The department shall provide clients with:

(i) An explanation of the Civil Rights Act;

(ii) Fair hearing information;

(iii) Information about early and periodic screening, diagnosis, and treatment (EPSDT) also known as the healthy kids program, when appropriate; and

(iv) Information about family planning, when appropriate.

(v) Information about the special supplemental food program for women, infants and children's (WIC), when appropriate.

(b) The request for medical programs shall be in writing on a department designated form.

(c) A relative or representative may complete the application on a client's behalf, when the client is unable to complete the application or if the client dies.

(3) The department shall complete the application process by conducting a face-to-face interview in the local community services office (CSO), unless the client or their representative:

(a) Requests the office interview be waived and the:

(i) Client is unable to come to the CSO; and

(ii) Client has no representative to complete the interview; or

(iii) Client is unable to name a representative to complete the interview; and

(iv) Department has adequate information to determine eligibility for medical programs without a face-to-face interview.

~~(b) (Is a pregnant woman applying only for a medical program; or~~

~~(e))~~ Is a child ~~((up to eighteen))~~ under nineteen years of age and the application is only for a medical program.

(4) The department shall not require a face to face interview for a pregnant woman when determining eligibility for a medical program.

~~((5))~~ (6) If the client meets the requirements of subsection (3)(a), the department may complete the application process through:

(a) A face-to-face home visit;

(b) A telephone interview; or

(c) The mail.

~~((5))~~ (6) The department shall find clients who receive cash assistance under AFDC, FIP, SSI, or state supplement eligible for medical assistance without a separate application.

~~((6))~~ (7) A spouse ineligible for SSI benefits solely because of the spouse's income level shall apply individually for a medical program.

~~((7))~~ (8) A Washington state resident temporarily out of the state may make application directly to the CSO in the resident's area of the state through either a person or agency acting in the client's behalf.

AMENDATORY SECTION (Amending Order 3105, filed 11/30/90, effective 1/1/91)

WAC 388-99-010 Persons eligible for medically needy assistance. The department shall determine as medically needy a resident of the state of Washington who meets the income and resource levels in WAC 388-99-020 and 388-99-035 and is:

(1) Categorically needy as defined under WAC 388-82-010 but for income and/or resources; or

(2) The aged, blind, or disabled ineligible spouse of an SSI beneficiary; or

(3) A child ~~((seventeen))~~ under nineteen years of age ~~((and under))~~ as defined under WAC 388-83-033(1) but for income and resources; or

(4) A pregnant woman who the department considers categorically needy but for income and resource requirements. For the purposes of this subsection, the department shall increase the number in the household by the number of unborns before comparing the pregnant woman's:

(a) Income to the medically needy income level in WAC 388-99-020; and

(b) Resources to the resource level in WAC 388-99-035.

(5) Not an inmate of a public institution.

WSR 93-06-038
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3518—Filed February 24, 1993, 1:00 p.m.]

Date of Adoption: February 24, 1993.

Purpose: Clarify language; include burial space purchase agreements and accrued interest as exempt resources; clarify treatment of a sales contract; and deletes language and makes technical changes for easier reading.

Citation of Existing Rules Affected by this Order: Amending WAC 388-83-026 Availability of resources—General, 388-83-041 Income—Eligibility, and 388-92-045 Exempt resources.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-03-026 on January 12, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-83-041 (1)(c) now reads "Consider financial relative responsibility as described under WAC 388-92-025 for SSI-related clients and WAC 388-83-045 for clients unrelated to SSI"; WAC 388-92-045 (1)(f)(ii) now reads "Cash received from a native corporation, including cash dividends on stock received from a native corporation to the extent it does not exceed two thousand dollars per person per year"; WAC 388-83-041 is changed to reflect the establishment of WAC 388-83-046 and the revision to WAC 388-83-130 and 388-92-025; and WAC 388-92-045 change adds back in the two thousand dollar limit which had been removed in error.

Effective Date of Rule: Thirty-one days after filing.

February 24, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3093, filed 11/20/90, effective 12/21/90)

WAC 388-83-026 Availability of resources—General.

~~(1) ((To be eligible for medical care, a person's resources shall not exceed the specified limits for the appropriate eligibility standards for non-cash or cash assistance categorically needy, medically needy, qualified Medicare beneficiaries, or qualified working disabled individual groups.~~

~~(2) In establishing eligibility for medical care,))~~ The department shall consider ~~((only those))~~ resources ((actually)) available ((or in hand that a person)) when the client or spouse:

(a) Owns the resource; and

(b) Has the authority ~~((or power))~~ to convert the resource to cash~~((, or cash))~~; and

(c) Is not legally restricted from using the resource for the person's support and maintenance.

~~((3) In establishing eligibility for medical assistance for))~~ (2) The department shall exempt noncash ((assistance)) resources when the client:

(a) Applies for categorically ((and)) needy or medically needy ((persons, the department shall not consider)) medical assistance; and

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~~(b) Can not convert the noncash resource(s, that cannot be expected to be converted into) to cash within twenty work days(, available to the extent that there is an ongoing bona fide effort); and~~

~~(c) Makes an ongoing attempt to convert the noncash resources ((into)) to cash.~~

~~(3) The department shall consider the availability of a sales contract under WAC 388-92-045(2).~~

AMENDATORY SECTION (Amending Order 3366, filed 4/7/92, effective 5/8/92)

WAC 388-83-041 Income—Eligibility. (1) For cash assistance (~~(recipients))~~ clients of AFDC, FIP, GA-U, or SSI, the department shall find a person eligible for medical care programs without a separate determination of eligibility.

(2) For a noncash medical assistance (~~(recipients or applicants))~~ client, the department shall determine countable income according to AFDC, FIP, or SSI methodology, except the department shall:

(a) Budget income prospectively as defined under WAC 388-28-483;

(b) Not use mandatory monthly income reporting;

(c) Consider financial relative responsibility as described under WAC (~~388-83-130~~) and 388-92-025 for SSI-related clients and WAC 388-83-046 for clients unrelated to SSI;

(d) Exclude lump sum payments as described under WAC 388-92-045;

(e) Consider the AFDC earned income exemption as described under WAC 388-83-130; and

(f) ~~((Count))~~ Consider the principle and interest payment from a sales or real estate contract as described under WAC 388-92-045 (2)(a) as unearned income;

(g) Consider the ~~((payment and))~~ interest payment from a sales or real estate contract(s) as described under WAC 388-92-045 (2)(b) as unearned income;

~~((g))~~ (h) Require clients to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless they can show good cause for not doing so. The client's annuities, pensions, retirement, and disability benefits may include, but are not limited to, veteran's compensation and pensions, OASDI benefits, railroad retirement benefits, and unemployment compensation;

~~((h))~~ (i) Allow child care expenses ((paid by)) the client pays as an income deduction; and

~~((i) Exclude)~~ (i) Exempt earned income tax credit refunds and payments, the person receives on or after January 1, 1991, during the month of receipt and the following month.

AMENDATORY SECTION (Amending WSR 92-08-037, filed 3/24/92, effective 4/24/92)

WAC 388-92-045 ((Excluded)) Exempt resources.

(1) The department shall ~~((exclude))~~ exempt the following resources in determining eligibility for medical care programs:

(a) Home.

(i) A home means any shelter:

(A) In which the client has ownership interest; and

(B) The client uses as the principal place of residence. The department shall consider only one home as the client's principal place of residence.

(ii) Client's absence from the home shall not affect the home exclusion. The client's home shall remain the principal place of residence as long as:

(A) The client intends to return home. The department shall accept the client's statement of intent without challenge; or

(B) A client's spouse or dependent relative uses the home during the client's absence. The department shall:

(I) Consider a person a dependent relative when such person is either financially or medically dependent on the client; and

(II) Accept the client's or dependent relative's written statement of dependency or relationship unless the department has reason to question ~~((it))~~ such statement.

(iii) The department shall exclude the client's proceeds from the sale of the excluded home providing the client uses the proceeds to purchase another home within three months of the receipt of the proceeds. Proceeds ~~((shall))~~ include real estate contracts, or any similar home financing arrangements, and the income produced.

(iv) The department shall evaluate transfers of the home by an institutional client or client's spouse under WAC 388-95-395.

(b) Household goods and personal effects.

(c) Automobile or automobiles.

(i) The department shall ~~((exclude))~~ exempt one automobile regardless of its value if, for the client or a member of the client's household, the automobile is:

(A) Necessary for employment; or

(B) Necessary for the ~~((person's medical))~~ treatment of a specific or regular medical problem; or

(C) Modified for operation by, or transportation of, a handicapped ~~((client))~~ person; or

(D) Necessary due to climate, terrain, distance, or similar factors to provide ~~((the client))~~ transportation to perform essential daily activities.

(ii) The department shall:

(A) ~~((Exclude))~~ Exempt one of the client's automobiles to the extent its current market value does not exceed four thousand five hundred dollars;

(B) Count any excess against the resource limit; and

(C) ~~((Exclude))~~ Exempt an automobile under this subdivision only if an automobile is not ~~((excluded))~~ exempt under subsection (1)(c)(i) of this section.

(iii) The department shall treat the client's ownership of other automobiles as nonexempt resources and count the client's automobile equity value toward the resource limit.

(d) Property essential to self-support. The department shall ~~((exclude))~~ exempt:

(i) Property regardless of value, when the client uses the property:

(A) In a trade or business;

(B) As an employee for work; or

(C) As authorized by the government for income producing activity.

(ii) Nonbusiness property up to six thousand dollars equity, when the client uses the property for producing goods or services essential to daily activities, solely for the client's household.

(iii) Nonbusiness property up to six thousand dollars equity, when the client uses the property to produce an annual income return of six percent or more of the ~~((exclud- ed))~~ exempt equity or is expected to produce at least a six percent return within a twenty-month period as long as the client:

(A) Currently uses the property in items (1)(d)(i), (ii), and (iii) of this section in the described activity; or

(B) Is expected to resume the use of the property in items (1)(d)(i), (ii), and (iii) of this section in the described activity within twelve months.

(e) Resources of a blind or disabled person. The department shall ~~((exclud- e))~~ exempt resources necessary to fulfill an approved plan for a client to achieve self-support as long as such plan remains in effect.

(f) Alaska Native Claims Settlement Act. The depart- ment shall exempt:

(i) ~~((Exclusions before February 3, 1988, the department shall exclude))~~ Shares of stock held in a regional or village corporation ~~((during the period of twenty years ending January 1, 1992, in which such stock is inalienable under the Alaska Native Claims Settlement Act.));~~

(ii) ~~((Exclusions beginning February 3, 1988: (A)))~~ Cash received from a native corporation ~~(()),~~ including cash dividends on stock received from a native corporation ~~(())~~ to the extent it does not exceed two thousand dollars per person per year;

~~((B))~~ (iii) Stock issued or distributed by a native corporation as a dividend or distribution on the stock;

~~((C))~~ (iv) A partnership interest;

~~((D))~~ (v) Land or an interest in land ~~(()),~~ including land or an interest in land received from a native corporation as a dividend or distribution on stock ~~(())~~;

~~((E))~~ (vi) An interest in a settlement trust.

(g) Life insurance.

(i) The department shall ~~((exclud- e))~~ exempt the total cash surrender value if the total face value of all the policies held by each person is ~~((over))~~ one thousand five hundred dollars or less.

(ii) The cash surrender value applies to the resource limit if the face value of all the policies held by each person is over one thousand five hundred dollars.

(iii) When determining total face value in subsection (1)(g)(i) of this section, the department shall ~~((exclud- e))~~ exempt term or burial insurance with no cash surrender value.

(h) Restricted allotted land. The department shall ~~((exclud- e))~~ exempt restricted allotted land owned by an enrolled tribal member and spouse, if married, if such land cannot be sold, transferred, or otherwise disposed of without permission of other persons, the tribe, or an agency of the federal government.

(i) Insurance settlements. The department shall ~~((ex- clude))~~ exempt cash the client receives from an insurance company for purposes of repairing or replacing ~~((an exclud- ed))~~ a resource providing the client uses the total amount of the cash to repair or replace ~~((such exclud- ed))~~ the exempt resource within nine months. The department may extend the nine-month period based on circumstances beyond the control of the client to a maximum of nine additional months. The department shall consider any cash not used within the time period as an available resource.

(j) Burial spaces. The department shall ~~((exclud- e))~~ exempt the value of burial spaces for the client, the client's spouse, or any member of the client's immediate family.

(i) Burial spaces ~~((shall))~~ include conventional gravesites, crypts, mausoleums, urns, and other repositories customarily and traditionally used for the remains of de- ceased persons.

(ii) Burial spaces include a burial space purchase agreement as well as any interest accrued on and left to accumulate as part of the value of the burial space purchase agreement.

(iii) For purposes of subsection (1)(j) and (k) of this section, immediate family means a client's minor and adult children, including adopted children and stepchildren; a client's brothers, sisters, parents, adoptive parents, and the spouses of those persons. The department shall consider neither dependency nor living-in-the-same-household as factors in determining whether a person is an immediate family member.

(k) Burial funds.

(i) Funds specifically set aside for the burial arrange- ments of a client or the client's spouse shall not ~~((to))~~ exceed one thousand five hundred dollars for each spouse. The department shall count burial funds in excess of this limit toward the resource limit in WAC 388-92-050.

(ii) The department shall require funds set aside for burial expenses be kept separate from all other resources not intended for the burial of the client or the client's spouse and separately identified and designated as set aside for burial. If the ~~((exclud- ed))~~ exempt burial funds are mixed with resources not intended for burial, ~~((this exclusion))~~ the department shall not apply this exemption to any portion of the funds. The department may ~~((exclud- e))~~ exempt design- ated burial funds retroactively back to the first day of the month in which the person intended the funds to be set aside for burial ~~((or to November 1, 1982, whichever is later)).~~

(iii) Funds set aside for burial include revocable burial contracts, burial trusts, other burial arrangements, cash, accounts, or other financial instruments with a definite cash value the person clearly designates as set aside for the person's ~~((or spouse's(-if any)))~~ burial expenses.

(iv) The department shall reduce the one ~~((-))~~ thousand ~~((-))~~ five ~~((-))~~ hundred ~~((-))~~ dollar ~~((s-exclusion))~~ exemption by:

(A) The face value of the client's insurance policies owned by the person or spouse on the life of the person if the policies have been ~~((exclud- ed))~~ exempted as provided in subsection (1)(g) of this section; and

(B) Amounts in an irrevocable trust.

(v) The department shall ~~((exclud- e))~~ exempt the interest earned on ~~((exclud- ed))~~ exempt burial funds and appreciation in the value of ~~((exclud- ed))~~ exempt burial arrangements if the ~~((exclud- ed))~~ exempt interest and appreciation are left to accumulate and become part of the separately identified burial fund.

(vi) When used for other purposes, the department shall consider any ~~((exclud- ed))~~ exempt burial funds, interest, or appreciated values set aside for burial expenses as ~~((an))~~ available ~~((resource))~~ income if, at the first of the month of use, when added to other nonexempt resources, the total exceeds the resource limit.

(l) Other resources ~~((exclud- ed))~~ considered exempt by federal statute.

(m) Retroactive payments. The department shall ~~((exclude))~~ exempt retroactive SSI payments including benefits a client receives under the interim assistance reimbursement agreement with the Social Security administration, or OASDI payments~~((:~~

~~((i)))~~ for six months following the month of receipt this ~~((exclusion))~~ exemption applies to:

~~((A)))~~ (i) Payments the client ~~((received from October 1, 1984 through September 30, 1987 and after September 30, 1989;~~

~~((B)))~~ (ii) Payments received by the client, spouse, ~~((and/))~~ or any other person ~~((whose income))~~ receives that the department considers available to meet the ~~((applicant's or recipient's))~~ client's needs;

~~((C)))~~ (iii) SSI payments made to the client for benefits due for a month before the month of payment;

~~((D)))~~ (iv) OASDI payments made to the client for benefits due for a month that is two or more months before the month of payment; and

~~((E)))~~ (v) Payments that remain in the form of cash, checking accounts or saving accounts. ~~((This exclusion))~~ The department shall not apply this exemption once the retroactive payment has been converted to any other form.

~~((ii))~~ For nine months following the month of receipt if:

~~((A))~~ Subsection (1)(m)(i)(B), (C), (D), and (E) of this section is met; and

~~((B))~~ The payment is received during the period beginning October 1, 1987, and ending September 30, 1989.)

(n) Payments for medical or social services. The department shall ~~((exclude))~~ exempt, from resources for ~~((the))~~ one-calendar month following the month of receipt, certain cash payments an SSI person receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services.

(o) Restitution to civilians relocated and interned during war time. The department shall ~~((exclude))~~ exempt payments to persons of Japanese or Aleut ancestry under P.L. 100-383.

(p) The annuity payment of trust funds to Puyallup Tribal Indians received under P.L. 101-41.

(q) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P.L. 101-201.

(r) Payments to certain survivors of the Holocaust under the Federal Republic of Germany's law for compensation of National Socialist Persecution or German Restitution Act. Interest earned on conserved payment is not ~~((excluded))~~ exempt.

(s) Unspent assistance payments the client receives because of a presidentially declared major disaster, under P.L. 93-288, ~~((is))~~ are ~~((excluded))~~ exempt for nine months from date of receipt.

(i) The ~~((exclusion))~~ exemption may extend an additional nine months, if circumstances beyond the client's control:

(A) Prevents the client from repairing or replacing the damaged or destroyed property; or

(B) Keeps the client from contracting for such repair or replacement.

(ii) Interest earned on the ~~((excluded))~~ exempt resource is ~~((excluded))~~ exempt for the period the exclusion applies.

(t) Earned income tax credit refunds and payments, received on or after January 1, 1991, during the month of receipt and the following month.

(u) Payments from a state administered victim's compensation program for a period of nine calendar months after the month of receipt.

(v) Payments, or interest accrued on payments received under the Radiation Exposure Compensation Act received by the injured person, the surviving spouse, children, grandchildren, or grandparents.

(w) Effective September 1, 1991, payments under section 500 through 506 of the Austrian General Social Insurance Act:

(i) The department shall not consider such payments as income or resources for determining eligibility or post eligibility;

(ii) The earned interest from such payments is countable income for the ~~((recipient))~~ client.

(2) The department shall ~~((not))~~ consider a sales contract ~~((s as countable resources to the extent that the sales contracts are not transferred. WAC 388 83 027 shall apply to sales contract income and interest payments))~~:

(a) An exempt resource when the current market value of the contract:

(i) Is zero; or

(ii) Exceeds the resource limit; and

(iii) The department shall consider payment of principal and interest on a sales contract meeting the criteria of subsection (2)(a)(i) or (ii) under WAC 388-83-041 (2)(f).

(b) An available resource when the value of the sales contract, combined with other countable resources, is within the resource limit. For a sales contract the department determines an available resource, the department shall consider payment that represents:

(i) Principal, an available resource.

(ii) Interest, under WAC 388-83-041 (2)(g).

(c) An available resource when transferred by the client to a person other than the client's spouse. See WAC 388-95-395.

(3) ~~((Applicants or recipients))~~ The client may transfer or exchange exempt resources except the home or a sales contract. The department shall consider cash received from the sale of an exempt resource as a nonexempt resource to the extent that the cash is not used to:

(a) Replace ~~((another))~~ an exempt resource; or

(b) Be ~~((reinvested))~~ invested in ~~((another))~~ an exempt resource within the same month, ~~((except as))~~ unless specified differently under this section.

WSR 93-06-039

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 3515—Filed February 24, 1993, 1:02 p.m.]

Date of Adoption: February 24, 1993.

Purpose: Adds that routine screening may be done under EPSDT/healthy kids; and adds that audiometric services are available to medically needy children under the

early, periodic screening diagnostic and treatment program (EPSDT).

Citation of Existing Rules Affected by this Order:
Amending WAC 388-86-012 Audiometric services.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-03-034 on January 13, 1993.

Effective Date of Rule: Thirty-one days after filing.

February 24, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 1725, filed 12/3/81)

WAC 388-86-012 Audiometric services. (~~Evaluation of~~) The department shall pay for hearing ((by)) evaluations involving audiometric equipment ((is available)) when:

(1) An approved audiologist, physician, or an advanced registered nurse practitioner provides the service to:

(a) Categorically needy ((recipients)) clients of Medicaid ((when administered by an approved audiologist or a physician));

(b) Medically needy children under twenty-one years of age; or

(c) State-funded children's health program clients. ((These evaluations must be related))

(2) The audiometric services shall relate to the provision of a hearing aid, a healthy kids/EPSDT screening service, or to a ((disease process)) medical condition; and ((are))

(3) The audiometric services shall not be available for routine or group screenings, except under healthy kids/EPSDT services as specified under WAC 388-86-027.

WSR 93-06-041
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3517—Filed February 24, 1993, 1:05 p.m.]

Date of Adoption: February 24, 1993.

Purpose: Adds that child support is the income of the child; changes the post-eligibility treatment of veteran's aid and attendance allowance; separates exempt and disregarded income into separate subsection to clarify the treatment of income when determining eligibility and post-eligibility; removes the requirement that spouse's income and resources are considered available to each other for six months; removes redundant language; adds Agent Orange, German restitution, radiation exposure, and Austrian social insurance funds as income exemptions; and updates community spouse allowance to \$1,769 effective January 1, 1993.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-95-340 Computations of available income and resources and 388-95-360 Allocation of income and resources—Institutionalized client.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-03-027 on January 12, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-95-340 (5)(o) now reads "Restitution payment, and the interest earned on such payment, to a civilian of Japanese or Aleut ancestry under P.L. 100-383; and WAC 388-95-340 (6)(e) now reads "For an AFDC-related person, the first ninety dollars of earned income"; and WAC 388-95-340 (6)(e) is now (f), and (f) is now (g).

Effective Date of Rule: Thirty-one days after filing.

February 24, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2411, filed 8/21/86)

WAC 388-95-340 Computation of available income and resources. (1) The department shall limit financial responsibility of relatives to:

(a) A spouse for a spouse; and

(b) A parent for a child.

(2) Financial responsibility of spouses((-):

(a) ((If both spouses apply or are eligible as aged, blind, or disabled and cease to live together their income and resources are considered available to each other for the time periods specified below. After the appropriate time period only the income and resources that are actually contributed by one spouse to the other are considered available.

(i) If spouses cease to live together because of the institutionalization of one spouse—

(A) Consider their income as available to each other through the month in which they cease to live together. Mutual consideration of income ceases with the month after the month in which separation occurs.

(B) Consider their resources as available to each other for the month during which they cease to live together and the six months following that month.

(ii) If spouses cease to live together for any reason other than institutionalization consider their income and resources as available to each other for the month during which they cease to live together and the six months following that month. If the mutual consideration of income and resources causes the individuals to lose eligibility as a couple, the agency will determine if an individual is eligible in accordance with subsection (b) of this section.

(b) If only one spouse in a couple applies or is eligible, or both spouses apply and are not eligible as a couple, and they cease to live together consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse beginning with the month after the month in which they cease to live together.

(c) When both spouses are eligible and institutionalized income and resources are considered separately even if they share the same room.

(d) When only one spouse is eligible and both are institutionalized consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse, even if they share the same room.

(e) If the community income received in the name of the nonapplicant spouse exceeds the community income

received in the name of the applicant spouse, the applicant's interest in that excess is considered unavailable to the applicant.

~~(2) Relative responsibility shall be limited to spouse for spouse and parent for child.~~

~~(3) For children age eighteen to twenty one the parents' income is not deemed to the child. Count only the income that is actually contributed to the child.~~

~~(4) Exclusions from income. The following shall be excluded)) The department shall consider, in the month the spouses stopped living together, the:~~

~~(i) Resources available to each spouse;~~

~~(ii) Income available to the applying spouse:~~

~~(A) In the name of the applying spouse; and~~

~~(B) Community income received in the name of the nonapplying spouse that does not exceed the community income received in the name of the applying spouse.~~

~~(b) The department shall consider, in the month after the month the spouses stopped living together, the spouses' income and resources only when a spouse actually contributes such income and resources; and~~

~~(c) The department shall consider the income and resources of spouses living in the same household as available to each other.~~

~~(3) The department shall consider institutionalized spouses as not living together even if such spouses share a room.~~

~~(4) Financial responsibility of parent to child. The department shall consider available only the parent's income actually contributed to an institutionalized person twenty years of age or younger.~~

~~(5) The department shall consider a client's income exemptions as unavailable income when determining initial eligibility or post-eligibility. The department shall exempt sequentially from income:~~

~~(a) Any ((amount received from any)) public ((agency as a return or)) agency's refund of taxes paid on real property or on food ((purchased by such individual or spouse));~~

~~(b) Supplemental security income (SSI) and state public assistance based on financial need;~~

~~(c) Any portion of ((any)) a grant, scholarship, or fellowship ((received for use in paying the cost of)) used to pay tuition ((and)), fees, or other necessary educational expenses at any educational institution;~~

~~(d) ((Income that is not reasonably anticipated, or received infrequently or irregularly, if such income does not exceed twenty dollars per month if unearned, or ten dollars per month if earned;~~

~~(e) One third of any payment for)) Child support received by a parent, from an absent parent, for a minor child who is not institutionalized;~~

~~((f) The first twenty dollars per month of earned or unearned income. There is no exclusion on income which is paid on the basis of need and is totally or partially funded by the federal government or by a private agency;~~

~~(g)) (e) Tax exempt payments received by Alaska natives under the Alaska Native Claims Settlement Act;~~

~~((h)) (f) Tax rebates or special payments excluded by other statutes;~~

~~((i)) (g) Compensation provided to volunteers in ACTION programs established by ((Public Law)) P.L. 93-113, the Domestic Volunteer Service Act of 1973;~~

~~((j)) (h) Veteran's benefits((, only the following portions are excluded.~~

~~(i) The veteran's aid and attendance/house bound allowance.~~

~~(ii) The portion attributable to)) designated for the veteran's dependent((:~~

~~(k) A fee charged by a guardian to reimburse himself or herself for services provided. (l));~~

~~(i) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible ((recipient)) client (e.g. chore services)((, (-5) Earned income exclusions));~~

~~(j) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P.L. 101-201;~~

~~(k) Payments to certain survivors of the Holocaust under the Federal Republic of Germany's law for compensation of National Socialist Persecution or German Restitution Act. Interest earned on conserved payment is not exempt;~~

~~(l) Payments under the Radiation Exposure Compensation Act received by the injured person, the surviving spouse, children, grandchildren, or grandparents;~~

~~(m) Payments under section 500 through 506 of the Austrian General Social Insurance Act. The department shall considered the earned interest from such payments as countable income;~~

~~(n) Certain cash payments a client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;~~

~~(o) Restitution payment, and interest earned on such payment, to a civilian of Japanese or Aleut ancestry under P.L. 100-383;~~

~~(p) The amount of expenses directly related to a client's impairment that allows the permanently and totally disabled client to continue to work;~~

~~(g) The amount of blindness related work expenses of a blind client;~~

~~(r) Interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become part of the separately identified burial funds set aside on or after November 1, 1982;~~

~~(s) Earned income tax credit (EITC);~~

~~(t) Victim's compensation.~~

~~(6) The department shall consider disregarded income as unavailable income when determining initial eligibility but shall consider the income available during post-eligibility. See WAC 388-95-360 for post-eligibility treatment of income. The department shall disregard sequentially from a client's income:~~

~~(a) Income that is not reasonably anticipated, or is received infrequently or irregularly, when such income does not exceed:~~

~~(i) Twenty dollars per month if unearned; or~~

~~(ii) Ten dollars per month if earned.~~

~~(b) The first twenty dollars per month of earned or unearned income. The department may not exclude income paid to a client on the basis of need and is totally or partially funded by the federal government or by a private agency;~~

(c) The veteran's aid and attendance/house bound allowance;

(d) For an SSI-related ((individuals shall be)) person, the first sixty-five dollars per month of earned income not excluded according to subsection ((4)) (5) of this section, plus one-half of the remainder((—(6)));

(e) For an AFDC-related person, the first ninety dollars of earned income;

(f) Money voluntarily withheld from SSA Title II benefits by the Social Security Administration (for the recovery of SSI overpayments) ((is considered as available income for the institutionalized individual's contribution toward the cost of care)); and

(g) A fee charged by a guardian as reimbursement for provided services.

AMENDATORY SECTION (Amending Order 3356A, filed 3/31/92 and 5/5/92, effective 5/5/92 and 6/5/92)

WAC 388-95-360 Allocation of income and resources—Institutionalized ((recipient)) client. (1) In reducing payment to the institution, the department shall consider the institutionalized ((recipient's)) client's:

(a) Income under WAC 388-95-335 (3)(a), (b), (c), and (d);

(b) Resources under WAC 388-95-380 and 388-95-395.

(2) In reducing payment to the institution, the department shall consider the eligible institutional client's excess resources available to meet cost of care after the following allocations:

(a) Health insurance and Medicare premiums, deductions, and co-insurance not paid by a third party; and

(b) Noncovered medical bills which are the liability of the client and not paid by a third party.

(3) The department shall not use allocations used to reduce excess resources under WAC 388-95-360(2) to reduce income under WAC 388-95-360(4).

(4) The department shall deduct the following amounts, in the following order, from the institutionalized ((recipient's)) client's total income, including amounts excluded in determining eligibility:

(a) Specified personal needs allowance;

(b) An amount an SSI, AFDC, or FIP-related client in a medical facility receives as a cash assistance payment sufficient to bring the client's income up to the personal needs allowance;

(c) The current personal needs allowance plus wages the SSI-related client receives for work approved by the department as part of a training or rehabilitative program designed to prepare the person for a less-restrictive placement when the total wages received plus the personal needs allowance do not exceed the one-person medically needy income level:

(i) A deduction is not allowed for employment expenses; and

(ii) The excess wages shall apply to the cost of care when the total wages received plus the initial personal needs allowance exceeds the one-person medically needy income level.

(d) A monthly needs allowance for the community spouse not to exceed one thousand seven hundred ((eigh-

teen)) sixty-nine dollars, unless specified in subsection ((4)) (6) of this section. The monthly needs allowance shall be:

(i) An amount added to the community spouse's income to provide a total community spouse's income of one thousand two hundred fifty-eight dollars; and

(ii) Excess shelter expenses as specified in subsection ((3)) (5) of this section.

(e) An amount for the maintenance needs of each dependent family member residing with the community spouse. Child support received from an absent parent is the child's income:

(i) An amount(:

(A) Effective April 1, 1992, equal to one-third of the amount one thousand nineteen dollars exceeds the family member's income; and

(B) Effective July 1, 1992,) equal to one-third of the amount one thousand one hundred forty-nine dollars exceeds the family member's income.

(ii) A family member is a:

(A) Dependent or minor child;

(B) Dependent parent; or

(C) Dependent sibling of the institutionalized or community spouse.

(f) If an institutional ((recipient)) client does not have a community spouse, an amount for the maintenance needs of family members residing in the ((recipient's)) client's home is equal to the medically needy income level for the number of legal dependents in the home less the income of the dependents;

(g) Amounts for incurred medical expenses not subject to third-party payment including, but not limited to:

(i) Health insurance premiums, co-insurance, or deductible charges; and

(ii) Necessary medical care recognized under state law, but not covered under Medicaid.

(h) Maintenance of the home of a single person or couple:

(i) Up to one hundred eighty dollars per month; and

(ii) Limited to a six-month period; and

(iii) A physician has certified that either of the persons is likely to return to the home within that period; and

(iv) Social service staff shall document initial need for the income exemption and review the person's circumstances after ninety days.

((3)) (5) For the purposes of this section, excess shelter expenses:

(a) Means the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

(v) A food stamp standard allowance for utilities, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(b) Shall not exceed three hundred five dollars and seventy cents, effective April 1, 1992; and

(c) Shall not exceed three hundred forty-four dollars and seventy cents, effective July 1, 1992.

((4)) (6) The amount allocated from the institutional spouse to the community spouse may be greater than the

amount in subsection ~~((2))~~ (4)(d)(i) of this section only when:

(a) A court enters an order against the institutional client for the community spouse support; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

~~(((5)) The department shall not deduct specified personal needs allowance, community spouse, needy dependent maintenance needs, or home maintenance needs from a veteran's aid and attendance allowance.~~

~~((6))~~ (7) The ~~((recipient))~~ client shall use the income remaining after allocations specified in subsection ~~((2))~~ (4) of this section, toward payment of the recipient's cost of care at the department rate.

~~((7))~~ (8)(a) Effective July 1, 1988, SSI-related clients shall continue to receive total payment under 1611 (b)(1) of the Social Security Act (SSA) for the first three full calendar months of institutionalization in a public or Medicaid-approved medical institution or facility if the:

(i) Stay in the institution or facility is not expected to exceed three months; and

(ii) SSI-related clients plan to return to their former living arrangements.

(b) The department shall not consider the SSI payment when computing the participation amount.

~~((8))~~ (9) The department shall not consider income from reparation payments made by the Federal Republic of Germany when computing the participation amount.

WSR 93-06-042
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3501—Filed February 24, 1993, 1:07 p.m.]

Date of Adoption: February 24, 1993.

Purpose: New WAC 388-15-202, 388-15-203, 388-15-204, and 388-15-205 will provide understandable easy access to rules common to all aging and adult services administration programs regarding assessment and service plan development. These rules are currently located in WACs for specific programs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-15-202 Comprehensive assessment—Definitions, 388-15-203 Assessment, 388-15-204 Reassessment, and 388-15-205 Service plan development.

Statutory Authority for Adoption: RCW 74.09.520, 74.39.005, 74.08.043, and 74.08.545.

Pursuant to notice filed as WSR 93-04-023 on January 27, 1993.

Effective Date of Rule: Thirty-one days after filing.

February 24, 1993
Rosemary Carr
Acting Director
Administrative Services

NEW SECTION

WAC 388-15-202 Comprehensive assessment—Definitions. (1) "Assessment" means an inventory and evaluation of abilities and needs.

(2) "Client" means an applicant for service or a person currently receiving services.

(3) "Personal care services" means assistance with both direct personal care and household tasks provided to clients functionally unable to perform all or part of such tasks listed in subdivisions (a) through (q) below. The type of help allowable for each task shall not include assistance that must be provided by a licensed health professional.

(a) "Ambulation" means assisting the client to move around. Ambulation includes supervising the client when walking alone or with the help of a mechanical device such as a walker if guided, assisting with difficult parts of walking such as climbing stairs, supervising the client if client is able to propel a wheelchair if guided, pushing of the wheelchair, and providing constant physical assistance to the client if totally unable to walk alone or with a mechanical device.

(b) "Bathing" means assisting client to wash self. Bathing includes supervising client able to bathe self when guided, assisting client with difficult tasks such as getting in or out of the tub or washing back, and completely bathing the client if totally unable to wash self.

(c) "Body care" means assisting the client with exercises, skin care including the application of ointments or lotions, changing dry bandages or dressings not requiring professional judgment. Body care excludes foot care beyond washing of feet and filing toenails, foot care for clients who are diabetic or have poor circulation, or changing bandages or dressings when sterile procedures are required. Provision of body care tasks is limited. The client must be able to supervise the provision of these tasks.

(d) "Dressing" means assistance with dressing and undressing. Dressing includes supervising and guiding client when client is dressing and undressing, assisting with difficult tasks such as tying shoes and buttoning, and completely dressing or undressing client when unable to participate in dressing or undressing self.

(e) "Eating" means assistance with eating. Eating includes supervising client when able to feed self if guided, assisting with difficult tasks such as cutting food or buttering bread, and feeding the client when unable to feed self.

(f) "Essential shopping" means assistance with shopping to meet the client's health care or nutritional needs. Limited to brief, occasional trips in the local area to shop for food, medical necessities, and household items required specifically for the health and maintenance of the client. Essential shopping includes assisting when the client can participate in shopping and doing the shopping when the client is unable to participate.

(g) "Housework" means performing or helping the client perform those periodic tasks required to maintain the client in a safe and healthy environment. Activities performed include such things as cleaning the kitchen and bathroom, sweeping, vacuuming, mopping, cleaning the oven, and defrosting the freezer, shoveling snow. Washing inside windows and walls is allowed, but is limited to twice a year. Assistance with housework is limited to those areas of the

home which are actually used by the client. This task is not a maid service and does not include yard care.

(h) "Laundry" means washing, drying, ironing, and mending clothes and linens used by the client or helping the client perform these tasks.

(i) "Meal preparation" means assistance with preparing meals. Meal preparation includes planning meals including special diets, assisting clients able to participate in meal preparation, preparing meals for clients unable to participate, and cleaning up after meals. This task may not be authorized to just plan meals or clean up after meals. The client must need assistance with actual meal preparation.

(j) "Personal hygiene" means assistance with care of hair, teeth, dentures, shaving, filing of nails, other basic personal hygiene, and grooming needs. Personal hygiene includes supervising client when performing the tasks, assisting client when caring for own appearance, and performing grooming tasks for client when unable to care for own appearance.

(k) "Positioning" means assisting the client to assume a desired position. Positioning includes assistance in turning and positioning to prevent secondary disabilities, such as contractures and balance deficits.

(l) "Self-medication" means assisting the client to self-administer medications prescribed by attending physician. Self-medication includes reminding the client of when it is time to take prescribed medication, handing the medication container to the client, and opening a container.

(m) "Supervision" means being available to:

(i) Help the client with personal care tasks that cannot be scheduled, including toileting, ambulation, transfer, positioning, some medication assistance; and

(ii) Provide protective supervision to a client who cannot be left alone because of confusion, forgetfulness, or lack of judgment.

(n) "Toileting" means assistance with bladder or bowel functions. Toileting includes guidance when the client is able to care for own toileting needs, helping client to and from the bathroom, assisting with bedpan routines, using incontinent briefs on client, and lifting client on and off the toilet. Toileting may include performing routine perineal care, colostomy care, or catheter care for the client when client is able to supervise the activities.

(o) "Transfer" means assistance with getting in and out of a bed or wheelchair or on and off the toilet or in and out of the bathtub. Transfer includes supervising the client when able to transfer if guided, providing steadying, and helping the client when client assists in own transfer. Lifting the client when client is unable to assist in their own transfer requires specialized training.

(p) "Travel to medical services" means accompanying or transporting the client to a physician's office or clinic in the local area to obtain medical diagnosis or treatment.

(q) "Wood supply" means splitting, stacking, or carrying wood for the client when the client uses wood as the sole source of fuel for heating and/or cooking. This task is limited to splitting, stacking, or carrying wood the client has at own home. Using a chain saw or felling trees is not allowable.

NEW SECTION

WAC 388-15-203 Assessment. (1) Purpose. The assessor as identified in subsection (2)(a) of this section shall:

(a) Identify client strengths to maximize current strengths and promote client independence;

(b) Evaluate physical health, functional and cognitive abilities, social resources and emotional and social functioning for service planning for long-term care;

(c) Identify client values and preferences for effective service planning based on the individual's values and lifestyles; and

(d) Determine client's need for informal support, community support and services, and department paid services.

(2) Assessment responsibility.

(a) Department staff and aging network staff while assessing need for case management shall perform the assessment.

(b) The assessors shall perform a separate assessment for each adult applying for all aging and adult field services programs except adult protective services.

(c) The assessors shall document the assessment on a prescribed form.

(d) The assessors shall perform the assessment in person with the client.

(e) When administering the assessment, the assessors shall take into account the client's:

(i) Risk of and eligibility for nursing facility placement;

(ii) Health status, psychological/social/cognitive functioning, income and resources, and functional abilities;

(iii) Living situation; and

(iv) Availability of alternative resources providing needed assistance, including family, neighbors, friends, community programs, and volunteers.

(3) Scoring of functional abilities and supports.

(a) For each direct personal care service and household assistance task listed on the assessment form, assessors shall determine:

(i) The client's ability to perform each activity;

(ii) Assistance available through alternative resources, including families, friends, neighbors, community programs, and unpaid caregivers; and

(iii) Assistance needed from aging and adult field services programs after alternative resources have been taken into account.

(b) The assessors shall award points for each task based on the level of unmet need. The number of points allowable for each task are listed below under columns identified as 0=none, M=minimal, S=substantial, and T=total:

TASK	0	M	S	T
Eating				
Breakfast	0	4	7	10
Light meal	0	4	7	10
Main meal	0	5	10	15
Toileting	0	5	10	15
Ambulation	0	4	7	10
Transfer	0	1	3	5
Positioning	0	1	3	5

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Body care	0	5	10	15
Personal hygiene	0	1	3	5
Dressing	0	4	7	10
Bathing	0	4	7	10
Self-medication	0	2	4	6
Travel to medical services	0	1	2	3
Essential shopping				
With client	0	5	10	15
or				
For client	0	1	3	5
Meal preparation				
Breakfast	0	4	7	10
Light meal	0	4	7	10
Main meal	0	5	10	15
Laundry				
Facilities in home	0	1	2	3
or				
Facilities out of home	0	3	5	7
Housework	0	1	2	3
Wood supply	0	3	5	7

(c) The points awarded for each task are added together to obtain the total score for the applicant or client.

(4) Ceiling hour computation. Department staff shall:

(a) Convert the total score into maximum allowable hours per month (ceiling hours) which may be authorized; and

(b) Use the service authorization ceiling chart to convert the score to ceiling hours per month.

SCORE	CEILING HOURS	SCORE	CEILING HOURS	SCORE	CEILING HOURS
1 - 4	5	60 - 64	44	120 - 124	83
5 - 9	8	65 - 69	47	125 - 129	87
10 - 14	11	70 - 74	51	130 - 134	90
15 - 19	14	75 - 79	54	135 - 139	93
20 - 24	18	80 - 84	57	140 - 144	97
25 - 29	21	85 - 89	60	145 - 149	100
30 - 34	24	90 - 94	64	150 - 154	103
35 - 39	28	95 - 99	67	155 - 159	106
40 - 44	31	100 - 104	70	160 - 164	110
45 - 49	34	105 - 109	74	165 - 169	113
50 - 54	37	110 - 114	77	170 and	
55 - 59	41	115 - 119	80	Above	116

(c) Conversion hours show client need and may not reflect department paid hours as determined by program standards.

(5) The assessors shall determine the client's additional hours of supervision needed:

(a) Due to confusion, forgetfulness or lack of judgment; and

(b) For standby assistance necessary for unscheduled tasks defined in WAC 388-15-202.

(c) Supervision hours show client need and may not reflect department paid hours as determined by program standards.

(6) Department staff shall authorize services to correspond with the client's assessed need according to eligibility criteria for aging and adult services administration programs. The department shall notify the client of the right to contest denial or reduction of services.

NEW SECTION

WAC 388-15-204 Reassessment. (1) The assessors shall perform an interim reassessment or full reassessment of the client's strengths, physical health, functional and cognitive abilities, social resources, emotional and social functioning, preferences, need for informal and community support and services, and need for department paid services:

(a) As required by the program standards in which the client has been authorized services; and

(b) When deemed necessary because of a change in the client's condition or situation.

(2) The department shall continue, deny, or alter services to correspond with the client's present need. The department shall notify the client of the right to contest denial or reduction of services.

NEW SECTION

WAC 388-15-205 Service plan development. (1) The department and the aging network when providing case management shall develop a service plan with the client which identifies ways to meet the client's needs with the most appropriate services, both formal and informal.

(2) Staff who develop the service plan shall document the:

- (a) Client's specific problems and needs;
- (b) Plan for meeting each need;
- (c) Responsible parties for carrying out each part of the plan;
- (d) Anticipated outcomes;
- (e) Dates and changes to the plan;
- (f) Dates of referral, service initiation, follow-up reviews; and
- (g) Agreement to the service plan by the client or the client's representative.

WSR 93-06-042A
PERMANENT RULES
DEPARTMENT OF HEALTH
 [Order 332—Filed February 24, 1993, 1:40 p.m.]

Date of Adoption: February 23, 1993.

Purpose: To amend the requirements for licensing out-of-state applicants without the full examination for dental hygiene. The amendments are for clarity and to expand acceptance of current practice.

Citation of Existing Rules Affected by this Order: Amending WAC 246-815-100.

Statutory Authority for Adoption: RCW 18.29.045.

Pursuant to notice filed as WSR 93-01-147 on December 23, 1992.

Effective Date of Rule: Thirty-one days after filing.

February 23, 1993
Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-815-100 Licensure by interstate endorsement of credentials. A license to practice as a dental hygienist in Washington may be issued pursuant to RCW 18.29.045 provided the applicant meets the following requirements:

(1) The applicant has successfully completed a dental hygiene education program which is approved by the secretary of the department of health pursuant to WAC 246-815-030.

(2) The applicant has been issued a valid, current, nonlimited license by successful completion of a dental hygiene examination in another state. The other state's current licensing standards must be substantively equivalent to the licensing standards in the state of Washington. The other state's examination must have included the following portions and minimum level of competency standards. Each portion must be independently graded and successfully completed:

(a) Written tests - the written tests (~~which~~) include:

(i) The National Board of Dental Hygiene examination.

(ii) A state written test covering local anesthesia, nitrous oxide analgesia, restorative dentistry and asepsis.

(b) Practical tests - all portions shall be graded anonymously by calibrated practicing dental hygienists or dental hygienists and dentists. The calibration process shall consist of training sessions which include components to evaluate and confirm each examiners ability to uniformly detect known errors on pregraded patients and dentofoms. Examiners will be calibrated to the established standard of minimum level of competency. The examination must have equivalent patient selection criteria for the patient evaluation, prophylaxis and anesthesia portions. The current Washington state patient selection criteria for examination will be used as the basis of comparison at the time of application for licensure by interstate endorsement of credentials. The practical tests include:

(i) Patient evaluation clinical competency test which includes a health history, extra-oral and intra-oral examination, periodontal charting and radiographs. The entire patient evaluation test shall be done on an approved patient of which the candidate has no previous knowledge.

(ii) Prophylaxis clinical competency test which includes a clinical demonstration of a prophylaxis to consist of the removal of deposits from and the polishing of the surfaces of the teeth.

(iii) Anesthesia clinical competency test which includes a clinical demonstration of the administration of a local anesthetic.

(iv) Restorative test which includes a clinical demonstration of the application of a matrix and a wedge, the insertion, condensation, and carving of amalgam on a prepared Class II dentofom tooth and polishing on a condensed, carved and unpolished MOD amalgam restoration on a molar dentofom tooth.

(3) The applicant holds a valid current license, and ~~(is)~~ has been currently engaged in clinical practice at any time within the previous year as a dental hygienist in another state or in the discharge of official duties in the United States Armed Services, Coast Guard, Public Health Services, Veterans' Bureau, or Bureau of Indian Affairs. Verification of licensure must be obtained from the state of licensure, and any fees for verification required by the state of licensure must be paid by the applicant.

(4) The applicant has not engaged in unprofessional conduct as defined in the Uniform Disciplinary Act in RCW 18.130.180 or is not an impaired practitioner under RCW 18.130.170 in the Uniform Disciplinary Act.

(5) The applicant has completed the AIDS prevention and information education required by WAC 246-815-040.

(6) The applicant demonstrates to the secretary, by affidavit, knowledge of Washington law pertaining to the practice of dental hygiene.

(7) The applicant completes the required application materials and pays the required nonrefundable application fee. Applications for licensure by interstate endorsement are available from the department of health, professional licensing services, dental hygiene program.

(8) Applicants shall request the state of licensure to submit to the Washington state department of health the current standards and criteria for the other states examination and licensing on a form provided in the licensure application package by the Washington state department of health.

(9) If the secretary of the department of health finds that the other state's licensing standards are substantively equivalent except for a portion(s) of the examination, the applicant may take that portion(s) to qualify for interstate endorsement. That portion(s) of the exam must be successfully completed to qualify for interstate endorsement and an additional nonrefundable examination fee as well as the licensure by interstate endorsement nonrefundable fee shall be required.

WSR 93-06-055
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Order R-384, Docket No. UT-921192—Filed February 26, 1993, 4:18 p.m.]

In the matter of amending WAC 480-120-021 and 480-120-051; adopting WAC 480-120-500, 480-120-510, 480-120-515, 480-120-520, 480-120-525, and 480-120-530, relating to telephone service quality; and repealing WAC 480-120-086.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 93-01-152, filed with the code reviser on December 23, 1992. The commission brings this proceeding pursuant to RCW 80.01.040.

This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

The commission scheduled this matter for oral comment and adoption under Notice No. WSR 93-01-152, for 9:00 a.m., Wednesday January 27, 1993, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission until January 13, 1993. The purpose of the adoption, amendment, and repeal is to clarify standards for telecommunications service quality, and to assure acceptable minimum quality service for consumers of telecommunications services.

Written comments were received from US WEST Communications, Inc. (USWC), Washington Independent Telephone Association (WITA), GTE Northwest Incorporated, Washington Telecommunications Ratepayers Association for Cost-Based and Equitable Rates, Tele-Communications Association, United Telephone Company of the Northwest, Washington State Department of Community Development, and Proctor & Associates.

Oral comments were received at the time and place designated in the notice. Comments were received from Joe Hommel, Commission Staff; Theresa Jensen, USWC; and Terry Vann, WITA.

The commission adopted the proposal with minor changes from the noticed text. The following changes were made from the text of the amendments issued in Notice No. WSR 93-01-152 to the text adopted by the commission:

WAC 480-120-051, when local exchange companies are requested by the subscriber to make appointments for the on-premises installation of new service orders, the company is required to specify the approximate time of day of the on-premises installation, rather than merely the date. The change will assist consumers in making arrangements for service calls.

Subsection (2) is amended to add the phrase "when all tariff requirements have been met by the applicant or subscriber." The addition is necessary to make subsection (2) consistent with subsection (1).

WAC 480-120-515 (3)(d)(ii), line 4, is amended to correct a typographical error, and to require 99.86% compliance rather than 98.75%.

WAC 480-120-525 (2)(e) is amended to require, rather than urge, that trouble reports not exceed four trouble reports per one hundred access lines per month for any two consecutive months; and to require, rather than urge, that trouble reports not exceed four per month for four months in any one twelve-month period. The amendment provides an objective and definite standard which may be enforced.

The regulation is amended to exclude from the calculation of trouble reports those arising during abnormal conditions of operation, such as emergency or catastrophe, and to exclude disruptions of service caused by persons or entities other than the local exchange company. These changes were made to allow enforcement of the standards, but to exclude service disruptions beyond the control of the company.

The commission referred to its statement of economic impact when considering the proposed changes; no public comments were addressed to the statement of economic impact.

Upon reviewing the entire record, the commission believes WAC 480-120-021 and 480-120-051 should be amended; WAC 480-120-500, 480-120-510, 480-120-515,

480-120-520, 480-120-525, and 480-120-530 should be adopted; and WAC 480-120-086 should be repealed.

ORDER

THE COMMISSION ORDERS:

That WAC 480-120-021 and 480-120-051 are amended, and that WAC 480-120-500, 480-120-510, 480-120-515, 480-120-520, 480-120-525, and 480-120-530 are adopted, to read as set forth in Appendix A, shown below and made part of this order by this reference, as rules of the Washington Utilities and Transportation Commission;

That WAC 480-120-086 is repealed as a rule of the commission;

That the changes above specified shall take effect pursuant to RCW 34.05.080(2);

That this order and the rule shown below, after being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 26th day of February, 1993.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard D. Casad, Commissioner
A. J. Pardini, Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-345, Docket No. UT-900726, filed 6/18/91, effective 7/19/91)

WAC 480-120-021 Glossary. Access line - a circuit between a subscriber's point of demarcation and a serving switching center.

Alternate operator services company - any corporation, company, partnership, or person other than a local exchange company providing a connection to intrastate or interstate long-distance or to local services from locations of call aggregators. The term "operator services" in this rule means any intrastate telecommunications service provided to a call aggregator location that includes as a component any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an intrastate telephone call through a method other than ((+)); Automatic completion with billing to the telephone from which the call originated((:)); or ((2)) Completion through an access code use by the consumer with billing to an account previously established by the consumer with the carrier.

Applicant - any person, firm, partnership, corporation, municipality, cooperative organization, governmental agency, etc., applying to the utility for new service or reconnection of discontinued service.

Automatic dialing-announcing device - any automatic terminal equipment which incorporates the following features:

- (1)(a) Storage capability of numbers to be called; or
- (b) A random or sequential number generator that produces numbers to be called; and
- (c) An ability to dial a call; and
- (2) Has the capability, working alone or in conjunction with other equipment, of disseminating a prerecorded message to the number called.

Automatic location identification/data management system (ALI/DMS) - ALI/DMS is a feature that forwards to the public safety answering point (PSAP) a caller's telephone number, the name and service address associated with the telephone number, and supplementary information as defined in the DMS for automatic display at the PSAP. The DMS is a combination of manual procedures and computer programs used to create, store, manipulate, and update data required to provide selective routing, ALI, emergency service numbers, and other information associated with the calling party's telephone number.

Billing agent - A person such as a clearing house which facilitates billing and collection between a carrier and an entity such as a local exchange company which presents the bill to and collects from the consumer.

Base rate area or primary rate area - the area or areas within an exchange area wherein mileage charges for primary exchange service do not apply.

Call aggregator - a person who, in the ordinary course of its operations, makes telephones available for intrastate service to the public or to users of its premises, including but not limited to hotels, motels, hospitals, campuses, and pay telephones.

Centrex - a telecommunications service providing a subscriber with direct inward dialing to telephone extensions and direct outward dialing from them.

Central office - ((†)) a switching unit in a telephone system having the necessary equipment and operating arrangements for terminating and interconnecting subscribers' lines, farmer lines, toll lines and interoffice trunks. (More than one central office may be located in the same building or in the same exchange.)

Commission (agency) - in a context meaning a state agency, the Washington utilities and transportation commission.

Commission (financial) - in a context referring to compensation for telecommunications services, a payment from an AOS company to an aggregator based on the dollar volume of business, usually expressed as a percentage of tariffed message toll charges.

Competitive telecommunications company - a telecommunications company which is classified as such by the commission pursuant to RCW 80.36.320.

Competitive telecommunications service - a service which is classified as such by the commission pursuant to RCW 80.36.330.

Consumer - user not classified as a subscriber.

Customer premises equipment (CPE) - telecommunications terminal equipment, including inside wire, located at a subscriber's premises on the subscriber's side of the standard network interface/point of demarcation (excluding pay telephones provided by the serving local exchange company).

Exchange - a unit established by a utility for communication service in a specific geographic area, which unit usually embraces a city, town or community and its environs. It usually consists of one or more central offices together with the associated plant used in furnishing communication service to the general public within that area.

Exchange area - the specific area served by, or purported to be served by an exchange.

Farmer line - outside plant telephone facilities owned and maintained by a subscriber or group of subscribers,

which line is connected with the facilities of a telecommunications company for switching service. (Connection is usually made at the base rate area boundary.)

Farmer station - a telephone instrument installed and in use on a farmer line.

Foreign exchange service - a communications exchange service that uses a private line to connect a subscriber's local central office with a distant central office in a community outside the subscriber's local calling area.

Interexchange telecommunications company - a telecommunications company, or division thereof, that does not provide basic local service.

Interoffice facilities - facilities connecting two or more telephone switching centers.

Location surcharge - a flat, per-call charge assessed by an alternate operator services company on behalf of a call aggregator in addition to message toll charges, local call charges, and operator service charges. A location surcharge is remitted, in whole or in part, to the call aggregator-customer.

Operator service charge - a charge, in addition to the message toll charge or local call charge, assessed for use of a calling card, a credit card or for automated or live operator service in completing a call.

Outside plant - the telephone equipment and facilities installed on, along, or under streets, alleys, highways, or on private rights-of-way between the central office and subscribers' locations or between central offices.

Person - unless the context indicates otherwise, any natural person or an entity such as a corporation, partnership, municipal corporation, agency, or association.

Private branch exchange (PBX) - customer premises equipment installed on the subscriber's premises that functions as a switch, permitting the subscriber to receive incoming calls, to dial any other telephone on the premises, to access a tie trunk leading to another PBX or to access an outside trunk to the public switched telephone network.

Private line - a dedicated, nonswitched telecommunications channel provided between two or more points.

Public safety answering point (PSAP) - An answering location for enhanced 911 (E-911) calls originating in a given area. PSAPs are designated as a primary or secondary. Primary PSAPs receive E-911 calls directly from the public; secondary PSAPs receive E-911 calls only on a transfer or relay basis from the primary PSAP. Secondary PSAPs generally serve as centralized answering locations for a particular type of emergency call.

Reverse search of ALI/DMS data base - A query of the automatic location identification (ALI/DMS) data base initiated at the public safety answering point (PSAP) to obtain electronically the ALI data associated with a known telephone number for purposes of handling an emergency call when the searched telephone line is not connected to the PSAP.

Special circuit - an access line specially conditioned to give it characteristics suitable for handling special or unique services.

Standard network interface (SNI) - the point of interconnection between telecommunications company communications facilities and terminal equipment, protective apparatus, or wiring at a subscriber's premises. The network interface or demarcation point is located on the subscriber's

side of the telecommunications company's protector, or the equivalent thereof in cases where a protector is not employed.

Station - a telephone instrument installed for the use of a subscriber to provide toll and exchange service.

Subscriber - any person, firm, partnership, corporation, municipality, cooperative organization, governmental agency, etc., supplied with service by any utility.

Toll station - a telephone instrument connected for toll service only and to which message telephone toll rates apply for each call made therefrom.

Trunk - A single or multichannel telecommunications medium between two or more switching entities which may include a PBX.

Utility - any corporation, company, association, joint stock association, partnership, person, their lessees, trustees or receivers appointed by any court whatsoever, owning, controlling, operating or managing any telephone plant within the state of Washington for the purpose of furnishing telephone service to the public for hire and subject to the jurisdiction of the commission.

AMENDATORY SECTION (Amending Order R-93, filed 2/9/77)

WAC 480-120-051 Availability of service—
Application for and installation of service. Application for service may be made orally or in writing. However, a utility may require anyone desiring service to make application in writing on forms prescribed by the utility and in accordance with its filed tariff(s). An application for service shall clearly state the character of service for which application is being made. Application for service shall be deemed to be an expression of the applicant's willingness to conform to such effective tariff rules and regulations as are on file with the commission.

Upon receipt of an application for service, a utility shall endeavor to provide a specific date upon which service will be provided. If prior to any agreed upon date it becomes apparent that service cannot be supplied as agreed, the utility shall promptly notify the applicant prior to the agreed upon date that there will be a delay in completing ((his)) the application and the reason(s) therefor.

If requested by the applicant or subscriber, each local exchange company shall make appointments for the on-premises installation of new service orders. These appointments shall specify the approximate time of day of the on-premises installation.

Each utility shall maintain a record in writing of each application for service, including requests for a change of one grade of service to another, until such applications are acted upon and any commitment for service met. In situations where the utility is unable to make a commitment to provide the service applied for by a given date, the utility shall periodically examine its files to advise applicants of the status of their applications. Applicants for primary station service for which no commitment date has been provided shall be advised of the status of their applications at least once each three months. Applicants for other types of service, or a change of one grade of service to another, for which no commitment date has been provided shall be

advised of the status of their applications at least once each six months.

Each local exchange company shall complete applications for installation of primary exchange access lines as follows:

(1) As measured on a calendar monthly basis, ninety percent of a local exchange company's applications for installation of up to five residence or business primary exchange access lines in any exchange shall be completed within five business days after the date of receipt of the applications when all tariff requirements have been met by the applicant or subscriber. In those instances where a later installation date is requested by the applicant or subscriber or where special equipment or service is involved, this time period does not apply.

(2) Ninety-nine percent of all applications for installation of primary exchange access lines in any exchange shall be completed within ninety days after the date of receipt of the applications when all tariff requirements have been met by the applicant or subscriber.

NEW SECTION

WAC 480-120-500 Telecommunications service quality—General requirements. (1) The facilities of telecommunications companies shall be designed, constructed, maintained, and operated to ensure reasonable continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

(2) Telecommunications companies shall employ prudent management and engineering practices, including reasonable procedures for forecasting demand for service, to ensure that sufficient facilities and an adequate operating force are available to meet reasonable demands under normal operations.

(3) These rules are not intended to establish a standard of care owed by a telecommunications company to any consumer(s) or subscriber(s).

NEW SECTION

WAC 480-120-505 Operator services. (1) Except as authorized by law, every telecommunications company providing operator services shall protect the confidentiality of all communications carried, processed, or transmitted by it.

(2) Each local exchange company shall also be required to:

(a) Develop procedures to be followed by its employees for providing operator assistance to consumers and subscribers;

(b) Ensure that when automated operator services are provided, consumers and subscribers can also readily access a live operator;

(c) Ensure that call timing for operator assisted calls is accurately recorded;

(d) Ensure that all operators receiving 0- and 911 calls are capable of connecting calls to the appropriate emergency response agency on a twenty-four-hour a day basis; and

(e) Ensure that all emergency 0- calls are routed in a manner that will allow prompt access to the proper local emergency service agency.

NEW SECTION

WAC 480-120-510 Business offices. Local exchange companies shall provide applicants, consumers, and subscribers reasonable access to company representatives for conducting business. Local exchange companies shall also make available to applicants, consumers and subscribers a location to make cash and urgent payments. An urgent payment is a payment which the company requires upon threat of disconnection of service.

(1) Each local exchange company serving over fifty thousand access lines, shall provide business offices or customer service centers accessible by telephone or in person. Such business offices and service centers shall be staffed with qualified personnel, including supervisory personnel, to provide information relating to services and rates, to accept and process applications for service, to explain charges on customers' bills, to adjust charges made in error, and generally to act as representatives of the company. If one business office or service center serves several exchanges, toll-free calling from those exchanges to the office shall be provided.

(2) Each local exchange company serving under fifty thousand access lines, shall have at least one business office or customer service center, accessible by telephone or in person. The business office or service center shall be staffed with qualified personnel, including supervisory personnel, to provide information relating to services and rates, to accept and process applications for service, to explain charges on customers' bills, to adjust charges made in error, and generally to act as representatives of the company. If the business office or service center serves several exchanges, toll-free calling from those exchanges to the office shall be provided.

(3) Each local exchange company shall establish and maintain payment agencies for receipt of cash and urgent payments. At a minimum, payment agencies required by this rule shall clearly post and maintain regular business hours. Requirements of this section shall be effective ninety days after the effective date of this rule.

The number of payment agencies shall be determined using the following criteria:

(a) Exchanges serving over seventy-five thousand access lines shall have a minimum of one payment agency for every fifty thousand access lines.

(b) Exchanges serving twenty-five thousand to seventy-five thousand access lines shall have a minimum of one payment agent.

(c) Local exchange companies that do not have exchanges that meet the criteria of (a) or (b) of this subsection, shall have a minimum of one payment agency. The local business office of the company can substitute for the payment agency required by this subsection and be supported by the same personnel as the business office or customer service center.

(4) A local exchange company may request a waiver of subsection (3) of this section. As a condition for waiver, the petitioner must demonstrate applicants, consumers and subscribers have a reasonable opportunity to make cash and urgent payments.

(5) A local exchange company must provide the following information to the commission, in writing, at least

thirty days prior to the closing of any business office, customer service center, or payment agency, or as soon as the local exchange company becomes aware of the closure of any business office, customer service center, or payment agency:

(a) The exchange(s) and communities affected by the closing;

(b) The date of the closing;

(c) A listing of other methods and facility locations available for payment of cash or urgent payments; and

(d) A listing of other methods and locations for obtaining business office and customer service center services.

NEW SECTION

WAC 480-120-515 Network performance standards applicable to local exchange companies. This section establishes network performance standards which shall be offered by local exchange companies.

Except where otherwise specifically provided, the standards applied to each service quality measurement shall be the minimum acceptable quality of service under normal operating conditions. The standards shall not establish a level of performance to be achieved during periods of emergency or catastrophe, nor shall they apply to extraordinary or abnormal conditions of operation, such as those resulting from work stoppage, holidays, civil unrest, or force majeure, or disruptions of service caused by persons or entities other than the local exchange company.

(1) Central office.

(a) Dial service requirements - sufficient dial central office capacity and equipment shall be provided to meet the following minimum requirements during any normal busy hour of the average busy season:

(i) Dial tone within three seconds on at least ninety-eight percent of calls placed.

(ii) Complete dialing of called numbers on at least ninety-eight percent of telephone calls placed without encountering a busy condition within the central office or in interoffice trunks.

(b) Intercept - dial central office equipment shall be equipped to provide adequate operator or recorded announcement intercept.

Adequate intercept as used in the preceding paragraph means that the central office be so equipped and arranged to permit the interception of calls to all vacant codes and to provide average busy hour, busy season service levels of less than one percent of calls to intercept reaching busy or no circuit conditions.

(2) Interoffice facilities.

(a) Local and EAS interoffice trunk facilities shall have a minimum engineering design standard of B.01 (P.01) level of service.

(b) Intertoll and intertandem facilities shall have a minimum engineering design standard of B.005 (P.005) level of service. Service to an interexchange carrier shall be provided at the grade of service ordered and specified by the interexchange carrier.

(3) Outside plant.

Each local exchange company shall design, construct and maintain subscriber loops to minimum transmission

levels from the subscriber network interface or demarcation point as set forth below:

(a) Voice grade, local exchange telecommunications service.

(i) Transmission loss (TL) from the central office to the subscriber network interface not to exceed - 8.5 dB at 1004 Hz;

(ii) A minimum line current of 20 milliamperes DC measured across an assumed station resistance of 430 ohms;

(iii) Total external loop resistance excluding customer premises equipment (CPE), shall not exceed the basic range requirement of the exchange switch (1500 ohms). Range extension equipment (1800-2800 ohms) should be applied to those subscriber loops which are longer (i.e., having more resistance) than the basic working range of the central office.

(iv) Circuit noise objective on subscriber loops measured at the subscriber network interface should be equal to or less than - 20.0 dBmC.

(b) Customer premises equipment (CPE) to switched service(s).

(i) Transmission loss (TL) from the central office to the subscriber network interface not to exceed - 8.5 dB at 1004 Hz; transmission enhancement may be provided by option.

(ii) A minimum line current of 20 milliamperes DC measured across an assumed CPE resistance of 430 ohms.

(c) Special circuits.

(i) Each local exchange company with over fifty thousand access lines shall maintain design criteria for special circuits. Channel performance criteria shall be made available to subscribers by the local exchange company upon request.

(ii) Off premises station circuits shall not exceed - 5.0 dB at 1004 Hz, from demarcation (CPE switch) to demarcation (CPE station).

(d) Digital services.

Each local exchange company shall conform to the following digital private line circuit performance standards:

(i) Error free performance for nonswitched, dedicated circuits provided over copper transmission facilities, expressed in terms of a percentage of time in seconds when the circuit is available, shall be no less than 98.75% error free seconds for DS1, 99.86% for DS1 self healing and alternate route protection services and 99.875% error free seconds for DDS.

(ii) Error free performance for nonswitched, dedicated circuits provided over fiber optic transmission facilities, expressed in terms of a percentage of time in seconds when the circuit is available, shall be no less than 99.86% error free seconds for DS1 self healing and alternate route protection services, and 99.99% for services provided at DS3 and above.

(iii) Circuit availability for nonswitched, dedicated circuits, expressed as the percentage of total calendar month minutes, shall be no less than 99.7% for services provided over copper transmission facilities and 99.9% for services provided over fiber optic transmission facilities. A digital transmission channel is considered unavailable, or in an outage condition, when its bit error rate (BER) in each second is worse than 10(-6) for a period of ten consecutive seconds.

(iv) Upon the request of a subscriber, a local exchange company may provide to that subscriber digital services that

do not meet the performance standards set forth in (d)(i) through (iii) of this subsection.

NEW SECTION

WAC 480-120-520 Major outages and service interruptions. (1) Each local exchange company and interexchange telecommunications company shall make reasonable provisions to minimize the effects of major outages resulting from failures of power service, climate control, fire, explosion, water, storm, or force majeure. For purposes of this section, a major outage is defined as a service failure lasting for thirty or more minutes, which causes the disruption of local exchange or toll services to more than one thousand subscribers, or which causes the total loss of service to a governmental emergency response agency.

(2) Each local exchange company and interexchange telecommunications company shall inform and train pertinent employees as to procedures to be followed in the event of a major outage in order to prevent or minimize interruption or impairment of service.

(3) Each local exchange company and interexchange telecommunications company shall maintain, revise, and provide to the commission upon request, its current plans for emergency operation, including current plans for recovery of service to governmental disaster recovery response agencies within the state of Washington. Each local exchange company and interexchange telecommunications company shall maintain on file with the commission's disaster services coordinator the titles and telephone numbers of the local exchange and interexchange telecommunications company's disaster services coordinator and alternates. For coordination of disaster response and recovery operations, each local exchange company and interexchange telecommunications company shall maintain on file with the Washington state emergency management division, communications office, the titles and telephone numbers of the company's local or regional network operations center or emergency operations center.

(4) Upon notification or detection of a major outage, each local exchange company and interexchange telecommunications company shall as soon as reasonably practicable notify the commission's disaster services coordinator. In addition, when a major outage is deemed as an outage that may require coordination of disaster response and recovery operations, it shall also be reported to the department of community development emergency management division. During major disaster response and recovery operations, restoration and progress of recovery work will be coordinated, monitored and maintained in the state's emergency operations center.

A company affected by a major outage shall report daily to the commission on the progress of restoration and recovery work until full network recovery has been obtained.

When service has been fully restored the company shall report to the commission within thirty days details about the cause of the interruption and the steps taken to prevent any recurrence. This requirement shall not apply to interruptions to service made by the company in accordance with the provisions of contracts between the company and its sub-

scribers or other planned interruptions carried out in conjunction with normal operational and maintenance requirements of the company.

(5) Each local exchange company and interexchange telecommunications company shall develop and implement procedures for the dissemination of information about major outage recovery efforts to the news media, public, and public officials.

(6) Local exchange companies and interexchange telecommunications companies shall keep a record of each major outage, including a statement of the time, cause, extent, and duration of the interruption.

(7) Whenever, in connection with its work, a local exchange company or interexchange telecommunications company intends to interrupt service, those subscribers who may be affected shall be notified in advance, unless exigencies of the situation do not permit.

(8) All reported interruptions of telecommunications service shall be restored within two working days, excluding Sundays and holidays, except interruptions caused by emergency situations, unavoidable catastrophes, and force majeure.

(9) Cases of service interruptions affecting public health and safety shall receive priority restoral attention under any and all conditions, particularly in time of disaster. Every appropriate resource must be utilized. Service shall be restored within twelve hours unless conditions beyond the company's control prevent service restoration.

(10) Each local exchange company shall test and attempt to correct any service affecting intercompany and toll trunk problem (except a total outage) within four hours after the problem is reported. For the purposes of this section, service affecting problems are those that create an "all circuits busy" condition. If the problem is not corrected within this time frame, the company shall keep all other affected telecommunications utilities advised on a daily basis as to the current status. For a total outage (total isolation between near and far end network switches), the response time shall be immediate and repairs shall be effected as soon as possible.

(11) Each local exchange company shall by June 1993, where economically and technically feasible, arrange and design incoming trunks to the primary repair service center so that traffic overflows during emergencies can be redirected or call forwarded to an alternate repair/maintenance service center location of the local exchange company.

NEW SECTION

WAC 480-120-525 Network maintenance. (1) Except during periods of emergency operation, each local exchange company shall answer eighty percent of repair calls within thirty seconds.

(2) Each local exchange company shall adopt maintenance procedures and employee instructions aimed at achieving efficient operation of its system so as to permit the rendering of safe, adequate, and continuous service at all times. Effective maintenance shall include but not be limited to, keeping all facilities in safe and serviceable repair. Examples are:

(a) Hazardous conditions endangering persons, property, or the continuity of service when found, reported, or known to exist, shall be immediately corrected. The accumulation of trash and other fire hazards in or upon central office premises shall not be permitted.

(b) Broken, damaged, or deteriorated equipment, when found to be no longer capable of providing adequate service, shall be promptly repaired or replaced.

(c) Transmission problems, including noise induction, cross-talk, or other poor transmission characteristics on any channel, shall be promptly corrected when located or identified.

(d) Central offices equipped with automatic start generators shall have three hours reserve battery capacity, and central offices without automatic start generators, shall have a minimum of five hours reserve battery capacity. For each office without permanently installed emergency power facilities, the company shall ensure access to a readily connectable mobile power unit with enough power capacity to carry the load and which can be delivered within one half of the expected battery reserve time.

(e) Trouble reports by exchange shall not exceed four trouble reports per one hundred access lines per month for two consecutive months, nor shall they exceed four trouble reports per month for four months in any one twelve-month period. This standard shall not apply to trouble reports relating to the operation of customer premises equipment, nor shall it apply to extraordinary or abnormal conditions of operation, such as those resulting from emergency or catastrophe or disruptions of service caused by persons or entities other than the local exchange company.

(f) Test apparatus should be installed and maintained at appropriate locations to determine the operating characteristics of network systems.

(g) Air pressurization policies and an air pressurization alarm monitoring program should be established where appropriate for the continuous and safe operation of pulp underground cables.

(h) Sufficient portable power systems should be available to support up to the largest remote subscriber carrier site.

(i) If technically and economically feasible, route and circuit diversity should be established within the network, particularly where interoffice and toll network performance and integrity could be at risk.

NEW SECTION

WAC 480-120-530 Emergency services. (1) Each local exchange company that does not monitor the performance of dedicated 911 circuits (central office to tandem to public service answering point) on a continuous and automatic basis, shall perform manual operational tests at least once every twenty-four hours. Any circuits found to be defective shall be immediately reported to the primary public safety answering point (PSAP) manager and repaired.

(2) Each local exchange company shall develop and institute by April 1, 1993, a circuit identification and protection program for dedicated 911 circuits. The program shall be fully implemented by July 1994. This program shall ensure that all dedicated 911 circuits and associated electronic equipment serving governmental emergency response

agencies are clearly identified as such in every central office and remote switch.

NEW SECTION

WAC 480-120-535 Service quality performance reports. Beginning June 1, 1993, each local exchange company shall submit the following reports as indicated:

(1) Each local exchange company shall demonstrate upon request by the commission that the performance of its central office switch(es) meets acceptable central office performance standards.

(2) Local exchange companies with less than fifty thousand access lines shall file appropriate reports according to subsection (3)(a) through (c) of this section, when deemed necessary by the commission, and shall file the report required by subsection 3(d) of this section on a monthly basis. Performance records for such companies shall be kept in a format suitable for each local exchange company's operation and in such condition that they can be forwarded to the commission upon request or as required by this section.

(3) Local exchange companies with over fifty thousand access lines shall report monthly the information required by (a) through (d) of this subsection.

(a) Installation appointments met.

This report measures the percentage of appointments for the connection of service met on the commitment date. The actual date on which installation was completed shall be compared to the applicable commitment date to determine the percentage of appointments met.

(b) Held orders.

For purposes of this section a held order is any request for primary exchange service that is not filled on or before the commitment date. This report measures the provisioning of primary exchange access lines in locations where there are presently no company services or facilities, and locations where service is presently being provided, but where the company is temporarily unable to provide service to new subscribers because of a lack of facilities. The number of held orders shall be expressed as a ratio per one hundred new or reestablished lines ordered.

(c) Regrade orders held.

This report measures the number of requests for higher grades of service (e.g., a request to upgrade from multiparty to single party service) unfilled for more than thirty days. The number of regrade requests unfilled for more than thirty days shall be expressed as a ratio per one hundred requests for regrades (new requests plus unfilled requests from the previous months).

(d) Trouble reports.

This report measures the number of subscribers indicating improper functioning of service. The total number of initial trouble reports (including repeated reports) shall be expressed as a ratio per one hundred lines in service. Trouble reports related to customer premises equipment shall not be included. This measurement shall be reported on an exchange basis.

(4) When the commission believes it is necessary to investigate or address such problems as excessive levels of subscriber or consumer complaints, or otherwise to protect the public interest, the commission may request further

detailed information from companies with more than fifty thousand access lines for subsection (3)(a) through (d) of this section, by geographic or service unit. Performance records for such companies shall be kept in a format suitable for each local exchange company's operation and in such condition that they can be forwarded to the commission upon request.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 480-120-086 Adequacy of service.

WSR 93-06-072
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed March 2, 1993, 11:11 a.m.]

Date of Adoption: March 1, 1993.

Purpose: These rules are promulgated under RCW 19.28.010 and 19.28.060 requiring the Department of Labor and Industries to promote safety to life and property by adopting, modifying and supplementing the 1993 National Electrical Code and to provide for the preservation of the public health, safety and general welfare of the citizens of the state of Washington.

Citation of Existing Rules Affected by this Order: Repealing WAC 296-46-517 and 296-46-55001; and amending WAC 296-46-090, 296-46-140, 296-46-150, 296-46-21008, 296-46-21052, 296-46-220, 296-46-23040, 296-46-23062, 296-46-316, 296-46-360, 296-46-422, 296-46-495, 296-46-514, 296-46-680, and 296-46-700.

Statutory Authority for Adoption: RCW 19.28.060, 19.28.010(1), and 19.28.600.

Pursuant to notice filed as WSR 93-01-144 on December 22, 1992.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-46-365 (Title), the word "entertainment" was deleted from the proposed rule title because although shows such as trade shows were intended to be covered under the rule, they may not necessarily be viewed as entertainment; WAC 296-46-365(1), the word "entertainment" was also deleted from this section of the proposed rule to be consistent with the change in the title; and WAC 296-46-365(3) (tables of reference for ampacity of cords and cables), the reference to table 500-5(b) of the National Electrical Code does not exist. The reference should read: 400-5(b).

Principal Reasons for Adopting the Changes: The variances from the proposed to the final rules, described below, result from testimony received at public hearings held and comments received during the public comment period.

Effective Date of Rule: Thirty-one days after filing.

March 1, 1993
Mark O. Brown
Director

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-090 Foreword. The ((1990)) 1993 edition of the National Electrical Code (NFPA 70 - ((1990)) 1993) including Appendix B, the 1990 edition of Centrifugal Fire Pumps (NFPA 20 - 1990) and the 1985 edition of Emergency and Standby Power Systems (NFPA 110 - 1985) are hereby adopted by reference as part of this chapter. Other codes, manuals, and reference works referred to in this chapter are available for inspection and review in the Olympia office of the electrical section of the department during business hours. Where there is any conflict between this chapter and the National Electrical Code (NFPA 70), Centrifugal Fire Pumps (NFPA 20) or Emergency and Standby Power Systems (NFPA 110), the requirements of this chapter shall be observed. Where there is any conflict between Centrifugal Fire Pumps (NFPA 20) or Emergency and Standby Power Systems (NFPA 110) and the National Electrical Code (NFPA 70), the National Electrical Code shall be followed.

Electrical inspectors will give information as to the meaning or application of the National Electrical Code, the standard on Centrifugal Fire Pumps and the standard on Emergency and Standby Power Systems and this chapter, but will not lay out work or act as consultants for contractors, owners, or users.

The department is authorized to enforce city electrical ordinances where those governmental agencies do not make electrical inspections under an established program.

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-140 Plan review for educational, institutional or health care facilities and other buildings.

(1) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in WAC 296-46-130 and as indicated in WAC 296-46-150, Table 1 or 2 shall be reviewed and approved by the department before the electrical installation or alteration is begun. Plans for these electrical installations within cities that perform electrical inspections within their jurisdiction, and provide an electrical plan review program that equals or exceeds the department's program in plans examiner minimum qualifications, policies and procedures, may be submitted to that city for review rather than to the department. Approved plans shall be available on the job site for use during the electrical installation or alteration and for use by the electrical inspector. Refer plans for department review to the Electrical Inspection Section, Department of Labor and Industries, ((805 Plum St. SE)) P.O. Box 44460, Olympia, Washington 98504-4460. Please refer to WAC 296-46-910 for required fees for plan review.

(2) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans shall clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panelboard schedules and when a service or feeder is to be installed or altered, shall include a riser diagram, load

calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans shall include documentation that proves adequate capacity and ratings.

(3) Plan review for new or altered electrical installations of other types of construction may be voluntarily requested by the owner or other interested parties.

(4) For existing structures where additions or alterations to services are proposed, NEC Article 220 shall govern, except that, in addition to the provisions of Paragraph 220-35, the following alternative shall be considered acceptable for feeders:

If maximum demand data for one-year period is not available, other means of load measurement may be acceptable to establish demand on existing feeders. In any case, the following data are required:

(a) The date of the measurements.

(b) A diagram of the electrical system identifying the point(s) of measurement.

(c) Building demand measured continuously on the highest-loaded phase of the feeder over a thirty-day period, with demand peak clearly identified. (Peak demand shall be defined as the maximum average demand over a fifteen-minute interval.)

(d) Copies of thirty-day measurements, such as significant segments of chart recordings, or logs of readings from KW demand meters, adjusted for power factor. Copies of twelve-month service demand showing the highest demand for each month.

(e) The adjusted maximum annual demand in KVA, which shall include appropriate adjustments for seasonal loads, as shown by the twelve-month service demand. Also any occupancy adjustment that may be required and, any load changes which should be expected from planned changes in building use during the succeeding twelve months.

Plan submittal shall be accompanied by a written statement, stamped and signed by a registered professional engineer, attesting to the validity of these data.

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-150 Wiring methods for designated building occupancies. Wiring methods, equipment and devices for health or personal care, educational and institutional facilities as defined or classified in WAC 296-46-130 and for places of assembly for one hundred or more persons shall comply with Table 1 or 2 and the notes thereto. For determining the occupant load of places of assembly, the methods of the currently adopted edition of the Uniform Building Code shall be used.

Table 1
Health or Personal Care Facilities
Electrical System—Wiring Methods

Health or Personal Care Facility	Power, Lighting, or Class 1 Circuits	Patient Care Areas	Emergency Power, Lighting or Signalling	Low Voltage Systems	Special Requirements
Hospital	3	2	2	6,7	4,5,10
Nursing home	3	2	2	6,7	4,10
Boarding home	3		2	6,7	4,10
Alcoholism hospital	3	2	2	6,7	4,10
Detoxification facilities	3	2	2	6,7	4,10
Psychiatric hospital	3	2	2	6,7	4,5,10
Alcoholism treatment facility (other than detoxification facility)	3	3	2	6,7	4,10
Maternity home	3	2	2	7,8	4,10
Birth or childbirth center	3	2	2	7,8	
Residential treatment facility for psychiatrically impaired children & youths	3	2	2	6,7	4,5,10
Medical, dental & chiropractic clinics	3	2	2	7,8	
Ambulatory surgeries & clinics	3	2	2	7,8	10
Freestanding Renal hemodialysis clinics	3	2	2	7,8	10
Adult residential treatment facility more than 16 persons	3	2	2	6,7	5,10
Adult residential treatment facility 16 persons or less	3	2	2	7,8	4,10
Group care facilities for children more than 16 persons	3		2	6,7	4,5,10
Group care facilities for children 16 persons or less	3		2	7,8	4,5,10

General lighting load for the facilities in Table 1 shall be calculated at two watts per square foot or connected load if greater.

Table 2
Educational Facilities, Institutional Facilities,
Places of Assembly for 100 or more persons
or other facilities
Electrical System—Wiring Methods

Facility	Power, Lighting or Class 1 Circuits	Emergency Power, Lighting	Low Voltage Systems	Special Requirements
Educational	2,9	2	6,7	10
Institutional	2,9	2	6,7	10

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Place of assembly for 100 or more persons	3,9	2	6,7	
Day care center for thirty or more children	2,9	2	6,7	4,5,10

Day care center licensed for less than thirty children	3	2	7,8	4,5,10

Licensed mini day care center	3	2	7,8	4,5

Notes for Tables 1 and 2

1. ~~((Metallic raceways))~~ Not used.
2. ~~Metallic raceways((, type MI, MC, or)) and MI cable, or MC and AC cables~~ where the outer metal jacket is an approved grounding means of a listed cable ~~((assembly, with))~~ and containing an insulated equipment grounding conductor of the proper ampacity. ~~((A manufactured wiring system is permitted to be installed in compliance with Article 604 of the National Electrical Code.))~~
3. Wiring methods in accordance with the National Electrical Code.
4. Ground-fault circuit-interrupter protection of 15 or 20 ampere, 125 volt receptacles within a bathroom or shower room or within five feet of a basin that is located in a patient room.
5. Tamper resistant receptacles in licensed day care facilities and pediatric or psychiatric patient care areas for 15 or 20 ampere, 125 volt receptacles. Tamper resistant receptacles shall, by construction, limit improper access to energized contacts.
6. Fire alarm, nurse call, public address systems used to give directions during an emergency situation or other emergency systems shall be installed in a metallic raceway.
7. Class 2 or 3 limited energy systems and communication systems including telephone, intercom, data processing or similar systems shall be permitted to be installed as open cable systems in compliance with the National Electrical Code.
8. Fire alarm systems shall be permitted to be installed as open cable systems in compliance with the National Electrical Code.
9. Rigid nonmetallic raceways shall be permitted to be installed outside of buildings, in the earth or in concrete on or below grade.
10. Plan review required.

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-21008 Branch circuits. ~~((+))~~ An individual branch circuit shall be provided for the receptacle outlet(s) for dwelling unit bathrooms as defined in the National Electrical Code. Whether one or more circuits are used, these circuits shall not supply other loads.

~~((2)) All 125-volt, single-phase, 15 and 20-ampere receptacles installed outdoors at a dwelling shall have ground-fault circuit-interrupter protection for personnel.~~

~~((3)) All 125-volt, single-phase, 15 and 20-ampere receptacles installed in kitchens in a dwelling unit on the small-appliance branch circuits, except for those receptacle~~

~~outlets for dedicated use, such as for a dishwasher, disposal, trash compactor, refrigerator or freezer, shall have ground-fault circuit-interrupter protection for personnel.))~~

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-21052 Receptacles and switches. (1) Receptacles and switches shall not be placed face-up on counter tops or at other locations where subject to moisture or debris entering the device.

(2) Where located out of traffic areas in dwelling units, formed or welded metal boxes that are mounted in a substantial manner such as directly to a framing member shall be permitted ~~((to be used))~~ for floor receptacle outlets. ~~((A metal, weatherproof cover plate shall be used for such installations.))~~ An approved metal cover plate that provides protection from debris entering the device shall be used.

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-220 Branch circuit and feeder calculations. (1) Where unfinished spaces adaptable to future dwelling unit living area are not readily accessible to the service or branch circuit panelboard, circuits shall be taken to the area and terminated in a suitable box. The box shall contain an identification of the intended purpose of the circuit(s). Adequate space and capacity shall be provided in the branch circuit panelboard serving the intended load.

(2) Occupancy lighting loads. In determining feeder and service entrance conductor sizes and equipment ratings, the currently adopted Washington state energy code unit lighting power allowance table and footnotes may be used in lieu of NEC Table 220-3 (b).

NEW SECTION

WAC 296-46-225 Outside branch circuits and feeders. For the purpose of Article 225-8 (b) of the National Electrical Code, additional buildings or structures on the same property and under single management shall be supplied by a single branch circuit or feeder, unless the provisions of the exceptions to NEC Article 230-2 apply. If application of one of these exceptions allow additional supplies, a permanent plaque or directory shall be installed at each supply location denoting all other supplies to the building or structure and the location of each.

PERMANENT

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-23040 Service conductors. (1) Service entrance conductors shall extend at least 18 inches from the service head to permit connection to the service drop.

(2)(a) The installation of service conductors not exceeding 600 volts nominal, within a building or structure shall be limited to the following methods: Galvanized or aluminum rigid metal conduit; galvanized intermediate metal conduit; wireways; busways; auxiliary gutters; rigid nonmetallic conduit; cablebus; or mineral-insulated, metal-sheathed cable (type MI).

(b) The installation of service conductors exceeding 600 volts, nominal, within a building or structure shall be limited to the following methods: Galvanized rigid metal conduit; galvanized intermediate metal conduit; metal-clad cable that is exposed for its entire length; cablebus; or busways.

(3) Service conductors under the exclusive control of the serving utility, where installed within a building or structure shall be installed in rigid steel galvanized conduit or Schedule 80 nonmetallic conduit. The grounded service conductor shall be permitted to be identified with a yellow jacket or with one or more yellow stripes.

(4) Multiple-occupancy buildings. A second or additional underground service lateral to a building having more than one occupancy shall be permitted to be installed at a location separate from other service laterals to the building provided that all the following conditions are complied with:

(a) Each service lateral is sized in accordance with the National Electrical Code for the calculated load to be served by the conductors;

(b) Each service lateral terminates in service equipment that is located in or on a unit served by the service equipment;

(c) The service laterals originate at the same transformer or power supply;

(d) The service equipment is separated at least fifteen feet from other service equipment in or on the building; and

(e) A permanent directory, suitable for the environment, is placed at each service equipment location that identifies all other service equipment locations in or on the building and the area or units served by each.

Exception: Service laterals for two-family dwellings are permitted to terminate in meter enclosures that are permitted to be located less than 15 feet apart.

(5) The service raceway or cable shall extend no more than fifteen feet inside a building or structure.

~~((6) Except as provided by the National Electrical Code, Section 240.3, Exceptions No. 4, No. 6, No. 7, and No. 8, and dwelling units, service conductors shall have an ampacity not less than the rating of the service equipment they supply.))~~

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-23062 Service equipment. (1) Service equipment, sub-panels, and similar electrical equipment shall be installed so that they are readily accessible and shall not be installed in bathrooms, clothes closets, shower rooms, cupboards, or attics, or above washers, clothes dryers, or

plumbed-in fixtures. All indoor service equipment and sub-panel equipment shall be adequately illuminated.

~~(2) (Service switches and other equipment exposed to elements of the outside weather shall be raintight type factory built for the purpose. Refer to NEMA 3R.~~

~~(3))~~ Temporary construction service equipment shall not be used for other than construction purposes and shall be disconnected when the permanent service is connected unless an extension for a definite period of time is granted by the department.

~~((4))~~ (3) Equipment ground fault protection systems required by the National Electrical Code shall be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. The test shall be performed by a firm that is approved by the department and has qualified personnel and proper equipment to perform the tests required.

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-316 Duct bank conductor ampacities.

~~(1) ((The ampacity of service laterals exceeding 2000 amperes, where the load factor exceeds seventy percent, shall be determined in accordance with Section 310.15(b) of the National Electrical Code. Load factor is defined as "the ratio of the average load to the peak load occurring during a twenty-four hour period.")) For the purpose of determining ampacities of conductors in underground duct bank installations where:~~

~~(a) The ducts maintain at least 7 1/2" on center spacing~~

~~(b) The loads served are calculated according to the provisions of the currently adopted edition of the NEC Article 220.~~

~~(c) Derating of conductors required by Note 8, to the aforementioned tables, shall still apply when the conductors within an individual duct exceeds three conductors.~~

The ampacities of insulated copper conductors 2,001 through 8,000 volts and ninety degrees C rated and installed in underground ducts containing not more than three conductors shall be as follows:

<u>SIZE</u> <u>AWG OR MCM</u>	<u>AMPACITY</u> <u>COPPER</u>
6	85
4	110
2	145
1	170
1/0	195
2/0	220
3/0	250
4/0	290
250	320
350	385
500	470
750	585
1,000	670

(2) It shall be permissible to determine the ampacities of conductors from the tables and accompanying notes in Appendix B of the National Electrical Code for applications covered directly by the tables.

PERMANENT

(3) Underground conductors whose ampacity is determined from the National Electrical Code Table 310-16 shall be derated in accordance with Note 8 to Ampacity Tables of 0 to 2000 volts, where stacked or bundled (less than 2-inch spacing) a distance equal to 10 feet or 10 percent of the circuit length, whichever is less.

(4) ~~((Unless the equipment is marked by the manufacturer to indicate otherwise, termination provisions are based on the use of 60 C ampacities for wire sizes No.'s 14-1 AWG and 75 C ampacities for wire sizes No.'s 1/0 and larger, as provided in the National Electrical Code Table 310-16 for insulated conductors rated 0-2000 volts, or in Table 400-5 A or B for flexible cords and cables.)) All neutral conductors of 208/120 3 phase 4-wire wye system supplying electrical power to areas used for office occupancy shall be considered to be a current carrying conductor in accordance with Note 10 (c) to Tables 310 of the NEC.~~

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-360 Amusement rides or structures, carnivals, circuses, and similar traveling shows. (1) Electrical installations. Service equipment, separately derived systems, feeders and circuits for each amusement ride, structure or concession and the interconnection of each ride, structure or concession, shall comply with the National Electrical Code and this chapter.

(2) Feeders and circuits for portable rides, structures or concessions shall be listed and labeled, multiconductor cord of a type identified in Table 400-4 of the National Electrical Code for hard usage or extra hard usage or as permitted under the conditions in this chapter, by individual, single conductor power cable. Ampacity shall be determined from the appropriate Table 400-5(A) or 400-5(B) in the National Electrical Code including all notes thereto.

(3) Flexible multiconductor cords shall be connected to equipment by approved connectors designed for the purpose or by listed cord caps. Individual conductors of multiconductor cords in sizes #2 AWG and larger shall be permitted to be connected by listed and labeled connection systems (receptacles and plugs) that ensure by design, first-make, last-break of the equipment grounding conductor. Where conductors are connected individually by such connection systems, the outer jacket of multiconductor cord shall be secured to the electrical equipment independent from the receptacles and plugs by approved cable grips that are installed in a manner to prevent pressure from being applied to the receptacles and plugs.

(4) Individual, single conductor, insulated, portable power cable of a type identified in Table 400-4 of the National Electrical Code for extra hard usage, in sizes 1/0 AWG and larger, shall be permitted to be used in the electrical distribution system provided that:

(a) All conductors of the feeder or circuit including the equipment grounding conductor originate in the same electrical equipment and terminate in the same equipment.

(b) All conductors of the feeder or circuit including the ungrounded, grounded, and equipment grounding conductors are run together and, except for portions installed within approved cable protection systems, and installed to comply with Article 520-53 of the National Electrical Code.

(c) All conductors including the grounded circuit conductor (neutral) if used, the equipment grounding conductor and the ungrounded conductors are listed and labeled cable of the same size, conductor material and insulation.

(d) The cables are secured to the electrical equipment independent from the cable receptacles and plugs by approved cable grips that prevent pressure from being applied to the connectors.

(e) The cables are connected to electrical equipment by approved listed and labeled connection systems that ensure by design, first-make, last-break of the equipment grounding conductor.

(5) Disconnecting means. A separate, enclosed, externally operable fused switch or circuit breaker, shall be installed on each amusement ride, structure or concession to disconnect all electrical equipment. The disconnecting means shall be readily accessible and identified as the disconnecting means. Where more than one power supply is employed, the disconnecting means shall be grouped.

(6) Rotating equipment. Components of amusement rides or structures that rotate more than three hundred sixty degrees and which have electrically operated equipment, shall be supplied by approved collector rings that shall be totally enclosed or located so they are accessible to authorized personnel only. The collector rings shall be factory produced with an equipment grounding segment having a voltage and current rating that equals or exceeds the rating of the current carrying segments. Collector rings shall have an ampacity not less than one hundred twenty-five percent of the full-load current of the largest device served plus the full-load current of all other devices served. Collector rings for control and signal purposes shall have an ampacity not less than one hundred twenty-five percent of the full-load current of the largest device served plus the full-load current of all other devices served.

(7) Equipment grounding. All noncurrent carrying metal parts of amusement rides and structures shall be grounded by an equipment grounding conductor routed with the feeder or circuit conductors in accordance with the National Electrical Code and these rules. The metallic structure shall not be used as a current carrying conductor.

Exception: The metallic structure shall be permitted to be used as the return path for low voltage systems that do not exceed thirty volts, provided that the ungrounded conductors are protected by an overcurrent device in accordance with the National Electrical Code and the system is factory built for such use.

(8) Existing amusement rides, concessions or games electrical systems shall comply with the National Electrical Code and shall be maintained in full compliance. Where new amusement rides, concessions or games are purchased, manufactured or constructed, or where existing rides, concessions or games have major modification, the electrical system shall comply with this chapter and the edition of the National Electrical Code in effect at that time. All rides, concessions, and games shall be identified in or on the disconnecting means as well as by make, model and serial number in records furnished to the department with the edition of the National Electrical Code the electrical system is intended to comply with.

NEW SECTION

WAC 296-46-365 Concerts, motion picture productions, stage shows, and similar shows. (1) Service equipment, separately derived systems, feeders and circuits for concerts, motion picture productions, stage shows, and similar shows, shall comply with the National Electrical Code and this chapter.

(2) All feeders that are field installed shall be of a type and size identified in Article 520-53(h).

(3) Ampacity of cords and cables shall be determined from the appropriate table 400-5(a) or 400-5(b) in the National Electrical Code including all notes thereto.

AMENDATORY SECTION (Amending Order 87-07, filed 5/1/87)

WAC 296-46-422 Water heater circuit. ~~((Branch circuit conductors and overcurrent devices shall be rated at least one hundred twenty five percent of the circuit load.))~~ Water heaters which have a rated circuit load in excess of 3,500 watts at 240 volts shall be provided with branch circuit conductors not smaller than No. 10 AWG copper or equal.

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-495 Electrical work permits and fees.

(1) Where an electrical work permit is required by chapter 19.28 RCW or this chapter, inspections shall not be made, equipment energized, nor services connected unless an electrical work permit is completely and legibly filled out and readily available. The classification or type of facility to be inspected and the scope of the electrical work to be performed shall be clearly shown on the electrical work permit. The address where the inspection is to be made shall be identifiable from the street, road or highway that serves the premises. Driving directions and/or a legible map must be provided for the inspectors' use.

(2) Except for emergency repairs to existing electrical systems, electrical work permits shall be obtained prior to beginning the installation or alteration. An electrical work permit for emergency repairs to existing electrical systems shall be obtained no later than the next business day.

(3) The electrical work permit application shall be posted on the job site at a conspicuous location prior to beginning electrical work and at all times electrical work is performed.

(4) Electrical work permits shall expire one year after the date of purchase unless electrical work is actively and consistently in progress. Electrical work permits for temporary construction activity shall expire ninety days after suspended construction and no later than one year after purchase.

(5) Fees shall be paid in accordance with the inspection fee schedule WAC 296-46-910.

(6) Each person, firm, partnership, corporation, or other entity shall furnish an electrical work permit for the installation, alteration, or other electrical work performed or to be performed by that entity. Each electrical work permit application shall be signed by the electrical contractor's administrator (or designee) or the person, or authorized representative of the firm, partnership, corporation, or other

entity that is performing or responsible for the electrical installation or alteration.

(7) An electrical work permit is required for installation, alteration, or maintenance of electrical systems except for replacement of circuit breakers or fuses, for replacement of snap switches, receptacle outlets or heating elements, replacement of contactors, relays, timers, starters, or similar control components or for plug-in appliances or travel trailers.

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-514 Service stations and propane equipment. ~~((+))~~ In addition to complying with Article 514 of the National Electrical Code, each circuit leading to or through a gasoline pump shall be provided with an emergency disconnect switch or other approved means which shall simultaneously disconnect all circuit conductors including the grounded circuit conductor if any.

The disconnecting means or operator shall be substantially red in color and identified with a sign as the emergency disconnecting means. The disconnecting means or operator shall be readily accessible and shall be located outdoors and within sight of the gasoline pump or dispenser the disconnect controls. For multicircuit installations an electrically held contactor shall be permitted to be used.

~~((2) Propane pumps or dispensers. The wiring of propane pumps, dispensers, and associated electrical equipment shall comply with Article 514 of the National Electrical Code and this chapter.))~~

AMENDATORY SECTION (Amending Order 87-07, filed 5/1/87)

WAC 296-46-680 Electrical equipment associated with spas, hot tubs, swimming pools or hydromassage bathtubs. (1) Electrical installations. In addition to complying with the statute, the National Electrical Code, and this chapter, the installation shall comply with electrical testing laboratory standards applicable to the specific equipment or installation.

(2) Package spa or hot tubs. Electrical heating, pumping, filtering, and/or control equipment installed within five feet of a spa or hot tub shall be listed as a package with the spa or hot tub.

(3) Skid packs. A factory assembly of electrical heating, pumping, filtering, and/or control equipment (skid pack) which shall be installed more than five feet from a spa or hot tub and shall be listed as a package unit.

(4) Field assembly of listed electrical equipment for a spa, hot tub, or swim spa. Field installed, listed electrical equipment (as distinguished from recognized components) for a hot tub, spa, or swim spa shall be permitted to be located at least five feet from the hot tub, spa or swim spa, provided that:

(a) The heater is listed as a "spa heater or swimming pool heater"; and

(b) The pump is listed as a "spa pump" or "swimming pool/spa pump" (the pump may be combined with a filter assembly); and

(c) Other listed equipment such as panelboards, conduit, and wire are suitable for the environment and comply with the applicable codes.

(5) Field assembly of listed electrical equipment for swimming pools. Field installed, listed electrical equipment (as distinguished from recognized components) for a swimming pool shall be permitted to be located at least five feet from the swimming pool provided that:

(a) The heater is listed as a "swimming pool heater or a spa heater"; and

(b) The pump is listed as a "swimming pool pump" or "spa pump" or "swimming pool/spa pump"; and

(c) Other equipment such as panelboards, conduit, and wire are suitable for the environment and comply with the applicable codes.

(6) Hydromassage bathtubs. Hydromassage bathtubs shall be ~~((either:~~

~~(a) Listed as a unit and bear a listing mark which will read "hydromassage bathtub"; or~~

~~(b) Be equipped with a listed "swimming pool pump," "spa pump," or "swimming pool/spa pump" and in addition, show evidence of having received approval from the department for the owners/installation instruction manual, brochures, and/or wiring diagrams.)~~ listed as a unit and bear a listing mark which reads "hydromassage bathtub."

(7) Manufacturers instructions shall be followed as a part of the listing requirements.

The field assembly or installation of "recognized components" shall not be permitted.

The five foot separation of electrical components may be reduced by the installation of a permanent barrier, such as a solid wall, fixed glass windows or doors, etc. The five foot separation will be determined by the shortest path or route that a cord can travel from the spa, hot tub, swim spa, or swimming pool to an object.

(8) Replacement of electrical equipment. Electrical components which have failed and require replacement shall be replaced with identical products unless the replacement part is no longer available, in which case, a similar product may be substituted provided that the electrical characteristics are identical and that the mechanical and grounding integrity of the equipment is maintained. Recognized components or listed equipment will be permitted to be replaced in kind. Cut-away type display models will not be expected to bear a listing mark and shall not be sold for other than display purposes.

AMENDATORY SECTION (Amending WSR 90-19-015, filed 9/10/90, effective 10/11/90)

WAC 296-46-700 Emergency systems. (1) Exit and emergency lights shall be installed in accordance with the National Electrical Code, Article 700, and currently adopted edition of the Uniform Building Code in all health or personal care facilities defined in WAC 296-46-130, educational facilities, institutional facilities, hotels, motels, and places of assembly for one hundred or more persons. Installation shall be made in strict accordance with the National Electrical Code, Article 700, and WAC 296-46-150.

(2) Fire alarm systems. Fire alarm systems required by a city, county or state ordinance, statute, or regulation shall be installed in accordance with the National Electrical Code

and this chapter. Power-limited fire alarm systems shall be permitted to be installed in metallic raceways using conductors shown in Section 760-16(b) of the National Electrical Code for nonpower-limited circuits or those 600 volt conductors which are rated for 90 degrees C or greater in Table 310-13 of the National Electrical Code.

~~(3) ((In new dwelling units or where bedrooms are added to existing dwellings, 120 volt outlets shall be provided for smoke detectors in the locations required by the Uniform Building Code as adopted by the state building code council. Where 120 volt smoke detectors are installed and the sleeping areas within a dwelling unit are remote from one another, means shall be provided to simultaneously sound each alarm from the other detector.~~

~~(4))~~ Junction boxes for fire alarm systems other than the surface raceway type, shall be substantially red in color. Power-limited fire protective signalling circuit conductors shall be durably and plainly marked in or on junction boxes or other enclosures to indicate that it is a power-limited fire protective signalling circuit. Conductors for light, heat, or power shall not be installed in any enclosure, raceway, cable, compartment, outlet box, or similar fitting containing fire alarm conductors.

~~((5))~~ (4) All boxes and enclosures, including transfer switches, generators, and power panels for emergency systems and circuits shall be permanently marked with an adhesive label or decal or similar approved means that is suitable for the environment and is substantially red in color. ~~((The words "emergency system" shall be printed or engraved on the label or decal in block letters at least 1/2 inch high and in a contrasting color.))~~

NEW SECTION

WAC 296-46-702 Optional standby systems. Optional standby systems derived from portable generators shall meet all of the requirements of NEC Article 702.

NEW SECTION

WAC 296-46-710 Identification of cables. Each cable operating at over 600v and installed as customer owned systems shall be legibly marked at each termination point and at each point the cable is accessible. The required marking shall include; phase designation, operating voltage, and circuit number if applicable.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-46-517 Health care facilities.

WAC 296-46-55001 Mobile or manufactured homes.

WSR 93-06-073
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3520—Filed March 2, 1993, 11:50 a.m.]

Date of Adoption: March 2, 1993.

Purpose: Clarifies use of the "termination proviso" for department staff who administer the general assistance-unemployable (GAU) program. Clarifies the capacity to engage in gainful employment. New WAC 388-37-045 GA-U—Determination of capacity to engage in gainful employment.

Citation of Existing Rules Affected by this Order: Amending WAC 388-37-050 General assistance unemployable—Redetermination of eligibility.

Statutory Authority for Adoption: RCW 74.04.005.

Pursuant to notice filed as WSR 93-04-025 on January 27, 1993.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-37-045(3) adds the words "under special conditions, such as"; WAC 388-37-050 (3)(a)(i) and (4) are revised to comply with the recommendations of Tacoma's Puget Sound Legal Assistance Foundation.

Effective Date of Rule: Thirty-one days after filing.

March 2, 1993

Rosemary Carr

Acting Director

Administrative Services

NEW SECTION

WAC 388-37-045 General assistance-unemployable—Determination of capacity to engage in gainful employment (1) The department shall determine a person's ability to perform gainful employment when:

- (a) Eligibility based on incapacity is determined;
- (b) The person becomes incapacity; or
- (c) New information is received which may indicate employability.

(2) The ability to perform gainful employment means the capacity to perform, in a regular and predictable manner, an activity usually done for pay or profit.

(3) Gainful employment does not include working under special conditions, such as in a department-approved sheltered workshop or working sporadically or part-time if, due to the incapacity, the person is unable to compete with unimpaired workers in the same job.

(4) A person capable of or engaged in gainful employment shall not be eligible for general assistance.

AMENDATORY SECTION (Amending Order 2525, filed 8/21/87)

WAC 388-37-050 ((Continuing)) General assistance unemployable—Redetermination of eligibility. (1) ((Continuing)) A general assistance unemployable (GAU) recipient((s)) shall have ((their continued)) financial eligibility ((for such assistance)) redetermined ((at least once)) every six months or more often of continuous receipt of assistance.

(2) The department shall redetermine incapacity for a GAU recipient every twelve months or more often, but may do so at any time, based on new information. The department shall determine duration of a person's incapacity based on medical evidence and other relevant information in the case record.

(3) Before a recipient ((of GAU)) can be ((determined ineligible on the basis that he or she is)) terminated from GAU as no longer incapacitated, the department shall show

the recipient meets at least one of the following conditions ((must be met)):

(a) New evidence must show a clear improvement in the overall medical condition. Clear improvement means that, since ((the last decision,)) incapacity was established:

(i) The physical or mental impairment((s) upon) on which ((the decision)) incapacity was based, has decreased in severity((;)) to the point where the recipient is capable of gainful employment; or

(ii) The effect of that impairment has been significantly diminished ((f)) through therapy, medication, rehabilitation, etc.((;)) to the point where the ((individual)) recipient is capable of gainful employment; or

(b) ((It can be established)) The department establishes that ((the)) there was a previous error in the eligibility decision. Previous error means that incapacity was previously established based on faulty or insufficient information or on an erroneous procedure based on the WAC in effect at the time.

((3) Whenever) (4) The department shall not apply the clear improvement or previous error criteria under subsection (3) of this section:

(a) When there is a break in assistance of over thirty days resulting in the person reapplying for general assistance as an applicant and the person does not meet the criteria for retroactive reinstatement of assistance as required under WAC 388-37-040(5);

(b) When the department determines that the recipient is engaged in or capable of gainful employment as required under WAC 388-37-045;

(c) When the recipient receiving services through division of vocational rehabilitation (DVR) is determined no longer incapacitated, but assistance has been extended by the department through the completion of the training program by an exception to policy. At the end of the exception to policy period, the recipient is not eligible for GAU; or

(d) When the recipient no longer meets categorical eligibility factors under WAC 388-37-010 other than incapacity, as determined by the department.

(5) When a ((general assistance)) GAU recipient becomes eligible for AFDC or SSI benefits, ((he or she)) such recipient becomes ineligible for ((continuing general assistance)) GAU.

((4) Acceptance of) (6) The requirement to accept and pursue available medical treatment((;)), as specified under WAC 388-37-030 and 388-37-037, shall also apply to ((a recipient as well as to an applicant)) recipients.

((5)) (7) The department shall screen GAU recipients ((of continuing general assistance shall be screened)) to determine appropriateness of referral to other agencies, i.e., SSA, SSI, DVR, VA, which can reasonably be expected to reduce their need for assistance. A recipient who has been referred and refuses((, without good cause)) to accept referral to or pursue available services or benefits from other agencies without good cause shall be ineligible. A recipient's refusal to accept ((referral to other agencies)) such referral without good cause shall result in termination of assistance. Ineligibility continues until the person agrees to ((cooperate in accepting)) accept and/or pursue such referral ((and subject to)) and includes the following periods ((of ineligibility)) after reapplication:

(a) First refusal - one week;

- (b) Second refusal within six months - one month;
 (c) Third and subsequent refusals within one year - two months.

WSR 93-06-081
PERMANENT RULES
PERSONNEL BOARD

[Order 415—Filed March 3, 1993, 8:42 a.m.]

Date of Adoption: February 11, 1993.

Purpose: The existing rule prohibits docking the salaries of exceptions work period employees for absences of less than one full day.

Citation of Existing Rules Affected by this Order: Repealing WAC 356-18-230 Partial day absence—Exceptions work period.

Statutory Authority for Adoption: RCW 41.06.040 and 41.06.150.

Pursuant to notice filed as WSR 93-02-037 on January 5, 1993.

Effective Date of Rule: Thirty-one days after filing.
 February 19, 1993
 Marilyn Glenn
 Acting Director
 Secretary

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 356-18-230 Partial day absence—
 Exceptions work period.

WSR 93-06-092
PERMANENT RULES
DEPARTMENT OF HEALTH
 (Examining Board of Psychology)

[Order 335B—Filed March 3, 1993, 11:04 a.m.]

Date of Adoption: February 12, 1993.

Purpose: To clarify the correct time period that applies to each rule regarding educational requirements. To adopt two new rules further clarifying the educational requirements, WAC 246-924-055 and 246-924-065.

Citation of Existing Rules Affected by this Order: Amending WAC 246-924-040, 246-924-050, and 246-924-060.

Statutory Authority for Adoption: RCW 18.83.050(5).
 Other Authority: Chapter 18.83 RCW.

Pursuant to notice filed as WSR 93-02-065 on January 6, 1993.

Effective Date of Rule: Thirty-one days after filing.
 February 12, 1993
 Kathleen O'Shaunessy
 Chair

AMENDATORY SECTION (Amending Order 129B, filed 1/28/91, effective 2/28/91)

WAC 246-924-040 Psychologists—Education prerequisite to licensing. This rule shall apply for applicants enrolled after October 19, 1987, in a program leading to a doctoral degree. To meet the education requirement of RCW 18.83.070, an applicant shall possess a doctoral degree from an institution of higher education accredited in the region in which the doctoral program is offered at the time the applicant's degree was awarded. In that doctoral program, at least forty semester hours, or sixty quarter-hours, of graduate courses shall have been passed successfully, and can be clearly identified by title and course content as being part of a psychology program. One of the standards for issuance of said degree shall have been the submission of an original dissertation which was psychological in nature. Endorsement by the program administrator shall be requested and considered.

An integrated program of graduate study in psychology shall be defined as follows:

(1) The following defines the organizational structure of the program:

(a) The program shall be clearly identified and labeled as a psychology program. Pertinent catalogues and brochures shall show intent to educate and train psychologists.

(b) The psychology program shall stand as a recognized, coherent, entity within the institution.

(c) There shall be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.

(d) There shall be an organized sequence of study planned by those responsible for the program to provide an appropriate, integrated experience covering the field of psychology.

(e) There shall be an identifiable psychology faculty and a psychologist administratively responsible for the program.

(f) There shall be an identified body of students selected on the basis of high ability and appropriate educational preparation.

(2) The following defines the academic program:

(a) The curriculum shall encompass a minimum of three academic years of full-time graduate study or their equivalent. The doctoral program shall involve at least one continuous year of full-time residency at the institution which grants the degree. A minimum of seven hundred fifty hours of student-faculty contact involving face-to-face individual or group educational meetings shall be considered in lieu of one year residency. Such educational meetings must include both faculty-student and student-student interaction, be conducted by the psychology faculty of the institution at least seventy-five percent of the time, be fully documented by the institution and the applicant, and relate substantially to the program components specified. The applicant shall clearly have had instruction in: History and systems, research design and methodology, statistics and psychometrics. The program shall require each student to complete three or more semester hours (five or more quarter-hours) of core study in each of the following content areas:

(i) Biological bases of behavior (physiological psychology, comparative psychology, neurobases, sensation and perception, biological bases of development);

(ii) Cognitive-affective bases of behavior (learning, thinking, motivation, emotion, cognitive development);

(iii) Social bases of behavior (social psychology, organizational theory, community psychology, social development);

(iv) Individual differences (personality theory, psychopathology); and

(v) Scientific and professional ethics.

(b) The program shall include practicum, internship, field or laboratory experience appropriate to the area of psychology that is the student's major emphasis.

(3) If the major emphasis is in clinical, counseling, school or other applied area, the program shall include coordinated practicum and internship experience.

(a) Practicum experience shall total at least two semesters (three quarters) and consist of a total of at least 300 hours of direct experience and 100 hours of supervision.

(b) The practica shall be followed by an organized internship. Predoctoral internship programs accredited by the American Psychological Association shall be accepted by the board as meeting this requirement. Otherwise, an organized internship shall be as follows:

(i) The internship shall be designed to provide a planned, programmed sequence of training experiences, the primary focus of which is to assure breadth and quality of training.

(ii) The internship setting shall have a clearly designated psychologist who is responsible for the integrity and quality of the training program and who is licensed/certified by the state/provincial board of psychology examiners.

(iii) The internship setting shall have two or more psychologists available as supervisors, at least one of whom is licensed/certified as a psychologist.

(iv) Supervision shall be provided by the person who is responsible for the cases being supervised. At least seventy-five percent of the supervision shall be provided by a psychologist(s).

(v) At least twenty-five percent of the intern's time shall be spent in direct client contact (minimum 375 hours) providing assessment and intervention services.

(vi) There shall be a minimum of 2 hours per week of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with the direct psychological services rendered by the intern. There shall also be a minimum of 2 hours of other learning activities such as: Case conferences, seminars on applied issues, co-therapy with a staff person including discussion, group supervision.

(vii) Supervision/training relating to ethics shall be an ongoing aspect of the internship program.

(viii) Trainees shall have titles such as "intern," "resident," "fellow," or other designation of trainee status.

(ix) The internship setting shall have a written statement or brochure describing the goals and content of the internship, stating clear expectations and quality of trainees' work, and made available to prospective interns.

(x) The internship experience shall consist of at least 1500 hours and shall be completed within twenty-four months.

(4) Applicants for licensure who obtained degrees from foreign universities shall first submit, at their own expense, their credentials to an independent, private professional

organization approved by the board to establish equivalency of training required by this section.

AMENDATORY SECTION (Amending Order 117B, filed 1/28/91, effective 2/28/91)

WAC 246-924-050 Psychologists—Education prerequisites to licensing for applicants enrolled in a doctoral program between December 28, 1978 to October 19, 1987. (1) This rule applies (~~in lieu of WAC 308-122-200~~) for applicants enrolled between December 28, 1978 and October 19, 1987 in a program leading to a doctoral degree. To meet the education requirement imposed by the statute, an applicant must possess a doctoral degree from a training institution approved by the board in which at least forty semester hours, or sixty quarter-hours, of graduate courses were passed successfully, and were clearly identified by title and course content as being primarily psychological in nature, as determined by the board. Part of the standards for issuance of said degree must require the submission of an original dissertation which must be psychological in nature, as determined by the board.

(2) The following guidelines define the "academic core" of study that should have been completed by each applicant:

(a) Programs accredited by the American Psychological Association are recognized as one way of meeting the definition of a professional psychology program. The criteria for accreditation serve as a model for professional training.

(b) Training in professional psychology is doctoral training offered in regionally accredited institution of higher education.

(c) The program must be clearly identified and labeled as a psychology program. Pertinent catalogues and brochures must show intent to educate and train professional psychologists.

(d) The psychology program must stand as a recognizable, coherent, organizational entity within the institution.

(e) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

(f) There must be an organized sequence of study planned by those responsible for the training program to provide an appropriate, integrated, experience applicable to the professional practice of psychology.

(g) There must be an identifiable psychology faculty and a psychologist responsible for the program.

(h) There must be an identifiable body of students, selected on the basis of high ability and appropriate educational preparation.

(i) Programs must include practicum, internship, field or laboratory experience appropriate to the practice of psychology.

(j) The curriculum should encompass a minimum (or equivalent) of three academic years of full-time graduate study. The doctoral program should involve at least one continuous year of full-time residency at the university at which the degree is granted. Instruction should include scientific and professional ethics and standards, history and systems: Research design and methodology; statistics and psychometrics. The core program should also require each

student to obtain an academic background of the following content areas (typically six or more semester hours):

(i) Biological bases of behavior: e.g., physiological psychology, comparative, neuropsychology, sensation and perception, psychopharmacology.

(ii) Cognitive-affective bases of behavior: e.g., learning, thinking, motivation, emotions.

(iii) Social bases of behavior: e.g., social, psychology, group processes, organizational and systems theory.

(iv) Individual differences: e.g., personality theory, human development, abnormal psychology.

(3) If the major emphasis is in an applied area such as clinical, counseling, school or other pertinent areas, the program must include a set of coordinated practicum and internship experiences which total at least two semesters in the practicum setting, and additionally a "one-year" internship. A minimum of 300 hours of practicum, including 100 hours of scheduled individual supervision, should precede the internship.

(4) The psychological services offered in the internship program in "Standards for providers of psychological services" published by the American Psychological Association may be used as a framework for the internship program. The board also recognizes other quality internship programs.

NEW SECTION

WAC 246-924-055 Psychologists—Educational prerequisites to licensing for applicants enrolled in a doctoral program prior to December 28, 1978. This section shall apply to applicants enrolled in a program leading to a doctoral degree prior to December 28, 1978. To meet the education requirement imposed by the statute, the applicant must possess a doctoral degree from a training institution approved by the board in which at least forty semester hours, or sixty quarter hours, of graduate courses were passed successfully, and were clearly identified by title and course content as being primarily psychological in nature, as determined by the board. Part of the standards for issuance of said degree must require the submission of an original dissertation which must be psychological in nature, as determined by the board.

AMENDATORY SECTION (Amending Order 117B, filed 1/28/91, effective 2/28/91)

WAC 246-924-060 Psychologists—Experience prerequisite to licensing. This section shall apply to applicants whose post-doctoral experience was commenced after March 5, 1985. (1) Need for supervision. The law requires that the applicant have at least twelve months experience practicing psychology under qualified supervision after having completed all requirements for a doctoral degree. Supervision must be appropriate to the area(s) of professional activity in which the candidate intends to function.

(2) Twelve months of experience shall include a MINIMUM of 1500 supervised clock hours of psychological work. There should be a MINIMUM of one hour of individual supervision for every twenty hours of psychological work. The majority of supervised hours should be in the area(s) of intended psychological work. Documentation of experience and supervision hours shall be kept by supervisee and

supervisor. The supervisor(s) shall forward to the board a written evaluation at the end of the twelve-month period, and shall indicate whether the supervisee has satisfactorily completed the supervised clock hours of psychological work. If any supervisor's(s') written evaluation indicates that the supervisee has failed to satisfactorily complete the required work, the board may require additional supervised clock hours of psychological work.

(3) Appropriate supervision is that provided by a licensed psychologist with two years post-license experience, a psychiatrist with three years of experience beyond residency, or an MSW with five years post-degree experience or a doctoral level psychologist by training and degree with two years of post-doctoral experience who is exempt from licensure by RCW 18.83.200 (1); (2); (3); or, (4), but only when supervising within the exempt setting. At least 50 percent of supervision must be provided by a licensed psychologist. The supervisor must have competence in the area(s) of intended psychological work of the supervisee. The supervisor shall not supervise in any area in which he or she does not have competence.

(4) Content of supervision. Supervision should include, but not be limited to, the following content area:

(a) Discussion of services provided by the supervisee;

(b) Selection, service plan, and review of each case or work unit of the supervisee;

(c) Discussion of and instruction in theoretical conceptions underlying the supervised work;

(d) Discussion of the management of professional practice or other administrative or business issues;

(e) Evaluation of the supervisory process, supervisee, and supervisor;

(f) Discussion of the coordination of services among other professionals involved in particular work units;

(g) Review of relevant Washington laws and rules and regulations;

(h) Discussion of ethical principles including principles that apply to current work;

(i) Review of standards for providers of psychological services;

(j) Discussion of other relevant reading materials specific to cases, ethical issues, and the supervisory process.

(5) Mode of supervision. The nature of supervision will vary depending on the theoretical orientation of the supervisor, the training and experience of the supervisee, and the duration of the supervisory relationship. It is reasonable for a supervisor to ask for detailed process notes and progress reports. Audio tapes, video tapes, client supplied information such as behavioral ratings, and one-way mirror observations are also appropriate when deemed useful and/or necessary. However accomplished, supervision shall include some direct observation of the supervisee's work. The preferred mode of supervision is face-to-face discussion between supervisor and supervisee.

(6) Authority of supervisor. The supervisor is ethically and legally responsible for all supervisee work covered in the written agreement for supervision. Therefore, it is the authority of the supervisor to alter service plans or otherwise direct the course of psychological work.

(7) Written agreement for supervision. The supervisor and supervisee shall have a written agreement for supervision. This shall include:

- (a) The area(s) of professional activity in which supervision will occur;
- (b) Hours of supervision and/or ratio of supervisory hours or professional hours;
- (c) Supervisory fees, if appropriate;
- (d) Process of supervision including mode of supervision, expectations for recordkeeping, and expectations for evaluation and feedback;
- (e) Relevant business arrangements;
- (f) How the supervisee will represent him or herself;
- (g) How disagreements will be handled.
- (8) Representation of supervisee to the public. It shall be the responsibility of the supervisee to represent him or herself to the consuming public as being in training status with a suitable supervisor. Clients shall be informed of the identity and responsibilities of the supervisor; and shall be informed of their right to consult or speak directly with the supervisor. Such titles as psychological resident, psychological intern or psychological supervisee, are deemed appropriate for the supervisee. NO services provided by the supervisee shall be represented to third parties as having been provided by the supervisor. Insurance forms should be filled out to indicate the nature of the supervisory relationship.

NEW SECTION

WAC 246-924-065 Psychologists—Experience requirement prerequisite to licensing for experience prior to March 5, 1985. This section shall apply to applicants whose post-doctoral experience was commenced prior to March 5, 1985.

(1) The applicant shall have at least one year experience practicing psychology under qualified supervision after completion of all requirements for a doctoral degree. Such supervision shall be appropriate to the area of professional activity in which the applicant intended or intends to function. To be considered qualifying experience, the applicant must have worked under the direct supervision of a licensed psychologist or other professional deemed appropriate by the board. Supervision includes an ongoing awareness of all aspects of the activities of the person being supervised within the operational setting. The amount and intensity of supervision must be appropriate to the applicant's level of training and experience. A year of experience consists of a minimum of 1500 supervised clock hours. Functioning as an autonomous provider of psychological services and independent individual or group practice will not ordinarily be considered as meeting the experience requirement.

(2) In addition, the following considerations apply for experience commenced after December 27, 1978.

(a) In clinical and counseling areas, supervision should include selection of cases, assessment, treatment plan, ongoing treatment, and termination.

(b) With respect to teaching, supervision should include discussion of course outline(s), discussion of teaching and evaluation methods, and direct observation and/or review of taped class lectures and discussions.

(c) Regarding school psychology, supervision should include application of appropriate rules and regulations as promulgated by the office of the superintendent of public

instruction, assessment procedures, psychological reporting, consultation, and follow through.

WSR 93-06-093
PERMANENT RULES
DEPARTMENT OF HEALTH

(Board of Pharmacy)

[Order 343B—Filed March 3, 1993, 11:07 a.m.]

Date of Adoption: January 22, 1993.

Purpose: To list cattle anabolic steroid implants excluded from all schedules.

Citation of Existing Rules Affected by this Order: Amending WAC 246-887-160.

Statutory Authority for Adoption: RCW 18.64.005.

Pursuant to notice filed as WSR 92-24-079 on December 2, 1992.

Effective Date of Rule: Thirty-one days after filing.

February 18, 1993

Donald Hobbs

Chairman

AMENDATORY SECTION (Amending Order 239B, filed 1/28/92, effective 2/29/92)

WAC 246-887-160 Schedule III. The board finds that the following substances have a potential for abuse less than the substances listed in Schedules I and II, and have currently accepted medical use in treatment in the United States and that the abuse of the substances may lead to moderate or low physical dependency or high psychological dependency. The board, therefore, places each of the following substances in Schedule III.

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule III.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations are referred to as excepted compounds in Schedule III as published in 21 CFR 1308.13(b)(1) as of April 1, 1984, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(2) Benzphetamine;

(3) Chlorphentermine;

(4) Clortermine;

(5) Phendimetrazine.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following

substances having a depressant effect on the central nervous system:

- (1) Any compound, mixture, or preparation containing:
 - (i) Amobarbital;
 - (ii) Secobarbital;
 - (iii) Pentobarbital;

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

- (2) Any suppository dosage form containing:
 - (i) Amobarbital;
 - (ii) Secobarbital;
 - (iii) Pentobarbital;

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;

- (4) Chlorhexadol;
- (5) Lysergic acid;
- (6) Lysergic acid amide;
- (7) Methyprylon;
- (8) Sulfondiethylmethane;
- (9) Sulfonethylmethane;
- (10) Sulfonmethane;

(11) Tiletamine and zolazepam or any salt thereof—some trade or other names for a tiletamine-zolazepam combination product: Telazol some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl) cyclohexanone—some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4] diazepin 7 (1H)-one flupyrzapon.

(d) Nalorphine.

(e) Anabolic steroids. The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

- (1) Boldenone;
- (2) Chlorotestosterone;
- (3) Clostebol;
- (4) Dehydrochlormethyltestosterone;
- (5) Dihydrotestosterone;
- (6) Drostanolone;
- (7) Ethylestrenol;
- (8) Fluoxymesterone;
- (9) Formebolone;
- (10) Mesterolone;
- (11) Methandienone;
- (12) Methandranone;
- (13) Methandriol;
- (14) Methandrostenolone;
- (15) Methenolone;
- (16) Methyltestosterone;
- (17) Mibolerone;
- (18) Nanrolone;
- (19) Norethandrolone;
- (20) Oxandrolone;
- (21) Oxymesterone;
- (22) Oxymetholone;
- (23) Stanolone;
- (24) Stanozolol;

- (25) Testolactone;
- (26) Testosterone;
- (27) Trenbolone; and

(28) Any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth. Except such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph.

The following are implants or pellets which are exempt:

<u>Ingredients</u>	<u>Trade Name</u>	<u>Company</u>
<u>Testosterone Propionate, Oestradiol Benzoate</u>	<u>F-TO</u>	<u>Animal Health Div. Upjohn International Kalamazoo, MI</u>
<u>Trenbolone Acetate</u>	<u>Finaplix-H</u>	<u>Hoechst-Roussel Agri-Vet Co., Somerville, NJ</u>
<u>Trehbolone Acetate</u>	<u>Finaplix-S</u>	<u>Hoechst-Roussel Agri-Vet Co., Somerville, NJ</u>
<u>Testosterone Propionate, Estradiol Benzoate</u>	<u>Heifer-oid</u>	<u>Anchor Division Boehringer Ingelheim St. Joseph, MO</u>
<u>Testosterone Propionate, Estradiol Benzoate</u>	<u>Heifer-oid</u>	<u>Bio-Ceutic Division Boehringer Ingelheim St. Joseph, MO</u>
<u>Testosterone Propionate, Estradiol Benzoate</u>	<u>Heifer-oid</u>	<u>Ivy Laboratories, Inc. Overland Park, KS</u>
<u>Trenbolone Acetate, Estradiol</u>	<u>Revalor-s</u>	<u>Hoechst-Roussel Agri-Vet Co., Somerville, NJ</u>
<u>Testosterone Propionate, Estradiol Benzoate</u>	<u>Synovex H</u>	<u>Syntex Laboratories Palo Alto, CA</u>

(f) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in paragraph (e) of this section:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

PERMANENT

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

Year tax paid (chapter 84.68 RCW); Year tax paid or claim filed (whichever is later) (chapter 84.69 RCW)

Auction Year

Rate

1985	1984	11.27%
1986	1985	7.36%
1987	1986	6.11%
1988	1987	5.95%
1989	1988	7.04%
1990	1989	8.05%
1991	1990	8.01%
1992	1991	5.98%
1993	1992	3.42%

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 93-06-096
PERMANENT RULES
DEPARTMENT OF REVENUE
 [Filed March 3, 1993, 11:45 a.m.]

Date of Adoption: March 3, 1993.

Purpose: To comply with the statute and provide current interest rate to be applied to refunds of property taxes.

Citation of Existing Rules Affected by this Order: Amending WAC 458-18-220.

Statutory Authority for Adoption: RCW 84.08.010 and 84.69.100.

Pursuant to notice filed as WSR 93-03-024 on January 12, 1993.

Effective Date of Rule: Thirty-one days after filing.
 March 3, 1993
 William N. Rice
 Assistant Director

AMENDATORY SECTION (Amending WSR 92-17-027, filed 8/11/92, effective 9/11/92)

WAC 458-18-220 Refunds—Rate of interest. The following rates of interest shall apply on refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. The following rates shall also apply to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030. The interest rate is derived from the equivalent coupon issue yield of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid or the claim for refund is filed, whichever is later. The rate thus determined shall be applied to the amount of the judgment or the amount of the refund, until paid:

WSR 93-06-010
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3514—Filed February 19, 1993, 9:25 a.m., effective February 20, 1993]

Date of Adoption: February 19, 1993.

Purpose: Provide medical coverage to the family members of newly legalized aliens as provided under the family unity program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-83-015 Citizenship and alien status.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: Section 301 of Immigration Act of 1990, P.L. 101-649.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Section 301 of Immigration Act of 1990, P.L. 101-649 creates the family unity program. Effective Date of Rule: February 20, 1993.

February 19, 1993

D. L. Henry

for Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2798, filed 5/17/89)

WAC 388-83-015 Citizenship and (~~alienage~~) alien status. (1) The department shall provide Medicaid to an otherwise eligible (~~individual~~) person who is:

(a) A citizen of the United States; or

(b) A North American Indian born in Canada:

(i) Claiming fifty percent Indian blood; or

(ii) Claiming fifty percent or less Indian blood and maintains United States residency since before December 25, 1952; or

(c) An alien lawfully admitted for permanent residence or otherwise permanently residing under color of law (PRUCOL) in the United States; or

(~~d~~) An alien who is lawfully present in the United States according to provisions of sections 203 (a)(7), 207(c), 208, and 212 (d)(5) of the Immigration and Nationality Act (INA); or

((~~d~~)) (e) An alien granted lawful temporary residence, or permanent residence according to provisions of section 245(A)(a), 210, 210(f) and 210A of INA and sections 202 and 302 of the Immigration Reform and Control Act (IRCA) (~~if the alien is:~~

(i) Aged, blind, or disabled;

(ii) Seventeen years of age or under;

(iii) Pregnant; or

(iv) A Cuban/Haitian entrant as defined in sections 501 (e)(1) and (2)(A) of P.L. 96-422.

(2) For five years from the date Immigration and Naturalization Service (INS) grants lawful temporary or permanent resident status to an alien, under sections 245A, 210, and 210A of INA, the alien, other than those described

under subsection (1)(d) of this section, shall be eligible for Medicaid services only as follows:

(a) Medical care and services necessary for treatment of the alien's emergency medical condition. For purposes of this subsection, the term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

(i) Placing the alien's health in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of any bodily organ or part.

(b) When such alien meets the eligibility requirements of any one of the medical assistance programs under chapters 388-82, 388-83, 388-92, 388-95, and 388-99 WAC.

(3) The department shall consider a seasonal agricultural worker (SAW), granted temporary or permanent residence under sections 210(f) of INA and 302 of IRCA, eligible for Medicaid on the same basis as aliens under subsections (1)(d) or (2) of this section.

(4)) unless five years from the date Immigration and Naturalization Service (INS) grants lawful temporary resident status has not passed; or

(f) An alien approved by the INS under the family unity program, unless five years from the date INS grants lawful temporary resident status for the petitioning relative has not passed.

(2) When an alien as described under subsection (1)(e) or (f) of this section has not passed the five-year disqualification period, the department shall provide Medicaid to an otherwise eligible person when an alien is:

(a) Aged, blind, or disabled;

(b) Seventeen years of age or under;

(c) Pregnant; or

(d) A Cuban/Haitian entrant as defined under sections 501 (e)(1) and (2)(A) of P.L. 96-422.

(3) All other aliens, including an alien described in subsection (1)(e) or (f) of this section who is still under the five-year disqualification and is not described under subsection (2) of this section and who is not lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law, or described in subsection (2) ((~~or (3)~~)) of this section, shall be eligible for Medicaid ((~~only if~~)) as follows:

(a) Medical care and services are necessary for treatment of ((~~an~~)) the alien's emergency medical condition ((~~of the alien; and~~

(b) ~~Such alien meets the eligibility requirements of any one of the medical assistance programs under chapters 388-82, 388-83, 388-92, 388-95, and 388-99 WAC;~~

(~~e~~)). For purposes of this subsection, the term emergency medical condition means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(i) Placing the alien's health in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of any bodily organ or part((:));
and

(b) Such alien meets the eligibility requirements of the medical assistance programs under chapters 388-82, 388-83, 388-92, 388-95, and 388-99 WAC.

**WSR 93-06-012
EMERGENCY RULES
BOARD OF
PILOTAGE COMMISSIONERS**

[Filed February 19, 1993, 2:50 p.m., effective March 1, 1993]

Date of Adoption: February 11, 1993.

Purpose: To amend the experience limitations for newly licensed pilots in the Grays Harbor pilotage district.

Citation of Existing Rules Affected by this Order: Amending WAC 296-116-082.

Statutory Authority for Adoption: RCW 88.16.035 and 88.16.105.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The progression of Grays Harbor's first state-mandated training program has shown a necessity to alter the experience limitations that are imposed during a pilot's first license year. It has been revealed, through the training program, that vessels which are loaded, or partially laden, present greater maneuvering difficulties, to a novice pilot transitting the Chehalis River bridge constrictions, than those which are in ballast, irrespective of length. The resultant language change addresses this issue and should be implemented as soon as possible, prior to the licensing of any current or future pilot candidates. The emergency arises as a candidate is currently eligible for licensure. Any delay in his licensure would severely affect the interests of the Port of Grays Harbor as the pilotage district is presently understaffed.

Effective Date of Rule: March 1, 1993.

February 19, 1993
Thomas F. Heinan
Assistant Secretary
Marine Division

[AMENDATORY SECTION (Amending WSR 92-24-056, filed 11/30/92)]

WAC 296-116-082 Limitations on new pilots (1) The following limitations shall apply to a newly licensed pilot during his/her first five years of active service. Except where otherwise noted, the pilotage assignment may include docking and undocking of vessels within the tonnage limitations. All tonnages referred to are international tonnages.

(2) Progressive lifting of tonnage limitations requires a newly licensed pilot to satisfactorily complete the familiarization/training trips listed under the supervision of a five-year pilot. This veteran pilot shall complete and submit an evaluation form for each trip a new pilot performs. All of

these trips must, if practical, be completed during the last ninety days of the license year.

(3) Puget Sound Pilotage District - License limitations.

(a) First year:

(i) Not authorized to pilot loaded petroleum tankers.

(ii) Not authorized to pilot any vessels in excess of 25,000 gt or 660' in length or any passenger vessels in excess of 5,000 gt.

(b) Second year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 25,000 gt.

(ii) Not authorized to pilot any vessels in excess of 30,000 gt.

(c) Third year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 32,000 gt.

(ii) Not authorized to pilot any vessels in excess of 45,000 gt.

(d) Fourth year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 32,000 gt.

(ii) Not authorized to pilot any vessels in excess of 60,000 gt.

(e) Fifth year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 45,000 gt.

(ii) Not authorized to pilot any vessels in excess of 75,000 gt.

(4) Puget Sound Pilotage District - Familiarization/training trips.

(a) Prior to the expiration of the FIRST license year, a new pilot must make three familiarization/training trips, two of which shall involve docking loaded petroleum tankers of not more than 25,000 gt; and the third trip shall involve a bridge and waterway transit of a vessel between 25,000 and 35,000 gt.

(b) Prior to the expiration of the SECOND license year, a new pilot must make three familiarization/training trips, two of which shall involve docking loaded petroleum tankers between 25,000 and 32,000 gt; and the third trip shall involve the anchoring of a vessel between 30,000 and 45,000 gt.

(c) Prior to the expiration of the THIRD license year, a new pilot must make two familiarization/training trips which shall involve the docking of vessels between 45,000 and 55,000 gt other than loaded petroleum tankers.

(d) Prior to the expiration of the FOURTH license year, a new pilot must make three familiarization/training trips which shall involve docking loaded petroleum tankers of between 32,000 and 45,000 gt.

(e) Prior to the expiration of the FIFTH license year, a new pilot must make three familiarization/training trips which shall involve two trips docking and one trip anchoring loaded petroleum tankers of 55,000 gt or larger.

(5) Grays Harbor Pilotage District - License limitations.

(a) First year:

(i) Not authorized to pilot loaded tankers or barges carrying chemical or petroleum products.

(ii) Not authorized to pilot any vessels in excess of 17,500 gt.

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(iii) Not authorized to pilot loaded or partially loaded vessels (~~in excess of 550' in length~~) through the Chehalis River bridges.

(b) Second year:

(i) Not authorized to pilot loaded tankers or barges carrying chemical or petroleum products in excess of 10,000 gt.

(ii) Not authorized to pilot any vessels in excess of 20,000 gt.

(c) Third year: Not authorized to pilot any vessels in excess of 22,500 gt.

(d) Fourth Year: Not authorized to pilot any vessels in excess of 25,000 gt.

(e) Fifth year: Not authorized to pilot any vessels in excess of 27,500 gt.

(6) Grays Harbor Pilotage District - Familiarization/training trips.

(a) Prior to the expiration of the FIRST license year, a new pilot must make ~~(four)~~ ten familiarization/training trips. ~~(Two)~~ Eight of these trips shall be through the Chehalis River bridges on loaded or partially loaded vessels (~~in excess of 550' in length~~). The other trips may be elsewhere on the waterway but shall be on vessels in excess of 17,500 gt.

(b) Prior to the expiration of the SECOND license year, a new pilot must make three familiarization/training trips on vessels in excess of 20,000 gt. Two of these trips shall involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway.

(c) Prior to the expiration of the THIRD license year, a new pilot must make three familiarization/training trips on vessels in excess of 25,000 gt to or from the sea buoy. Two of these trips shall involve docking these vessels.

(d) Prior to the expiration of the FOURTH license year, a new pilot must make three familiarization/training trips on vessels in excess of 27,500 gt or on the nearest larger size vessels available. Two of these trips shall involve docking these vessels; and one of these trips shall involve turning the vessel in the waterway.

(e) Prior to the expiration of the FIFTH license year, a new pilot must make three familiarization/training trips on vessels in excess of 30,000 gt or on the nearest larger size vessels available.

(7) The initial license shall contain the limitations contained above and list the date of commencement and expiration of such periods. If a newly licensed pilot is unable to pilot for forty-five days or more in any one of the five years, he shall notify the Board and request a revised schedule of limitations.

(8) No pilot shall be dispatched to, or accept an assignment on, any vessel which exceeds the limitations of his/her license. On vessels in which there is more than one pilot assigned, the license limitations shall apply only to the pilot in charge.

(9) All limitations on a new pilot's license shall be lifted at the beginning of the sixth year of piloting provided he/she has submitted to the Board a statement attesting to the fact that he/she has completed all the required familiarization/training requirements and the vessel simulator courses required.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 93-06-013

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 93-06—Filed February 19, 1993, 4:02 p.m., effective February 28, 1993, 11:59 p.m.]

Date of Adoption: February 19, 1993.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-57-160.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary because an incidental take statement issued in conjunction with a biological opinion has not been issued by the National Marine Fisheries Service. A take statement is required under the Endangered Species Act before an incidental take of Snake River wild spring chinook, a stock listed as threatened under the Endangered Species Act, can occur in this fishery.

Effective Date of Rule: February 28, 1993, 11:59 p.m.

February 19, 1993

Judith Freeman

Deputy

for Robert Turner

Director

NEW SECTION

WAC 220-57-16000R Columbia River. Notwithstanding the provisions of WAC 220-57-160 (7), (8) and (9), effective 11:59 P.M. February 28, 1993, until further notice, it is unlawful to fish for salmon in the waters of the Columbia River from the Interstate 5 bridge downstream to the mouth of the river.

WSR 93-06-014

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 93-05—Filed February 19, 1993, 4:05 p.m., effective February 19, 1993, 6:00 p.m.]

Date of Adoption: February 19, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-33-01000N.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health,

safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary because an incidental take statement issued in conjunction with a biological opinion has not been issued by the National Marine Fisheries Service. A take statement is required under the Endangered Species Act before an incidental take of Snake River wild spring chinook, a stock listed as threatened under the Endangered Species Act, can occur in this fishery. This rule is consistent with the actions of the February 18, 1993, meeting of the Columbia River Compact.

Effective Date of Rule: February 19, 1993, 6:00 p.m.
February 19, 1993
Judith Freeman
Deputy
for Robert Turner
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. February 19, 1993:

WAC 220-33-01000N Columbia River salmon seasons below Bonneville. (93-04)

WSR 93-06-015

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 93-07—Filed February 19, 1993, 4:09 p.m., effective March 15, 1993, noon]

Date of Adoption: February 19, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100U.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary because an incidental take statement issued in conjunction with a biological opinion has not been issued by the National Marine Fisheries Service. A take statement is required under the Endangered Species Act before an incidental take of Snake River wild spring chinook, a stock listed as threatened under the Endangered Species Act, can occur in this fishery. This rule is consistent with the actions of the February 18, 1993, meeting of the Columbia River Compact.

Effective Date of Rule: March 15, 1993, noon.

February 19, 1993

Judith Freeman

Deputy

for Robert Turner

Director

NEW SECTION

WAC 220-32-05100V Columbia River salmon seasons above Bonneville. (1) Notwithstanding the provisions of WAC 220-32-051 and 220-32-052, 220-32-053, 220-32-056, 220-32-057, and 220-32-058, effective immediately it is unlawful for a person to take or possess salmon, shad or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch reporting Areas 1F, 1G, and 1H except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may fish under the following provisions:

(a) Open for salmon, sturgeon and shad from noon February 1 to noon March 15, 1993.

(b) Open area: SMCRA 1F, 1G, and 1H

(c) Mesh: No mesh restriction

(2) Notwithstanding the provisions of WAC 220-32-058, closed area at the mouth of:

(a) Hood River is those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at the end of the breakwall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

(b) Herman Creek is those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(c) Deschutes River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) Umatilla River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile down stream from the western shoreline.

(e) Big White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located one-half mile downstream from the west bank upstream to light "35".

(f) Wind river is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2-mile upstream from the east bank.

(g) Klickitat River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1 1/8 miles downstream from the west bank.

(h) Little White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately one-half mile upstream from the eastern shoreline.

(3) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection (1):

(a) Area 1F (Bonneville Pool) shall include those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids located approximately 1.8 miles below the Dalles Dam.

(b) Area 1G shall include those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 mile above the Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in midriver, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy light below John Day Dam.

(c) Area 1H shall include those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the upper easterly bank of the mouth of the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day river, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-32-05100U Columbia River salmon seasons above Bonneville. (93-02)

**WSR 93-06-023
EMERGENCY RULES
DEPARTMENT OF HEALTH
(Examining Board of Psychology)**

[Order 336B—Filed February 22, 1993, 3:44 p.m.]

Date of Adoption: February 12, 1993.

Purpose: Amend the cut-off score from 75% to 70% to conform with the recommended national cut-off score as recommended by the Association of State and Provincial Psychology Boards. This emergency rule is being adopted so that it will affect the score of the April 14, 1993, exam.

Citation of Existing Rules Affected by this Order: Amending WAC 246-924-070.

Statutory Authority for Adoption: RCW 18.83.050(5).
Other Authority: Chapter 18.83 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Based on the national recommendation for a cut-score [cut-off score] of 70% the Examining Board of Psychology finds that this rule must be adopted immediately so as to affect the April 14, 1993, examination administration. A permanent rules hearing allowing public input is scheduled for March 12, 1993.

Effective Date of Rule: Immediately.

February 13, 1993
Kathleen O'Shaunessy, Ph.D.
Chair

AMENDATORY SECTION (Amending Order 117B, filed 1/28/91, effective 2/28/91)

WAC 246-924-070 Psychologists—Written examination. Written examination requirements: The written examination that is used in the state of Washington is the examination of professional practice of psychology. The examination consists of objective multiple choice questions covering the major areas of psychology. Each form of the examination contains between 150 and 200 items in the areas listed below:

(1) Background information, including physiological psychology and comparative psychology, learning, history, theory and systems, sensation and perception, motivation, social psychology, personality, cognitive processes, developmental psychology and psychopharmacology.

(2) Methodology including research design and interpretation, statistics, test construction and interpretation, scaling.

(3) Clinical psychology including test usage and interpretation, diagnosis, psychopathology, therapy, judgment in clinical situations, community mental health.

(4) Behavior modification including learning and applications.

(5) Other specialties including management consulting, industrial and human engineering, social psychology, t-groups, counseling and guidance, communication systems analysis.

(6) Professional conduct and ethics including interdisciplinary relations and knowledge of professional affairs.

The cutoff score which the Washington state board of examiners uses is ((75)) 70% of the raw score, or the national mean of all first time doctorates, whichever is the lowest.

**WSR 93-06-044
EMERGENCY RULES
DEPARTMENT OF FISHERIES**

[Order 93-08—Filed February 24, 1993, 4:29 p.m.]

Date of Adoption: February 24, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-49-020.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon

EMERGENCY

adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sufficient stock are available for limited harvest.

Effective Date of Rule: Immediately.

February 24, 1993
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-49-02000E Baitfish—Seasons. Notwithstanding the provisions of WAC 220-49-020, WAC 220-49-016 and WAC 220-49-021, it is unlawful to take, fish for or possess herring in Marine Fish and Shellfish Catch Reporting Area 20A, except as provided in the following subsections:

(1) Area 20A, excluding those waters inside and southerly of a line projected due east from the most northern tip of Pt. Semiahmoo (Drayton Harbor)

(2) Fishing periods

Open 8:00 a.m. February 25 to 6:00 p.m. February 26

Open 8:00 a.m. March 1 to 6:00 p.m. March 5

Open 8:00 a.m. March 8 to 6:00 p.m. March 12

Open 8:00 a.m. March 15 to 6:00 p.m. March 19

(3) Gear - gillnets which shall not exceed 720 feet in length or contain meshes less than 2 1/8 inch stretch measure.

(4) Special considerations

(a) The fishery will close once the quota of 54 tons of herring is estimated to have been taken, regardless of the fishing periods listed above.

(b) The director may close the fishery at anytime when it is deemed to be in the best interests of fishery management.

(c) Fishers are required to allow authorized fisheries department employees on board their vessel while fishing.

(d) Fishers are required to maintain a daily fishing log as provided by the department and to report each day's landings to the department's Bellingham office at (206) 676-2020 no later than 8:00 a.m. the following morning.

(e) Fishers are required to obtain a department pennant prior to fishing and to display the pennant at all times while participating in this fishery.

WSR 93-06-053
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3519—Filed February 26, 1993, 3:00 p.m., effective February 27, 1993]

Date of Adoption: February 26, 1993.

Purpose: Adds EITC, crime victim's compensation, Agent Orange settlement, German restitution, radiation exposure and Austrian social insurance funds as SSI-related income exemptions. Clarifies technical language and deletes redundant language.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-92-036 SSI-related income exemptions.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: POMS 830.660, 830.710, 830.715, 830.730, 830.740, CFR 20 Part 416.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Comply with federal requirements.

Effective Date of Rule: February 27, 1993.

February 26, 1993

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2907, filed 12/1/89, effective 1/1/90)

WAC 388-92-036 SSI-related income ((~~exclusions~~)) exemptions. (1) The department shall ((~~exclude the following from income in the order listed~~)) exempt:

(a) Any ((~~amount a client receives from any~~)) public ((~~agency as a return of~~)) agency's refund of taxes paid on real property or on food ((~~purchased by such client or spouse~~));

(b) State public assistance and supplemental security income (SSI) based on financial need;

(c) Any portion of ((~~any~~)) a grant, scholarship, or fellowship ((~~received by a client for use in paying the cost of~~)) used to pay tuition ((and)), fees, or other necessary educational expenses at ((any)) an educational institution;

(d) Income ((~~that~~)) a client does not reasonably anticipate, or ((~~may~~)) receives infrequently or irregularly, ((~~and~~)) when such income does not exceed twenty dollars per month if unearned, or ten dollars per month if earned;

(e) Any amount((s)) a client receives for the foster care of a child who lives in the same household, if the child is not SSI-eligible and was placed in such home by a public or nonprofit private child-placement or child-care agency;

(f) One-third of any payment for child support ((~~an individual~~)) a parent receives from an absent parent for a minor child who is not institutionalized;

(g) The first twenty dollars per month of earned or unearned income, not otherwise excluded in subsection (1)(a) through (f) of this section, for a client at home. The department shall consider the ((~~exclusion~~)) exemption only once for a husband and wife. The department shall apply no ((~~exclusion~~)) such exemption on income paid on the basis of an eligible ((~~individual~~)) person's needs, ((~~such as VA pension and cash from private charitable organizations~~)) which is totally or partially funded by the federal government or a private agency;

(h) Tax exempt payments Alaska natives receive under the Alaska Native Claims Settlement Act;

(i) Tax rebates or special payments ((~~excluded~~)) exempted by other statutes((~~—When necessary, the department shall publicize these exclusions~~));

(j) Compensation provided to volunteers in ACTION programs established by ((~~Public Law~~)) P.L. 93-113, the Domestic Volunteer Service Act of 1973;

(k) An amount to meet ~~((the needs of))~~ an ineligible minor child's needs residing in the household of an SSI ~~((applicant))~~ or SSI-related client. The ~~((exclusion))~~ exemption is ~~((the difference between the SSI couple cash benefit and the SSI individual cash benefit))~~ one-half of the one-person Federal Benefit Rate (FBR) less any income of the child;

(l) ~~((The following portions of))~~ Veteran's benefits designated for the veteran's:

(i) ~~((The veteran's))~~ Dependent; or

(ii) Aid and attendance/housebound allowance. For an institutionalized client((s)), ((the department shall consider the amount subsequently in the cost of the client's institutional care; and

(ii) The portion attributable to the veteran's dependent)) see WAC 388-95-340(6).

(m) Title II Social Security Administration benefits. The department shall:

(i) ~~((The department shall))~~ Determine current client eligibility for categorically needy medical assistance under WAC 388-82-115(4), including all Title II cost of living adjustment (COLA) benefit increases received by the:

(A) ~~((By the))~~ Client since termination from SSI/SSP;
or

(B) ~~((By the))~~ Client's spouse and/or other financially responsible family member living in the same household during the time period under subsection (m)(i) of this section; and

(ii) ~~((The department shall))~~ Consider the total of the COLA benefit increases and the Title II Social Security Administration benefits in the cost of the institutionalized client's care.

(n) A ~~((reimbursable))~~ fee a guardian charges as reimbursement for providing services ~~((provided))~~;

(o) Income an ineligible or nonapplying spouse receives from a governmental agency for services provided to an eligible client ~~((e.g.))~~ such as chore services~~((s))~~;

(p) Certain cash payments a client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(q) Restitution payment to a civilian of Japanese or Aleut ancestry under P.L. 100-383 and any interest earned from such payment;

(r) The amount of the expenses directly related to a client's impairment that allows the permanently and totally disabled client to continue to work;

(s) The amount of the blindness-related work expenses of a blind client; ~~((and))~~

(t) Interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become part of the separately identified burial funds set aside on or after November 1, 1982;

(u) Earned income tax credit (EITC);

(v) Crime victim's compensation funds;

(w) Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P. L. 101-201;

(x) Payments to certain survivors of the Holocaust under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution or German Restitution Act. Interest earned on this income is not exempt;

(y) Payments to the injured person, the surviving spouse, children, grandchildren, or grandparents under the Radiation Exposure Compensation Act; and

(z) Payments under section 500 through 506 of the Austrian General Social Insurance Act. The department shall consider the earned interest from such payments as countable income.

(2) ~~((Unless income is contributed to the applicant, the department shall exclude all earned income of an ineligible or nonapplying individual twenty years of age and under who is a student regularly attending a school, college or university, or pursuing a vocational or technical training designed to prepare the student for gainful employment.~~

~~((3))~~ For the SSI-related ~~((individual))~~ client, the department shall exclude the first sixty-five dollars per month of earned income not excluded according to subsection (1) of this section, plus one-half of the remainder.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 93-06-061
EMERGENCY RULES
WILDLIFE COMMISSION**

[Order 595—Filed March 1, 1993, 1:17 p.m.]

Date of Adoption: February 25, 1993.

Purpose: To protect underescaped wild winter steelhead. Emergency changes to the 1993 winter steelhead fishing regulations.

Citation of Existing Rules Affected by this Order: Amending [new section] WAC 232-28-61934.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Items 1 and 2, wild steelhead escapements in 1992, 1991 and 1990 were below the 1400 fish escapement goal. The 1993 wild run size is also predicted to be low. The Department of Wildlife is recommending total closure of these streams March 1, to allow as many wild fish to escape as possible. The proposal would eliminate hooking mortality on wild fish during a period when few hatchery fish are available for harvest. Nisqually River Management, item 3, the harvestable number of wild winter steelhead for sport anglers on the Nisqually River for this year is 750. Under current sport regulations the 750 fish will be harvested by March 31.

Effective Date of Rule: Immediately.

March 1, 1993

Curt Smitch

Director

for Dean A. Lydig
Chair

EMERGENCY

NEW SECTION

WAC 232-28-61934 1992-94 Washington game fish seasons and catch limits - Emergency steelhead regulations. Notwithstanding the provisions of WAC 232-28-619, the following regulations apply to the game fish seasons for the Skokomish River, South Fork Skokomish River and Nisqually River.

1) SKOKOMISH RIVER, mouth to Forks: CLOSED to fishing for all game fish March 1, 1993 to March 31, 1993.

2) SKOKOMISH RIVER, South Fork, mouth to Vance Creek: CLOSED to fishing for all game fish March 1, 1993 to March 31, 1993.

3) NISQUALLY RIVER, from mouth to highway bridge at McKenna: additional Mar. 1 - Mar. 23 season. TROUT - catch limit - 2, min. lgth. 14". Additional Mar. 24 - April 15, 1993 season, Catch-and-Release Only.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of salmon are available in the area between Bonneville Dam and McNary Dam. An incidental take statement has been issued by National Marine Fisheries Service as required under the Endangered Species Act. This rule is consistent with the actions of the March 1, 1993, meeting of the Columbia River Compact.

Effective Date of Rule: Immediately.

March 21, 1993

Robert Turner
Director

WSR 93-06-068**EMERGENCY RULES****DEPARTMENT OF FISHERIES**

[Order 93-09—Filed March 1, 1993, 4:49 p.m.]

Date of Adoption: March 1, 1993.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-57-16000R.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The department has received the biological opinion from the National Marine Fisheries Service, which allows for the incidental take of wild Snake River spring chinook.

Effective Date of Rule: Immediately.

March 1, 1993
Gene DiDonato
for Robert Turner
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-57-16000R Columbia River. (93-06)

WSR 93-06-069**EMERGENCY RULES****DEPARTMENT OF FISHERIES**

[Order 93-11—Filed March 2, 1993, 10:42 a.m.]

Date of Adoption: March 2, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-32-05100V.

NEW SECTION

WAC 220-32-05100W Columbia River salmon seasons above Bonneville. (1) Notwithstanding the provisions of WAC 220-32-051 and 220-32-052, 220-32-053, 220-32-056, 220-32-057, and 220-32-058, effective immediately it is unlawful for a person to take or possess salmon, shad or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch reporting Areas 1F, 1G, and 1H except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may fish under the following provisions:

(a) Open for salmon, sturgeon and shad from noon February 1 to noon March 20, 1993

(b) Open area: SMCRA 1F, 1G, and 1H

(c) Mesh: No mesh restriction

(2) Notwithstanding the provisions of WAC 220-32-058, closed area at the mouth of:

(a) Hood River is those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at the end of the breakwall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

(b) Herman Creek is those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(c) Deschutes River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) Umatilla River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) Big White Salmon river is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located one-

half mile downstream from the west bank upstream to light "35".

(f) Wind River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2-mile upstream from the east bank.

(g) Klickitat River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1 1/8 miles downstream from the west bank.

(h) Little White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately one-half mile upstream from the eastern shoreline.

(3) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection (1):

(a) Area 1F (Bonneville Pool) shall include those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids located approximately 1.8 miles below the Dalles Dam.

(b) Area 1G shall include those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 mile above the Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in midriver, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy light below John Day Dam.

(c) Area 1H shall include those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the upper easterly bank of the mouth of the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-32-05100V Columbia River salmon seasons above Bonneville. (93-07)

WSR 93-06-070
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 93-10—Filed March 2, 1993, 10:45 a.m.]

Date of Adoption: March 2, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable spring chinook salmon are available in the Columbia River. An incidental take statement has been issued by the National Marine Fisheries Service as required under the Endangered Species Act. This rule is consistent with the actions of the March 1, 1993, meeting of the Columbia River Compact.

Effective Date of Rule: Immediately.

March 2, 1993

Robert Turner

Director

NEW SECTION

WAC 220-33-01000P Columbia River salmon seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, 220-33-020, and 220-33-030, it is unlawful for a person to take or possess salmon, shad or sturgeon taken for commercial purposes from Columbia River SMCRA 1A, 1B, 1C, and that portion of SCMRA 1D downstream from Kelley Point at the mouth of the Willamette River, except as provided in the following subsections.

FISHING PERIODS

(1) noon March 2, 1993 to 8:00 a.m. March 3, 1993.

GEAR

(2) It is unlawful to fish for salmon, shad and sturgeon with gill net gear that:

(a) exceeds 1,500 feet in length along the corkline;

(b) is constructed of monofilament webbing;

(c) has webbing with a mesh size of less than 8 inches or more than 9-1/4 inches; or

(d) has lead or weight on the leadline that exceeds two pounds in any one fathom, measurement to be taken along the corkline of the net.

(3) It is unlawful to gaff a sturgeon.

(4) White sturgeon less than 48 inches or greater than 66 inches may not be retained for commercial purposes and shall be returned immediately to the water. The length of a sturgeon is the shortest distance between the tip of the nose and the extreme tip of the tail measured while the fish is lying on its side on a flat surface with its tail in a normal position.

SANCTUARIES

(5) During the season provided for in subsection 1 of this section, the following sanctuaries, as defined in WAC 220-33-005, are closed to fishing:

(a) Grays Bay

(b) Elokomin-A

(c) Kalama-A

(d) Lewis-A

(e) Cowlitz

(f) Gnat Creek

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 93-04-123
PROPOSED RULES
COLUMBIA RIVER
GORGE COMMISSION
 [Filed February 3, 1993, 11:33 a.m.]

The above named agency gives notice of hearing.

Hearings to be Held: On April 6, 1993, at 2:00 p.m., Mid-Columbia Medical Office Plaza, 1810 East 19th, The Dalles, Oregon.

The hearing will be continued to the commission's regularly scheduled meeting on April 13, 1993, with discussion and proposed adoption by the commission.

The Columbia River Gorge Commission proposes to adopt rules relating to land use ordinances for Wasco County, 350-110, at its regularly scheduled meeting on April 13, 1993, at 10:30 a.m., Skamania Lodge, Rock Creek Drive, Stevenson, Washington.

Hearings Officer(s): Pat Bleakney, Chair.

Pursuant to the statutory authority of RCW 43.97.015 the following action is proposed: Adopt 350-110, Wasco County land use ordinance.

No prior notice given.

Columbia River Gorge Commission
 Proposed Rule Adoption
 350-110

Summary: The rule sets forth a land use ordinance to implement the Columbia River Gorge National Scenic Area Management Plan in Wasco County, Oregon.

Statement of Need: 1. The National Scenic Area Act requires the commission to adopt land use ordinances in gorge counties that have not met the act's requirement and schedule for adopting county land use ordinances. 2. The public needs a detailed process for proceeding with land use applications under the Columbia River Gorge National Scenic Area Management Plan. 3. Delay in adoption of the rule will cause the commission to be out of compliance with the National Scenic Area Act.

Authority: 16 U.S.C. § 544 et seq., ORS 196.150 to ORS 165, and RCW 43.97.015 to 49.97.035 [43.97.035].

The proposed rule is necessary as a result of federal law, 16 U.S.C. § 544 et seq. The rule is proposed by the Columbia River Gorge Commission.

Documents Relied Upon: The Columbia River Gorge National Scenic Area Management Plan and the National Scenic Area Act. The documents are available at the commission office.

Effect of Rule: This rule will implement the Management Plan for the Columbia River Gorge National Scenic Area Act through a land use ordinance as required by the National Scenic Area Act. The rule is derived directly from the Management Plan. It includes guidelines for allowable land uses, provisions for protecting scenic, natural, cultural and recreational resources, and procedural requirements for making land use applications. These rules will have the effect of governing land uses within the "general management area" and "special management areas" of the Columbia River Gorge National Scenic Area. Any proposed development project on lands within these areas will be subject to the rule when making a land use application.

Fiscal Impact:

I. Background

Commission Rule 350-16-004 requires that the commission prepare: "A statement of fiscal impact identifying the state agencies, units of local government, and the public which may be economically affected by the adoption, amendment, or repeal of [a] rule and an estimate of that economic impact on state agencies, units or local government, and the public. In considering the economic effect of the proposed action on the public, the [commission] shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance on small businesses affected."

The proposed rule implements the Management Plan for the Columbia River Gorge National Scenic Area which was adopted by the Columbia River Gorge Commission in October 1991 and concurred with by the Secretary of Agriculture in February 1992. The Management Plan was written pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.R. [U.S.C.] § 544 et seq. (Public Law 99-663).

The act further requires that the gorge commission adopt land use ordinances for those counties which do not adopt their own. These proposed rules will implement the Management Plan in four of the six gorge counties; the other two counties have adopted their own land use ordinances which will implement the Management Plan.

The act identifies two purposes: To establish a national Scenic Area to protect and provide for the enhancement of the scenic, cultural, recreation, and natural resources of the Columbia River Gorge; and to protect and support the economy of the Columbia Gorge area by encouraging growth to occur in existing Urban Areas and by allowing future economic development in a manner that is consistent with paragraph 1.

The regulations of the act apply to only 90% of the land area in the Scenic Area (the General Management Areas and Special Management Areas). Urban Areas, which make up the remaining 10% of the land area, are exempt from the regulations of the act. Urban areas are the cities, towns, and communities where there is significant residential, commercial, or industrial development and extensive supporting infrastructure; the majority of the population and economic activity in the Scenic Area is found in Urban Areas. Thus the proposed rules will affect only a small portion of the residents and businesses in the Scenic Area.

II. Enhancement of the Overall Economy

Implementing the management plan will protect and enhance the overall economy of the Scenic Area in many ways:

Utilizing the over \$32 million in federal funding which was authorized in the Scenic Act for recreation and economic development.

Increasing tourism by protecting the scenic, natural, and cultural resources, and enhancing recreational opportunities.

Protecting agricultural and forest land for continued agriculture and forest management, two of the regions principal industries.

Enhancing the economic viability of gorge communities by encouraging economic growth in Urban Areas and Rural Centers.

Economic Development Monies. Congress authorized over \$32 million in federal monies for recreation and economic development. The authorizations are as follows:

\$10 million for recreation development

\$5 million for an Oregon interpretive center

\$5 million for a Washington conference center

\$2.8 million to restore the Historic Columbia River Highway

\$5 million each to Oregon and Washington for the purpose of making economic development loans and grants

Increasing Tourism. In 1987, approximately 3.8 million nonresident visitors traveled through and/or participated in recreation activities in the Scenic Area. Total 1987 nonresident visitor expenditures were estimated to be approximately \$61.8 million. (Economics Research Associates, 1988)

Grant funds will be given over several years to promote the Scenic Area and a number of major developments are currently underway or being planned. These include the new Skamania Lodge in Stevenson, Washington, and the proposed Discovery Center near The Dalles, Oregon. Constructing and operating these new facilities provides many new jobs for Scenic Area residents.

For example, over a ten year period, Skamania Lodge is expected to generate approximately 235 jobs with an annual payroll over \$3.9 million. In related services, the lodge is expected to generate 460 jobs and annual expenditures of \$25 million.

Additional recreation development is allowed on virtually all land in the Scenic Area. Expanding recreational opportunities was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Protecting Resource Land. The gorge has a long history of land-based industries. Extensive agriculture and forest management operations remain in the Scenic Area. Approximately 140,000 acres (nearly one-half) of the Scenic Area is designated either agriculture or forest land. In 1987, the total forest industry employment was over 4,000 with a total payroll of approximately \$100 million. (Economics Research Associates from industry, 1988)

By limiting further fragmentation of this resource land for residential uses, the Management Plan encourages the retention of these resource-based jobs and supports an existing strong industry. Protecting resource land was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Enhancing the economic viability of gorge communities. The Management Plan encourages growth to occur in Urban Areas and rural centers. By limiting commercial and other urban-related activities in more rural areas, the need to expand infrastructure to remote locations is reduced, and existing infrastructure is used more efficiently. As communities spend less money extending urban services, they will be better able to support business development and expansion in areas where urban services already exist. Some commercial development which is less reliant on urban services is allowed outside of Urban Areas. Limiting major infrastructure investment was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

III. Effects on State Agencies and Local Government

The Scenic Act envisions a partnership between federal, state, and local agencies and the gorge commission. Together the expertise of each agency will achieve the purposes of the act. The planning process used to develop the Management Plan allowed each agency to clarify its own role. While it is not possible to quantify to economic effects to each agency, below is a discussion of possible effects.

State Agencies. A number of state agencies, such as Fish and Wildlife, Archaeology and Historic Preservation, and Transportation have important roles in the proposed rules. These agencies are given an opportunity to comment on proposed development projects. In most cases, comments from these agencies will not be required.

These agencies have already transferred enough information to the gorge commission so that the commission staff may evaluate potential impacts. Thus the commission is already doing much of the work that these agencies might do themselves.

It is not expected that the roles of these agencies will differ from their current roles. Currently, these agencies are given an opportunity to comment on proposed development projects, and additional information is often sent.

County Governments. There are six counties in the Scenic Area; however, the proposed rules will apply to only four of the six counties. Possible economic effects on these counties is not expected to differ from the current situation. Although the gorge commission will continue to make land use permitting decisions, counties will continue to be an important part of the land use decision process. This has some economic effects.

The burden of administering the proposed rule, including staff time and mailing costs, will still lie with the gorge commission. And counties will not [be] liable for any costs related to implementing the land use decisions made by the gorge commission. A potential benefit to counties is the opportunity to adopt the ordinances written by the gorge commission. This will help defray the costs of writing ordinances themselves.

The only additional economic cost to counties will be not having access to the federal recreation and economic development monies. Only when these counties adopt their own land use ordinances, and those ordinances are found to be consistent with the Management Plan, are these counties and the Urban Areas within the counties become eligible for the federal economic and recreation development funds authorized in the act.

Columbia River Gorge Commission. The gorge commission will continue to make land use decisions on proposed development projects in these four counties. The decision-making process is expected to remain much the same as the current process, except that additional time will be necessary to collect all the necessary information to make a full decision. The gorge commission will be assisted by many other agencies such as state natural resource and archaeological agencies, the U.S. Forest Service, and Native American Tribal Governments.

Administration of the land use ordinances by the gorge commission will also limit the time that the gorge commission can spend on implementing recreation and economic development projects and lobbying for additional funds.

Native American Tribal Governments. Native American Tribal Governments will be consulted under the proposed rules and will have the opportunity to review and comment on proposed new uses on lands or in waters where cultural resources exist and where tribal members exercise treaty or other rights. The tribal governments have a similar role now and would have the same role even if the counties adopted their own ordinances.

IV. Effects on the Public and Small Businesses

Landowners and the public. Implementing the Management Plan will immediately institute uniformity in regulations, predictability in decision-making, and simplification of the decision process. These are positive effects of the proposed rules. Landowners will have a much better understanding of the value of their land without the uncertainty of the development guidelines currently in effect. Many landowners or potential buyers have submitted land use development applications just to find out what they could potentially build on the land. The proposed rules will eliminate many of the current costly delays and unanticipated decisions.

Additional information prior to submittal of a land use application will be required. This however, follows the "Go slow to go fast" adage. Currently, most of the land use approvals require the applicant to return to the commission with color samples, refined site plans, and other information before construction begins. The new rules require this information up-front, thus when an approval is issued, in most cases, the applicant may proceed without further approvals from the gorge commission.

In addition, the proposed rules bring many resource protection laws under the same umbrella. The rules defer to some existing laws and mimics provisions of others. Completing the development review process in the new rules will assist landowners in meeting the needs of other natural resource agencies.

Potential economic costs to landowners include a somewhat longer decision-making process under the proposed rules, and some additional information requirements for major development projects. The proposed rule will increase the development review time from six weeks to ten weeks, and require more detail before an application will be accepted.

The gorge commission, in preparing the development guidelines for the General Management Area, was careful to ensure that a viable economic use was left on each individual parcel. In the Special Management Area, where some commercial-scale forest land was designated as open space, the forest service will buy the land within three years, or the land will revert to a nonrestrictive General Management Area designation. In the general management, forest practices are exempt from the regulations of the Management Plan, and thus exempt from these proposed rules.

Because the procedural and substantive development guidelines are given in the Management Plan, these economic effects are not unique to these proposed rules; they will be the same when the counties adopt their own land use ordinances.

Small Businesses. As mentioned above, the majority of the commercial and industrial activity in the Scenic Area occurs in the Urban Areas which are exempt from the regulations of the Management Plan and thus the proposed

rules as well. The proposed rules will not change the current or future operation of these activities.

The proposed rules will not have an economic effect on small businesses. Existing businesses are grandfathered and will not require new use permits. The most significant economic effect will come when the counties adopt their own land use ordinances, thus making the federal monies available for grants and loans.

V. Conclusion

While it is not possible to quantify the economic effects of the proposed rules, the greatest economic effect will be when the benefits counties receive when they adopt their own land use ordinances. Any new administrative costs will be generally absorbed by the gorge commission and not other agencies or the public.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by April 8, 1993, will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from: Columbia River Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, Attn: Jan Brending, Rules Coordinator, (509) 493-3323.

February 2, 1993
Jonathan Doherty

COLUMBIA RIVER GORGE COMMISSION

Chapter 350

Division 110

Wasco County Land Use Ordinance

350-110-010. Purposes.

The purposes of the Land Use Ordinance are to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge, and to protect and support the economy of the Columbia River Gorge by allowing future economic development in a manner that enhances the scenic, cultural, recreational, and natural resources of the Gorge.

350-110-020. Area Affected.

Commission Rule 350-110 shall apply to all lands in Wasco County, Oregon within the Columbia River Gorge National Scenic Area as designated by the Columbia River Gorge National Scenic Area Act.

Commission Rule 350-110 becomes effective 30 days after adoption and filing by the Columbia River Gorge Commission with the exception of those portions of Commission Rule 350-110 pertaining to the Special Management Areas, which become effective upon concurrence by the Secretary of Agriculture.

Those portions of Commission Rule 350-110 pertaining to the General Management Area are no longer effective once Wasco County has submitted a land use ordinance and the Columbia River Gorge Commission finds it consistent with the Management Plan. Those portions of Commission Rule 350-110 pertaining to the Special Management Area remain effective until the Secretary of Agriculture concurs on the ordinances adopted by Wasco County.

350-110-030. Review and Approval Required.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged, including those proposed by state or federal agencies, in the Columbia River Gorge National Scenic Area except for the uses listed in Commission Rule 350-110, when considered under the applicable procedural and substantive guidelines of this Rule.

350-110-040. Definitions.

As used in Commission Rule 350-110, unless otherwise noted, the following words and their derivations shall have the following meanings:

(1) Accepted agricultural practice: A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

(2) Accessory building: A building or structure whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use.

(3) Active wildlife site: A wildlife site that has been used within the past 5 years by a sensitive wildlife species.

(4) Agency official: The federal, state, or local agency head or designee who has authority over a proposed project.

(5) Agricultural structure: A structure located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

(6) Agricultural use: The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

(a) The operation or use of farmland subject to any agriculture-related government program.

(b) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.

(c) Land planted in orchards or other perennials prior to maturity.

(d) Land under buildings supporting accepted agricultural practices.

Agricultural use does not include livestock feedlots.

(7) Anadromous fish: Species of fish that migrate upstream to freshwater after spending part of their life in the ocean (saltwater).

(8) Anaerobic: A condition in which molecular oxygen is absent (or effectively so) from the environment.

(9) Aquaculture: The cultivation, maintenance, and harvesting of aquatic species.

(10) Aquatic area: The water area of a stream, pond, or lake measured at the ordinary high water mark.

(11) Archaeological resources: See cultural resource.

(12) Archival research: Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.

(13) Bed and breakfast inn: An establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodations, not as rooming or boarding houses.

(14) Best management practices: Conservation techniques and management measures that

(a) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;

(b) minimize adverse affects to groundwater and surface-water flow and circulation patterns; and

(c) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.

(15) Biodiversity (SMA): A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.

(16) Boat landing: Cleared area or developed structure used to facilitate launching or retrieving watercraft.

(17) Buffer zone: An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.

(18) Building: Any structure used or intended for supporting or sheltering any use or occupancy.

(19) Camping or recreational vehicle: A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a sewer system (including septic tank), water, and electrical lines or is occupied on the same parcel for more than 60 days in any consecutive 12-month period.

(20) Campsite: Single camping unit, that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.

(21) Capability: The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.

(22) Cascadian architecture (SMA): Architectural style using native rock work, large timber, and steeply pitched roofs in a rustic manner.

(23) Catastrophic situations (SMA): Forces such as fire, insect and disease infestations, and earth movements.

(24) Childcare center: A facility providing daycare to three or more children, but not including:

(a) The provision of care that is primarily educational, unless provided to a preschool child for more than 4 hours a day.

(b) The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion.

(c) The provision of short-term care related to or associated with group athletic or social activities.

(d) The provision of daycare in the provider's home in the family living quarters for less than 13 children.

(25) Clearcut: A created opening of 1 acre or more.

(26) Columbia River Gorge National Scenic Area Graphic Signing System: Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.

(27) Commercial development/use: Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.

(28) Commercial forest products: These include timber for lumber, pulp, and firewood for commercial purposes.

(29) Commercial recreation: Any private (non-governmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.

(29) Community facility: Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.

(30) Consulting parties (cultural resources): Organizations or individuals who submit substantive written comments to a Development Review Officer in a timely manner because they are concerned with the effects of a proposed use on cultural resources.

(31) Contiguous land: Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.

(32) Counties: The six counties within the Scenic Area: Hood River, Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.

(33) Created opening (SMA): A created forest opening with less than 80 percent crown cover closure of trees averaging less than 20 feet tall.

(34) Creation (wetlands): A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).

(35) Cultivation: Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

(36) Cultural resource: Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:

(a) Archaeological resources. Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least 50 years old.

Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs;

artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains, and associated artifacts.

(b) Historic buildings and structures. Standing or above-ground buildings and structures that are at least 50 years old.

Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.

(c) Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community.

Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.

(37) Cumulative effects: The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

(38) Cut: An area where soil or earth is excavated or removed in conjunction with development activities.

(39) Dedicated site: An area actively devoted to the current use and as delineated on the site plan.

(40) Deer and elk winter range: Areas normally used, or capable of being used, by deer and elk from December through April.

(41) Destruction of wetlands: Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.

(42) Developed recreation: Recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.

(43) Development: Any land division or structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.

(44) Diameter at breast height (dbh): The diameter of a tree as measured at breast height.

(45) Duplex: A building containing two dwelling units and designed for occupancy by two families.

(46) Dwelling, single-family: A detached building containing one dwelling unit and designed for occupancy by one family only.

(47) Dwelling unit: A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

(48) **Effect on Treaty Rights:** To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.

(49) **Endemic:** Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.

(50) **Enhancement (natural resources):** A human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.

(51) **Ethnography:** The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.

(52) **Existing use or structure:** A legally established use that existed before the effective date of the Scenic Area Act, the Management Plan, or a land use ordinance established pursuant to the Scenic Area Act. "Legally-established" means established in accordance with the law in effect at the time of establishment of the use.

(53) **Exploration, development (extraction and excavation), and production of mineral resources:** Includes all or any part of the process of surface, underground, or submerged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For the Management Plan, this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.

(54) **Fill:** The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.

(55) **Fire break:** A break in ground cover fuels, adjacent to and surrounding buildings.

(56) **Forbs:** Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grasslike plants.

(57) **Foreground (SMA):** One-half mile on either side of a traveled road or trail.

(58) **Forest products:** Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.

(59) **Forest practices:** Those activities related to the growing and harvesting of forest tree species, as defined by the Oregon Forest Practices Act or the Washington Forest Practices Act.

(60) **Forest use:** The growing, propagation, and harvesting of forest tree species and other forest products.

(61) **Fully screened:** A description of the relative visibility of a structure where that structure is not visible as

viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan).

(62) **Grade (ground level):** The average elevation of the finished ground elevation as defined by the Uniform Building Code.

(63) **Grading:** Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(64) **Height of building:** The vertical distance from the grade to the highest point of the roof.

(65) **Herbaceous:** A plant with no persistent woody stem above the ground, with characteristics of an herb.

(66) **Herbs:** Nonwoody (herbaceous) plants, including grasses and grasslike plants, forbs, ferns, fern allies, and nonwoody vines. (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(67) **Historic buildings and structures:** See cultural resource.

(68) **Historic survey:** Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.

(69) **Horses, boarding of:** The stabling, feeding, and grooming for a fee, or the renting of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks.

(70) **Hydric soil:** A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

(71) **In-lieu sites:** Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 14 and Public Law 100-581, Section 401. Additional in-lieu sites will be provided for.

(72) **Indian tribal government:** The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakima Indian Nation (Tribal Council).

(73) **Indian tribes:** The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakima Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

(74) **Industrial uses:** Any use of land or water primarily involved in:

(a) Assembly or manufacture of goods or products,

(b) Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit,

(c) Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products, or recyclable materials for purposes other than retail sale and service, or

(d) Production of electric power for commercial purposes.

(75) Interpretive displays: Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.

(76) Key components: The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.

(77) Key viewing areas: Those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These include:

Historic Columbia River Highway
Crown Point
Highway I-84, including rest stops
Multnomah Falls
Washington State Route 14
Beacon Rock
Panorama Point Park
Cape Horn
Dog Mountain Trail
Cook-Underwood Road
Rowena Plateau and Nature Conservancy Viewpoint
Portland Women's Forum State Park
Bridal Veil State Park
Larch Mountain
Rooster Rock State Park
Bonneville Dam Visitor Centers
Columbia River
Washington State Route 141
Washington State Route 142
Oregon Highway 35
Sandy River
Pacific Crest Trail

SMA only:

Old Washington State Route 14 (County Road 1230)
Wyeth Bench Road
Larch Mountain Road
Sherrard Point on Larch Mountain

(78) Land division: The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.

(79) Landscape setting: The combination of land use, landform, and vegetation patterns that distinguish an area in appearance and character from other portions of the Scenic Area.

(80) Livestock feedlot: Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and fur bearers. Feedlots do not include winter pasture or winter hay-feeding grounds.

(81) Lot line adjustment: Transfer of a portion of a parcel from one owner to the owner of an adjacent parcel resulting in no increase in the number of parcels.

(82) Management plan: The document entitled Management Plan for the Columbia River Gorge National Scenic Area adopted October 14, 1991. The Management Plan becomes effective upon approval of land use ordinances by

the Commission for the General Management Area and concurrence of land use ordinances by the Secretary of Agriculture for Special Management Area.

(83) Mitigation: The use of any or all of the following actions:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(84) Multifamily dwelling: A dwelling constructed or modified into two or more single-family units.

(85) Native species: Species that naturally inhabit an area.

(84) Natural resources: Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.

(86) Natural resource specialist: A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.

(87) Natural resource-based recreation (SMA): Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.

(88) Nonprofit organization: An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.

(89) Old growth: Any stand of trees 10 acres or greater generally containing the following characteristics:

(a) contain mature and overmature trees in the overstory and are well into the mature growth state;

(b) in coniferous forests, will usually contain a multilayered canopy and trees of several age classes;

(c) in coniferous forests, standing dead trees and down material are present; and

(d) evidences of man's activities may be present, but do not significantly alter the other characteristics and would be a subordinate factor in description of such a stand.

(90) Open Spaces: Unimproved lands not designated as agricultural lands or forest lands by the Management Plan and designated as open space by the Management Plan. Open spaces include:

(a) Scenic, cultural, and historic areas;

(b) Fish and wildlife habitat;

(c) Lands which support plant species that are endemic to the Scenic Area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;

(d) Ecologically and scientifically significant natural areas;

(e) Outstanding scenic views and sites;

(f) Water areas and wetlands;

(g) Archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;

(h) Potential and existing recreation resources; and

(i) Federal and state wild, scenic, and recreation waterways.

(91) Ordinary high water mark: The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.

(92) Parcel:

(a) Any parcel legally created by a short division, partition, or subdivision.

(b) Any unit of land legally created and separately described by deed or sales contract prior to November 17, 1986, if there were no applicable planning, zoning, and land division ordinances or regulations.

(c) In the state of Washington, a unit of land created and separately described by deed or sales contract after November 17, 1986 if the unit created was approved by the Gorge Commission or the Forest Service Scenic Area Office.

(d) A unit of land shall not be considered a separate parcel simply because the subject tract of land:

(A) Is a unit of land created solely to establish a separate tax account;

(B) Lies in different counties;

(C) Lies in different sections or government lots;

(D) Lies in different land use or zoning designations; or

(E) Is dissected by a public or private road.

(93) Partial retention: A visual quality objective that provides for management activities that may be evident but must remain visually subordinate to the characteristic landscape. Activities may repeat form, line, color, or texture common to the characteristic landscape, but changes in their qualities of size, amount, intensity, direction, pattern, etc., shall remain visually subordinate to the characteristic landscape.

(94) Practicable: Able to be done, considering technology and cost.

(95) Preexisting: Existing prior to the adoption of the Columbia River Gorge National Scenic Area Management Plan.

(96) Primarily: A clear majority as measured by volume, weight, or value.

(97) Project area: The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

(98) Public use facility: Recreation development(s) that meet the definition of "recreation facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

(99) Rare plant species: Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.

(100) Recreation facility: A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than 1/4 mile of land that does not contain any such developments or improvements, except for roads and/or pathways.

(101) Reconnaissance survey: Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, subsurface testing, and ethnographic research.

(102) Recreation Opportunity Spectrum (ROS): A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).

(a) Primitive: Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.

(b) Semiprimitive: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.

(c) Roaded Natural: Roaded areas with moderately frequent human encounters and with resource modifications evident.

(d) Rural: Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.

(e) Suburban: Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.

(f) Urban: Highly accessible, roaded areas dominated by human encounters and human-related structures.

(103) Recreation resources: Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semiprimitive areas with few facilities and developed sites.

(104) Rehabilitation (natural resources): A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or preconstruction condition.

(105) Repair and maintenance: An activity that restores the size, scope, configuration, and design of a serviceable structure to its previously authorized and undamaged condition. Activities that change the size, scope, and configuration of a structure beyond its original design are not included in this definition.

(106) Resource-based recreation: Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend.

(107) Restoration (wetlands): A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.

(108) Retention: A visual quality objective that provides for management activities that are not visually evident to the casual visitor. Management activities may only repeat form, line, color, and texture that are frequently found in the characteristic landscape. Changes in their qualities of size,

amount, intensity, direction, pattern, etc., shall not be evident.

(109) Review uses: Proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.

(110) Riparian area: The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.

(111) Road: The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys.

(b) Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures.

(c) Structures that provide for continuity of the right-of-way, such as bridges.

(112) Scenic Area: The Columbia River Gorge National Scenic Area.

(113) Scenic travel corridor: Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

(114) Secretary: The Secretary of Agriculture.

(115) Sensitive plant species: Plant species that are

(a) endemic to the Columbia River Gorge and vicinity,
(b) listed as endangered or threatened pursuant to federal or state endangered species acts, or

(c) listed as endangered, threatened or sensitive by the Oregon or Washington Natural Heritage Program.

In the SMA, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(116) Sensitive wildlife species: Animal species that are

(a) listed as endangered or threatened pursuant to federal or state endangered species acts,

(b) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,

(c) listed as sensitive by the Oregon Fish and Wildlife Commission, or

(d) considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

In the SMA, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(117) Service station: A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

(118) Serviceable: Presently useable.

(119) Shall: Action is mandatory.

(120) Should: Action is encouraged.

(121) Shrub: A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(122) Sign: Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.

(123) Significant cultural resource (SMA): A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].)

(124) Skyline: The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.

(125) Soil Capability Class: A classification system developed by the U.S. Department of Agriculture Soil Conservation Service to group soils as to their capability for agricultural use.

(126) Special habitat area: Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.

(127) Special streams: Streams that are primary water supplies for fish hatcheries and rearing ponds.

(128) Stand: A group of trees possessing uniformity in regard to type, age, vigor, or size.

(129) Story: A single floor level of a structure, as defined by the Uniform Building Code.

(130) Streams: Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses.

For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

(131) Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.

(132) Subsurface testing: Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.

(133) Suitability: The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.

(134) Travelers accommodations: Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.

(135) Treaty rights or other rights: Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.

(136) Tributary fish habitat: Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

(137) Undertaking: Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.2(o)].

(138) Unimproved lands: Lands that generally do not have developments such as buildings or structures.

(139) Upland: Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

(140) Uses allowed outright: New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.

(141) Utility facility: Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

(142) Viewshed: A landscape unit seen from a key viewing area.

(143) Visual Quality Objective (VQO): A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

(144) Visually subordinate: A description of the relative visibility of a structure where that structure does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings.

(145) Water-dependent: Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.

(146) Water-related: Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.

(147) Wetlands: Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.

(148) Wetlands functions: The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

(149) Woody plant: A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-110-050. Exempt Land Uses and Activities.

Commission Rule 350-110 shall not apply to:

- (1) Any treaty or other rights of any Indian tribes.
- (2) Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of Indian tribes, and lands acquired by the U.S. Army Corps of Engineers

and administered by the Secretary of the Interior for the benefit of Indian tribes or of individual members of Indian tribes. This exemption shall extend to lands selected by the U.S. Army Corps of Engineers as in lieu fishing sites pursuant to Public Law 100-581 before or after the effective date of the Management Plan. For those in lieu sites chosen after the effective date of the Management Plan, the exemption shall commence upon selection by the U.S. Army Corps of Engineers.

(3) Rights to surface or ground water.

(4) Water transportation activities on the Columbia River or its tributaries. The term "activities" includes those facilities necessary for navigation.

(5) The operation, maintenance and modification of existing transmission facilities of the Bonneville Power Administration.

(6) Laws, rules or regulations pertaining to hunting or fishing.

(7) The operation, maintenance and improvement of navigation facilities at Bonneville Dam pursuant to federal law, except for the offsite disposal of excavation material.

(8) In the General Management Area, the rights and responsibilities of non-federal timber landowners under the Washington and Oregon Forest Practices Acts, or under county regulations that supersede those acts.

350-110-060. Prohibited Land Uses and Activities.

The following land uses and activities shall not be allowed within the Columbia River Gorge National Scenic Area:

(1) Solid waste disposal sites or sanitary landfills within the Special Management Area.

(2) New industrial development in the Scenic Area outside of the Urban Areas.

(3) Except for uses allowed outright and review uses, new uses shall be prohibited on lands designated Agriculture-Special. Prohibited uses include, but are not limited to:

(a) Cultivation, including plowing, harrowing, leveling, tilling, or any activity that prepares land for raising crops by turning, breaking up, or loosening soil.

(b) Removal or clearing of native grasses, shrubs, and trees.

(c) Single-family dwellings and accessory structures, other than non-agricultural dwellings allowed as a review use.

(d) Barns, silos, and other agricultural buildings.

(e) Irrigation systems.

(f) Exploration, development, and production of mineral resources.

(g) Utility facilities, public use facilities, and roads.

350-110-070. Existing Uses.

Except as otherwise provided below, existing uses in the Scenic Area may continue, notwithstanding the provisions of Commission Rule 350-110.

(1) Except as otherwise provided, any use or structure existing on the effective date of the Management Plan, may continue so long as it is used in the same manner and for the same purpose as on that date.

(2) Any use or structure damaged or destroyed by fire shall be treated as an existing use or structure if an application for replacement in kind and in the same location is filed within one year of such damage or destruction. Such uses or structures shall be subject to compliance with guidelines for protection of scenic resources involving color, reflectivity and landscaping. Replacement of an existing use or structure by a use or structure different in purpose, size or scope shall be subject to Commission Rule 350-110.

(3) Replacement or reestablishment of a use or structure discontinued for more than one year shall be subject to Commission Rule 350-110. Except as otherwise provided, an existing use or structure may be replaced within one year of discontinuation if used for the same purpose at the same location. This includes replacing an existing mobile home with a framed residence.

(4) In the Special Management Area, existing commercial and multi-family residential uses may expand as necessary for successful operation on the dedicated site, subject to Commission Rule 350-110-520 through 350-110-620 to minimize adverse effects on scenic, cultural, natural and recreation resources. Expansion beyond the dedicated site is prohibited. Commercial uses discontinued for 1 year or more shall no longer be considered as an existing use and shall no longer be permitted, in accordance with the provisions this rule.

(5) Existing industrial uses in the General Management Area may expand as necessary for successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(6) In the General Management Area, existing industrial uses may convert to less intensive uses. A less intensive use is a commercial, recreation or residential use with fewer adverse effects upon scenic, cultural, natural and recreation resources.

(7) In the General Management Area, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to Commission Rule 350-110 if any of the following conditions exist:

(a) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to 50 percent of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain which was merely leveled or cleared of vegetation.

(b) The site has not maintained a required state permit.

(c) The site has not operated legally within 5 years before the date of adoption of the Management Plan.

(8) Uses involving the exploration, development or production of sand, gravel or crushed rock in the Special Management Area may continue when:

(a) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the Special Management Area.

(b) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural or recreation resources.

(9) Except as otherwise provided, whether a use has a vested right to continue will be determined by the law on vested rights in the appropriate state.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-080. Application for Review and Approval.

(1) Prior to initiating any use or development which requires review and approval by the Development Review Officer, an application shall be completed pursuant to Commission Rule 350-110-080. The Development Review Officer shall accept and review the application pursuant to Commission Rule 350-110-100 through 350-110-170 for consistency with the appropriate guidelines of this rule. Review of a proposed use or development shall commence upon the acceptance of an application by the Development Review Officer. The Commission may charge a fee for review of applications.

(2) Standard application forms shall be available at county and city planning offices, the office of the Columbia River Gorge Commission and the Forest Service.

(3) Applications for the review and approval of a proposed use or development shall provide the following information:

(a) The applicant's name, address and telephone number;

(b) The land owner's name, address and telephone number (if different from applicant's);

(c) The county in which the proposed use or development would be located;

(d) The section, quarter section, township and range in which the proposed development would be located;

(e) The street address of the proposed use or development;

(f) The tax lot number(s) and size in acres of the parcel(s) involved;

(g) A description of the current land use for the parcel(s) involved and adjoining lands;

(h) A written description of the proposed use or development, including details on the height, exterior color(s), and construction materials of the proposed structures.

(i) A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the Development Review Officer to determine the location and extent of the proposed use or development and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail. If a parcel is very large, the map does not need to show the entire parcel. Rather, it can show only those portions of the parcel affected by the proposed use. The map shall include the following elements:

(A) North arrow.

(B) Map scale.

(C) Boundaries, dimensions, and size of the subject parcel.

(D) Significant terrain features or landforms.

(E) Groupings and species of trees or other vegetation on the parcel.

(F) Location and species of vegetation that would be removed or planted.

(G) Bodies of water and watercourses.

(H) Location and width of existing and proposed roads, driveways, and trails.

(I) Location and size of existing and proposed structures.

(J) Location of existing and proposed services including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting.

(K) Location and depth of all proposed grading and ditching.

(j) In the Special Management Area, applications and/or site plans shall contain the natural resources information required in Commission Rule 350-110-600(2).

(j) Any additional information which the applicant feels will assist in the evaluation of the proposal including, but not limited to, maps, drawings, and development plans.

(k) The signature of the applicant and property owner or a statement from the property owner indicating that he is aware of the application being made on his property.

(l) The signature of the property owner on a statement that authorizes the Development Review Officer or the Development Review Officer's designee reasonable access to the site in order to evaluate the application.

(4) Applications for the following uses or developments shall include additional information as required by the appropriate guidelines in Commission rule 350-110 or by the Development Review Officer:

(a) All buildings, roads, or mining and associated activities proposed on lands visible from Key Viewing Areas, pursuant to 350-110-520 (2)(d).

(b) In the General Management Area, production and/or development of mineral resources and expansion of existing quarries pursuant to 350-110-520 (1)(e), 350-110-520 (2)(de), (2)(e), (2)(v), and (2)(w).

(c) In the General Management Area, any structural development involving more than 100 cubic yards of grading on sites visible from key viewing areas and which slope is between 10 and 30 percent, pursuant to 350-110-520 (2)(u)

(d) In the General Management Area, vegetation management projects in public rights of way along Scenic Travel Corridors, pursuant to 350-110-520 (4)(d).

(e) Large-scale uses as defined by guideline 350-110-540 (4)(b) shall include reconnaissance survey reports, pursuant to 350-110-540 (4)(b)

(f) Proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings that are 50 years old or older, pursuant to 350-110-520 (4)(c).

(g) In the General Management Area, new uses located in, or providing recreational access to the Columbia River or its fishbearing tributaries, pursuant to 350-110-150 (8)(a)(A).

(h) In the General Management Area, any review use in a wetland or within a wetland buffer zone, pursuant to Commission Rule 350-110-560 (1)(b).

(i) In the General Management Area, any review use in a stream, pond, lake, or within their buffer zones, pursuant to Commission Rule 350-110-570 (1)(b).

(i) In the General Management Area, any review use in a stream, pond, lake, or within their buffer zones, pursuant to Commission Rule 350-110-570 (1)(b).

(j) In the General Management Area, any review use within 1000 feet of a sensitive wildlife area or site, pursuant to 350-110-580 (1)(b). Large-scale uses as defined by 350-110-580(3) shall also include field survey information, pursuant to 350-110-580 (3)(e).

(k) In the General Management Area, any review use within 1000 feet of a sensitive plant, pursuant to Commission Rule 350-110-590(b). Large-scale uses as defined by 350-110-590(3) shall also include field survey information, pursuant to Commission Rule 350-110-590 (3)(e).

(l) In the General Management Area, on lands designated Large-Scale Agriculture, a single family dwelling in conjunction with agricultural use, pursuant to Commission Rule 350-110-190 (1)(e), and if applicable, 350-110-190 (1)(f).

(m) In the General Management Area, on lands designated Large-Scale Agriculture, a single family dwelling not in conjunction with agricultural use, pursuant to Commission Rule 350-110-190 (1)(n).

(n) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative, pursuant to Commission Rule 350-110-190 (1)(h).

(o) In the General Management Area, on lands designated Large-Woodland, a single family dwelling, pursuant to Commission Rule 350-110-270 (1)(a), (c), and (k).

(p) In the Special Management Area, on lands designated Forest, a single family dwelling, pursuant to Commission Rule 350-110-270 (2)(j).

(q) In the Special Management Area, on lands designated Forest, forest practices, pursuant to Commission Rule 350-110-270 (2)(b).

(r) In the Special Management Area, on lands designated Open Space, any new use or development, pursuant to Commission Rule 350-110-340(2).

(s) In the General Management Area, on lands designated Agriculture-Special, a single-family dwelling pursuant to 350-110-190 (1)(h).

(t) In the Special Management Area, on lands designated Agriculture, a single-family dwelling necessary and accessory to agricultural use, pursuant to Commission Rule 350-110-190 (2)(b).

(u) In the Special Management Area, on lands designated Agriculture, farm labor housing and agricultural buildings, pursuant to Commission Rule 350-110-190 (2)(d).

(v) In the General Management Area, on lands designated Small Woodland, a single-family dwelling pursuant to Commission Rule 350-110-270 (1)(b).

(w) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, a single-family dwelling in conjunction with agricultural use pursuant to Commission Rule 350-110-190 (1)(e).

(x) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, agricultural labor housing, pursuant to Commission Rule 350-110-270 (1)(o).

(y) In the General Management Area, on lands designated Agriculture-Special, new livestock grazing, new fences,

livestock watering facilities, and corrals; or soil, water, and vegetation conservation activities, pursuant to Commission Rule 350-110-240.

(z) Other uses as deemed necessary by the Development Review Officer.

(5) Completed application forms shall be submitted directly to the office of the Columbia River Gorge Commission.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-090. Pre-Application Conference.

An applicant may request a pre-application conference prior to submitting an application for development review. The purposes of the conference shall be to acquaint the applicant with the substantive and procedural requirements of Commission Rule 350-110, to discuss the principle elements of the proposed action, and to identify guidelines that create opportunities or pose constraints for the proposed action.

350-110-100. Acceptance of Application.

Within 14 days of the receipt of an application, the Development Review Officer shall review the application for completeness and adequacy. The Development Review Officer shall accept a complete and adequate application within 14 days of receipt within 14 days of receipt of the application.

(1) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Development Review Officer shall notify the applicant of all omissions and deficiencies in writing within 14 days of receipt of the application.

(2) No application shall be accepted which the Development Review Officer deems cannot be acted upon reasonably within 72 days, pursuant to 350-110-130(3), except when the applicant consents to a longer period for action.

(3) No application shall be accepted unless accompanied by a list of names and addresses of the adjacent property owners within a distance of the subject parcel as determined in Commission Rule 350-110-630. A statement from the County Assessor or appropriate agency confirming the accuracy of the list shall accompany the list.

(4) No application for a proposed use which is explicitly prohibited by Commission Rule 350-110-060 shall be accepted.

(a) The application shall be returned to the applicant.

(b) A letter, signed by the Development Review Officer, stating that the proposed use is prohibited and citing the guideline which explicitly prohibits the proposed use, shall be sent to the applicant.

(c) Issuance of this letter shall not prohibit the applicant from appealing the decision pursuant to 350-70.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-110. Notice of Development Review.

(1) Within seven days of the acceptance of an application, the Development Review Officer shall issue notice of a proposed development review. The notice shall provide the following information:

- (a) The name of the applicant;
- (b) The general and specific location of the subject property;
- (c) A brief description of the proposed action;
- (d) The deadline for rendering a decision; and
- (e) The deadline for filing comments on the proposed action.

(2) The notice shall state that the application and supporting documents are available for inspection at the Commission office during normal working hours.

(3) The notice shall state the applicant must comply with all applicable local, state, and federal laws.

(4) The notice shall be mailed to:

(a) The Forest Service, the applicable state, Indian Tribes and the applicable county and/or city; and

(b) Owners of property within a radius of the subject parcel(s) as determined by 350-110-630; and

(c) Other agencies and interested parties which request a notice which the Development Review Officer determines should be notified.

(4) The notice shall be posted at the Commission and Forest Service offices and shall be made available for posting at the applicable county or city planning office(s) and applicable library or libraries.

(5) For all development, notice shall be published in a newspaper of general circulation nearest to the site of the proposed action.

(6) A copy of the notice shall be filed in the records of the Commission.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-120. Comment Period

Interested persons shall have 21 days from the date which the notice is sent to submit written comments to the Development Review Officer relative to the consistency of the proposed actions with the guidelines of Commission Rule 350-110:

(1) Within seven days of the close of the comment period, the Development Review Officer shall determine if a wildlife management plan pursuant to Commission Rules 350-110-580(6), or a rare plant protection and rehabilitation plan pursuant to Commission Rules 350-110-590(6) is required.

(2) For proposed uses or developments where a cultural resources survey (reconnaissance or historic) is required and where the Commission is performing the survey, the survey shall be completed by the close of the comment period. Upon receipt of the completed survey, the Development

Review Officer shall forward the survey to the State Historic Preservation Officers, and Indian Tribes pursuant to Commission Rules 350-110-540 (1)(b) and (2)(b)(A).

(3) Within seven days of the close of the 30 day reconnaissance survey comment period for State Historic Preservation Officers and Indian Tribes, the Development Review Officer shall determine if an evaluation of significance pursuant to Commission Rules 350-110-540(3) is required.

350-110-130. Decision of the Development Review Officer.

(1) In making a decision on a proposed use or development the Development Review Officer shall:

(a) Consult with the applicant and such agencies as the Development Review Officer deems appropriate;

(b) Consider information submitted by the applicant and all other relevant information available;

(c) Consider all comments submitted pursuant to Commission Rule 350-110-120; and

(d) Solicit and consider the comments of the Forest Service.

(2) The Development Review Officer shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and 350-110. In approving a proposed development action, the Development Review Officer may impose conditions as necessary to ensure consistency with the guidelines of 350-110.

(3) The Development Review Officer shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and 350-110 within 72 days after acceptance of the application except in one or more of the following situations:

(a) The applicant consents to an extension of time.

(b) The Development Review Officer determines that additional information is required pursuant to Commission Rule 350-110-120.

(c) The Development Review Officer determines that additional information is necessary to evaluate the impacts of the proposed use to scenic, cultural, natural, and recreation resources.

(d) Unforeseen circumstances including, but not limited to, weather, illness, etc.

(4) The Development Review Officer shall mail a copy of the decision to the applicant, the Commission, the Forest Service, the applicable state, the Indian Tribes, the applicable county and/or city and each person who submitted comments under Commission Rule 350-8-150. The decision shall set forth the rights of appeal under Commission Rule 350-70.

(5) The decision of the Development Review Officer shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70.

(6) The decision of the Development Review Officer approving a proposed development action shall become void

(a) when the development action is not undertaken within two years of the decision, or

(b) when the development action is discontinued for any reason for one year or more.

(7) An applicant may request an extension of the validity of a development approval. Such request shall be considered an Administrative Action and shall be submitted to the Development Review Officer prior to the expiration of such approval, in writing, stating the reason why an extension should be granted.

The Development Review Officer may grant an extension of up to 12 months in the validity of a development approval if it is determined that conditions, for which the applicant was not responsible, would prevent the applicant from commencing his operation within the original time limitation.

The Development Review Officer shall not grant an extension if the site characteristics and/or new information indicates that the proposed use may adversely affect scenic, cultural, natural or recreation resources in the National Scenic Area.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-140. Changes or Alterations to an Approved Action.

Any change or alteration to a development action approved by the Commission or Development Review Officer pursuant to this division shall be processed as new action, except that the Development Review Officer may approve minor changes or alterations deemed to be consistent with the guidelines of Commission Rule 350-110 and the findings and conclusions for the original action.

350-110-150. General Guidelines.

The following uses may be permitted when allowed by the land use designation, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620):

(1) Land Divisions and Cluster Development

Land Divisions within the Columbia River Gorge National Scenic Area may be allowed subject to the following:

(a) New land divisions are not allowed in the Special Management Area, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines of the Management Plan.

(b) Unless otherwise specified, creation of a parcel, regardless of size, or any division of land except a lot-line adjustment shall be subject to the guidelines in Commission Rule 350-110.

(c) At the time of creation of one or more new parcels, consolidation of access shall be considered in order to reduce adverse effects on scenic, cultural, natural and recreation resources.

(d) Adjustment of the boundary between two or more contiguous parcels that does not result in the creation of an additional parcel may be allowed if none of the parcels

larger than the minimum parcel size before the adjustment becomes smaller than the specified minimum parcel size after the adjustment.

(e) The minimum size for new parcels created for commercial uses within a Rural Center shall be based upon the site requirements (sewerage, parking, building, size, etc.) for the proposed use. Parcel size shall be determined by the Development Review Officer on a case-by-case basis.

(f) The minimum size for new parcels created for residential uses within a Rural Center shall be 1 acre.

To encourage the efficient use of land, provide public amenities and standards for quality developments, and reduce the cost of providing services within Rural Centers, the Development Review Office may allow a minimum parcel size of less than 1 acre within Rural Centers if a planned unit development approach is used for the subject parcel, incorporating features such as consolidated access and commonly shared open areas.

(g) When allowed by a land use designation, a land division in the General Management Area may create parcels smaller than the designated minimum size and may include a bonus, as specified below, in order to cluster new dwellings. Approval of cluster development shall be contingent upon submission of plans specifying dwelling sites and areas of permanent, undeveloped open land. To approve a cluster development, the Development Review Office must find that clustering new dwellings will provide an opportunity not available through conventional parcel-by-parcel development to site new dwellings to:

(A) Be located in areas with screening vegetation or other features which reduce visibility of development as seen from Key Viewing Areas.

(B) Avoid significant landscape features.

(C) Protect the existing character of the landscape setting.

(D) Reduce interference with movement of deer or elk in winter range.

(E) Avoid areas of known cultural resources.

(F) Consolidate road access, septic drainfields or other development features in order to reduce impacts associated with grading or ground disturbance.

(G) Reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites or other natural resources.

(H) Increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.

(h) In the General Management Area, following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an Urban Area. Approval of a cluster development shall include provisions for the permanent protection of open areas. No parcel in a cluster development may be smaller than 1 acre in a 5-acre Residential or a 10-acre Residential designation or 2 acres in a Small-Scale Agriculture or Small Woodland designation.

(i) In the General Management Area, cluster development may create up to 25 percent more parcels than otherwise allowed by the minimum parcel size on lands designated 5-acre Residential or 10-acre Residential and up to 50 percent more parcels on lands designated Small-Scale Agriculture or Small Woodland. Any division in a cluster

development under this guideline may create at least one additional parcel.

(j) in the General Management Area, at least 75 percent of land subject to a cluster development shall be permanently protected as undeveloped land.

(k) In the General Management Area, contiguous parcels in the same ownership or in separate ownership may be consolidated and redivided to take advantage of cluster development bonuses.

(2) Agricultural Buffer Zones

All new buildings shall comply with the following guidelines when proposed to be located on a parcel adjacent to lands designated Large-Scale or Small-Scale Agriculture and which are currently used for or are suitable for agricultural use:

(a) Setback Guidelines

Type of Agriculture	Type of Buffer (size in feet)		
	Open or Fenced	Natural or Created Vegetation Barrier	8-foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/vegetables	300'	100'	75'
Livestock grazing pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

(b) Earth berms may be used to satisfy, in part, the setback guidelines. Berms shall be a minimum of 8 feet in height, and contoured at 3:1 slopes to look natural. Shrubs, trees and/or grasses shall be planted on the berm to control erosion and achieve a finished height of 15 feet.

(c) The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be at least 6 feet high when planted and reach an ultimate height of at least 15 feet. The vegetation screen shall be planted along the appropriate parcel line(s), and be continuous.

(d) The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.

(e) If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

(f) A variance to buffer setbacks may be granted upon a demonstration that the guidelines of Commission Rule 350-110-150(7) have been satisfied.

(3) Temporary Use Hardship Dwelling

(a) The temporary placement of a mobile home in the General Management Area may be granted under the following circumstances:

(A) A family hardship exists where conditions relate to the necessary care for a member of the family occupying the principal dwelling and where medical conditions relate to the infirm or aged.

(B) The hardship dwelling will use the same subsurface sewage disposal system used by the existing dwelling, if the system is adequate to accommodate the additional dwelling, unless the additional dwelling can use an existing public sanitary sewer system.

(C) The hardship dwelling is found to be consistent with the guidelines for protection of scenic, cultural, natural and

recreation resources of Commission Rule 350-110-520 through 350-110-620.

(b) A permit may be issued for a 2-year period, subject to annual review for compliance with the provisions of this rule and any other conditions of approval.

(c) Upon expiration of the permit or cessation of the hardship, whichever comes first, the mobile home shall be removed within 30 days.

(d) A new permit may be granted upon a finding that a family hardship continues to exist.

(4) Home Occupations and Cottage Industries

Home occupations and cottage industries may be established as specified in various land use designations consistent with the following conditions:

(a) A home occupation may employ only residents of the home.

(b) A cottage industry may employ up to three outside employees.

(c) No more than 25 percent of the total actual living space of the dwelling may be utilized for the home occupation or cottage industry.

(d) No more than 500 square feet of an accessory structure may be used for a home occupation or cottage industry.

(e) There shall be no outside, visible evidence of the home occupation or cottage industry, including outside storage.

(f) Exterior structural alterations to the residence for the home occupation or cottage industry shall not be permitted. New structures shall not be constructed for the primary purpose of housing a home occupation or cottage industry.

(g) No retail sales may occur on the premises, except incidental sales at lodging establishments authorized in Commission rule 350-110-150(5).

(h) One non-animated, non-illuminated sign, not exceeding 2 square feet in area may be permitted on the subject structure or within the yard containing the home occupation or cottage industry.

(i) Parking not associated with residential use shall be screened so it is not visible from Key Viewing Areas.

(j) In the General Management area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Commission Rules 350-110-150 (4) and (5).

(k) In the Special Management Area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Commission Rules 350-110-150 (4) and (5), except Commission Rule 350-110-150 (5)(a).

(5) Bed and Breakfast Inns

Bed and breakfast inns may be established as authorized in specified land use designations subject to the following:

(a) In the Special Management Area, bed and breakfast inns associated with residential use shall be allowed only in structures that are included in, or eligible for inclusion in, the National Register of Historic Places.

(b) Guests may not occupy a facility for more than 14 consecutive days.

(c) One non-animated, non-illuminated sign not exceeding 4 square feet in area may be permitted on the structure or within the yard containing the structure.

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(d) Parking areas shall be screened so as to not be visible from Key Viewing Areas.

(6) Docks

(a) New private docks and boathouses serving only one family and one property shall be limited to a maximum of 120 square feet in size.

(b) New private docks and boathouses serving more than one family and property shall be limited to a maximum of 200 square feet in size.

(c) Public docks open and available for public use shall be allowed.

(7) Variances from Setbacks and Buffers within the General Management Area.

Variances from setbacks and buffers within the General Management Area may be allowed subject to the following approval criteria:

(a) When setbacks or buffers for the protection of scenic, cultural, natural, recreation, agricultural or forestry resources overlap or conflict, the setbacks or buffers may be varied upon a demonstration that:

(A) A setback or buffer to protect one resource would cause the proposed use to fall within a setback or buffer to protect another resource; and

(B) Variation from the specified setbacks or buffers would, on balance, best achieve the protection of the affected resources.

(b) A setback or buffer for protection of scenic, cultural, natural, recreation, agricultural or forestry resources may be varied to allow a residence to be built on a parcel of land upon a demonstration that:

(A) The land use designation otherwise authorizes a residence on the tract;

(B) No site exists on the tract (all contiguous parcels under the same ownership) on which a residence could practicably be placed in full compliance with the setback or buffer;

(C) The variance from the specified setback or buffer is the minimum necessary to allow the residence.

(c) The Development Review Officer may grant a variance to the setback and buffer requirements in Commission Rule 350-110-610, upon a finding that the following conditions exist:

(A) The proposed project is a public use, resource-based recreation facility providing or supporting either recreational access to the Columbia River and its tributaries, or recreational opportunities associated with a Scenic Travel Corridor.

(B) All reasonable measures to redesign the proposed project to comply with required setbacks and buffers have been explored, and application of those setbacks and buffers would prohibit a viable recreation use of the site as proposed.

(C) Resource impacts have been mitigated to less than adverse levels through design provisions and mitigation measures.

(D) The variance is the minimum necessary to accommodate the use.

(d) The Development Review Officer may grant a variance of up to 10 percent to the guidelines of General Management Area and Special Management Area Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from Scenic Area recreation demand studies shall be relied upon to meet this criterion in the absence of current applicable studies.

(B) The proposed use is dependent on resources present at the site.

(C) Reasonable alternative sites, including those in nearby Urban Areas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

(D) The proposed use is consistent with the goals, objectives and policies in Chapter 4, Part I of the Management Plan.

(E) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.

(F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

(8) Indian Tribal Treaty Rights and Consultation

(a) Tribal Government Notice

(A) New uses located in, or providing recreation river access to, the Columbia River or its fishbearing tributaries shall include the following supplemental information:

(i) The site plan map shall show adjacent river areas at least 1/2 mile upstream and downstream from the project site, the locations at which river access is planned, and the locations of all tribal fishing sites known to the project applicant.

(ii) The site plan text shall include an assessment of the potential effects that new uses may have on Indian treaty rights. The assessment shall:

(I) Describe the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods.

(II) List tribal commercial fishing seasons in the project vicinity, as established by the four treaty tribes.

(III) List tribal ceremonial fishing seasons in the project vicinity.

(IV) Based on the above factors, assess the potential effects that the proposed uses may have on Indian treaty rights.

(B) Notices shall include a treaty rights protection plan if new uses may affect Indian treaty rights. The protection plan shall specify measures that will be used to avoid effects to Indian treaty rights. These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent onsite monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations.

(C) Indian tribal governments shall have 20 calendar days from the date a notice is mailed to submit substantive written comments to the Development Review Officer. Indian tribal governments must identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the new uses.

(b) Tribal Government Consultation

(A) When substantive written comments are submitted to a Development Review Officer in a timely manner, the project applicant shall offer to meet with the Development Review Officer and the Indian tribal government that submitted comments within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the Indian tribal government.

Consultation meetings should provide an opportunity for the project application and tribal representatives to identify potential conflicts and explore options to eliminate them. The project applicant must demonstrate that the proposed use would not affect or modify treaty or other rights of any Indian tribe.

(B) Any substantive comments, recommendations, or concerns expressed by Indian tribal governments during the consultation meeting shall be recorded and addressed by the project applicant in a treaty rights protection plan. The protection plan shall include measures to avoid effects to treaty and other rights of any Indian tribe.

(C) The Development Review Officer shall submit all protection plans to the Indian tribal governments. Indian tribal governments shall have 30 calendar days from the date a protection plan is mailed to submit written comments to the Development Review Officer.

(c) Conclusion of the Treaty Rights Protection Process

(A) The Development Review Officer shall decide whether the proposed uses would affect or modify any treaty or other rights of any Indian tribe.

The final decision shall integrate findings of fact that address any substantive comments, recommendations, or concerns expressed by Indian tribal governments. If the final decision contradicts the comments, recommendations, or concerns of Indian tribal governments, the Development Review Officer must justify how it reached an opposing conclusion.

(B) The treaty rights protection process may conclude if the Development Review Officer determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

(C) A finding by the Development Review Officer that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in these guidelines, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses adversely affect or modify treaty or other tribal rights.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-160. Signs.

(1) Signs may be allowed pursuant in all land use designations in the General Management Area to the following provisions:

(f) Except for signs along public highways necessary for public safety, traffic control or road construction which are consistent with the Manual for Uniform Traffic Control Devices, the following signs are prohibited:

(A) Luminous signs or those with intermittent or flashing lights. These include neon signs, fluorescent signs, light displays and other signs which are internally illuminated, exclusive of seasonal holiday light displays.

(B) New billboards.

(C) Signs with moving elements.

(D) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.

(e) Any sign which does not conform with a provision of 350-110-160 and has existed prior to adoption of the Management Plan, shall be considered non-conforming and subject to the following:

(A) Alteration of existing non-conforming signs shall comply with Commission Rule 350-110-160.

(B) Any non-conforming sign used by a business must be brought into conformance concurrent with any expansion or change in use which requires a development permit.

(c) The following may be permitted without review and are not subject to Commission Rule 350-110-160 (1)(a):

(A) Ordinary repair and maintenance of signs.

(B) Election signs which are not displayed for more than 60 days. Removal shall be accomplished within 30 days of election day.

(C) "For Sale" signs not greater than 12 square feet. Removal shall be accomplished within 30 days of close of sale.

(D) Temporary construction site identification, public service company, safety or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the Manual for Uniform Traffic Control Devices. Removal shall be accomplished within 30 days of project completion.

(E) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet.

(F) Temporary signs advertising civil, social, or political gatherings and activities not exceeding 12 square feet. Removal shall be accomplished within 30 days of the close of the event.

(G) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the message intended.

(H) Signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings, not on roofs or marquees.

(a) All signs shall meet the following guidelines unless they conflict with the Manual for Uniform Traffic Control Devices for public safety, traffic control or highway construction signs. In such cases, the standards in the Manual for Uniform Traffic Control Devices shall supersede these guidelines.

(A) The support structure shall be unobtrusive and have low visual impact.

(B) Lettering colors with sufficient contrast to provide clear message communication shall be allowed. Colors of signs shall blend with their setting to the maximum extent practicable.

(C) Backs of all signs shall be unobtrusive, non-reflective, and blend in with the setting.

(D) Spot lighting of signs may be allowed where needed for night visibility. Backlighting is not permitted for signs.

(b) Business identification or facility entry signs located on the premises may be allowed, subject to Commission Rule 350-110-160 (1)(a).

(d) Other signs not addressed or expressly prohibited by this rule may be permitted without review.

(2) Signs in the Special Management Area shall be allowed pursuant to the following provisions:

(h) Prohibited Signs

(A) Advertising Billboards.

(B) Signs that move or give the appearance of moving, except signs used for highway construction, warning or safety.

(C) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle, except for signs used for highway construction, warning or safety.

(c) Pre-existing signs are allowed to continue provided no changes occur in size, structure, color, or message.

(e) Temporary signs shall be permitted without review when in compliance with subsection (d) above and the following:

(A) One political sign per parcel road frontage. The sign shall be no greater than 12 square feet in area and displayed for no more than 60 calendar days. Removal shall be accomplished within 30 days of election day.

(B) "For Sale" signs not greater than 12 square feet, removal shall be accomplished within 30 days of close of sale.

(C) One temporary construction site identification sign which is not greater than 32 square feet. Removal shall be accomplished within 30 days of project completion.

(D) Signs providing direction to and announcement of temporary garage/yard sales provided placement duration does not exceed three days and the signs are not greater than two square feet in area.

(E) Temporary signs, not exceeding 12 square feet and placed no longer than 10 days in advance of the event, advertising civil, social, or political gatherings and activities. Removal must be accomplished within 30 days of the close of the event.

(F) Temporary signs of public service companies indicating danger and/or service and safety information. Removal must be accomplished upon project completion.

(a) New signs shall be allowed as specified in the applicable land use designation.

(b) No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or obstruct the view of any traffic sign, signal, or device.

(d) All new signs shall meet the following guidelines, and be consistent with the Manual for Uniform Traffic Control Devices:

(A) Signs shall be maintained in a neat, clean and attractive condition.

(B) The character and composition of sign materials shall be harmonious with the landscape and/or related to and compatible with the main structure upon which the sign is attached.

(C) Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.

(D) Signs shall be unobtrusive and have low contrast with the setting.

(E) The visual impact of the support structure shall be minimized.

(F) Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for, or used as, an advertising display, except for road safety signs.

(G) Backs of all signs shall be visually unobtrusive, nonreflective, and blend in with the setting.

(H) Sign internal illumination or backlighting shall not be permitted except for highway construction, warning or safety.

(f) Public signs shall meet the following guidelines in addition to subsections (a) through (e) above:

(A) The Graphic Signing System provides design guidelines for public signs in and adjacent to public road rights-of-way. All new and replacement public signs shall conform to the guidelines in this system. Types of signs addressed include recreation site entry, route marker, interpretive, guide, directional, and urban area entry.

(B) Signs located outside public road rights-of-way are encouraged to be designed in such a way as to be consistent with similar purpose signs described in the Graphic Signing System.

(C) Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that required to convey the intended message.

(g) Signs for public and commercial recreation facilities, home occupations, cottage industries, and commercial uses shall meet the following guidelines in addition to subsections (a) through (e):

(A) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than two square feet.

(B) Any sign advertising or relating to a business which is discontinued for a period of 30 consecutive days shall be presumed to be abandoned and shall be removed within 30 days thereafter, unless permitted otherwise by the jurisdictional authority.

(C) Any signs relating to, or advertising, a business shall be brought into conformance with these sign guidelines prior to any expansion or change in use which is subject to review.

(D) Off-site and on-site directional signs on approach roads to recreational facilities may be permitted. Name and interpretive signs may be permitted on-site, but should be kept to the minimum required to achieve the purpose(s) of the facilities.

(E) Commercial recreation businesses approved in conjunction with a recreational facility may have a name sign not exceeding 16 square feet.

(F) Recreation developments may have one on-premise name sign at each principal entrance. Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Signing System.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-170. Agricultural Land Designations.

Commission Rule 350-110-170 through 350-110-240 shall apply to those areas designated Large-Scale or Small-Scale Agriculture, SMA-Agriculture, and Agriculture-Special on the Scenic Area Land Use Designation Map.

350-110-180. Uses Allowed Outright-Agricultural Land.

(1) The following uses are allowed on lands designated Large-Scale or Small-Scale Agriculture without review:

- (a) Agricultural use, except new cultivation.
- (b) Forest practices that do not violate conditions of approval for other approved uses.
- (c) Repair, maintenance, and operation of existing structures, trails, roads, railroads and utility facilities.
- (d) Buildings less than 60 square feet in floor area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

(2) The following uses are allowed on land designated SMA-Agriculture without review:

- (a) New agricultural uses and open space uses allowed under Commission Rule 350-110-340, except where there would be potential impact to cultural or natural resources.
- (b) Maintenance, repair and operation of existing dwellings, structures, agricultural buildings, trails, roads, railroads, and utility facilities.
- (c) Accessory structures less than 60 square feet in area and less than 18 feet in height measured at the roof peak.

(3) The following uses may be allowed on lands designated Agriculture-Special without review:

- (a) Existing livestock grazing. A livestock operation ceases to be existing when the land on which it is conducted has lain idle for more than 5 years.
- (b) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads, and utility facilities.
- (c) Low-intensity recreation uses that occur with the knowledge and permission of the landowner, including hunting, fishing, trapping, native plant study, birdwatching, photography, horseback riding, and hiking.
- (d) Temporary livestock facilities, such as portable livestock pens and corrals.
- (e) New fences that exclude livestock from lands that are not part of an existing livestock operation.

350-110-190. Review Uses-Agricultural Land.

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture subject to compliance with the scenic, cultural, natural, and recreation resource guidelines (Commission Rule 350-20-520 through 350-110-620):

(a) New cultivation, subject to compliance with Commission Rule 350-110-540 through 350-110-590.

(b) Agricultural buildings in conjunction with agricultural use.

(c) Buildings greater than 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.

(d) The temporary use of a mobile home in the case of a family hardship, subject to Commission Rule 350-110-150(3).

(e) On lands designated Large-Scale Agriculture, a single family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:

(A) The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. Current use includes a minimum area which would satisfy subsection (e)(C)(iv) below; and

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

(i) Size of the entire farm or ranch, including all land in the same ownership;

(ii) Type(s) of agricultural uses (crops, livestock) and acreage;

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area; and

(iv) Income capability. The farm or ranch, and all its constituent parcels, is capable of producing at least \$40,000 in gross annual income. This determination shall be made using the following formula:

(A)(B)(C) = I where:

A = Average yield of the commodity per acre, or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income Capability

(f) On lands designated Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling which is included in, or is eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria for use in evaluating the eligibility of cultural resources contained in the National Register Criteria for Evaluation (36 CFR 60.4).

(g) On lands designated Small-Scale Agriculture, a single-family dwelling on any legally existing parcel.

(h) On lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative provided that all of the following conditions exist:

(A) The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister;

(B) The dwelling would be located on the same parcel as the dwelling of the principal operator; and

(C) The operation is a commercial enterprise as determined by Commission Rule 350-110-190 (1)(e)(C).

(i) Construction, reconstruction or modifications of roads not in conjunction with agriculture.

(j) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.

(k) Structures associated with hunting and fishing operations.

(l) Towers and fire stations for forest fire protection.

(m) Agricultural labor housing upon a showing that:

(A) The proposed housing is necessary and accessory to a current agricultural use;

(B) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months; and

(C) The housing will be located to minimize the conversion of lands capable of production of farm crops or livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(n) On lands designated Large-Scale Agriculture, on a parcel which was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:

(A) The dwelling will not force a change in or increase the cost of accepted agricultural practices on surrounding lands;

(B) The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be utilized in conjunction with other agricultural operations in the area;

(C) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in Commission Rule 350-110-150(2), or any abutting parcel designated Commercial Forest Land or Large or Small Woodland, as required in Commission Rule 350-110-310(1);

(D) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland; and

(E) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or

Large or Small Woodland within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

(o) On parcels in Small-Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in Commission Rule 350-110-150(1). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40, 80, or 160 acres, this provision will apply to parcels 80 acres or larger, 160 acres or larger, or 320 acres or larger, respectively.

(p) Life estates, pursuant to Commission Rule 350-110-200.

(q) Land divisions when all resulting parcels satisfy the minimum lot sizes as designated on the land use designation map.

(2) The following uses may be allowed on lands designated SMA-Agriculture, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (Commission Rule 350-110-520 through 350-110-620). The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock:

(a) Forest uses and practices as allowed in Commission Rule 350-110-270 (2)(b).

(b) A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:

(A) The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy guideline (C)(iv), below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula, with periodic adjustments for inflation:

(A)(B)(C) = I where:

A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income capability

(D) Minimum parcel size of 40 contiguous acres.

(c) Accessory structures, greater than 60 square feet.

(d) Farm labor housing and agricultural buildings upon a showing that the following conditions exist:

(A) The proposed housing or building is necessary and accessory to a current agricultural use and a showing that the operation is a commercial agricultural enterprise as determined by Commission Rule 350-110-190 (1)(e)(C).

(B) The housing or building shall be seasonal unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed nine months.

(C) The housing or building shall be located to minimize the conversion of lands capable of production of farm crops and livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.

(e) Home occupations and cottage industries pursuant to Commission Rule 350-110-150(4). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(f) Bed and breakfast inns subject to Commission Rule 350-110-150(5). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(g) Fruit stands and produce stands upon a showing that sales will be limited to agricultural products raised on the property and other agriculture properties in the local region.

(h) Aquaculture.

(i) Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands within the Special Management Area.

(j) Utility facilities necessary for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Agriculture lands.

(B) The size is the minimum necessary to provide the service.

(k) Temporary asphalt/batch plant operations related to public road projects, not to exceed six months.

(l) Signs as specified in Commission Rule 350-110-160(2).

(m) Community facilities and non-profit facilities related to agricultural resource management.

(n) Expansion of existing non-profit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(o) Recreation, interpretive and educational developments and uses consistent with Commission Rule 350-110-620.

(p) Road and railroad construction and reconstruction.

(q) Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

(r) Structures and vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-200. Review Uses with Additional Approval Criteria — Large-Scale or Small-Scale Agriculture Designations.

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (Commission Rule 350-110-520 through 350-110-620) and 350-110-220.

(a) Utility facilities and railroads necessary for public service upon a showing that:

(A) There is no practicable alternative location with less adverse effect on agricultural or forest lands, and

(B) The size is the minimum necessary to provide the service.

(b) Home occupations or cottage industries in existing residential or accessory structures, subject to Commission Rule 350-110-150(4).

(c) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

(d) Wineries, in conjunction with on-site viticulture, upon a showing that processing and sales of wine is from grapes grown on the subject farm or in the local region.

(e) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

(f) Exploration, development and production of mineral and geothermal resources subject to Commission Rule 350-110-520.

(g) Personal-use airstrips including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted, except for aircraft emergencies, to use by the owner and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airstrip other than those owned or controlled by the owner of the airstrip.

(h) Aquaculture.

(i) Recreation development, subject to Commission Rule 350-110-610 and the Recreation Development Plan (Management Plan, Part III, Chapter 1).

(j) Boarding of horses.

(k) Temporary portable asphalt/batch plants related to public road projects, not to exceed six months.

(l) Bed and breakfast inns in single-family dwellings, subject to Commission Rule 350-110-150(5) and provided that the residence:

(A) Is included in the National Register of Historic Places; or

(B) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation; or

(C) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(m) Non-profit, environmental learning or research facilities.

(n) Expansion of existing schools or places of worship.

(2) The following uses may be allowed on lands designated Agriculture-Special subject to compliance with the appropriate scenic, natural, cultural, and recreation resource guidelines (Commission Rule 350-110-520 through 350-110-620) and Commission Rule 350-110-230:

(a) New livestock grazing. Any operation that would introduce livestock to land that has not been grazed, or has laid idle, for more than 5 years shall be considered new livestock grazing.

(b) New fences, livestock watering facilities, and corrals.

(c) Soil, water, and vegetation conservation uses.

(d) Replacement or minor expansion of existing and serviceable structures within a dedicated site. Expansion shall be limited to the dedicated site.

(e) Fish and wildlife management uses, educational activities, and scientific research.

(f) Land divisions that facilitate livestock grazing or protect and enhance natural areas. No resulting parcel may be smaller than 160 acres, unless it would facilitate the protection of scenic, cultural, natural, or recreation resources.

(g) Single-family dwellings that are not in conjunction with agricultural use, if a landowner demonstrates that (1) the dwelling cannot be constructed on a portion of the parcel that is located outside of the natural area, and (2) the dwelling is sited and designed in a manner that minimizes adverse effects to the natural area. All dwellings shall meet the criteria in Commission Rule 350-110-190 (1)(n). The buffer guidelines for non-agricultural dwellings may be waived if they would prevent the optimum siting of a dwelling.

(h) Recreation uses, subject to the provisions for recreation intensity classes (Commission Rule 350-110-620).

350-110-210. Approval Criteria for Life Estates — Large-Scale or Small-Scale Agriculture Designations.

A landowner who sells or otherwise transfers real property on lands designated Large-Scale or Small-Scale Agriculture may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel as defined in Commission Rule 350-110-040. A second dwelling in conjunction with agricultural use may be allowed, subject to compliance with guidelines in Commission Rule 350-110-520 through 350-110-620 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

(1) The proposed dwelling is in conjunction with agricultural use, using guideline (350-110-190 (1)(e)).

(2) Upon termination of the life estate, the original or second dwelling shall be removed.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-220. Approval Criteria for Specified Review Uses on Lands Designated Large-Scale or Small-Scale Agriculture.

Uses identified in Commission Rule 350-110-200(1) may be allowed only if they meet both of the following criteria:

(1) The use is compatible with agricultural uses and would not force a change in or significantly increase the cost of accepted agricultural practices on nearby lands devoted to agricultural use; and

(2) The use will be sited to minimize the loss of land suitable for the production of crops or livestock.

350-110-230. Approval Criteria for Review Uses on Lands Designated Agriculture-Special.

Uses identified in Commission Rule 350-110-200(2) may be allowed only if they meet all of the following criteria:

(1) A range conservation plan pursuant to Commission Rule 350-110-240 shall be prepared before new livestock grazing commences; new fences, livestock watering facilities, and corrals are constructed; or soil, water, and vegetation conservation activities are undertaken [review uses (a), (b) and (c) in Commission Rule 350-110-190(3)].

(2) The Development Review Officer shall submit all land use applications and range conservation plans to the Oregon or Washington Natural Heritage Program. The state heritage program will have 20 days from the date that an application and/or plan is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address any written comments submitted by the state heritage program in the development review order.

(3) Based on the comments from the state heritage program, the Development Review Officer shall make a final decision on whether the proposed use is consistent with the Agriculture-Special policies of the Management Plan. If the final decision contradicts the comments submitted by the state heritage program, the Development Review Officer shall justify how it reached an opposing conclusion.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-110-240. Range Conservation Plans.

(1) If a range conservation plan is required before a use is allowed, it shall be prepared by landowners in cooperation with range scientists from local conservation districts. Specialists from the Oregon or Washington Natural Heritage Program should be consulted while the plan is being prepared.

(2) Range conservation plans shall ensure that new uses do not adversely affect natural areas. They shall accomplish the following goals:

(a) Maintain native rangeland that is in excellent or good condition; enhance rangeland that is in fair or poor condition.

(b) Preserve native trees and shrubs.

(c) Reestablish native grasses in degraded areas that have been invaded by non-native plants and weeds.

(3) Range conservation plans shall include the following elements:

(a) Range inventory. This shall include existing composition, carrying capacity, and condition of rangeland; the location of rare plants and non-native weeds; and existing fences, watering ponds, and other range improvements.

(b) Rehabilitation plan. This shall include actions that will be taken to rehabilitate native rangeland that is in fair or poor condition, such as weed and soil erosion control, seeding, and prescribed burning.

(c) Livestock management plan. This shall include the grazing system that will be used, including number and size of pastures, expected livestock numbers, and grazing/deferral periods and sequence. Management plans shall project livestock movements for at least 3 years.

(d) Monitoring program. This shall track the annual progress of the conservation plan and condition of the range. Monitoring techniques shall be described, such as line transects or photographic plots.

350-110-250. Forest Land Designations.

Commission Rule 350-110-250 through 350-110-310 shall apply to those areas designated Commercial Forest Land, Large or Small Woodland and SMA-Forest on the Scenic Area Land Use Designation Map.

350-110-260. Uses Allowed Outright — Forest Land.

(1) The following uses are allowed on lands designated Commercial Forest Land or Large or Small Woodland without review:

(a) Forest practices that do not violate conditions of approval for other approved uses.

(b) Agricultural use, except new cultivation.

(c) Repair, maintenance, and operation of existing structures, trails, roads, railroads and utility facilities.

(d) Buildings less than 60 square feet in floor area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

(2) The following uses are allowed on land designated SMA-Forest without review:

(a) New agricultural uses as allowed in Commission Rule 350-110-190(2) and the open space uses allowed in Commission Rule 350-110-340, except where there would be potential impact to cultural or natural resources.

(b) Maintenance, repair, and operation of existing dwellings, signs, structures, trails, roads, railroads, and utility facilities.

(c) Accessory structures of less than 60 square feet in area and less than 18 feet in height measured at the roof peak.

350-110-270. Review Uses — Forest Land.

(1) The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620):

(a) On lands designated Large Woodland, a single-family dwelling upon a demonstration that all of the following conditions exist:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The principal purpose for locating a dwelling on lands designated Large Woodland is to enable the resident to conduct efficient and effective forest management. This requirement indicates a relationship between ongoing forest management and the location of a dwelling on the subject parcel. A dwelling may not always be required for forest management.

(B) The subject parcel has been enrolled in the appropriate state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the Development Review Officer. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor and expenses; and how the dwelling will contribute toward the successful completion of the operations.

(D) The parcel has no other dwellings that are vacant or currently occupied by persons not engaged in forestry and that could be used as the principal forest dwelling.

(E) The dwelling complies with the "Approval Criteria for the Siting of Dwellings on Forest Land" (Commission Rule 350-110-310) and "Approval Criteria for Fire Protection in Forest Zones" (Commission Rule 350-110-300).

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(b) On lands designated Small Woodland, one single-family dwelling on a legally created parcel upon the parcel's enrollment in the state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of a dwelling shall comply with Commission Rule 350-110-300 and Commission Rule 350-110-310. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(c) One single-family dwelling if shown to be in conjunction with and substantially contribute to the current agricultural use of a farm pursuant to Commission Rule 350-

110-190 (1)(e). The siting of the dwelling shall comply with Commission Rule 350-110-300.

(d) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on-site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when the particular forest practice for which was approved has concluded.

(e) Temporary portable facilities for the primary processing of forest products grown on a parcel or contiguous parcels in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.

(f) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.

(g) Structures associated with hunting and fishing operations

(h) Towers and fire stations for forest fire protection.

(i) New agricultural structures subject to Commission Rule 350-110-300.

(j) The temporary use of a mobile home in the case of a family hardship, subject to Commission Rule 350-110-150(3), 350-110-300 and 350-110-310.

(k) Accessory building(s) greater than 60 square feet in floor area and/or exceeding 18 feet in height as measured at the roof peak; subject to Commission Rule 350-110-300 and 350-110-310.

(l) A second single-family dwelling for a farm operator's relative, subject to Commission Rule 350-110-190 (1)(h), 350-110-300 and 350-110-310.

(m) Private roads serving a residence, subject to Commission Rule 350-110-300 and 350-110-310.

(n) Recreation development, subject to Commission Rule 350-110-610 and the Recreation Development Plan (Management Plan, Part III, Chapter 1).

(o) Construction or reconstruction of roads or modifications not in conjunction with forest use or practices.

(p) Agricultural labor housing upon a showing that:

(A) The proposed housing is necessary and accessory to a current agricultural use.

(B) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject agricultural unit. Seasonal use shall not exceed nine months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock and will not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(q) On lands designated Commercial Forest Land, a temporary mobile home in conjunction with a timber operation, upon a finding that security personnel are required to protect equipment associated with a harvest operation or the subject forest land from fire. The mobile home must be removed upon completion of the subject harvest operation or the end of the fire season. The placement of the mobile

home is subject to Commission Rule 350-110-300 and 350-110-310.

(4) On parcels in Small Woodland, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" [Commission Rule 350-110-150(1)]. If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40 or 80 acres, this provision will apply to parcels 80 acres or larger or 160 acres or larger, respectively.

(s) New cultivation, subject to compliance with Commission Rule 350-110-540, 350-110-560, 350-110-570, 350-110-580 and 350-110-590.

(t) Life Estates on lands designated Large or Small Woodland, pursuant to Commission Rule 350-110-320.

(2) The following uses may be allowed on lands designated SMA-Forest subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620). The use or development will be sited to minimize the loss of land suitable for the production of forest products:

(a) Any use listed in Commission Rule 350-110-190(2).

(b) Forest practices in accordance with a site plan for forest practices approved by the Oregon Department of Forestry or Washington Department of Natural Resources, or other designated forest practices review agency, including the following:

(A) The following information, in addition to the site plan requirements of Commission Rule 350-110-080, shall be included on the site plan:

(i) Boundary of proposed commercial forest practice.

(ii) Location of proposed rock or aggregate sources.

(iii) Timber types.

(iv) Harvest units.

(v) Silvicultural prescriptions.

(vi) Road and structure construction and/or reconstruction design.

(vii) Major skid trails, landings, and yarding corridors.

(viii) Commercial firewood cutting areas.

(ix) Existing and proposed rock pit development plans.

(x) Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.

(B) A discussion of slash disposal methods.

(C) A reforestation plan as reviewed by the appropriate state forest practices agency.

(c) Railroad and road construction or reconstruction.

(d) Exploration, development, and production of sand, gravel, or crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products in the Special Management Area.

(e) Silvicultural nurseries.

(f) Utility facilities for public service upon a finding that:

(A) There is no alternative location with less adverse effect on Forest Land, and

(B) The size is the minimum necessary to provide the service.

(g) Structures or vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.

(h) Fish hatcheries and aquaculture facilities.

(i) Public recreation, commercial recreation, interpretive and educational developments and uses consistent with Commission Rule 350-110-620.

(j) One dwelling on a parcel of 40 contiguous acres or larger if an approved Forest Management Plan demonstrates that such dwelling is necessary for and accessory to forest uses. The Forest Management Plan shall demonstrate the following:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forest lands is to enable the resident to conduct efficient and effective management. This requirement shall indicate a relationship between ongoing forest management and the need for dwelling on the subject property.

(B) The subject parcel has been enrolled in the state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the Development Review Officer. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor, and expenses; and how the dwelling will contribute towards the successful management of the property.

(D) There are no other dwellings on the parcel that are vacant or currently occupied by persons not engaged in forest management of the subject parcel.

(E) The dwelling complies with all applicable building code and fire protection guidelines.

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operations are entitled to carry on accepted agricultural or forest practices.

(k) Accessory structures over 60 square feet.

(l) Home occupations and cottage industries pursuant to Commission Rule 350-110-150(4).

(m) Temporary portable facility for the processing of forest products.

(n) Towers and fire stations for forest fire protection.

(o) Community facilities and nonprofit facilities related to forest resource management.

(p) Expansion of existing nonprofit group camps, retreats, or conference or education centers, necessary for the successful operation of the facility on the dedicated site. Expansion beyond the dedicated site shall be prohibited.

(q) Signs as specified in 350-110-160(2).

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-280. Review Uses with Additional Approval Criteria — Commercial Forest Land, or Large or Small Woodland Designations.

The following uses may be allowed on lands designated Commercial Forest Land, or Large or Small Woodland, subject to compliance with the appropriate scenic, cultural, natural, or recreation resources guidelines (Commission Rule 350-110-510 through 350-110-620) and Commission Rule 350-110-290:

(1) Utility facilities and railroads necessary for public service upon a showing that (a) there is no practicable alternative location with less adverse effect on agricultural and forest lands and on scenic, cultural, natural and recreation resources and (b) the size is the minimum necessary to provide the service.

(2) Home occupations or cottage industries in an existing residence or accessory structure, subject to the guidelines in Commission Rule 350-110-150(4).

(3) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

(4) Wineries, in conjunction with onsite viticulture, upon a showing that processing and sales of wine is from grapes grown on the subject farm or in the local region.

(5) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

(6) Exploration, development, and production of mineral and geothermal resources, subject to Commission Rule 350-110-520 through 350-110-530.

(7) Aquaculture.

(8) Boarding of horses.

(9) Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.

(10) Expansion of existing nonprofit group camps, retreats, or conference centers.

(11) Bed and breakfast inns in single-family dwellings, subject to Commission Rule 350-110-150(5) and provided that the residence:

(a) Is included in the National Register of Historic Places, or

(b) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation, or

(c) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(12) Nonprofit, environmental learning or research facilities.

350-110-290. Approval Criteria for Specified Review Uses on Lands Designated Commercial Forest Land or Large or Small Woodland.

Uses identified in 350-110-280 may be allowed only if they meet the following criteria:

(1) The owners of land designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture and that lies within 500 feet of the perimeter of the subject parcel have been notified of the land

use application and have been given at least 10 days to comment prior to a final decision;

(2) The use will not interfere seriously with accepted forest or agricultural practices on nearby lands devoted to resource use;

(3) The use will be sited in a way that minimizes the loss of forest or agricultural land and minimizes the chance of interference with accepted forest or agricultural practices on nearby lands; and

(4) The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel and will comply with Commission Rule 350-110-300.

350-110-300. Approval Criteria for Fire Protection in Forest Designations.

All uses, as specified, shall comply with the following fire safety guidelines:

(1) All buildings shall be surrounded by a maintained fuel break of 50 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.

(2) Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structure(s).

(3) A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.

(4) Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent. Turnouts shall be provided at a minimum of every 500 feet. Access drives shall be maintained to a level that is passable to fire equipment. Variances to road guidelines may be made only after consultation with the local rural fire district, and the Washington Department of Natural Resources in Washington, or the Oregon Department of Forestry in Oregon.

(5) Within one year of the occupancy of a dwelling, the Development Review Officer shall conduct a review of the development to assure compliance with these guidelines.

(6) Telephone and power supply systems shall be underground whenever possible.

(7) Roofs of structures should be constructed of fire-resistant materials such as metal, fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.

(8) Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.

(9) All structural projections such as balconies, decks and roof gables should be built with fire resistant materials equivalent to that specified in the Uniform Building Code.

(10) Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant.

350-110-310. Approval Criteria for Siting of Dwellings on Forest Land.

The approval of new dwellings and accessory structures on forest lands shall comply with the following guidelines:

(1) The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least 200 feet from adjacent properties. Clustering or locating proposed development closer to existing development on adjacent lands may minimize impacts on nearby or adjacent forest operations.

(2) The amount of forest land used to site dwellings, structures, access roads, and service corridors shall be minimized. This can include locating new dwellings and structures as close to existing public roads as possible, thereby minimizing the length of access roads and utility corridors; or locating the dwelling, access road, and service corridors on portions of the parcel that are least or poorly suited for forestry. Areas may not be suitable for forestry because of existing nonforest uses, adjacent dwellings, or land productivity.

(3) Dwellings shall be located to minimize the risks associated with fire. Dwellings should be located on gentle slopes and in any case not on slopes which exceed 40 percent. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty in gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.

(4) A variance to the siting guidelines of this rule may be granted pursuant to the provisions of Commission Rule 350-110-150(7).

350-110-320. Approval Criteria for Life Estates in Commercial Forest Land or Small or Large Woodland.

A landowner who sells or otherwise transfers real property on lands designated Commercial Forest Land or Large or Small Woodland may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel. A second dwelling unit on lands designated Commercial Forest Land or Large or Small Woodland may be allowed, subject to compliance with the guidelines in Commission Rule 350-110-520 through 350-110-620 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

(1) The proposed dwelling is in conjunction with agricultural use, using guideline 350-110-190 (1)(e).

(2) On lands designated Large Woodland, the dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The proposed dwelling shall comply with guideline 350-110-270 (1)(a).

(3) On lands designated Small Woodland, the proposed dwelling complies with guideline 350-110-270 (1)(b).

(4) Upon termination of the life estate, the original or second dwelling shall be removed.

350-110-330. Open Space Designations.

Commission Rule 350-110-330 through 350-110-340 shall apply to those areas designated GMA-Open Space and SMA-Open Space on the Scenic Area Land Use Designation Map.

350-110-340. Review Uses — Open Space.

(1) The following uses may be allowed on all lands designated GMA-Open Space subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620):

(a) Low intensity recreation, subject to Commission Rule 350-110-610(2).

(b) Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources.

(c) Repair, maintenance, operation and improvement of existing structures, trails, roads, railroads, utility facilities and hydroelectric facilities.

(d) Removal of timber, rocks or other materials for purposes of public safety and placement of structures for public safety.

(2) The following uses may be allowed on land designated GMA-Open Space in the Gorge Walls, Canyonlands and Wildlands landscape setting:

(a) All uses listed in Commission Rule 350-110-340(1).

(b) Livestock grazing.

(c) Fish and wildlife management uses conducted by federal, state or tribal resource agencies.

(d) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a county conservation district.

(e) Harvesting of wild crops.

(f) Educational or scientific research.

(g) Continued operation of existing quarries if they are determined to be consistent with guidelines to protect scenic, cultural, natural and recreation resources (Commission Rule 350-110-520 through 350-110-620).

(5) The following uses may be allowed on land designated GMA-Open Space within the Mosley Lakes Natural Area:

(a) All those uses allowed in Commission Rule 350-110-340(1).

(b) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

(c) Educational or scientific research, after consultation with the Washington Natural Heritage Program.

(d) Commercial trapping.

(4) The following uses may be allowed on land designated GMA-Open Space within the Chenoweth Table Natural Area:

(a) All those uses allowed in Commission Rule 350-110-340(1).

(b) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-110-610(2), after consultation with the Oregon Natural Heritage Program.

(c) Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Oregon Natural Heritage Program.

(d) Educational or scientific research, after consultation with the Oregon Natural Heritage Program.

(5) The following uses may be allowed on land designated GMA-Open Space within the Squally Point Natural Area:

(a) Except as limited by guideline (6)(b) below, all those uses allowed in Commission Rule 350-110-340(1).

(b) Except in the upland dunes south of the railroad tracks, low-intensity recreation, subject to the guidelines for recreation intensity classes 350-110-610(2), after consultation with the Oregon Natural Heritage Program.

(c) Repair and maintenance of railroads, except measures to stabilize dunes, after consultation with the Oregon Natural Heritage Program.

(6) The following uses may be allowed on land designated GMA-Open Space within the Klickitat River Wildlife and Natural Area:

(a) All those uses allowed in Commission Rule 350-110-340(1).

(b) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-110-610(2), after consultation with the Washington Natural Heritage Program and Washington Department of Wildlife.

(c) Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

(d) Educational or scientific research, after consultation with the Washington Natural Heritage Program.

(7) The following uses are allowed on land designated GMA-Open Space within the Balch Lake Wetland Area:

(a) All those uses allowed in Commission Rule 350-110-340(1).

(b) Livestock grazing, subject to a range conservation plan, after consultation with the Washington Department of Wildlife.

(c) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(d) Educational and scientific research, after consultation with the Washington Department of Wildlife.

(e) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-110-610(2), after consultation with the Washington Department of Wildlife.

(8) The following uses may be allowed on lands designated GMA-Open Space within the mouth of the Wind River Wildlife Area:

(a) All those uses allowed in Commission Rule 350-110-340(1).

(b) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(c) Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

(d) Harvesting of wild crops.

(e) Educational or scientific research, after consultation with the Washington Department of Wildlife or Fisheries.

(f) Commercial fishing and trapping.

(g) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-110-610(2), after consultation with the Washington Department of Wildlife.

(9) The following uses may be allowed on lands designated GMA-Open Space within state parks:

(a) All uses listed in Commission Rule 350-110-340(1).

(b) Fish and wildlife management uses conducted by federal, state or tribal resource agencies.

(c) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

(d) Harvesting of wild crops.

(e) Educational or scientific research.

(10) On land designated SMA-Open Space, the maintenance, repair, and operation of existing dwellings, structures, trails, roads, railroads, and utility facilities may occur without review.

(11) The following uses may be allowed on lands designated SMA-Open Space, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-650) and when consistent with an open space plan approved by the U.S. Forest Service pursuant to guideline (12) below:

(a) Changes in existing uses including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices.

(b) Structures or vegetation management activities, including scientific research, related to scenic, cultural, recreational, and natural resource enhancement projects.

(c) Low intensity recreation uses, including educational and interpretive facilities, consistent with Commission Rule 350-110-620.

(d) Utility facilities for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Open Space land.

(B) The size is the minimum necessary to provide the service.

(e) New signs, pursuant to Commission Rule 350-110-160.

(12) An Open Space plan shall be completed by the primary managing agency or landowner prior to any new land uses or development, and shall be reviewed by the Forest Service. The Open Space plan shall include the following:

(a) Direction for resource protection, enhancement, and management.

(b) Review of existing uses to determine compatibility with Open Space values.

(c) Consultation with members of the public and with agency and resource specialists.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-350. Residential Land Designations.

Commission Rule 350-110-350 through 350-110-390 shall apply to those areas designated Residential on the Scenic Area Land Use Designation Map.

350-110-360. Uses Allowed Outright — Residential Land.

(1) The following uses are allowed on lands in the General Management Area designated Residential without review:

(a) Agricultural use, except new cultivation.

(b) Forest practices that do not violate conditions of approval for other approved uses.

(c) Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.

(d) Buildings less than 60 square feet in area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

(2) The following uses are allowed on land in the Special Management Area designated Residential without review:

(a) Agricultural uses except where there would be potential impact to cultural or natural resources.

(b) Maintenance, repair, and operation of dwellings, signs, structures, existing trails, roads, railroads, and utility facilities.

(c) Accessory structures of less than 60 square feet in area and 18 feet in height measured at the roof peak.

350-110-370. Review Uses — Residential Land.

(1) The following uses may be allowed on lands in the General Management Area designated Residential, subject to compliance with the scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620):

(a) One single-family dwelling per legally created parcel.

(A) If the subject parcel is located adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland, the use shall comply with the buffer and notification requirements of Commission Rule 350-110-150(2), 350-110-310(1), and the notification requirements of Commission Rules 350-110-190(1)(n)(E) and 350-110-290(1); and

(B) If the subject parcel is located adjacent to lands designated Commercial Forest Land or Large or Small Woodland, the placement of a dwelling shall also comply with the fire protection guidelines of Commission Rule 350-110-300.

(b) Buildings exceeding 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.

(c) The temporary use of a mobile home in the case of a family hardship, subject to Commission Rule 350-110-150(3).

(d) Construction or reconstruction of roads.

(e) On parcels 10 acres or larger designated Residential-5, or 20 acres or larger designated Residential-10, a land division creating new parcels smaller than the designated minimum parcel size, subject to the provisions of Commission Rule 350-110-150(1).

(f) New cultivation, subject to compliance with Commission Rule 350-110-540 through 350-110-590.

(g) Land divisions, subject to the minimum lot size as indicated on the Land Use Designation Map.

(2) The following uses may be allowed on lands in the Special Management Area designated Residential subject to compliance with the scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620):

(a) One single-family dwelling per legally created lot or consolidated parcel, subject to the guidelines of Commission Rule 350-110-270 (2)(j)(E).

(b) Accessory structures over 60 square feet.

(c) New utility facilities.

(d) Fire stations.

(e) Home occupations and cottage industries pursuant to Commission Rule 350-110-150(4).

(f) Bed and breakfast inns in structures that are included in, or eligible for inclusion in, the National Register of Historic Places, pursuant to 350-110-150(5).

(g) Community parks and playgrounds.

(h) Road and railroad construction and reconstruction.

(i) Forest practices, pursuant to the provisions of Commission Rule 350-110-270(2).

(j) Signs, as specified in Commission Rule 350-110-160.

350-110-380. Review Uses with Additional Approval Criteria — Residential Land.

The following uses may be allowed on lands in the General Management Area designated Residential subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620), and Commission Rule 350-110-390:

(1) Accredited child care centers on land designated 1-acre Residential or 2-acre Residential. A child care center may be allowed in other Residential designations within an existing church or community building.

(2) Schools within an existing church or community building.

(3) Utility facilities and railroads.

(4) Home occupations and cottage industries pursuant to Commission Rule 350-110-150(4).

(5) Fire stations.

(6) Recreation development, subject to compliance with Commission Rule 350-110-610.

(7) Community parks and playgrounds, consistent with the guidelines of the National Park and Recreation Society regarding the need for such facilities.

(8) Bed and breakfast inns in single-family dwellings located on lands designated Residential-5 or Residential-10, pursuant to 350-110-150(5).

350-110-390. Approval Criteria for Specified Review Uses on Lands Designated Residential.

The uses identified in Commission Rule 350-110-390 may be allowed only if they meet all of the following:

(1) The proposed use will be compatible with the surrounding area. Review of compatibility shall include impacts associated with the visual character of the area, traffic generation, and noise, dust and odors.

(2) The proposed use will not require public services other than those existing or approved for the area.

(3) If the subject parcel is located within 500 feet of lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, new buildings associated with the proposed use shall comply with Commission Rule 350-110-080(6).

(4) If the subject parcel is located within 500 feet of lands designated Commercial Forest Land or Large or Small Woodland, new buildings associated with the proposed use shall comply with Commission Rule 350-110-300.

350-110-400. Rural Center.

Commission Rule 350-110-400 through 350-110-420 shall apply to those areas designated Rural Center on the Scenic Area Land Use Designation Map.

350-110-410. Uses Allowed Outright — Rural Center.

The following uses are allowed on lands designated Rural Center without review:

(1) Agricultural use, except new cultivation.

(2) Forest practices that do not violate conditions of approval for other approved uses.

(3) Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.

(4) Buildings less than 60 square feet in area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

350-110-420. Review Uses — Rural Center.

The following uses may be allowed on lands designated Rural Center subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620):

(1) One single-family dwelling per legally created parcel.

(2) Buildings greater than 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.

(3) The temporary use of a mobile home in the case of a family hardship, pursuant to Commission Rule 350-110-150(3).

(4) Duplexes.

- (5) Fire stations.
- (6) Libraries.
- (7) Government buildings.
- (8) Community centers and meeting halls.
- (9) Schools.
- (10) Accredited child care centers.
- (18) Rural service commercial and tourist commercial uses limited to 5,000 square feet of floor area per building or use.

- (a) Grocery stores.
- (b) Variety and hardware stores.
- (c) Shops, offices and repair shops.
- (d) Personal services such as barber and beauty shops.
- (e) Travelers accommodations, bed and breakfast inns.
- (f) Restaurants.
- (g) Taverns and bars.
- (h) Gas stations.
- (i) Gift shops.
- (15) Home occupations or cottage industries in an existing residence or accessory structure, pursuant to Commission Rule 350-110-150(4).
- (11) Utility facilities and railroads.
- (12) Recreation development, subject to Commission Rule 350-110-610.
- (13) Places of worship.
- (16) New cultivation, subject to compliance with Commission Rule 350-110-540, 350-110-560, 350-110-570, 350-110-580 and 350-110-590.
- (17) Land divisions subject to Commission rule 350-110-150(1).
- (14) Planned developments incorporating features such as consolidated access and commonly shared open areas.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-110-430. Commercial Land.

Commission Rule 350-110-430 through 350-110-360 shall apply to those areas designated Commercial on the Scenic Area Land Use Designation Map.

350-110-440. Uses Allowed Outright — Commercial Land.

The following uses are allowed on lands designated Commercial without review:

- (1) Agricultural use, except new cultivation.
- (2) Forest practices that do not violate conditions of approval for other approved uses.
- (3) Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.
- (4) Buildings less than 60 square feet in area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

350-110-450. Review Uses with Additional Approval Criteria — Commercial Land.

The following uses may be allowed on lands designated Commercial, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620), and Commission Rule 350-110-460:

- (1) Travelers accommodations, bed and breakfast inns subject to Commission Rule 350-110-150(5).
- (2) Restaurants.
- (3) Gift shops.
- (4) Home occupations or cottage industries in an existing residence or accessory structure, pursuant to Commission Rule 350-110-150(4).
- (5) One single-family dwelling per legally created parcel.
- (6) Utility facilities and railroads.

350-110-460. Approval Criteria for Review Uses on Lands Designated Commercial.

The uses identified in Commission Rule 350-110-450 may be allowed only if they meet both of the following criteria:

- (1) The proposal is limited to 5,000 square feet of floor area per building or use.
- (2) The proposed use would be compatible with the surrounding areas, including review for impacts associated with the visual character of the area, traffic generation and noise, dust and odors.

350-110-470. Recreation.

Commission Rule 350-110-470 through 350-110-510 shall apply to those areas designated Public Recreation and Commercial Recreation on the Scenic Area Land Use Designation Map.

350-110-480. Uses Allowed Outright — Public Recreation and Commercial Recreation.

(1) The following uses are allowed on lands in the General Management Area designated Public Recreation and Commercial Recreation without review:

(a) Forest practices that do not violate conditions of approval for other approved development.

(b) Repair, maintenance and operation of existing structures, trails, roads, railroads, and utility facilities.

(c) Agricultural uses, except for new cultivation.

(2) The following uses are allowed on lands in the Special Management Area designated Public Recreation without review:

(a) Agricultural use, except where there would be potential impact to cultural or natural resources.

(b) Maintenance, repair, and operation of existing dwellings, structures, trails, roads, railroads, utility facilities, and public recreation facilities.

(c) Accessory structures less than 60 square feet in area and 18 feet in height measured at the roof peak.

490-80-490. Review Uses — Public Recreation and Commercial Recreation.

(1) The following uses are allowed on all lands in the General Management Area designated Public Recreation:

(a) The following uses may be allowed on lands in the General Management Area designated Public Recreation, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620), and where applicable Commission Rule 350-110-610 (5)(a) and (c) through (g):

(A) Publicly-owned, resource-based recreation uses consistent with Commission Rule 350-110-610.

(B) Commercial uses and non-resource based recreation uses that are part of an existing or approved, resource-based public recreation use consistent with guidelines contained in this section.

(C) New cultivation, subject to compliance with Commission Rule 350-110-540 through 350-110-590.

(b) The following uses may be allowed on lands in the General Management Area designated Public Recreation, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620), and Commission Rule 350-110-500:

(A) Residences and accessory structures, limited to one single-family dwelling for each parcel legally created prior to adoption of the Management Plan. Exceptions may be considered only upon demonstration that more than one residence is necessary for management of a public park.

(B) Agricultural buildings.

(C) Utility transmission, transportation, communication and public works facilities.

(c) Land divisions, subject to compliance with Commission Rule 350-110-500(3).

(2) The following uses are allowed on all lands in the General Management Area designated Commercial Recreation:

(a) The following uses may be allowed on lands in the General Management Area designated Commercial Recreation, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620), and where applicable Commission Rule 350-110-610 (5)(a) and (c) through (g):

(A) Commercially-owned, resource-based recreation uses consistent with Commission Rule 350-110-610.

(B) Overnight accommodations that are part of a commercially-owned resource-based recreation use, where such resource-based recreation use occurs on the subject site or is accessed through the site on adjacent lands, and which meet the following guidelines:

(i) Buildings containing individual units are no larger than 1,500 square feet in total floor area and no higher than two and one-half stories.

(ii) Buildings containing more than one unit are no larger than 5,000 square feet in total floor area and no higher than two and one-half stories.

(iii) The total number of individual units shall not exceed 25, unless the proposed development complies with

guidelines for clustered accommodations in subsection (iv) below

(iv) Clustered overnight travelers accommodations meeting the following guidelines may include up to 35 individual units:

(I) Average total floor area of all units is 1,000 square feet or less per unit;

(II) A minimum of 50 percent of the project site is dedicated to undeveloped, open areas (not including roads or parking areas);

(III) The facility is in an area classified for high intensity recreation (Recreation Intensity Class 4).

(C) Commercial uses, including restaurants sized to accommodate overnight visitors and their guests, and non-resource-based recreation uses which are part of an existing or approved resource-based commercial recreation use consistent with the guidelines contained in this section.

(D) New cultivation, subject to compliance with Commission Rule 350-110-540 through 350-110-590.

(b) The following uses may be allowed, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620), and Commission Rule 350-110-510:

(A) Residences and accessory structures limited to one single-family dwelling for each lot or parcel legally created prior to adoption of the Management Plan.

(B) Agricultural buildings.

(C) Utility transmission, transportation and communication facilities.

(c) Land divisions, subject to compliance with Commission Rule 350-110-510(3).

(3) The following uses are allowed on lands in the Special Management Area designated Public Recreation subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620):

(a) Forest uses and practices as allowed in Commission Rule 350-110-270(2).

(b) Public trails, consistent with Commission Rule 350-110-620.

(c) Public recreational facilities, consistent with Commission Rule 350-110-620.

(d) Public non-profit group camps, retreats, conference or educational centers, and interpretive facilities.

(e) All dwellings and accessory structures larger than 60 square feet.

(f) Home occupations and cottage industries, pursuant to Commission Rule 350-110-150(4).

(g) Road and railroad construction and reconstruction.

(h) Utility facilities for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Public Recreation land.

(B) The size is the minimum necessary to provide the service.

(i) New signs pursuant to 350-110-160(2).

(j) Structures or vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.

(k) Agricultural uses as allowed in Commission Rule 350-110-190(2).

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(4) New commercial recreation facilities shall be allowed in Forest Land and Agricultural Land use designations, consistent with the guidelines established for the recreation intensity classes Commission Rule 350-110-620.

Reviser's note: The above new section was filed by the agency as 490-80-490. This section is placed among sections forming new chapter 350-110, and therefore should be numbered 350-110-490. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

350-110-500. Approval Criteria for Non-Recreation Uses in Public Recreation Designations.

The uses identified in Commission Rule 350-110-490 (1)(b) may be allowed only if they meet the following criteria:

(1) The proposed use will not interfere with existing or approved public recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include onsite buffers, seasonal or temporary closures during peak recreation use periods, etc.

(2) The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.

(3) Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

350-110-510. Approval Criteria for Non-Recreation Uses in Commercial Recreation Designations.

The uses identified in Commission Rule 350-110-490 (2)(b) may be allowed only if they meet the following criteria:

(1) The proposed use will not interfere with existing or approved commercial recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include onsite buffers, seasonal or temporary closures during peak recreation use periods, etc.

(2) The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.

(3) Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

350-110-520. General Management Area Scenic Review Criteria.

The following scenic review guidelines shall apply to all Review Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

(1) All Review Uses:

(a) New buildings and roads shall be sited and designed to retain the existing topography and reduce necessary grading to the maximum extent practicable.

(b) New buildings shall be generally consistent with the height and size of existing nearby development.

(c) Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in Commission Rule 350-110-520.

(d) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

(e) For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable.

Such a plan shall be approved by the appropriate state agency for uses under their jurisdiction, or approved by the Development Review Officer with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At a minimum, such reclamation plans shall include:

(A) A map of the site, at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail, with 10 foot contour intervals or less, showing pre-mining existing grades and post-mining final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch-basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing and equipment areas employed for the duration of the use.

(B) Cross-sectional drawings of the site showing pre-mining and post-mining grades.

(C) Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

(D) Description of drainage/erosion control features to be employed for the duration of the use.

(E) A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

(2) All Review Uses Visible From Key Viewing Areas shall comply with the following applicable guidelines:

(a) Size, height, shape, color, reflectivity, landscaping, siting or other aspects of proposed development shall be evaluated to ensure that such development is visually subordinate to its setting as seen from Key Viewing Areas.

(b) The extent and type of conditions applied to a proposed development to achieve visual subordination should be proportionate to its potential visual impacts as seen from Key Viewing Areas. Primary factors influencing the degree of potential visual impact include: the amount of area of the building site exposed to Key Viewing Areas, the degree of existing vegetation providing screening, the distance from the building site to the Key Viewing Areas from which it is visible, the number of Key Viewing Areas from which it is visible, and the linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads). Written reports on determination of visual subordination and final conditions of approval shall include findings addressing each of these factors.

(c) Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

(d) For all buildings, roads or mining and associated activities proposed on lands visible from Key Viewing Areas, the following supplemental site plan information shall be submitted in addition to the site plan requirements in Commission Rule 350-110-080 and 350-110-520 (1)(e) for mining and associated activities:

(A) For buildings, a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used, number, size, locations of plantings, and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).

(B) Elevation drawings showing the appearance of proposed building(s) when built and surrounding final ground grades, for all buildings over 400 square feet in area.

(e) For proposed mining and associated activities on lands visible from Key Viewing Areas, in addition to submittal of plans and information pursuant to Commission Rule 350-110-520 (1)(e) and subsection (d) above, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable Key Viewing Areas.

(f) New buildings or roads shall be sited on portions of the subject property which minimize visibility from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, sensitive wildlife sites or conflict with the protection of cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

(g) In siting new buildings and roads, use of existing topography and vegetation to screen such development from Key Viewing Areas shall be given priority over other means of achieving visual subordination, such as planting of new vegetation or use of artificial berms to screen the development from Key Viewing Areas.

(h) Driveways and buildings shall be designed and sited to minimize grading activities and visibility of cut banks and fill slopes from Key Viewing Areas.

(i) The exterior of buildings on lands seen from Key Viewing Areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all Key Viewing Areas by existing topographic features.

(j) Exterior lighting shall be directed downward and sited, hooded and shielded such that it is not highly visible from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

(k) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of colors specified in the design guidelines for the subject property's landscape setting.

(l) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination requirements for lands seen from Key Viewing Areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regula-

tions. Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park Service regulations for such structures.

(m) The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use, and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.

(n) An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline of a bluff, cliff or ridge as seen from a Key Viewing Area, may itself protrude above the skyline if:

(A) The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and

(B) There is no practicable alternative means of altering the building without increasing the protrusion.

(o) New main lines on lands visible from Key Viewing Areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

(p) New communication facilities (antennae, dishes, etc.) on lands visible from Key Viewing Areas, which require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.

(q) New communications facilities may protrude above a skyline visible from a Key Viewing Area only upon demonstration that:

(A) The facility is necessary for public service;

(B) The break in the skyline is seen only in the background; and

(C) The break in the skyline is the minimum necessary to provide the service.

(r) Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a Key Viewing Area only upon a demonstration that:

(A) The facility is necessary for public service; and

(B) The break in the skyline is the minimum necessary to provide the service.

(s) Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to the setback may be authorized.

(t) New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. A variance may be authorized if the property would be rendered unbuildable through the application of this

guideline. In determining the slope, the average percent slope of the proposed building site shall be used.

(u) All proposed structural development involving more than 100 cubic yards of grading on sites visible from Key Viewing Areas and which slope between 10 and 30 percent shall include submittal of a grading plan. This plan shall be reviewed by the Development Review Officer for compliance with Key Viewing Area policies. The grading plan shall include the following:

(A) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail, with contour intervals of at least 5 feet, including:

- (i) Existing and proposed final grades;
- (ii) Location of all areas to be graded, with cut banks and fill slopes delineated; and
- (iii) Estimated dimensions of graded areas.

(B) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:

- (i) Its purpose;
- (ii) An estimate of the total volume of material to be moved;
- (iii) The height of all cut banks and fill slopes;
- (iv) Provisions to be used for compaction, drainage, and stabilization of graded areas (preparation of this information by a licensed engineer or engineering geologist is recommended);

(v) A description of all plant materials used to revegetate exposed slopes and banks, including type of species, number of, size and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings; and

(vi) A description of any other interim or permanent erosion control measures to be utilized.

(v) Expansion of existing quarries and new production and/or development of mineral resources proposed on sites more than 3 miles from the nearest Key Viewing Areas from which it is visible may be allowed upon a demonstration that:

(A) The site plan requirements for such proposals pursuant to this chapter have been met.

(B) The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc. associated with the use would be visually subordinate as seen from any Key Viewing Areas.

(C) A reclamation plan to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved. The plan shall be approved by the applicable state agency with jurisdiction, or approved by the Development Review Officer with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At minimum, a reclamation plans shall comply with Commission Rule 350-110-520 (1)(e).

(D) A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed mining activities from Key Viewing Areas, including:

(i) A list of Key Viewing Areas from which exposed mining surfaces (and associated facilities/activities) would be visible;

(ii) An estimate of the surface area of exposed mining surfaces which would be visible from those Key Viewing Areas;

(iii) The distance from those Key Viewing Areas and the linear distance along those Key Viewing Areas from which proposed mining surfaces are visible;

(iv) The slope and aspect of mining surfaces relative to those portions of Key Viewing Areas from which they are visible;

(v) The degree to which potentially visible mining surfaces are screened from Key Viewing Areas by existing vegetation, including winter screening considerations.

(vi) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc. and appropriate time frames to achieve such results, including winter screening considerations.

(w) Unless addressed by guideline (v) above, new production and/or development of mineral resources may be allowed upon a demonstration that:

(A) The site plan requirements for such proposals pursuant to this chapter have been met;

(B) The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc. associated with the use would be fully screened from any Key Viewing Area; and

(C) A reclamation plan to restore the area to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved by the applicable state agency with jurisdiction, or approved by the Development Review Officer with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At minimum, the reclamation plan shall comply with Commission Rule 350-110-520 (1)(e).

(x) An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than 3 miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.

(y) An interim time period to achieve compliance with full screening requirements for new quarries located less than 3 miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring prior to achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

(z) Compliance with specific approval conditions to achieve visual subordination (such as landscaped screening), shall occur within a period not to exceed 2 years after the date of development approval. This guideline shall apply to all development regulated by this section except mining and associated uses.

(3) All Review Uses within the following landscape settings shall comply with the following applicable guidelines:

(a) Pastoral

(A) New development shall be compatible with the general scale (height, dimensions, overall mass) of development in the vicinity. Expansion of existing development

shall comply with this guideline to the maximum extent practicable.

(B) Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.

(iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).

(iv) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.

(v) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-110-520 (2)(k) or (l).

(D) Compatible recreation uses include resource-based recreation uses of a very low or low-intensity nature (as defined by Commission Rule 350-110-610), occurring infrequently in the landscape.

(b) Coniferous Woodland

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Structure height shall remain below the forest canopy level.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the setting. Such species include: Douglas fir, grand fir, western red cedar, western hemlock, big leaf maple, red alder, ponderosa pine and Oregon white oak, and various native willows (for riparian areas).

(iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(iv) The exteriors of structures shall be either natural or earth-tone colors unless specifically exempted by Commission Rule 350-110-520 (2)(k) or (l).

(D) Compatible recreation uses include resource-based recreation uses of varying intensities. Typically, outdoor recreation uses should be low-intensity, and include trails, small picnic areas and scenic viewpoints. Some more intensive recreation uses, such as campgrounds, may occur.

They should be scattered, interspersed with large areas of undeveloped land and low-intensity uses.

(c) Oak-Pine Woodland

(A) New development shall be compatible with the general scale (height, dimensions, and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Structure height shall remain below the tree canopy level in wooded portions of this setting.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development.

(i) At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir.

(ii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

For substantially wooded portions:

(iii) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.

(iv) The exteriors of structures shall be either natural or earth-tone colors, unless specifically exempted pursuant to Commission Rule 350-110-520 (2)(k) or (l).

For treeless portions or portions with scattered tree cover:

(v) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.

(vi) Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.

(vii) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.

(viii) The exteriors of structures shall be dark and either natural or earth-tone colors, unless specifically exempted pursuant to Commission Rule 350-110-520 (2)(k) or (l).

(D) Resource-based recreation uses of varying intensities may be compatible with this setting, although most are of low-intensity nature (such as trails or small scenic outlooks). More intensive recreation uses may be compatible where allowed pursuant to Commission Rule 350-110-610, although they are generally rare in this setting. As with Woodland settings, intensive recreation uses in Oak-Pine Woodlands may be compatible if widely scattered and not in large concentrations.

(d) Grassland

(A) New development shall be compatible with the general scale (height, dimensions, and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible. Exceptions to this guideline are permitted where necessary for farming operations.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.

(ii) Lower structures that emphasize horizontal lines and blend with this sweeping landscape should be encouraged rather than very tall structures.

(iii) Planting of trees for screening shall not be extensive, in character with the openness of this setting. Where used, screening vegetation shall either tie in with nearby riparian vegetation in seasonal drainages or emulate windrows. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include Oregon white oak, Lombardy poplar, black locust, black cottonwood (wet locations), Russian olive and ponderosa pine.

(iv) The exteriors of structures shall be dark and either natural or earth-tone colors, unless specifically exempted pursuant to Commission Rule 350-110-520 (2)(k) or (l).

(D) Resource-based recreation uses of a very low-intensity or low-intensity nature that occur infrequently are compatible with this setting, and include hiking, hunting and wildlife viewing.

(e) Rural Residential

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.

(C) In portions of this setting visible from Key Viewing Areas, and not exempt from visual subordination guidelines (pursuant to the "Developed Settings and Visual Subordination Policies" Section in Part I, Chapter 1 of the Management Plan) the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

(iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(iv) Structures' exteriors shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-110-520 (2)(k) or (l).

(D) Compatible recreation uses should be limited to small community park facilities, but occasional low-intensity resource-based recreation uses (such as small scenic overlooks).

(f) Rural Residential/Pastoral, Rural Residential/Coniferous Woodland, and Rural Residential/Oak-Pine Woodland

(A) New development in this setting shall meet the design guidelines for both the Rural Residential setting and

the more rural setting with which it is combined (either Pastoral, Coniferous Woodland or Oak-Pine Woodland), unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In the event of a possible conflict between the guidelines, the guidelines for the more rural setting (Coniferous Woodland, Oak-Pine Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.

(C) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

(g) Residential

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In portions of this setting visible from Key Viewing Areas and not exempt from visual subordination guidelines (pursuant to the "Developed Settings and Visual Subordination Policies" section of Part I, Chapter 1 of the Management Plan), the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) Structures' exteriors shall be non-reflective unless fully screened from Key Viewing Areas with existing vegetation and/or topography.

(iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

(iv) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(v) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-110-520 (2)(k) or (l).

(C) Compatible recreation uses are limited to community park facilities.

(h) Village

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) New commercial buildings shall be limited in size to a total floor area of 5,000 square feet or less, and shall be limited in height to 2 and 1/2 stories or less.

(C) For new commercial, institutional (churches, schools, government buildings) or multi-family residential uses on parcels fronting a Scenic Travel Corridor (Washington State Route 14 or the Historic Columbia River Highway) and expansion of existing development for such uses, parking shall be limited to rear or side yards of buildings to the maximum extent practicable.

(D) New vehicular access points to the Scenic Travel Corridors shall be limited to the maximum extent practica-

ble, and access consolidation shall be required where feasible.

(E) New development proposals and expansion of existing development shall be encouraged to follow planned unit development approaches, featuring consolidated access, commonly-shared landscaped open areas, etc.

(F) New commercial, institutional or multi-family residential uses fronting a Scenic Travel Corridor shall comply with the following landscape requirements:

(i) Parking or loading areas for 10 or more spaces shall include a landscaped strip at least 5 feet in width between the new use and the Scenic Travel Corridor roadway.

(ii) The landscape strip required in guideline (F)(i) above shall include shrubs, vegetative ground cover and, at minimum, one tree spaced as appropriate to the species and not to exceed 25 feet apart on the average.

(G) The use of building materials that reinforce the Village Setting's character, such as wood, logs or stone, and that reflect community desires, should be encouraged.

(H) Architectural styles characteristic of the area (such as 1 and 1/2 story dormer roof styles in Corbett), and that reflect community desires, should be encouraged. Entry signs should be consistent with such architectural styles.

(I) Design features which create a "pedestrian friendly" atmosphere, such as large shop windows on the ground floor of commercial buildings, porches along ground floors with street frontage, etc. should be encouraged.

(J) Pedestrian walkways and bicycle paths should be encouraged and integrated into new developments wherever feasible.

(K) Where feasible, existing tree cover of species native to the region or commonly found in the area shall be retained when designing new development or expanding existing development.

(L) Compatible recreation uses may include community parks serving the recreation needs of local residents, and varying intensities of other recreation uses.

(i) River Bottomlands

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments are encouraged to maximize the percentage of planted screening vegetation native to this setting. Such species include: black cottonwood, big leaf maple, red alder, Oregon white ash, Douglas fir, western red cedar and western hemlock (west Gorge) and various native willow species.

(iii) At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening.

(iv) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-110-520 (2)(k) or (l).

(C) Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands or special habitat requirements may be compatible.

In other River Bottomland areas, nodes of moderate-intensity and/or high-intensity recreation uses may be compatible, provided that:

(i) their designs emphasize retention and/or enhancement of native riparian communities,

(ii) structures and parking areas are visually subordinate, and

(iii) they are separated from other areas of concentrated recreation usage by stretches of natural-appearing shoreline and adjacent uplands.

(j) Gorge Walls, Canyons and Wildlands

(A) New development and expansion of existing development shall be screened so it is not seen from Key Viewing Areas, to the maximum extent practicable.

(B) All trees planted to screen permitted development and uses from Key Viewing Areas shall be native to the area.

(C) Existing tree cover shall be retained to the maximum extent practicable, except for the minimum removal necessary to accommodate facilities otherwise permitted in the underlying land use designation or for safety purposes.

(D) All structures shall be limited in height to a maximum of 1 and 1/2 stories.

(E) All structures' exteriors shall be non-reflective.

(F) Signage shall be limited to natural materials such as wood or stone, with natural or earth-tone colors, unless public safety concerns or federal or state highway guidelines require otherwise.

(G) Compatible recreation uses are limited to very low or low-intensity, resource-based activities which focus on enjoyment and appreciation of sensitive resources. Such compatible uses (such as trails) are generally associated with minimal facility development, if any.

(4) All Review Uses with Scenic Travel Corridors shall comply with the following applicable guidelines:

(a) For the purposes of implementing this section, the foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the scenic travel corridor roadway.

(b) All new buildings and alterations to existing buildings, except in a Rural Center designation (village landscape setting), shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway. A variance to this setback requirement may be granted pursuant to Commission Rule 350-110-150(7). All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway, to the maximum extent practicable.

(c) Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a Scenic Travel Corridor roadway except in a Rural Center designation (village landscape setting), shall comply with guideline (4)(b) above to the maximum extent practicable.

(d) All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:

(A) An evaluation of potential visual impacts of the proposed project as seen from any Key Viewing Area;

(B) An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable guidelines to protect the resources.

(e) When evaluating possible locations for undergrounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for undergrounding in the Columbia River Gorge National Scenic Area Corridor Visual Inventory prepared in April, 1990.

(f) New production and/or development of mineral resources proposed within one-quarter mile of the edge of pavement of a Scenic Travel Corridor may be allowed upon a demonstration that full visual screening of the site from the Scenic Travel Corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a Scenic Travel Corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in Commission Rule 350-110-520 (2)(y).

(g) Expansion of existing quarries may be allowed pursuant to Commission Rule 350-110-520 (2)(v). Compliance with visual subordination requirements shall be achieved within time frames specified in Commission Rule 350-110-520 (2)(x).

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-110-530. Special Management Area Scenic Review Criteria.

The following scenic review guidelines shall apply to all Review Uses in the Special Management Area of the Columbia River Gorge National Scenic Area with the exception of rehabilitation or modification of historic structures eligible or on the National Register of Historic Places when such modification is in compliance with the national register of historic places guidelines:

(1) All Review Uses in the Special Management Area regardless of location or landscape setting shall comply with the following applicable guidelines:

(a) Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from Key Viewing Areas.

(b) Size, scale, shape, color, texture, siting, height, building materials, lighting, or other features of a proposed structure shall be visually subordinate in the landscape and have low contrast in the landscape.

(c) Colors shall be used in a manner so that developments are visually subordinate to the natural and cultural patterns in the landscape setting. Colors for structures and signs should be slightly darker than the surrounding background.

(d) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.

(e) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.

(f) Any exterior lighting shall be sited, limited in intensity, shielded or hooded in a manner that prevents lights from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting except for road lighting necessary for safety purposes.

(h) Seasonal lighting displays shall be permitted on a temporary basis, not to exceed three months duration.

(i) Reflectivity of structures and site improvements shall be minimized.

(j) Right-of-way vegetation shall be managed to minimize visual impact of clearing and other vegetation removal as seen from Key Viewing Areas. Roadside vegetation management (vista clearing, planting, etc.) should enhance views from the highway.

(k) Encourage existing and require new road maintenance warehouse and stockpile areas to be screened from view from Key Viewing Areas.

(2) New developments and land uses shall be evaluated to ensure that scenic resources are not adversely affected, including cumulative effects, based on visibility from Key Viewing Areas.

(3) All new developments and land uses immediately adjacent to scenic routes shall be in conformance with state or county scenic route guidelines.

(4) New land uses or developments shall comply with the following applicable design guidelines:

(a) Pastoral: Pastoral areas shall retain the overall appearance of an agricultural landscape.

(A) New developments and forest practices shall meet the Visual Quality Objective of partial retention.

(B) The use of plant species common to the landscape setting shall be encouraged. The use of plant species in rows as commonly found in the landscape setting is encouraged.

(C) Exterior colors of structures shall be earth-tone colors which will result in low contrast with the surrounding landscape.

(D) Exterior colors of structures may be white, except for the roof, only in the Mt. Pleasant and Dodson-Warrendale areas where other white structures are evident in the setting.

(b) Coniferous Woodlands and Oak-Pine Woodland: Woodland areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous and Oak/Pine Woodland landscape.

(A) New developments and land uses in lands designated Federal Forest or Open Space shall meet the Visual Quality Objective of retention; all other land use designations shall meet the Visual Quality Objective of partial retention as seen from Key Viewing Areas.

(B) Forest practices on National Forest lands included in the Mt. Hood National Forest Plans shall meet the Visual Quality Objective identified for those lands in those plans.

(C) Buildings in the Coniferous Woodland landscape setting shall be encouraged to have a vertical overall appearance and a horizontal overall appearance in the Oak-Pine Woodland landscape setting.

(D) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(E) The exteriors of structures in the Coniferous Woodland landscape setting shall be dark earth-tone colors which will result in low contrast with the surrounding landscape as seen from the Key Viewing Areas.

(F) Exterior colors of structures in Oak-Pine Woodland landscape setting shall be earth-tone colors which will result in low contrast with the surrounding landscape as seen from the Key Viewing Areas.

(c) Residential: The Residential setting is characterized by concentrations of dwellings.

(A) New developments and land uses shall meet the Visual Quality Objective of partial retention.

(B) At Rowena Dell, new buildings shall have a rustic appearance and use natural materials and earth-tone colors.

(C) At Latourell Falls, new buildings shall have an appearance consistent with the predominant historical architectural style.

(D) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native appearing characteristics.

(d) River Bottomlands: River bottomland shall retain the overall visual character of a floodplain and associated islands.

(A) New developments and land uses shall meet the Visual Quality Objective of partial retention, except in areas designated Open Space which shall meet the Visual Quality Objective of retention.

(B) Buildings shall have an overall horizontal appearance in areas with little tree cover.

(C) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(D) Exterior colors of structures shall be earth-tone or water-tone colors which will result in low contrast with surrounding landscape.

(e) Gorge Walls, and Canyonlands and Wildlands: New developments and land uses shall retain the overall visual character of the natural appearing landscape.

(A) New developments and land uses shall meet the Visual Quality Objective of retention as seen from Key Viewing Areas.

(B) Structures, including signs, shall have a rustic appearance, use non-reflective materials, and have low contrast with the surrounding landscape and be of a Cascadian architectural style.

(C) Temporary roads shall be promptly closed and revegetated.

(D) New utilities shall be below ground surface, where feasible.

(E) Use of plant species non-native to the Columbia River Gorge shall not be allowed.

(F) Exterior colors of structures shall be dark earth tones that will result in the structure having low contrast with the surrounding landscape.

(5) For forest practices the following guidelines shall apply:

(a) Forest practices must meet the design guidelines and Visual Quality Objective for the landscape setting designated for the management area.

(b) Not more than 16 percent of each total ownership within a viewshed shall be in created openings at any one time. The viewshed boundaries shall be delineated by the Forest Service.

(c) Size, shape, and dispersal of created openings shall maintain the natural patterns in the landscape.

(d) The maximum size of any created opening is 15 acres. In the foreground of Key Viewing Areas, the maximum size of created openings shall be five acres.

(e) Clearcutting shall not be used as a harvest practice to land designated Federal Forest Lands.

(f) Created openings shall not create a break or opening in the vegetation in the skyline as viewed from a Key Viewing Area.

(g) Created openings shall be dispersed to maintain at least 400 feet of closed canopy between openings. Closed canopy shall be at least 20 feet tall.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-540. General Management Area Cultural Resource Review Criteria.

(1) General Provisions for Implementing the Cultural Resources Protection Process.

(a) All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).

(b) Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any person who submits written comments on a proposed use (interested person). Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.

(c) Reconnaissance and Historic Surveys and Survey Reports.

(A) Reconnaissance survey requirements and exceptions.

(i) A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource,

including those uses listed as exceptions in Commission Rule 350-110-504 (1)(c)(A)(ii) below.

(ii) A reconnaissance survey shall be required for all proposed uses, except:

(I) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

(II) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.

(III) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved.

The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

(IV) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.

(V) Proposed uses that would occur on sites that have been adequately surveyed in the past.

The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.

(VI) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

● Residential development that involves two or more new dwellings for the same project applicant.

● Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.

● Public transportation facilities that are outside improved rights-of-way.

● Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater.

● Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Areas that have a low probability of containing cultural resources shall be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.

The Gorge Commission, after consulting Indian tribal governments and state historic preservation officers, shall

prepare and adopt a map showing areas that have a low probability of containing cultural resources. This map shall be adopted within 200 days after the Secretary of Agriculture concurs with the Management Plan. It shall be refined and revised as additional reconnaissance surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

(B) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.

(C) The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the GMA. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.

For Commission Rule 350-110-540, large-scale uses include residential development involving two or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

(D) Reconnaissance Surveys for Small-Scale Uses.

Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:

(i) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.

(ii) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.

(E) Reconnaissance Survey Reports for Small-Scale Uses

The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:

(i) A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.

(ii) A description of any cultural resources that were discovered in the project area, including a written description and photographs.

(iii) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

(F) Reconnaissance Surveys for Large-Scale Uses

(i) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.

(ii) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:

(I) Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.

(II) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.

(III) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.

(IV) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.

(G) Reconnaissance Survey Reports for Large-Scale Uses

The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

(i) A description of the proposed use, including drawings and maps.

(ii) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.

(iii) A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.

(iv) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(v) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(vi) A summary of all written comments submitted by Indian tribal governments and other interested persons.

(vii) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.

(H) Historic Surveys and Reports

(i) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.

(ii) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.

(iii) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.

(d) The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant, except for resources discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.

(e) Cultural resources are significant if one of the following criteria is satisfied:

(A) The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4).

(B) The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.

(f) The Gorge Commission shall establish a Cultural Advisory Committee (CAC). The CAC shall comprise cultural resource professionals, interested individuals, and at least one representative from each of the four Indian tribes. If a project applicant's and Indian tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and Indian tribal government's substantiated concerns. The CAC will submit a recommendation to the Development Review Officer as to whether affected cultural resources are significant.

(2) Cultural Resource Reconnaissance and Historic Surveys

(a) Consultation and Ethnographic Research

(A) When written comments are submitted to the Development Review Officer within the comment period provided in Commission Rule 350-110-120, the project applicant shall offer to meet with the interested persons within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the interested persons.

Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed.

All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

(B) A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate.

All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

(b) Notice of Survey Results

(A) The Development Review Officer shall submit a copy of all cultural resource survey reports to the State Historic Preservation Officer and the Indian tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

(B) The State Historic Preservation Office and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the proposed use would be consistent with Commission Rule 350-110-540. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Development Review Officer shall justify how it reached an opposing conclusion.

(B) The cultural resource protection process may conclude when one of the following conditions exists:

(i) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 20 calendar days of the date that a notice was mailed.

(ii) A reconnaissance survey demonstrates that cultural resources do not exist in the project area and no substantiated concerns were voiced by interested persons within 20 calendar days of the date that a notice was mailed.

(iii) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground-disturbing activities shall be prohibited within the buffer zone.

Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.

An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

(C) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:

(i) The State Historic Preservation Officer concludes that the historic buildings or structures are clearly not

significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or

(ii) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission.

The historic survey and report must demonstrate that these guidelines have been clearly and absolutely satisfied. If the State Historic Preservation Officer or the Development Review Officer question whether these guidelines have been satisfied, the project applicant shall conduct an evaluation of significance.

(3) Evaluation of Significance

(a) Evaluation Criteria and Information Needs

If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:

(A) Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior, no date) and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.

(B) To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.

(C) The project applicant shall contact Indian tribal governments and interested persons, as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.

(D) The evaluation of significance shall follow the principles, guidelines, and report format recommended by the Oregon State Historic Preservation Office (Oregon SHPO 1990) or Washington Office of Archaeology and Historic Preservation (Washington SHPO, no date). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.

(E) All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with Indian tribal governments and other interested persons shall be presented. All comments, recommendations, and corre-

spondence from Indian tribal governments and interested persons shall be appended to the evaluation of significance.

(b) Notice of Evaluation Results

(A) If the evaluation of significance demonstrates that the cultural resources are not significant, the Development Review Officer shall submit a copy of the evaluation of significance to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(C) Cultural Resources are Culturally Significant

(i) If an Indian tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make an independent review of the applicant's evaluation and the Indian tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.

(ii) The Indian tribal government shall substantiate its concerns in a written report. The report shall be submitted to the Development Review Officer, CAC, and the project applicant within 15 calendar days from the date the evaluation of significance is mailed. The CAC must submit its recommendation to the Development Review Officer within 30 calendar days from the date the evaluation of significance is mailed.

(d) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Officer or CAC, the Development Review Officer shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the affected cultural resources are not significant.

(C) If the project applicant or the Development Review Officer determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

(4) Assessment of Effect

(a) Assessment Criteria and Information Needs

If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect. The assessment shall meet the following guidelines:

(A) The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.9) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.8.

(i) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR 800.9(a)].

(ii) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association [36 CFR 800.9(b)]. Adverse effects on cultural resources include, but are not limited to:

(I) Physical destruction, damage, or alteration of all or part of the cultural resource.

(II) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.

(III) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.

(IV) Neglect of a significant cultural resource resulting in its deterioration or destruction.

(B) The assessment of effect shall be prepared in consultation with Indian tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by Indian tribal governments and interested persons shall be recorded and addressed in the assessment.

(C) The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:

(i) The cultural resources are of value only for their potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines.

(ii) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

(b) Notice of Assessment Results

(A) If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the Development Review Officer shall submit a copy of the assessment to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the assessment of effect is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Development Review Officer shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

(C) A mitigation plan shall be prepared if a project applicant or the Development Review Officer determines that the proposed use would have an adverse effect on significant cultural resources.

(5) Mitigation Plans

(b) Mitigation Plan Criteria and Information Needs

Mitigation plans shall be prepared when proposed uses would have an adverse effect on significant cultural resources. The plans shall reduce an adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following guidelines:

(A) Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including Indian tribal governments, Native Americans, local governments whose jurisdiction encompasses the project area, and the State Historic Preservation Officer.

(B) Avoidance of cultural resources through project design and modification is preferred. Avoidance may be effected by reducing the size, scope, configuration, and density of the proposed use.

Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative measures include, but are not limited to, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism shall be developed and recorded in county deeds and records.

(C) Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR 800.8(d), including, but not limited to:

(i) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use.

(ii) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection.

(iii) Documentation of consultation with the State Historic Preservation Officer regarding any alternatives or mitigation measures.

(iv) A description of the project applicant's efforts to obtain and consider the views of Indian tribal governments, interested persons, and Development Review Officer.

(v) Copies of any written recommendations submitted to the Development Review Officer or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.

(b) Notice of Mitigation Plan Results

(A) If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the Development Review Officer shall submit a copy of the mitigation plan to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the mitigation plan is mailed to submit

written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Development Review Officer shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.

(C) The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

(6) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Development Review Officer and the State Historic Preservation Officer. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

(a) Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

(b) Notification. The project applicant shall notify the Development Review Officer and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.

(c) Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Officer. (See Oregon Revised Statute [ORS] 273.705, ORS 358.905 to 358.955, and Revised Code of Washington [RCW] 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in "Reconnaissance Survey Reports for Large-Scale Uses" [Commission Rule 350-110-540 (1)(c)(F)] and "Evaluation of Significance: Evaluation Criteria and Information Needs" [Commission Rule 350-110-540 (3)(a)].

Based on the survey and evaluation report and any written comments, the Development Review Officer shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant.

A mitigation plan shall be prepared if the affected cultural resources are significant.

(d) Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in the "Mitigation Plans: Mitigation Plan Criteria and Information Needs" section of this chapter.

Construction activities may recommence when the conditions in the mitigation plan have been executed.

(7) Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

(a) Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.

(b) Notification. Local law enforcement officials, the Development Review Officer, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.

(c) Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.

(d) Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.

(e) Treatment. In Oregon, prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760. In Washington, the procedures set forth in RCW 27.44 and 68.05 shall generally be implemented if the remains are prehistoric/historic.

If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in "Mitigation Plans: Mitigation Plan Criteria and Information Needs" [Commission Rule 350-110-540 (5)(a)].

The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in "Mitigation Plans: Conclusion of the Cultural Resource Protection Process" [Commission Rule 350-110-540 (5)(c)] are met and the mitigation plan is executed.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-110-550. Special Management Area Cultural Resource Review Criteria.

(1) General Guidelines for Implementing the Cultural Resources Protection Process

(a) All cultural resource information shall remain confidential, according to Section 6 (a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470 hh and 36 CFR 296.18.

(b) Principal investigators shall meet the professional standards published in 36 CFR part 61.

(c) The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in Commission Rule 350-110-550(4) for forest practices and National Forest System lands.

(d) New developments or land uses shall not adversely affect significant cultural resources.

(2) The procedures and guidelines in Commission Rule 350-110-540 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.

(3) The cultural resource review criteria shall be deemed satisfied if the Forest Service or the Development Review Officer does not require a cultural resource survey and no comment is received during the comment period provided in Commission Rule 350-110-120.

(4) If the Forest Service or Development Review Officer determines that a cultural resource survey is required for a new development or land use on all Federal lands, federally assisted projects and forest practices, it shall consist of the following:

(a) Literature Review and Consultation

(A) An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.

(B) A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be allowed for 30 days.

(C) Consultation with cultural resource professionals knowledgeable about the area.

(D) The cultural resources review shall be complete if the Forest Service or Development Review Officer determines that no recorded or known cultural resources exist on or within the immediate vicinity of a new development or land use after consultation with the Tribal governments.

(E) A field inventory by a cultural resource professional shall be required if the Forest Service or the Development Review Officer determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the Tribal governments.

(b) Field Inventory

(A) Tribal representatives shall be invited to participate in the field inventory.

(B) The field inventory shall consist of one or the other of the following guidelines, as determined by the cultural resource professional:

(i) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects. A complete survey may also require techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the presence of buried cultural resources.

(ii) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally

accomplished by a stratified random or non-stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

(C) A field inventory report shall be prepared, and shall include the following:

(i) A narrative integrating the literature review of section (4)(a) above with the field inventory of section (4)(b) above.

(ii) A description of the field inventory methodology used, including the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.

(iii) A statement of the presence or absence of cultural resources within the area of the new development or land use.

(iv) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.

(D) The report shall follow the format specified by the Washington Office of Archaeology and Historic Preservation for inventories conducted in the State of Washington. Reports for inventories conducted in the State of Oregon shall follow the format specified by the Oregon State Historic Preservation Office.

(E) The field inventory report shall be presented to the Forest Service or the Development Review Officer for review.

(F) The cultural resource review shall be complete if the Forest Service or the Development Review Officer determines that no cultural resources exist within the area of the new development or land use.

(c) Evaluations of Significance

(A) When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with to the criteria of the National Register of Historic Places (36 CFR 60.4).

(B) Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.

(C) Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within local and regional contexts.

(D) Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service or the Development Review Officer shall review evaluations for adequacy.

(E) Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

(F) The cultural resource review shall be complete if the Forest Service or the Development Review Officer determines that the inventoried cultural resources are not significant.

(G) An assessment of effect shall be required if the Forest Service or the Development Review Officer determines that the inventoried cultural resources are significant.

(d) Assessment of Effect

(A) For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.9 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for sections (4)(d)(B) through (4)(d)(D) below. The Forest Service or Development Review Officer shall review each determination for adequacy.

(B) If the proposed development or change in use will have "No Adverse Effect," as defined by 36 CFR 800.8, to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Requirements" of 36 CFR 800.8(a).

(C) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.9(b) to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented. This documentation shall follow the process outlined under 36 CFR 800.5(e).

(D) If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.8 ("Documentation Requirements").

(e) Mitigation

(A) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects. These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.

(B) Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.

(C) The Forest Service or the Development Review Officer shall review all mitigation proposals for adequacy.

(5) Discovery During Construction

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Forest Service or the Development Review Officer if cultural resources are discovered during construction or development.

(a) If cultural resources are discovered, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and/or recover the resources.

(b) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:

(A) The applicant shall stop all work in the vicinity of the discovery.

(B) The applicant shall immediately notify the Development Review Officer, the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.

(C) The Forest Service or the Development Review Officer shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.

(D) A cultural resource professional shall evaluate the potential significance of the resource pursuant to Commission Rule 350-110-550 (4)(c) and report the results to the Forest Service or the Development Review Officer.

(c) The cultural resource review process shall be complete and work may continue if the Forest Service or the Development Review Officer determines that the cultural resource is not significant.

(d) The cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to Commission Rule 350-110-550 (4)(e) if the Forest Service or the Development Review Officer determines that the cultural resource is significant.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

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350-110-560. General Management Area Wetland Review Criteria.

(1) Wetlands Boundaries and Site Plans for Review Uses in Wetlands

(a) If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for determining the exact location of the wetland boundary.

(A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands. Wetlands boundaries shall be delineated using the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (Federal Interagency Committee for Wetland Delineation, 1989), and any subsequent amendments.

(B) All wetlands delineations shall be conducted by a professional which has been trained to use the federal delineation process, such as a soil scientist, botanist, or wetlands ecologist.

(C) The Development Review Officer may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Development Review Officer shall, at the applicant's expense, obtain professional services to render a final delineation.

(b) In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include:

(A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;

(B) the exact boundary of the wetland and the wetlands buffer zone; and

(C) a description of actions that would alter or destroy the wetland.

(2) The following uses are allowed in wetlands and wetlands buffer zones without review, if they:

(a) Are conducted using best management practices;

(b) Do not require structures, grading, draining, flooding, ditching, vegetation removal, or dredging beyond the extent specified below; and

(c) Comply with all applicable federal, state, and county laws:

(A) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.

(B) Soil, water, and vegetation conservation uses that protect and enhance wetlands acreage and functions.

(C) Low-intensity recreation uses, including hunting, fishing, trapping, bird watching, hiking, boating, swimming, and canoeing.

(D) Non-commercial harvesting of wild crops, such as ferns, moss, berries, tubers, tree fruits, and seeds in a manner that does not injure natural plant reproduction or impact sensitive plant species.

(E) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation. For this guideline cultivation and vegetation removal may be allowed in conjunction with a home garden.

(F) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(G) Commercial fishing and trapping.

(H) Educational uses and scientific research.

(I) Navigation aids, including structures covered by Section 17 (a)(3) of the Scenic Area Act.

(J) Forest practices that do not violate conditions of approval for other approved uses.

(K) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(L) Proposed uses that would occur in the main stem of the Columbia River. The main stem of the Columbia River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 and dated September 1986. (This map is available at county planning departments and Commission and Forest Service offices.) The boundaries of the main stem appear as a heavy black line that generally follows the shoreline. For Commission Rule 350-110, backwaters and isolated water bodies created by roads and railroads are not part of the main stem of the Columbia River.

(3) The following uses may be allowed in wetlands and wetlands buffer zones when approved pursuant to the provisions in Commission Rule 350-110-560(5), and re-

viewed under the applicable provisions of Commission Rule 350-110-520 through 350-110-620:

(a) The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

(A) Increase the size of an existing structure by more than 100 percent,

(B) Result in a loss of wetlands acreage or functions, or

(C) Intrude further into a wetland or wetlands buffer zone. New structures shall be considered intruding further into a wetland or wetlands buffer zone if any portion of the structure is located to the wetland or wetlands buffer zone than the existing structure.

(b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

(c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(4) Uses not listed in Commission Rule 350-110-560(3) may be allowed in wetlands and wetlands buffer zones, when approved pursuant to Commission Rule 350-110-560(6) and reviewed under the applicable provisions of Commission Rule 350-110-520 through 350-110-620.

(5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in wetlands shall demonstrate that:

(a) Practicable alternatives to locating the structure outside of the wetlands or wetland buffer zone and/or minimizing the impacts of the structure do not exist;

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of the wetlands, existing contour, functions, vegetation, fish and wildlife resources, and hydrology;

(c) The structure will be constructed using best management practices;

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

(e) The structure complies with all applicable federal, state, and county laws.

(6) Applications for all other Review Uses in wetlands shall demonstrate that:

(a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative considering all of the following:

(A) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands;

(B) The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in

a way that would avoid or result in less adverse effects on wetlands; and

(C) Reasonable attempts have been made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and zone designations. If a land designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

(b) The proposed use is in the public interest. The following factors shall be considered when determining if a proposed use is in the public interest:

(A) The extent of public need for the proposed use.

(B) The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.

(C) The functions and size of the wetland that may be affected.

(D) The economic value of the proposed use to the general area.

(E) The ecological value of the wetland and probable effect on public health and safety, fish, plants, and wildlife.

(c) Measures will be applied to ensure that the proposed use result in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.

(d) Groundwater and surface-water quality will not be degraded by the proposed use.

(e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlands buffer zones.

(f) The proposed use complies with all applicable federal, state, and county laws.

(g) Areas that are disturbed during construction will be rehabilitated to the maximum extent practicable.

(h) Unavoidable impacts to wetlands will be offset through restoration, creation, or enhancement of wetlands.

The following wetlands restoration, creation, and enhancement guidelines shall apply:

(A) Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.

(B) Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with a wetlands compensation plan.

(C) Wetlands restoration, creation, and enhancement projects shall use native vegetation.

(D) The size of replacement wetlands shall equal or exceed the following ratios (the first number specifies the required acreage of replacement wetlands and the second number specifies the acreage of wetlands altered or destroyed):

(i) Restoration: 2:1

(ii) Creation: 3:1

(iii) Enhancement: 4:1

(E) Replacement wetlands shall replicate the functions of the wetland that will be altered or destroyed such that no net loss of wetlands functions occurs.

(F) Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss of wetlands functions occurs.

(G) Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.

(H) Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is altered or destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.

(I) Five years after a wetland is restored, created, or enhanced at least 75 percent of the replacement vegetation must survive. The owner shall monitor the hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan and this guideline.

(7) Wetlands Buffer Zones

(a) The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.

(b) The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

(A) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent. A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(B) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(C) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines.

(c) Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required:

(A) Forest communities: 75 feet

(B) Shrub communities: 100 feet

(C) Herbaceous communities: 150 feet

(d) Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(8) Wetlands Compensation Plans

Wetlands compensation plans shall be prepared when a project applicant is required to restore, create or enhance wetlands. They shall satisfy the following guidelines:

(a) Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.

(b) Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered or destroyed and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.

(c) Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.

(d) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1 foot, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(A) Soil and substrata conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.

(B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(C) Water-quality parameters, water source, water depths, water-control structures, and water-level maintenance practices needed to achieve the necessary hydrologic conditions.

(e) A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.

(f) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-570. General Management Area Stream, Pond, Lake and Riparian Area Review Criteria. (1) Stream, Pond, and Lake Boundaries and Site Plans for Review Uses in Aquatic and Riparian Areas

(a) If a proposed use would be in a stream, pond, lake or their buffer zones, the project applicant shall be responsible for determining the exact location of the ordinary high watermark or normal pool elevation.

(b) In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include:

(A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;

(B) the exact boundary of the ordinary high watermark or normal pool elevation and prescribed buffer zone; and
 (C) a description of actions that would alter or destroy the stream, pond, lake, or riparian area.

(2) The following uses are allowed in streams, ponds, lakes, and their buffer zones without review, if they:

(a) Are conducted using best management practices;

(b) Do not require structures, grading, draining, flooding, ditching, vegetation removal, or dredging beyond the extent specified below; and

(c) Comply with all applicable federal, state, and county laws:

(A) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.

(B) Soil, water, and vegetation conservation uses that protect water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas.

(C) Low-intensity recreation uses, including hunting, fishing, trapping, bird watching, hiking, boating, swimming, and canoeing.

(D) Non-commercial harvesting of wild crops, such as ferns, moss, berries, tubers, tree fruits, and seeds in a manner that does not injure natural plant reproduction or impact sensitive plant species.

(E) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation and shall require a review use permit. For this guideline cultivation and vegetation removal may be allowed in conjunction with a home garden.

(F) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(G) Commercial fishing and trapping.

(H) Educational uses and scientific research.

(I) Navigation aids, including structures covered by Section 17 (a)(3) of the Scenic Area Act.

(J) Forest practices that do not violate conditions of approval for other approved uses.

(K) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(L) Proposed uses that would occur in those portions of the main stem of the Columbia River that adjoin the Urban Area.

(3) The following uses may be allowed in streams, ponds, lakes and riparian areas when approved pursuant Commission Rule 350-110-570(5), and reviewed under the applicable provisions of Commission Rule 350-110-520 through 350-110-620:

(a) The modification, expansion, replacement, or reconstruction of serviceable structures, provided that such actions would not:

(A) Increase the size of an existing structure by more than 100 percent,

(B) Result in a loss of water quality, natural drainage, and fish and wildlife habitat, or

(C) Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further

into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.

(b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

(c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(4) Uses not listed in Commission Rule 350-110-570 (2) and (3) may be allowed in streams, ponds, lakes, and riparian areas, when approved pursuant to Commission Rule 350-110-570(5) and reviewed under the applicable provisions of Commission Rule 350-110-520 through 350-110-620.

(5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in aquatic and riparian areas

(a) Practicable alternatives to locating the structure outside of the stream, pond, lake, or buffer zone and/or minimizing the impacts of the structure do not exist;

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas;

(c) The structure will be constructed using best management practices;

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

(e) The structure complies with all applicable federal, state, and local laws.

(6) Applications for all other Review Uses in wetlands shall demonstrate that:

(a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by Commission Rule 350-110-560 (6)(a), substituting the term stream, pond, lake, or riparian area as appropriate.

(b) The proposed use is in the public interest as determined by Commission Rule 350-110-560 (6)(b), substituting the term stream, pond, lake, or riparian area as appropriate.

(c) Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone.

At a minimum, the following mitigation measures shall be considered when new uses are proposed in streams, ponds, lakes, and buffer zones:

(A) Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. Work in streams, ponds, and lakes shall be conducted during the periods specified in "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife, 1986). In

Washington, the Washington Department of Wildlife and Washington Department of Fisheries shall evaluate specific proposals and specify periods for in-water work.

(B) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.

(C) Nonstructural controls and natural processes shall be used to the greatest extent practicable.

(D) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(E) Stream channels should not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used.

(F) Temporary and permanent control measures should be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(d) Groundwater and surface-water quality will not be degraded by the proposed use.

(e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

(f) The proposed use complies with all applicable federal, state, and county laws.

(g) Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement.

Rehabilitation and enhancement shall achieve no net loss of water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.

When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required.

The following rehabilitation and enhancement guidelines shall apply:

(A) Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation and enhancement plan.

(B) Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.

(C) Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient.

(D) The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.

(E) Riparian areas shall be rehabilitated to their original configuration, including slope and contour.

(F) Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structures. Structures include large woody debris and boulders.

(G) Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant species that replicate the original vegetation community.

(H) Rehabilitation and enhancement efforts shall be completed no later 90 days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(I) Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least 75 percent of the replacement vegetation must survive. The owner shall monitor the replacement vegetation and take corrective measures to satisfy this guideline.

(7) Stream, Pond, and Lake Buffer Zones

(a) Buffer zones shall generally be measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(A) Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet

(B) Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet

(C) Ponds and lakes: Buffer zone widths shall be based on dominant vegetative community as determined by Commission Rule 350-110-560 (7)(b), substituting the term pond or lake as appropriate.

(b) Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(c) Determining the exact location of the ordinary high watermark or normal pool elevation shall be the responsibility of the project applicant. The Development Review Officer may verify the accuracy of, and may render adjustments to, an ordinary high water-mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the applicant, the Development Review Officer shall, at the project applicant's expense, obtain professional services to render a final delineation.

(8) Rehabilitation and Enhancement Plans

Rehabilitation and enhancement plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake and/or buffer area. They shall satisfy the following guidelines:

(a) Rehabilitation and enhancement plans are the responsibility of the project applicant; they shall be prepared by qualified professionals, such as fish or wildlife biologists.

(b) All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, and/or buffer zone. The assessment shall include hydrology, flora, and fauna.

(c) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least 2 feet, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(A) Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to successfully rehabilitate and enhance the stream, pond, lake, and buffer zone.

(B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(C) Water-quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.

(d) A 3-year monitoring, maintenance, and replacement program shall be included in all rehabilitation and enhancement plans. At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.

(e) A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a rehabilitation and enhancement plan.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-580. General Management Area Sensitive Wildlife Review Criteria.

(1) Sensitive Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife

(a) Proposed uses shall not adversely affect sensitive wildlife areas or sensitive wildlife sites:

(A) "Sensitive wildlife areas" in the Columbia Gorge means the following land and water areas that appear in the wildlife inventory map prepared and maintained by the Gorge Commission:

- Bald eagle habitat
- Deer and elk winter range
- Elk habitat
- Mountain goat habitat
- Peregrine falcon habitat
- Pika colony area
- Pileated woodpecker habitat
- Pine marten habitat
- Shallow water fish habitat (Columbia R.)
- Special streams
- Special habitat area
- Spotted owl habitat
- Sturgeon spawning area
- Tributary fish habitat
- Turkey habitat
- Waterfowl area
- Western pond turtle habitat

(B) "Sensitive wildlife sites" means sites that area used by animal species that are

(i) listed as endangered or threatened pursuant to federal or state endangered species acts,

(ii) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,

(iii) listed as sensitive by the Oregon Fish and Wildlife Commission, or

(iv) considered to be of special interest to the public (limited to great blue heron, osprey, golden eagle, and prairie falcon).

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive wildlife area or site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) The following uses may be allowed within 1,000 feet of sensitive wildlife areas and sites without review, if they do not involve new structures, vegetation removal, or actions that disturb the ground, such as grading, or ditching beyond the extent specified below:

(a) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation.

(b) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(c) Forest practices that do not violate conditions of approval for other approved uses.

(d) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(e) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.

(3) Field Survey

A field survey to identify sensitive wildlife areas or sites shall be required for:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a professional wildlife biologist hired by the project applicant. All sensitive wildlife areas and sites discovered in a project area shall be described and shown on the site plan map.

(4) Uses not listed in Commission Rule 350-110-580(2) may be allowed within 1,000 feet of a sensitive wildlife area or site, when approved pursuant to Commission Rule 350-110-580(5) and reviewed under the applicable provisions of Commission Rule 350-110-520 through 350-110-620.

(5) Uses that are proposed within 1,000 feet of a sensitive wildlife area or site shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon Department of Fish and Wildlife or the Washington Department of Wildlife by the Development Review Officer. State wildlife

biologists will review the site plan and their field survey records and:

(A) Identify/verify the precise location of the wildlife area or site,

(B) Ascertain whether the wildlife area or site is active or abandoned, and

(C) Determine if the proposed use may compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify the wildlife inventory and assess the potential effects of a proposed use.

(b) The following factors may be considered when site plans are reviewed:

(A) Biology of the affected wildlife species.

(B) Published guidelines regarding the protection and management of the affected wildlife species. The Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron. The Washington Department of Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner, 1991).

(C) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(D) Historic, current, and proposed uses in the vicinity of the sensitive wildlife area or site.

(E) Existing condition of the wildlife area or site and the surrounding habitat and the useful life of the area or site.

(c) The wildlife protection process may terminate if the Development Review Officer, in consultation with the state wildlife agency, determines:

(A) The sensitive wildlife area or site is not active, or

(B) The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

(d) If the Development Review Officer, in consultation with the state wildlife agency, determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the applicant that describes the effects and measures needed to eliminate them. If the project applicant accepts these recommendations, the Development Review Officer will incorporate them into the land use review order and the wildlife protection process may conclude.

(e) The project applicant shall prepare a wildlife management plan if the Development Review Officer, in consultation with the state wildlife agency, determines that the proposed use would adversely affect a sensitive wildlife area or site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing.

(f) The Development Review Officer shall submit a copy of all field surveys and wildlife management plans to Oregon Department of Fish and Wildlife or Washington Department of Wildlife. The state wildlife agency will have 20 days from the date that a field survey or management plan is mailed to submit written comments to the Development Review Officer.

The Development Review Officer shall record and address any written comments submitted by the state wildlife agency in the land use review order.

Based on the comments from the state wildlife agency, the Development Review Officer will make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the Development Review Officer shall justify how the opposing conclusion was reached.

The Development Review Officer shall require the applicant to revise the wildlife management plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

(6) Wildlife Management Plans

Wildlife management plans shall be prepared when a proposed use is likely to adversely affect a sensitive wildlife area or site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his/her development options, and mitigates temporary impacts to the wildlife area or site and/or buffer zone.

Wildlife management plans shall meet the following guidelines:

(a) Wildlife management plans shall be prepared by a professional wildlife biologist hired by the project applicant.

(b) All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the wildlife area or site.

(c) The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components, that are essential to maintain the long-term use and integrity of the wildlife area or site.

(d) A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.

(e) The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect sensitive wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:

(A) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. Low intensity, non-destructive uses may be conditionally authorized in the core habitat.

(B) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonal-

ly, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.

(f) Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones. When a buffer zone has been altered or degraded in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife area or site.

Rehabilitation and enhancement actions shall be documented in the wildlife management plan and shall include a map and text.

(g) The applicant shall prepare and implement a 3 year monitoring plan when the affected wildlife area or site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the wildlife area or site and the success of rehabilitation and/or enhancement actions.

At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the rehabilitation and enhancement guidelines.

(7) New fences in deer and elk winter range

(a) New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

(b) New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson, et. al. 1990), as summarized below, unless the applicant demonstrates the need for an alternative design:

(A) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.

(B) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

(C) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.

(D) Stays, or braces placed between strands of wire, shall be positioned between fences posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.

(c) Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-110-590. General Management Areas Rare Plant Review Criteria.

(1) Sensitive Plants and Site Plans for Review Uses Near Sensitive Plants

(a) Proposed uses shall not adversely affect sensitive plants. "Sensitive plants" means plant species that are

(A) endemic to the Columbia River Gorge and vicinity,

(B) listed as endangered or threatened pursuant to federal or state endangered species acts, or

(C) listed as endangered, threatened, or sensitive by the Oregon or Washington Natural Heritage program.

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive plant shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) The following uses may be allowed within 200 feet of a sensitive plant without review, if they do not involve new structures, vegetation removal, or actions that disturb the ground, such as grading or ditching beyond the extent specified below:

(a) Low-intensity recreation uses, including hunting, fishing, trapping, native plant study, bird watching, boating, swimming, and hiking. Regarding sensitive plants, horseback riding is not considered a low-intensity use.

(b) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation.

(c) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(d) Forest practices that do not violate conditions of approval for other approved uses.

(e) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(3) Field Survey

A field survey to identify sensitive plants shall be required for:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. Field surveys shall identify the precise location of the sensitive plants and delineate a 200-foot buffer zone. The results of a field survey shall be shown on the site plan map.

(4) Uses not listed in Commission Rule 350-110-590(2) may be allowed within 1,000 feet of a sensitive plant, when approved pursuant to Commission Rule 350-110-590(5), and reviewed under the applicable provisions of Commission Rule 350-110-520 through 350-110-620.

(5) Uses that are proposed within 1,000 feet of a sensitive plant shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon or Washington Natural Heritage Program by the Development Review Officer. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer zone on the project applicant's site plan.

If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

(b) The rare plant protection process may conclude if the Development Review Officer, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a sensitive plant buffer zone.

(c) New uses shall be prohibited within sensitive plant species buffer zones, except those listed in Commission Rule 350-110-590(2).

(d) If a proposed use must be allowed within a sensitive plant buffer area in accordance with Commission Rule 350-110-150, the project applicant shall prepare a protection and rehabilitation plan pursuant to Commission Rule 350-110-590(6).

(e) The Development Review Officer shall submit a copy of all field surveys and protection and rehabilitation plans to the Oregon or Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that a field survey is mailed to submit written comments to the Development Review Officer.

The Development Review Officer shall record and address any written comments submitted by the Natural Heritage Program staff in the land use review order.

Based on the comments from the Natural Heritage Program staff, the Development Review Officer will make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Development Review Officer shall justify how the opposing conclusion was reached.

(6) Protection and Rehabilitation Plans

Protection and rehabilitation plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a sensitive plant buffer zone as the result of a variance.

Protection and rehabilitation plans shall meet the following guidelines:

(a) Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist hired by the project applicant.

(b) Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.

(c) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

(d) Sensitive plants and their surrounding habitat that will not be altered or destroyed shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation easements, livestock management, and noxious weed control.

(e) Habitat of a sensitive plant that will be affected by temporary uses shall be rehabilitated to a natural condition.

(f) Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.

(g) Protection and rehabilitation plans shall include maps, photographs, and text. The text shall:

(A) Describe the biology of sensitive plant species that will be affected by a proposed use.

(B) Explain the techniques that will be used to protect sensitive plants and their surrounding habitat that will not be altered or destroyed.

(C) Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will result from a proposed use.

(D) Include a 3-year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the Development Review Officer an annual report that documents milestones, successes, problems, and contingency actions.

(7) Sensitive Plant Buffer Zones

(a) A 200-foot buffer zone shall be maintained around sensitive plants. Buffer areas shall remain in an undisturbed, natural condition.

(b) Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, man-made features, or natural plant habitat boundaries negate the need for a 200 foot radius. Under no circumstances shall the buffer zone be less than 25 feet.

(c) Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the project applicant:

(A) Identifies the precise location of the sensitive plants,

(B) Describes the biology of the sensitive plants, and

(C) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected

plants and the surrounding habitat that is vital to their long-term survival.

All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.

(d) The Development Review Officer shall submit all requests to reduce sensitive plant species buffer areas to the Oregon or Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that such a request is mailed to submit written comments to the Development Review Officer.

The Development Review Officer shall record and address any written comments submitted by the Oregon or Washington Natural Heritage Program in the land use review order.

Based on the comments from the Oregon or Washington Natural Heritage Program, the Development Review Officer will make a final decision on whether the reduced buffer area is justified. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Development Review Officer shall justify how the opposing conclusion was reached.

350-110-600. Special Management Areas Natural Resource Review Criteria.

All new developments and land uses shall be evaluated to ensure that the natural resources on a site, or natural resources in danger of degradation or destruction from individual or cumulative off-site impacts, are protected from adverse effects. The Forest Service will provide the natural resource site evaluation and project analysis and evaluation for new uses and developments, except those sponsored by non-Forest Service federal and state agencies.

(1) Buffer zones shall be undisturbed unless it has been shown that no practicable alternatives exist, pursuant to Commission Rule 350-110-560 (6(a)(A) through (C), substituting the name of the resource as appropriate. New developments and uses may only be allowed in the buffer zone upon demonstration in the natural resources mitigation plan that no adverse effects would result.

(2) The applicant's site plan shall include the following additional information to facilitate evaluation for compliance with minimum natural resource protection guidelines:

(a) Location of the following sites and areas. The Forest Service will provide this information to the applicant.

(A) Sites of sensitive wildlife and sensitive plant species.

(B) Location of riparian and wetland areas. The exact location of the wetlands boundaries shall be delineated using the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (Federal Inter-agency Committee for Wetland Delineation, 1989). Changes to this manual shall not apply to wetlands in the Special Management Area unless the Management Plan has been amended.

(b) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.

(3) Site plans shall be submitted to the Forest Service, and the Oregon Department of Fish and Wildlife or Washington Department of Wildlife. The site plan shall be reviewed by the Forest Service in consultation with the appropriate state or federal agency and reviewed and approved by the Development Review Officer.

(4) Review of the site plan shall consider the following:

(a) Biology and habitat requirements of the flora or fauna of concern.

(b) Historic, current, and proposed uses in the vicinity of sensitive species, including cumulative effects.

(c) Existing condition of the site and the surrounding habitat and the useful life of the site.

(d) Physical characteristics of the subject parcel and vicinity, including topography, vegetation, and soil and hydrological characteristics.

(e) Minimum natural resource protection guidelines including buffer zones.

(f) Closure of forest practice roads necessary to protect natural resources.

(g) Comments from state and federal agencies.

(5) Minimum natural resource protection guidelines include:

(a) Sites of sensitive wildlife and sensitive plant species.

(A) A 200-foot buffer zone shall be created for sensitive plant species.

(B) A buffer zone for sites of sensitive wildlife species, such as nesting, roosting and perching sites, as defined by species requirements shall be as determined by a Forest Service biologist in consultation with other state or federal agency biologists.

(b) Riparian areas, wetlands, parks, and lakes.

(A) Adding any fill or draining of wetlands is prohibited.

(B) A minimum 200-foot buffer zone shall be created on the landward side of each wetland, pond or lake; or a wider variance from this requirement shall be determined during the site plan analysis of the wetland or riparian area and those species inhabiting the area as determined by the Forest Service biologist in consultation with state and/or federal agencies;

(C) A 200 foot buffer zone shall be created along each fish-bearing and perennial stream.

(D) A 50-foot buffer zone shall be created along intermittent streams.

(E) Revegetation shall use only species native to the Columbia River Gorge, and shall provide and maintain habitat diversity beneficial to the fish, wildlife and native plants.

(F) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all the following:

(i) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way;

(ii) The wetland is not critical habitat; and

(iii) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.

(c) Fish and wildlife habitat:

(A) Structures such as bridges, culverts, and utility corridors shall be designed so as not to impede the passage of fish and wildlife.

(B) New developments and uses shall not interfere with fish passage.

(C) Filling of shallow-water fishery habitat shall be allowed only after an analysis shows that no other practicable sites exist. Filling shall only be considered for water-dependent uses, and mitigation shall be required.

(D) New developments and uses shall occur during periods when fish and wildlife are least sensitive to activities. This would include, among others, nesting and brooding periods (from nest building to fledgling of young), and those periods specified in "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Dept. of Fish and Wildlife 1986).

(E) In areas of big game winter range, adequate thermal cover shall be maintained as determined by the appropriate state wildlife agency.

(F) Forest practices shall maintain the following:

(i) Six live trees per acre, three of which shall be of the largest tree size available and three of which shall be of various sizes to provide replacements as snags and wildlife trees; and three dead trees per acre, of the largest tree size available; and three down trees per acre in the largest tree size available. All trees shall be unburned.

In areas with mixed oak and conifer stands, at least one of the three dead trees per acre shall be an oak snag of the largest tree size and one additional live conifer per acre of 16-inch diameter at breast height (dbh) or greater, preferably with limbs down to the ground, shall be maintained.

(ii) Snags and wildlife trees shall be maintained either as clumps or evenly distributed over the forest practice area.

(iii) Down logs shall be relatively solid and no area greater than two acres in size and capable of supporting forested conditions shall be without a minimum of two down logs.

(d) Bio-diversity.

(A) New uses shall avoid disturbance to old-growth forests.

(B) Forest practices shall maintain species composition at existing proportions in the activity area.

(C) Forest practices in areas with existing oak species, shall maintain a minimum of 25 square feet basal area per acre of oak in areas with predominantly oak trees of 1-foot dbh or more, or maintain a minimum forty percent oak canopy cover per 40 acres in which 10 trees per acre must be of the largest tree size, in areas with predominantly oak trees less than 1-foot dbh. No area greater than 10 acres in size and supporting existing oak species shall be devoid of oak trees.

(D) A mix in age and size of hardwoods shall be maintained to provide vertical diversity and replacement.

(E) For revegetation purposes, only plants species native to the Columbia River Gorge shall be encouraged.

(e) Soil productivity.

(A) New developments and land uses shall control all soil movement within the area shown or the site plan.

(B) The soil area disturbed by new development or land uses shall not exceed 15 percent of the project area.

(C) Within one year of project completion 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

(D) Forest practices shall maintain the following:

(i) Soil organic matter shall be provided at a minimum of 15 tons per acre and 25 tons per acre of dead and down woody material in the east and west side vegetation communities, respectively.

(ii) Potential ground disturbance activities shall be designed to minimize disturbance to the soil organic horizon.

(f) Air and water quality.

(A) Streambank and shoreline stability shall be maintained or restored with natural revegetation.

(B) All new developments shall be carried out to comply with state water quality requirements.

(C) County, state, and federal regulations for air and water quality and for pesticide use shall be followed.

(D) Existing levels of air visibility shall not be degraded.

(g) The applicant shall develop a natural resource mitigation plan for all new developments or uses proposed within a buffer zone. The applicant's mitigation plan shall:

(A) Include existing natural and cultural features.

(B) Include proposed actions within and adjacent to the buffer zone.

(C) Include mitigation measures as necessary to comply with the minimum natural resource protection guidelines and protect natural resources from adverse effects.

(D) Be prepared by a natural resource specialist as defined.

(E) Demonstrate mitigation measures that would offset the adverse effects of the proposed new use or developments and that would ensure protection, long-term viability, and function of the resource being protected by the buffer zone.

(F) Be reviewed to ensure the proposed mitigation measures are adequate and comply with minimum natural resource protection guidelines by the Forest Service in consultation with appropriate state or federal agencies and reviewed and approved by the Development Review Officer.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-110-610. General Management Areas Recreation Resource Review Criteria.

The following uses may be allowed, subject to compliance with Commission Rule 350-110-610 (5) and (6).

(1) Recreation Intensity Class 1 - Very Low Intensity

(a) Parking areas for a maximum of 10 cars for any allowed uses in Recreation Intensity Class 1.

(b) Trails for hiking, equestrian and mountain biking use.

(c) Pathways for pedestrian and bicycling use.

(d) Trailheads (with provisions for hitching rails and equestrian trailers at trailheads accommodating equestrian use).

(e) Scenic viewpoints and overlooks.

(f) Wildlife/botanical viewing and nature study areas.

(g) River access areas.

(h) Simple interpretive signs and/or displays, not to exceed a total of 50 square feet.

(i) Entry name signs not to exceed 10 square feet per sign.

- (j) Boat docks, piers or wharfs.
- (k) Picnic areas.
- (l) Rest-rooms/comfort facilities.
- (2) Recreation Intensity Class 2 - Low Intensity
 - (a) All uses permitted in Recreation Intensity Class 1.
 - (b) Parking areas for a maximum of 25 cars, including spaces for campground units, to serve any allowed uses in Recreation Intensity Class 2.
 - (c) Simple interpretive signs and displays, not to exceed a total of 100 square feet.
 - (d) Entry name signs not to exceed 20 square feet per sign.
 - (e) Boat ramps, not to exceed two lanes.
 - (f) Campgrounds for 20 units or less, tent sites only.
- (3) Recreation Intensity Class 3 - Moderate Intensity
 - (a) All uses permitted in Recreation Intensity Classes 1 and 2.
 - (b) Parking areas for a maximum of 75 cars, including spaces for campground units, for any allowed uses in Recreation Intensity Class 3.
 - (c) Interpretive signs, displays and/or facilities.
 - (d) Visitor information and environmental education signs, displays or facilities.
 - (e) Entry name signs not to exceed 32 square feet per sign.
 - (f) Boat ramps, not to exceed three lanes.
 - (g) Concessions stands, pursuant to applicable policies in Chapter 4, Part I of the Management Plan.
 - (h) Campgrounds for 50 individual units or less for tents and/or recreational vehicles, with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 3 campgrounds may also include one group campsite area, in addition to the individual campground units or parking area maximums allowed as described herein.
- (4) Recreation Intensity Class 4 - High Intensity
 - (a) All uses permitted in Recreation Intensity Classes 1, 2, and 3.
 - (b) Parking areas for a maximum of 250 cars, including spaces for campground units, for any allowed uses in Recreation Intensity Class 4.
 - (c) Horseback riding stables and associated facilities.
 - (d) Entry name signs, not to exceed 40 square feet per sign.
 - (e) Boat ramps.
 - (f) Campgrounds for 175 individual units or less for tents and/or recreation vehicles with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 4 campgrounds may also include up to 3 group campsite areas, in addition to individual campsite units or parking area maximums allowed as described herein.
- (5) Approval Criteria for Recreation Uses

All proposed recreation projects outside of Public Recreation or Commercial Recreation land use designations shall comply with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-110-520 through 350-110-620) and shall satisfy the following:

(a) Compliance with Commission Rule 350-110-520 through 610.

(b) Cumulative effects of proposed recreation projects on landscape settings shall be based on the "compatible recreation use" guideline for the landscape setting in which the use is located.

(c) For proposed recreation projects in or adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland:

(A) The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted to forest or farm uses. Provision of on-site buffers may be used to partially or fully comply with this criterion, depending upon project design and/or site conditions.

(B) A declaration has been signed by the project applicant or owner and recorded with county deeds and records specifying that the applicant or owner is aware that operators are entitled to carry on accepted forest or farm practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland.

(d) For proposed projects including facilities for outdoor fires for cooking or other purposes or proposed campgrounds:

The project applicant shall demonstrate that a sufficient quantity of water necessary for fire suppression (as determined pursuant to applicable fire codes or the county fire marshal) is readily available to the proposed facility, either through connection to a community water system or on-site wells, storage tanks, sumps, ponds or similar storage devices. If connection to a community water system is proposed, the project applicant shall demonstrate that the water system has adequate capacity to meet the facility's emergency fire suppression needs without adversely affecting the remainder of the water system with respect to fire suppression capabilities. In addition, in order to provide access for fire-fighting equipment, access drives shall be constructed to a minimum of 12 feet in width and a maximum grade of 12 percent. Access drives shall be maintained to a level that is passable to fire-fighting equipment.

(e) Trail or trailhead projects shall comply with applicable trails policies in the Management Plan.

(f) For proposed projects providing boating or windsurfing access to the Columbia River or its tributaries: compliance with applicable "River Access and Protection of Treaty Rights" objectives in the Management Plan.

(g) For proposed projects on public lands or proposed projects providing access to the Columbia River or its tributaries: compliance with guidelines for protection of tribal treaty rights in Part IV, Chapter 3, Indian Tribal Treaty Rights and Consultation in the Management Plan.

(h) For proposed projects which include interpretation of natural or cultural resources:

A demonstration that the interpretive facilities will not adversely affect natural or cultural resources and that appropriate and necessary resource protection measures shall be employed.

(i) For proposed Recreation Intensity Class projects (except for projects predominantly devoted to boat access):

A demonstration that the project accommodates provision of mass transportation access to the site. The number and size of the mass transportation facilities shall reflect the

physical capacity of the site. This requirement may be waived upon a demonstration that provision of such facilities would result in overuse of the site, either degrading the quality of the recreation experience or adversely affecting other resources at the site.

(6) Facility Design Guidelines for All Recreation Projects

(a) Recreation facilities which are not resource-based in nature may be included at sites providing resource-based recreation uses consistent with the guidelines contained herein, as long as such facilities comprise no more than one-third of the total land area dedicated to recreation uses and/or facilities. Required landscaped buffers may be included in calculations of total land area dedicated to recreation uses and/or facilities.

(b) The facility design guidelines contained herein are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another.

To be considered a separate facility from other developments or improvements within the same Recreation Intensity Class, recreation developments or improvements must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

(c) Parking areas, access roads, and campsites shall be sited and designed to fit into the existing natural contours as much as possible, both to minimize ground-disturbing grading activities and utilize topography to screen parking areas and associated structures. Parking areas, access roads, and campsites shall be sited and set back sufficiently from bluffs so as to be visually subordinate as seen from Key Viewing Areas.

(d) Existing vegetation, particularly mature trees, shall be maintained to the maximum extent practicable, and utilized to screen parking areas and campsites from Key Viewing Areas and satisfy requirements for perimeter and interior landscaped buffers.

(e) Parking areas providing over 50 spaces shall be divided into discrete "islands" separated by unpaved, landscaped buffer areas.

(f) Lineal frontage of parking areas and campsite loops to Scenic Travel Corridors shall be minimized to the greatest extent practicable.

(g) Ingress/egress points shall be consolidated to the maximum extent practicable, providing for adequate emergency access pursuant to applicable fire and safety codes.

(h) Signage shall be limited to that necessary to provide relevant recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes.

(i) Exterior lighting shall be shielded, designed and sited in a manner which prevents such lighting from projecting off-site or being highly visible from Key Viewing Areas.

(j) Innovative designs and materials which reduce visual impacts (such as "turf blocks" instead of conventional asphalt paving) shall be encouraged through incentives such as additional allowable parking spaces and reduce required minimum interior or perimeter landscaped buffers. Upon determination that potential visual impacts have been substantially reduced by use of such designs and materials,

the Development Review Officer may allow either reductions in required minimum interior or perimeter landscape buffers up to 50 percent of what would otherwise be required, or additional parking spaces not to exceed 10 percent of what would otherwise be permitted.

(k) A majority of trees, shrubs and other plants in landscaped areas shall be species native or naturalized to the landscape setting in which they occur (landscape setting design guidelines specify lists of appropriate species).

(l) All structures shall be designed such that height, exterior colors, reflectivity, mass and siting result in the structures blending with and not noticeably contrasting with their setting.

(m) Landscape buffers around the perimeter of parking areas accommodating more than 10 vehicles shall be provided. Minimum required widths are 5 feet for 20 vehicles or less, 20 feet for 50 vehicles or less, 30 feet for 100 vehicles or less, and 40 feet for 250 vehicles or less.

(n) Interior landscaped buffers breaking up continuous areas of parking shall be provided for any parking areas over 50 spaces in size. The minimum width of interior landscaped buffers between each parking lot of 50 spaces or less shall be 20 feet.

(o) Within required perimeter and interior landscaped buffer areas, a minimum of one tree of at least 6 feet in height shall be planted for every 10 lineal feet as averaged for the entire perimeter width. A minimum of 25 percent of planted species in perimeter buffers shall be coniferous to provide screening during the winter. Project applicants are encouraged to place such trees in random groupings approximating natural conditions. In addition to the required trees, landscaping shall include appropriate shrubs, groundcover and other plant materials.

(p) Minimum required perimeter landscape buffer widths for parking areas or campgrounds may be reduced by as much as 50 percent, at the discretion of the Development Review Officer, if existing vegetation stands and/or existing topography are utilized such that the development is not visible from any Key Viewing Area.

(q) Grading or soil compaction within the drip line of existing mature trees shall be avoided to the maximum extent practicable, to reduce risk of root damage and associated tree mortality.

(r) All parking areas and campsites shall be set back from Scenic Travel Corridors, and the Columbia River and its major tributaries at least 100 feet. Required perimeter landscaped buffers may be included when calculating such setbacks. Setbacks from rivers shall be measured from the ordinary high water mark. Setbacks from Scenic Travel Corridors shall be measured from the edge of road pavements.

(s) Project applicants shall utilize measures and equipment necessary for the proper maintenance and survival of all vegetation utilized to meet the landscape guidelines contained herein, and shall be responsible for such maintenance and survival.

(t) All parking areas shall be set back from property boundaries by at least 50 feet. All campsites and associated facilities shall be set back from property boundaries by at least 100 feet.

(u) All proposed projects at levels consistent with Recreation Intensity Class 4 on lands classified RIC 4

(except for proposals predominantly devoted to boat access) shall comply with Commission Rule 350-110-610 (5)(h) regarding provision of mass transportation access.

350-110-620. Special Management Area Recreation Resource Review Criteria.

(1) The following shall apply to all new recreation developments and land uses in the Special Management Area:

(a) New developments and land uses shall not displace existing recreational use.

(b) Recreation resources shall be protected from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both on and off site cumulative effects shall be required.

(c) New pedestrian or equestrian trails shall not have motorized uses, except for emergency services.

(d) Mitigation measures shall be provided to preclude adverse effects on the recreation resource.

(e) The facility guidelines contained in Commission Rule 350-110-620(1) are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another. Recreation developments or improvements to be considered a separate facility from other developments or improvements within the same Recreation Intensity Class must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

(f) New development and reconstruction of scenic routes (see Part III, Chapter 1 of the Management Plan) shall include provisions for bicycle lanes.

(g) The Development Review Officer may grant a variance of up to 10 percent to the guidelines of Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from National Scenic Area recreation demand studies shall be relied upon to meet the criterion in the absence of current applicable studies.

(B) The proposed use is dependent on resources present at the site.

(C) Reasonable alternative sites, including those in Urban Areas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

(D) The proposed use is consistent with the goals, objectives, and policies in Chapter 4, Part I of the Management Plan.

(E) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.

(F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

(2) Special Management Areas Recreation Intensity Class Guidelines

(a) Recreation Intensity Class 1 - Very Low Intensity
Emphasis is to provide opportunities for semi-primitive recreation opportunities.

(A) Permitted uses are those in which people participate in outdoor activities to realize experiences such as solitude, tension reduction, and nature appreciation.

(B) The maximum site design capacity shall not exceed 35 people at one time on the site. The maximum design capacity for parking areas shall be 10 vehicles.

(C) The following uses may be permitted:

(i) Trails and trailheads.

(ii) Parking areas.

(iii) Dispersed campsites accessible only by a trail.

(iv) Viewpoints and overlooks.

(v) Picnic areas.

(vi) Signs.

(vii) Interpretive exhibits and displays.

(viii) Rest-rooms.

(b) Recreation Intensity Class 2 - Low Intensity
Emphasis is to provide semi-primitive recreation opportunities.

(A) Permitted uses are those that provide settings where people can participate in activities such as physical fitness, outdoor learning, relaxation, and escape from noise and crowds.

(B) The maximum site design capacity shall not exceed 70 people at one time on the site. The maximum design capacity shall be 25 vehicles.

(C) All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class 2. The following uses may also be permitted:

(i) Campground with vehicle access.

(ii) Boat anchorages designed for no more than 10 boats at one time.

(iii) Swimming areas.

(c) Recreation Intensity Class 3 - Moderate Intensity
Emphasis is on facilities with design themes emphasizing the natural qualities of the area. Developments are complementary to the natural landscape, yet can accommodate moderate numbers of people.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as group socialization, nature appreciation, relaxation, cultural learning, and physical activity.

(B) Maximum site design capacity shall not exceed 250 people at on the site. The maximum design capacity shall be 50 vehicles. The General Management vehicle capacity level of 75 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 10% of the site.

(C) All uses permitted in Recreation Intensity Classes 1 and 2 are permitted in Recreation Intensity Class 3. The following uses may also be permitted:

(i) Campgrounds improvement may include water, power, sewer, and sewage dump stations.

(ii) Boat anchorages designed for not more than 15 boats.

(iii) Public visitor, interpretive, historic, and environmental education facilities.

(iv) Full service rest-rooms, may include showers.

- (v) Boat ramps.
- (vi) Riding stables.

(d) Recreation Intensity Class 4 - High Intensity

Emphasis is for providing road natural, rural, and suburban recreation opportunities with a high level of social interaction.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as socialization, cultural and natural history appreciation, and physical activity.

(B) The maximum design capacity shall not exceed 1000 people at one time on the site. The maximum design capacity for parking areas shall be 200 vehicles. The General Management Area vehicle capacity of 250 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 20 percent of the site.

(C) All uses permitted in Recreation Intensity Classes 1, 2, and 3 are permitted in Recreation Intensity Class 4.

350-110-630.

NOTICE OF APPLICATION REQUIREMENTS

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
GENERAL MANAGEMENT AREA								
Residential LUD - Review uses except SFDs located adjacent to Agriculture & Forest LUDs, and those uses within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs except those within 1000' of sensitive wildlife area or site, or a rare plant	X	X	X	X		X		
Residential LUD - Review uses within 1000' of a sensitive wildlife area or site except SFDs located adjacent to Agriculture or Forest LUDs	X	X	X	X	X		X	
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs within 1000' of a sensitive wildlife area or site	X	X	X	X		X	X	
Residential LUD - Review uses within 1000' of a rare plant except SFDs located adjacent to Agriculture or Forest LUDs	X	X	X	X	X			X
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs within 1000' of rare plant	X	X	X	X		X		X
Agriculture LUD - Review uses except non-farm SFD in Large-Scale Agriculture LUD and uses within 1000' of sensitive wildlife area or site, or rare plant	X	X	X	X	X			
Agriculture LUD - Review uses within 1000' of sensitive wildlife area or site except non-farm SFD in Large-Scale Agriculture LUD	X	X	X	X	X		X	
Agriculture LUD - Review uses within 1000' of a rare plant except non-farm SFD in Large-Scale Agriculture LUD	X	X	X	X	X			X

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	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
Agriculture LUD - Non-farm SFD in Large-Scale Agriculture LUD, except those within 1000' of sensitive wildlife area or site, or rare plant	X	X	X	X		X		
Agriculture LUD - Non-farm SFD in Large-Scale Agriculture within 1000' of sensitive wildlife area or site	X	X	X	X		X	X	
Agriculture LUD - Non-farm SFD in Large-Scale Agriculture within 1000' of rare plant	X	X	X	X		X		X
Forest LUD - Review uses except utility facilities, railroads, home occupations, cottage industries, wineries, ag. product process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities, and those review uses within 1000' feet of a sensitive wildlife area or site, or rare plant	X	X	X	X	X			
Forest LUD - Utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities, and not within 1000' feet of a sensitive wildlife area or site, or rare plant	X	X	X	X		X		
Forest LUD - Review uses within 1000' of a sensitive wildlife area or site, except utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities	X	X	X	X	X		X	
Forest LUD - Review uses within 1000' of a rare plant except utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities	X	X	X	X	X			X
Forest LUD - Utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities within 1000' of a sensitive wildlife area or site	X	X	X	X		X	X	
Forest LUD - Utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities within 1000' of a rare plant	X	X	X	X		X		X
Commercial LUD - Review uses except those within 1000' of a sensitive wildlife area or site, or rare plant	X	X	X	X	X			

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	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
Commercial LUD - Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	
Commercial LUD - Review uses within 1000' of a rare plant	X	X	X	X	X			X
Recreation LUD - Review uses except those within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Recreation LUD - Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	
Recreation LUD - Review uses within 1000' of a rare plant	X	X	X	X	X			X
Open Space LUD - Review uses except those within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Open Space LUD - Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	
Open Space LUD - Review uses within 1000' of a rare plant	X	X	X	X	X			X
Agriculture-Special LUD - Review uses	X	X	X	X	X			X
SPECIAL MANAGEMENT AREAS								
Review Uses - All LUDs	X	X	X	X	X		X	

WSR 93-04-124
PROPOSED RULES
COLUMBIA RIVER
GORGE COMMISSION
 [Filed February 3, 1993, 11:35 a.m.]

The above named agency gives notice of hearing.

Hearings to be Held: On April 6, 1993, at 9:00 a.m., White Salmon Park Center, Lincoln Street, White Salmon, Washington.

The hearing will be continued to the commission's regularly scheduled meeting on April 13, 1993, with discussion and proposed adoption by the commission.

The Columbia River Gorge Commission proposes to adopt rules relating to land use ordinances for Klickitat County, 350-80, at its regularly scheduled meeting on April 13, 1993, at 10:30 a.m., Skamania Lodge, Rock Creek Drive, Stevenson, Washington.

Hearings Officer(s): Pat Bleakney, Chair.

Pursuant to the statutory authority of RCW 43.97.015 the following action is proposed: Adopt 350-80, Klickitat County land use ordinance.

No prior notice given.

Columbia River Gorge Commission
 Proposed Rule Adoption
 350-80

Summary: The rule sets forth a land use ordinance to implement the Columbia River Gorge National Scenic Area Management Plan in Klickitat County, Washington.

Statement of Need: 1. The National Scenic Area Act requires the commission to adopt land use ordinances in gorge counties that have not met the act's requirement and schedule for adopting county land use ordinances. 2. The public needs a detailed process for proceeding with land use applications under the Columbia River Gorge National Scenic Area Management Plan. 3. Delay in adoption of the rule will cause the commission to be out of compliance with the National Scenic Area Act.

Authority: 16 U.S.C. § 544 et seq., ORS 196.150 to ORS 165, and RCW 43.97.015 to 49.97.035 [43.97.035].

The proposed rule is necessary as a result of federal law, 16 U.S.C. § 544 et seq. The rule is proposed by the Columbia River Gorge Commission.

Documents Relied Upon: The Columbia River Gorge National Scenic Area Management Plan and the National Scenic Area Act. The documents are available at the commission office.

Effect of Rule: This rule will implement the Management Plan for the Columbia River Gorge National Scenic Area Act through a land use ordinance as required by the National Scenic Area Act. The rule is derived directly from the Management Plan. It includes guidelines for allowable land uses, provisions for protecting scenic, natural, cultural and recreational resources, and procedural requirements for making land use applications. These rules will have the effect of governing land uses within the "general management area" and "special management areas" of the Columbia

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River Gorge National Scenic Area. Any proposed development project on lands within these areas will be subject to the rule when making a land use application.

Fiscal Impact:

I. Background

Commission Rule 350-16-004 requires that the commission prepare: "A statement of fiscal impact identifying the state agencies, units of local government, and the public which may be economically affected by the adoption, amendment, or repeal of [a] rule and an estimate of that economic impact on state agencies, units or local government, and the public. In considering the economic effect of the proposed action on the public, the [commission] shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance on small businesses affected."

The proposed rule implements the Management Plan for the Columbia River Gorge National Scenic Area which was adopted by the Columbia River Gorge Commission in October 1991 and concurred with by the Secretary of Agriculture in February 1992. The Management Plan was written pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.R. [U.S.C.] § 544 et seq. (Public Law 99-663).

The act further requires that the gorge commission adopt land use ordinances for those counties which do not adopt their own. These proposed rules will implement the Management Plan in four of the six gorge counties; the other two counties have adopted their own land use ordinances which will implement the Management Plan.

The act identifies two purposes: To establish a national Scenic Area to protect and provide for the enhancement of the scenic, cultural, recreation, and natural resources of the Columbia River Gorge; and to protect and support the economy of the Columbia Gorge area by encouraging growth to occur in existing Urban Areas and by allowing future economic development in a manner that is consistent with paragraph 1.

The regulations of the act apply to only 90% of the land area in the Scenic Area (the General Management Areas and Special Management Areas). Urban Areas, which make up the remaining 10% of the land area, are exempt from the regulations of the act. Urban areas are the cities, towns, and communities where there is significant residential, commercial, or industrial development and extensive supporting infrastructure; the majority of the population and economic activity in the Scenic Area is found in Urban Areas. Thus the proposed rules will affect only a small portion of the residents and businesses in the Scenic Area.

II. Enhancement of the Overall Economy

Implementing the Management Plan will protect and enhance the overall economy of the Scenic Area in many ways:

Utilizing the over \$32 million in federal funding which was authorized in the Scenic Act for recreation and economic development.

Increasing tourism by protecting the scenic, natural, and cultural resources, and enhancing recreational opportunities.

Protecting agricultural and forest land for continued agriculture and forest management, two of the regions principal industries.

Enhancing the economic viability of gorge communities by encouraging economic growth in Urban Areas and Rural Centers.

Economic Development Monies. Congress authorized over \$32 million in federal monies for recreation and economic development. The authorizations are as follows:

\$10 million for recreation development

\$5 million for an Oregon interpretive center

\$5 million for a Washington conference center

\$2.8 million to restore the Historic Columbia River Highway

\$5 million each to Oregon and Washington for the purpose of making economic development loans and grants

Increasing Tourism. In 1987, approximately 3.8 million nonresident visitors traveled through and/or participated in recreation activities in the Scenic Area. Total 1987 nonresident visitor expenditures were estimated to be approximately \$61.8 million. (Economics Research Associates, 1988)

Grant funds will be given over several years to promote the Scenic Area and a number of major developments are currently underway or being planned. These include the new Skamania Lodge in Stevenson, Washington, and the proposed Discovery Center near The Dalles, Oregon. Constructing and operating these new facilities provides many new jobs for Scenic Area residents.

For example, over a ten year period, Skamania Lodge is expected to generate approximately 235 jobs with an annual payroll over \$3.9 million. In related services, the lodge is expected to generate 460 jobs and annual expenditures of \$25 million.

Additional recreation development is allowed on virtually all land in the Scenic Area. Expanding recreational opportunities was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Protecting Resource Land. The gorge has a long history of land-based industries. Extensive agriculture and forest management operations remain in the Scenic Area. Approximately 140,000 acres (nearly one-half) of the Scenic Area is designated either agriculture or forest land. In 1987, the total forest industry employment was over 4,000 with a total payroll of approximately \$100 million. (Economics Research Associates from industry, 1988)

By limiting further fragmentation of this resource land for residential uses, the Management Plan encourages the retention of these resource-based jobs and supports an existing strong industry. Protecting resource land was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Enhancing the economic viability of gorge communities. The Management Plan encourages growth to occur in Urban Areas and rural centers. By limiting commercial and other urban-related activities in more rural areas, the need to expand infrastructure to remote locations is reduced, and existing infrastructure is used more efficiently. As communities spend less money extending urban services, they will be better able to support business development and expansion in areas where urban services already exist. Some commercial development which is less reliant on urban services is allowed outside of Urban Areas. Limiting major

infrastructure investment was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

III. Effects on State Agencies and Local Government

The Scenic Act envisions a partnership between federal, state, and local agencies and the gorge commission. Together the expertise of each agency will achieve the purposes of the act. The planning process used to develop the Management Plan allowed each agency to clarify its own role. While it is not possible to quantify to economic effects to each agency, below is a discussion of possible effects.

State Agencies. A number of state agencies, such as Fish and Wildlife, Archaeology and Historic Preservation, and Transportation have important roles in the proposed rules. These agencies are given an opportunity to comment on proposed development projects. In most cases, comments from these agencies will not be required.

These agencies have already transferred enough information to the gorge commission so that the commission staff may evaluate potential impacts. Thus the commission is already doing much of the work that these agencies might do themselves.

It is not expected that the roles of these agencies will differ from their current roles. Currently, these agencies are given an opportunity to comment on proposed development projects, and additional information is often sent.

County Governments. There are six counties in the Scenic Area; however, the proposed rules will apply to only four of the six counties. Possible economic effects on these counties is not expected to differ from the current situation. Although the gorge commission will continue to make land use permitting decisions, counties will continue to be an important part of the land use decision process. This has some economic effects.

The burden of administering the proposed rule, including staff time and mailing costs, will still lie with the gorge commission. And counties will not [be] liable for any costs related to implementing the land use decisions made by the gorge commission. A potential benefit to counties is the opportunity to adopt the ordinances written by the gorge commission. This will help defray the costs of writing ordinances themselves.

The only additional economic cost to counties will be not having access to the federal recreation and economic development monies. Only when these counties adopt their own land use ordinances, and those ordinances are found to be consistent with the Management Plan, are these counties and the Urban Areas within the counties become eligible for the federal economic and recreation development funds authorized in the act.

Columbia River Gorge Commission. The gorge commission will continue to make land use decisions on proposed development projects in these four counties. The decision-making process is expected to remain much the same as the current process, except that additional time will be necessary to collect all the necessary information to make a full decision. The gorge commission will be assisted by many other agencies such as state natural resource and archaeological agencies, the U.S. Forest Service, and Native American Tribal Governments.

Administration of the land use ordinances by the gorge commission will also limit the time that the gorge commis-

sion can spend on implementing recreation and economic development projects and lobbying for additional funds.

Native American Tribal Governments. Native American Tribal Governments will be consulted under the proposed rules and will have the opportunity to review and comment on proposed new uses on lands or in waters where cultural resources exist and where tribal members exercise treaty or other rights. The tribal governments have a similar role now and would have the same role even if the counties adopted their own ordinances.

IV. Effects on the Public and Small Businesses

Landowners and the public. Implementing the Management Plan will immediately institute uniformity in regulations, predictability in decision-making, and simplification of the decision process. These are positive effects of the proposed rules. Landowners will have a much better understanding of the value of their land without the uncertainty of the development guidelines currently in effect. Many landowners or potential buyers have submitted land use development applications just to find out what they could potentially build on the land. The proposed rules will eliminate many of the current costly delays and unanticipated decisions.

Additional information prior to submittal of a land use application will be required. This however, follows the "Go slow to go fast" adage. Currently, most of the land use approvals require the applicant to return to the commission with color samples, refined site plans, and other information before construction begins. The new rules require this information up-front, thus when an approval is issued, in most cases, the applicant may proceed without further approvals from the gorge commission.

In addition, the proposed rules bring many resource protection laws under the same umbrella. The rules defer to some existing laws and mimics provisions of others. Completing the development review process in the new rules will assist landowners in meeting the needs of other natural resource agencies.

Potential economic costs to landowners include a somewhat longer decision-making process under the proposed rules, and some additional information requirements for major development projects. The proposed rule will increase the development review time from six weeks to ten weeks, and require more detail before an application will be accepted.

The gorge commission, in preparing the development guidelines for the General Management Area, was careful to ensure that a viable economic use was left on each individual parcel. In the Special Management Area, where some commercial-scale forest land was designated as open space, the forest service will buy the land within three years, or the land will revert to a nonrestrictive General Management Area designation. In the general management, forest practices are exempt from the regulations of the Management Plan, and thus exempt from these proposed rules.

Because the procedural and substantive development guidelines are given in the Management Plan, these economic effects are not unique to these proposed rules; they will be the same when the counties adopt their own land use ordinances.

Small Businesses. As mentioned above, the majority of the commercial and industrial activity in the Scenic Area

occurs in the Urban Areas which are exempt from the regulations of the Management Plan and thus the proposed rules as well. The proposed rules will not change the current or future operation of these activities.

The proposed rules will not have an economic effect on small businesses. Existing businesses are grandfathered and will not require new use permits. The most significant economic effect will come when the counties adopt their own land use ordinances, thus making the federal monies available for grants and loans.

V. Conclusion

While it is not possible to quantify the economic effects of the proposed rules, the greatest economic effect will be when the benefits counties receive when they adopt their own land use ordinances. Any new administrative costs will be generally absorbed by the gorge commission and not other agencies or the public.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by April 8, 1993, will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from: Columbia River Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, Attn: Jan Brending, Rules Coordinator, (509) 493-3323.

February 2, 1993
Jonathan Doherty

COLUMBIA RIVER GORGE COMMISSION
Chapter 350
Division 80
Klickitat County Land Use Ordinance

350-80-010. Purposes.

The purposes of the Land Use Ordinance are to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge, and to protect and support the economy of the Columbia River Gorge by allowing future economic development in a manner that enhances the scenic, cultural, recreational, and natural resources of the Gorge.

350-80-020. Area Affected.

Commission Rule 350-80 shall apply to all lands in Klickitat County, Washington within the Columbia River Gorge National Scenic Area as designated by the Columbia River Gorge National Scenic Area Act.

Commission Rule 350-80 becomes effective 30 days after adoption and filing by the Columbia River Gorge Commission with the exception of those portions of Commission Rule 350-80 pertaining to the Special Management Areas, which become effective upon concurrence by the Secretary of Agriculture.

Those portions of Commission Rule 350-80 pertaining to the General Management Area are no longer effective once Klickitat County has submitted a land use ordinance and the Columbia River Gorge Commission finds it consistent with the Management Plan. Those portions of Commission Rule 350-80 pertaining to the Special Management Area remain effective until the Secretary of Agriculture concurs on the ordinances adopted by Klickitat County.

350-80-030. Review and Approval Required.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged, including those proposed by state or federal agencies, in the Columbia River Gorge National Scenic Area except for the uses listed in Commission Rule 350-80, when considered under the applicable procedural and substantive guidelines of this Rule.

350-80-040. Definitions.

As used in Commission Rule 350-80, unless otherwise noted, the following words and their derivations shall have the following meanings:

(1) Accepted agricultural practice: A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

(2) Accessory building: A building or structure whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use.

(3) Active wildlife site: A wildlife site that has been used within the past 5 years by a sensitive wildlife species.

(4) Agency official: The federal, state, or local agency head or designee who has authority over a proposed project.

(5) Agricultural structure: A structure located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

(6) Agricultural use: The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

(a) The operation or use of farmland subject to any agriculture-related government program.

(b) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.

(c) Land planted in orchards or other perennials prior to maturity.

(d) Land under buildings supporting accepted agricultural practices.

Agricultural use does not include livestock feedlots.

(7) Anadromous fish: Species of fish that migrate upstream to freshwater after spending part of their life in the ocean (saltwater).

(8) Anaerobic: A condition in which molecular oxygen is absent (or effectively so) from the environment.

(9) Aquaculture: The cultivation, maintenance, and harvesting of aquatic species.

(10) Aquatic area: The water area of a stream, pond, or lake measured at the ordinary high water mark.

(11) Archaeological resources: See cultural resource.

(12) Archival research: Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.

(13) Bed and breakfast inn: An establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodations, not as rooming or boarding houses.

(14) Best management practices: Conservation techniques and management measures that

(a) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;

(b) minimize adverse affects to groundwater and surface-water flow and circulation patterns; and

(c) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.

(15) Biodiversity (SMA): A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.

(16) Boat landing: Cleared area or developed structure used to facilitate launching or retrieving watercraft.

(17) Buffer zone: An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.

(18) Building: Any structure used or intended for supporting or sheltering any use or occupancy.

(19) Camping or recreational vehicle: A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a sewer system (including septic tank), water, and electrical lines or is occupied on the same parcel for more than 60 days in any consecutive 12-month period.

(20) Campsite: Single camping unit, that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.

(21) Capability: The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.

(22) Cascadian architecture (SMA): Architectural style using native rock work, large timber, and steeply pitched roofs in a rustic manner.

(23) Catastrophic situations (SMA): Forces such as fire, insect and disease infestations, and earth movements.

(24) Childcare center: A facility providing daycare to three or more children, but not including:

(a) The provision of care that is primarily educational, unless provided to a preschool child for more than 4 hours a day.

(b) The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion.

(c) The provision of short-term care related to or associated with group athletic or social activities.

(d) The provision of daycare in the provider's home in the family living quarters for less than 13 children.

(25) Clearcut: A created opening of 1 acre or more.

(26) Columbia River Gorge National Scenic Area Graphic Signing System: Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.

(27) Commercial development/use: Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.

(28) Commercial forest products: These include timber for lumber, pulp, and firewood for commercial purposes.

(29) Commercial recreation: Any private (non-governmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.

(29) Community facility: Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.

(30) Consulting parties (cultural resources): Organizations or individuals who submit substantive written comments to a Development Review Officer in a timely manner because they are concerned with the effects of a proposed use on cultural resources.

(31) Contiguous land: Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.

(32) Counties: The six counties within the Scenic Area: Hood River, Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.

(33) Created opening (SMA): A created forest opening with less than 80 percent crown cover closure of trees averaging less than 20 feet tall.

(34) Creation (wetlands): A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).

(35) Cultivation: Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

(36) Cultural resource: Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:

(a) Archaeological resources. Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least 50 years old.

Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains, and associated artifacts.

(b) Historic buildings and structures. Standing or above-ground buildings and structures that are at least 50 years old.

Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.

(c) Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community.

Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.

(37) Cumulative effects: The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

(38) Cut: An area where soil or earth is excavated or removed in conjunction with development activities.

(39) Dedicated site: An area actively devoted to the current use and as delineated on the site plan.

(40) Deer and elk winter range: Areas normally used, or capable of being used, by deer and elk from December through April.

(41) Destruction of wetlands: Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.

(42) Developed recreation: Recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.

(43) Development: Any land division or structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.

(44) Diameter at breast height (dbh): The diameter of a tree as measured at breast height.

(45) Duplex: A building containing two dwelling units and designed for occupancy by two families.

(46) Dwelling, single-family: A detached building containing one dwelling unit and designed for occupancy by one family only.

(47) Dwelling unit: A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

(48) Effect on Treaty Rights: To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.

(49) Endemic: Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.

(50) Enhancement (natural resources): A human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.

(51) Ethnography: The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.

(52) Existing use or structure: A legally established use that existed before the effective date of the Scenic Area Act, the Management Plan, or a land use ordinance established pursuant to the Scenic Area Act. "Legally-established" means established in accordance with the law in effect at the time of establishment of the use.

(53) Exploration, development (extraction and excavation), and production of mineral resources: Includes all or any part of the process of surface, underground, or submerged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For the Management Plan, this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.

(54) Fill: The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.

(55) Fire break: A break in ground cover fuels, adjacent to and surrounding buildings.

(56) Forbs: Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grasslike plants.

(57) Foreground (SMA): One-half mile on either side of a traveled road or trail.

(58) Forest products: Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.

(59) Forest practices: Those activities related to the growing and harvesting of forest tree species, as defined by the Oregon Forest Practices Act or the Washington Forest Practices Act.

(60) Forest use: The growing, propagation, and harvesting of forest tree species and other forest products.

(61) Fully screened: A description of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan).

(62) Grade (ground level): The average elevation of the finished ground elevation as defined by the Uniform Building Code.

(63) Grading: Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(64) Height of building: The vertical distance from the grade to the highest point of the roof.

(65) Herbaceous: A plant with no persistent woody stem above the ground, with characteristics of an herb.

(66) Herbs: Nonwoody (herbaceous) plants, including grasses and grasslike plants, forbs, ferns, fern allies, and nonwoody vines. (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(67) Historic buildings and structures: See cultural resource.

(68) Historic survey: Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.

(69) Horses, boarding of: The stabling, feeding, and grooming for a fee, or the renting of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks.

(70) Hydric soil: A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

(71) In-lieu sites: Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 14 and Public Law 100-581, Section 401. Additional in-lieu sites will be provided for.

(72) Indian tribal government: The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakima Indian Nation (Tribal Council).

(73) Indian tribes: The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakima Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

(74) Industrial uses: Any use of land or water primarily involved in:

(a) Assembly or manufacture of goods or products,

(b) Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit,

(c) Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural

products, forest products, or recyclable materials for purposes other than retail sale and service, or

(d) Production of electric power for commercial purposes.

(75) Interpretive displays: Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.

(76) Key components: The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.

(77) Key viewing areas: Those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These include:

Historic Columbia River Highway

Crown Point

Highway I-84, including rest stops

Multnomah Falls

Washington State Route 14

Beacon Rock

Panorama Point Park

Cape Horn

Dog Mountain Trail

Cook-Underwood Road

Rowena Plateau and Nature Conservancy Viewpoint

Portland Women's Forum State Park

Bridal Veil State Park

Larch Mountain

Rooster Rock State Park

Bonneville Dam Visitor Centers

Columbia River

Washington State Route 141

Washington State Route 142

Oregon Highway 35

Sandy River

Pacific Crest Trail

SMA only:

Old Washington State Route 14 (County Road 1230)

Wyeth Bench Road

Larch Mountain Road

Sherrard Point on Larch Mountain

(78) Land division: The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.

(79) Landscape setting: The combination of land use, landform, and vegetation patterns that distinguish an area in appearance and character from other portions of the Scenic Area.

(80) Livestock feedlot: Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and fur bearers. Feedlots do not include winter pasture or winter hay-feeding grounds.

(81) Lot line adjustment: Transfer of a portion of a parcel from one owner to the owner of an adjacent parcel resulting in no increase in the number of parcels.

(82) Management plan: The document entitled Management Plan for the Columbia River Gorge National Scenic Area adopted October 14, 1991. The Management Plan becomes effective upon approval of land use ordinances by the Commission for the General Management Area and concurrence of land use ordinances by the Secretary of Agriculture for Special Management Area.

(83) Mitigation: The use of any or all of the following actions:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(84) Multifamily dwelling: A dwelling constructed or modified into two or more single-family units.

(85) Native species: Species that naturally inhabit an area.

(84) Natural resources: Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.

(86) Natural resource specialist: A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.

(87) Natural resource-based recreation (SMA): Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.

(88) Nonprofit organization: An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.

(89) Old growth: Any stand of trees 10 acres or greater generally containing the following characteristics:

(a) contain mature and overmature trees in the overstory and are well into the mature growth state;

(b) in coniferous forests, will usually contain a multilayered canopy and trees of several age classes;

(c) in coniferous forests, standing dead trees and down material are present; and

(d) evidences of man's activities may be present, but do not significantly alter the other characteristics and would be a subordinate factor in description of such a stand.

(90) Open Spaces: Unimproved lands not designated as agricultural lands or forest lands by the Management Plan and designated as open space by the Management Plan. Open spaces include:

(a) Scenic, cultural, and historic areas;

(b) Fish and wildlife habitat;

(c) Lands which support plant species that are endemic to the Scenic Area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;

(d) Ecologically and scientifically significant natural areas;

(e) Outstanding scenic views and sites;

(f) Water areas and wetlands;

(g) Archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;

(h) Potential and existing recreation resources; and

(i) Federal and state wild, scenic, and recreation waterways.

(91) Ordinary high water mark: The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.

(92) Parcel:

(a) Any parcel legally created by a short division, partition, or subdivision.

(b) Any unit of land legally created and separately described by deed or sales contract prior to November 17, 1986, if there were no applicable planning, zoning, and land division ordinances or regulations.

(c) In the state of Washington, a unit of land created and separately described by deed or sales contract after November 17, 1986 if the unit created was approved by the Gorge Commission or the Forest Service Scenic Area Office.

(d) A unit of land shall not be considered a separate parcel simply because the subject tract of land:

(A) Is a unit of land created solely to establish a separate tax account;

(B) Lies in different counties;

(C) Lies in different sections or government lots;

(D) Lies in different land use or zoning designations; or

(E) Is dissected by a public or private road.

(93) Partial retention: A visual quality objective that provides for management activities that may be evident but must remain visually subordinate to the characteristic landscape. Activities may repeat form, line, color, or texture common to the characteristic landscape, but changes in their qualities of size, amount, intensity, direction, pattern, etc., shall remain visually subordinate to the characteristic landscape.

(94) Practicable: Able to be done, considering technology and cost.

(95) Preexisting: Existing prior to the adoption of the Columbia River Gorge National Scenic Area Management Plan.

(96) Primarily: A clear majority as measured by volume, weight, or value.

(97) Project area: The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

(98) Public use facility: Recreation development(s) that meet the definition of "recreation facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

(99) Rare plant species: Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.

(100) Recreation facility: A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than 1/4 mile of land that does not contain any such developments or improvements, except for roads and/or pathways.

(101) Reconnaissance survey: Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, subsurface testing, and ethnographic research.

(102) Recreation Opportunity Spectrum (ROS): A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).

(a) Primitive: Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.

(b) Semiprimitive: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.

(c) Roaded Natural: Roaded areas with moderately frequent human encounters and with resource modifications evident.

(d) Rural: Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.

(e) Suburban: Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.

(f) Urban: Highly accessible, roaded areas dominated by human encounters and human-related structures.

(103) Recreation resources: Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semiprimitive areas with few facilities and developed sites.

(104) Rehabilitation (natural resources): A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or preconstruction condition.

(105) Repair and maintenance: An activity that restores the size, scope, configuration, and design of a serviceable structure to its previously authorized and undamaged condition. Activities that change the size, scope, and configuration of a structure beyond its original design are not included in this definition.

(106) Resource-based recreation: Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend.

(107) Restoration (wetlands): A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.

(108) Retention: A visual quality objective that provides for management activities that are not visually evident

to the casual visitor. Management activities may only repeat form, line, color, and texture that are frequently found in the characteristic landscape. Changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be evident.

(109) Review uses: Proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.

(110) Riparian area: The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.

(111) Road: The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys.

(b) Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures.

(c) Structures that provide for continuity of the right-of-way, such as bridges.

(112) Scenic Area: The Columbia River Gorge National Scenic Area.

(113) Scenic travel corridor: Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

(114) Secretary: The Secretary of Agriculture.

(115) Sensitive plant species: Plant species that are

(a) endemic to the Columbia River Gorge and vicinity,

(b) listed as endangered or threatened pursuant to federal or state endangered species acts, or

(c) listed as endangered, threatened or sensitive by the Oregon or Washington Natural Heritage Program.

In the SMA, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(116) Sensitive wildlife species: Animal species that are

(a) listed as endangered or threatened pursuant to federal or state endangered species acts,

(b) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,

(c) listed as sensitive by the Oregon Fish and Wildlife Commission, or

(d) considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

In the SMA, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(117) Service station: A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

(118) Serviceable: Presently useable.

(119) Shall: Action is mandatory.

(120) Should: Action is encouraged.

(121) Shrub: A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(122) Sign: Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.

(123) Significant cultural resource (SMA): A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].)

(124) Skyline: The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.

(125) Soil Capability Class: A classification system developed by the U.S. Department of Agriculture Soil Conservation Service to group soils as to their capability for agricultural use.

(126) Special habitat area: Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.

(127) Special streams: Streams that are primary water supplies for fish hatcheries and rearing ponds.

(128) Stand: A group of trees possessing uniformity in regard to type, age, vigor, or size.

(129) Story: A single floor level of a structure, as defined by the Uniform Building Code.

(130) Streams: Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams

naturally occurring prior to construction of such watercourses.

For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

(131) Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.

(132) Subsurface testing: Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.

(133) Suitability: The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.

(134) Travelers accommodations: Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.

(135) Treaty rights or other rights: Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.

(136) Tributary fish habitat: Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

(137) Undertaking: Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.2(o)].

(138) Unimproved lands: Lands that generally do not have developments such as buildings or structures.

(139) Upland: Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

(140) Uses allowed outright: New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.

(141) Utility facility: Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

(142) Viewshed: A landscape unit seen from a key viewing area.

(143) Visual Quality Objective (VQO): A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

(144) Visually subordinate: A description of the relative visibility of a structure where that structure does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings.

(145) Water-dependent: Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.

(146) Water-related: Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.

(147) Wetlands: Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.

(148) Wetlands functions: The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

(149) Woody plant: A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-80-050. Exempt Land Uses and Activities.

Commission Rule 350-80 shall not apply to:

- (1) Any treaty or other rights of any Indian tribes.
- (2) Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of Indian tribes,

and lands acquired by the U.S. Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes or of individual members of Indian tribes. This exemption shall extend to lands selected by the U.S. Army Corps of Engineers as in lieu fishing sites pursuant to Public Law 100-581 before or after the effective date of the Management Plan. For those in lieu sites chosen after the effective date of the Management Plan, the exemption shall commence upon selection by the U.S. Army Corps of Engineers.

(3) Rights to surface or ground water.

(4) Water transportation activities on the Columbia River or its tributaries. The term "activities" includes those facilities necessary for navigation.

(5) The operation, maintenance and modification of existing transmission facilities of the Bonneville Power Administration.

(6) Laws, rules or regulations pertaining to hunting or fishing.

(7) The operation, maintenance and improvement of navigation facilities at Bonneville Dam pursuant to federal law, except for the offsite disposal of excavation material.

(8) In the General Management Area, the rights and responsibilities of non-federal timber landowners under the Washington and Oregon Forest Practices Acts, or under county regulations that supersede those acts.

350-80-060. Prohibited Land Uses and Activities.

The following land uses and activities shall not be allowed within the Columbia River Gorge National Scenic Area:

(1) Solid waste disposal sites or sanitary landfills within the Special Management Area.

(2) New industrial development in the Scenic Area outside of the Urban Areas.

(3) Except for uses allowed outright and review uses, new uses shall be prohibited on lands designated Agriculture-Special. Prohibited uses include, but are not limited to:

(a) Cultivation, including plowing, harrowing, leveling, tilling, or any activity that prepares land for raising crops by turning, breaking up, or loosening soil.

(b) Removal or clearing of native grasses, shrubs, and trees.

(c) Single-family dwellings and accessory structures, other than non-agricultural dwellings allowed as a review use.

(d) Barns, silos, and other agricultural buildings.

(e) Irrigation systems.

(f) Exploration, development, and production of mineral resources.

(g) Utility facilities, public use facilities, and roads.

350-80-070. Existing Uses.

Except as otherwise provided below, existing uses in the Scenic Area may continue, notwithstanding the provisions of Commission Rule 350-80.

(1) Except as otherwise provided, any use or structure existing on the effective date of the Management Plan, may

continue so long as it is used in the same manner and for the same purpose as on that date.

(2) Any use or structure damaged or destroyed by fire shall be treated as an existing use or structure if an application for replacement in kind and in the same location is filed within one year of such damage or destruction. Such uses or structures shall be subject to compliance with guidelines for protection of scenic resources involving color, reflectivity and landscaping. Replacement of an existing use or structure by a use or structure different in purpose, size or scope shall be subject to Commission Rule 350-80.

(3) Replacement or reestablishment of a use or structure discontinued for more than one year shall be subject to Commission Rule 350-80. Except as otherwise provided, an existing use or structure may be replaced within one year of discontinuation if used for the same purpose at the same location. This includes replacing an existing mobile home with a framed residence.

(4) In the Special Management Area, existing commercial and multi-family residential uses may expand as necessary for successful operation on the dedicated site, subject to Commission Rule 350-80-520 through 350-80-620 to minimize adverse effects on scenic, cultural, natural and recreation resources. Expansion beyond the dedicated site is prohibited. Commercial uses discontinued for 1 year or more shall no longer be considered as an existing use and shall no longer be permitted, in accordance with the provisions this rule.

(5) Existing industrial uses in the General Management Area may expand as necessary for successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(6) In the General Management Area, existing industrial uses may convert to less intensive uses. A less intensive use is a commercial, recreation or residential use with fewer adverse effects upon scenic, cultural, natural and recreation resources.

(7) In the General Management Area, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to Commission Rule 350-80 if any of the following conditions exist:

(a) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to 50 percent of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain which was merely leveled or cleared of vegetation.

(b) The site has not maintained a required state permit.

(c) The site has not operated legally within 5 years before the date of adoption of the Management Plan.

(8) Uses involving the exploration, development or production of sand, gravel or crushed rock in the Special Management Area may continue when:

(a) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the Special Management Area.

(b) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural or recreation resources.

(9) Except as otherwise provided, whether a use has a vested right to continue will be determined by the law on vested rights in the appropriate state.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-080. Application for Review and Approval.

(1) Prior to initiating any use or development which requires review and approval by the Development Review Officer, an application shall be completed pursuant to Commission Rule 350-80-080. The Development Review Officer shall accept and review the application pursuant to Commission Rule 350-80-100 through 350-80-170 for consistency with the appropriate guidelines of this rule. Review of a proposed use or development shall commence upon the acceptance of an application by the Development Review Officer. The Commission may charge a fee for review of applications.

(2) Standard application forms shall be available at county and city planning offices, the office of the Columbia River Gorge Commission and the Forest Service.

(3) Applications for the review and approval of a proposed use or development shall provide the following information:

(a) The applicant's name, address and telephone number;

(b) The land owner's name, address and telephone number (if different from applicant's);

(c) The county in which the proposed use or development would be located;

(d) The section, quarter section, township and range in which the proposed development would be located;

(e) The street address of the proposed use or development;

(f) The tax lot number(s) and size in acres of the parcel(s) involved;

(g) A description of the current land use for the parcel(s) involved and adjoining lands;

(h) A written description of the proposed use or development, including details on the height, exterior color(s), and construction materials of the proposed structures.

(i) A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the Development Review Officer to determine the location and extent of the proposed use or development and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail. If a parcel is very large, the map does not need to show the entire parcel. Rather, it can show only those portions of the parcel affected by the proposed use. The map shall include the following elements:

(A) North arrow.

(B) Map scale.

(C) Boundaries, dimensions, and size of the subject parcel.

(D) Significant terrain features or landforms.

(E) Groupings and species of trees or other vegetation on the parcel.

(F) Location and species of vegetation that would be removed or planted.

(G) Bodies of water and watercourses.

(H) Location and width of existing and proposed roads, driveways, and trails.

(I) Location and size of existing and proposed structures.

(J) Location of existing and proposed services including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting.

(K) Location and depth of all proposed grading and ditching.

(j) In the Special Management Area, applications and/or site plans shall contain the natural resources information required in Commission Rule 350-80-600(2).

(j) Any additional information which the applicant feels will assist in the evaluation of the proposal including, but not limited to, maps, drawings, and development plans.

(k) The signature of the applicant and property owner or a statement from the property owner indicating that he is aware of the application being made on his property.

(l) The signature of the property owner on a statement that authorizes the Development Review Officer or the Development Review Officer's designee reasonable access to the site in order to evaluate the application.

(4) Applications for the following uses or developments shall include additional information as required by the appropriate guidelines in Commission rule 350-80 or by the Development Review Officer:

(a) All buildings, roads, or mining and associated activities proposed on lands visible from Key Viewing Areas, pursuant to 350-80-520 (2)(d).

(b) In the General Management Area, production and/or development of mineral resources and expansion of existing quarries pursuant to 350-80-520 (1)(e), 350-80-520 (2)(de), (2)(e), (2)(v), and (2)(w).

(c) In the General Management Area, any structural development involving more than 100 cubic yards of grading on sites visible from key viewing areas and which slope is between 10 and 30 percent, pursuant to 350-80-520 (2)(u)

(d) In the General Management Area, vegetation management projects in public rights of way along Scenic Travel Corridors, pursuant to 350-80-520 (4)(d).

(e) Large-scale uses as defined by guideline 350-80-540 (4)(b) shall include reconnaissance survey reports, pursuant to 350-80-540 (4)(b)

(f) Proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings that are 50 years old or older, pursuant to 350-80-520 (4)(c).

(g) In the General Management Area, new uses located in, or providing recreational access to the Columbia River or its fishbearing tributaries, pursuant to 350-80-150 (8)(a)(A).

(h) In the General Management Area, any review use in a wetland or within a wetland buffer zone, pursuant to Commission Rule 350-80-560 (1)(b).

(i) In the General Management Area, any review use in a stream, pond, lake, or within their buffer zones, pursuant to Commission Rule 350-80-570 (1)(b).

(j) In the General Management Area, any review use within 1000 feet of a sensitive wildlife area or site, pursuant to 350-80-580 (1)(b). Large-scale uses as defined by 350-80-580(3) shall also include field survey information, pursuant to 350-80-580 (3)(e).

(k) In the General Management Area, any review use within 1000 feet of a sensitive plant, pursuant to Commission Rule 350-80-590(b). Large-scale uses as defined by 350-80-590(3) shall also include field survey information, pursuant to Commission Rule 350-80-590 (3)(e).

(l) In the General Management Area, on lands designated Large-Scale Agriculture, a single family dwelling in conjunction with agricultural use, pursuant to Commission Rule 350-80-190 (1)(e), and if applicable, 350-80-190 (1)(f).

(m) In the General Management Area, on lands designated Large-Scale Agriculture, a single family dwelling not in conjunction with agricultural use, pursuant to Commission Rule 350-80-190 (1)(n).

(n) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative, pursuant to Commission Rule 350-80-190 (1)(h).

(o) In the General Management Area, on lands designated Large-Woodland, a single family dwelling, pursuant to Commission Rule 350-80-270 (1)(a), (c), and (k).

(p) In the Special Management Area, on lands designated Forest, a single family dwelling, pursuant to Commission Rule 350-80-270 (2)(j).

(q) In the Special Management Area, on lands designated Forest, forest practices, pursuant to Commission Rule 350-80-270 (2)(b).

(r) In the Special Management Area, on lands designated Open Space, any new use or development, pursuant to Commission Rule 350-80-340(2).

(s) In the General Management Area, on lands designated Agriculture-Special, a single-family dwelling pursuant to 350-80-190 (1)(h).

(t) In the Special Management Area, on lands designated Agriculture, a single-family dwelling necessary and accessory to agricultural use, pursuant to Commission Rule 350-80-190 (2)(b).

(u) In the Special Management Area, on lands designated Agriculture, farm labor housing and agricultural buildings, pursuant to Commission Rule 350-80-190 (2)(d).

(v) In the General Management Area, on lands designated Small Woodland, a single-family dwelling pursuant to Commission Rule 350-80-270 (1)(b).

(w) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, a single-family dwelling in conjunction with agricultural use pursuant to Commission Rule 350-80-190 (1)(e).

(x) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, agricultural labor housing, pursuant to Commission Rule 350-80-270 (1)(o).

(y) In the General Management Area, on lands designated Agriculture-Special, new livestock grazing, new fences, livestock watering facilities, and corrals; or soil, water, and

vegetation conservation activities, pursuant to Commission Rule 350-80-240.

(z) Other uses as deemed necessary by the Development Review Officer.

(5) Completed application forms shall be submitted directly to the office of the Columbia River Gorge Commission.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-090. Pre-Application Conference.

An applicant may request a pre-application conference prior to submitting an application for development review. The purposes of the conference shall be to acquaint the applicant with the substantive and procedural requirements of Commission Rule 350-80, to discuss the principle elements of the proposed action, and to identify guidelines that create opportunities or pose constraints for the proposed action.

350-80-100. Acceptance of Application.

Within 14 days of the receipt of an application, the Development Review Officer shall review the application for completeness and adequacy. The Development Review Officer shall accept a complete and adequate application within 14 days of receipt within 14 days of receipt of the application.

(1) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Development Review Officer shall notify the applicant of all omissions and deficiencies in writing within 14 days of receipt of the application.

(2) No application shall be accepted which the Development Review Officer deems cannot be acted upon reasonably within 72 days, pursuant to 350-80-130(3), except when the applicant consents to a longer period for action.

(3) No application shall be accepted unless accompanied by a list of names and addresses of the adjacent property owners within a distance of the subject parcel as determined in Commission Rule 350-80-630. A statement from the County Assessor or appropriate agency confirming the accuracy of the list shall accompany the list.

(4) No application for a proposed use which is explicitly prohibited by Commission Rule 350-80-060 shall be accepted.

(a) The application shall be returned to the applicant.

(b) A letter, signed by the Development Review Officer, stating that the proposed use is prohibited and citing the guideline which explicitly prohibits the proposed use, shall be sent to the applicant.

(c) Issuance of this letter shall not prohibit the applicant from appealing the decision pursuant to 350-70.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-110. Notice of Development Review.

(1) Within seven days of the acceptance of an application, the Development Review Officer shall issue notice of a proposed development review. The notice shall provide the following information:

(a) The name of the applicant;

(b) The general and specific location of the subject property;

(c) A brief description of the proposed action;

(d) The deadline for rendering a decision; and

(e) The deadline for filing comments on the proposed action.

(2) The notice shall state that the application and supporting documents are available for inspection at the Commission office during normal working hours.

(3) The notice shall state the applicant must comply with all applicable local, state, and federal laws.

(4) The notice shall be mailed to:

(a) The Forest Service, the applicable state, Indian Tribes and the applicable county and/or city; and

(b) Owners of property within a radius of the subject parcel(s) as determined by 350-80-630; and

(c) Other agencies and interested parties which request a notice which the Development Review Officer determines should be notified.

(4) The notice shall be posted at the Commission and Forest Service offices and shall be made available for posting at the applicable county or city planning office(s) and applicable library or libraries.

(5) For all development, notice shall be published in a newspaper of general circulation nearest to the site of the proposed action.

(6) A copy of the notice shall be filed in the records of the Commission.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-120. Comment Period.

Interested persons shall have 21 days from the date which the notice is sent to submit written comments to the Development Review Officer relative to the consistency of the proposed actions with the guidelines of Commission Rule 350-80:

(1) Within seven days of the close of the comment period, the Development Review Officer shall determine if a wildlife management plan pursuant to Commission Rules 350-80-580(6), or a rare plant protection and rehabilitation plan pursuant to Commission Rules 350-80-590(6) is required.

(2) For proposed uses or developments where a cultural resources survey (reconnaissance or historic) is required and where the Commission is performing the survey, the survey shall be completed by the close of the comment period. Upon receipt of the completed survey, the Development

Review Officer shall forward the survey to the State Historic Preservation Officers, and Indian Tribes pursuant to Commission Rules 350-80-540 (1)(b) and (2)(b)(A).

(3) Within seven days of the close of the 30 day reconnaissance survey comment period for State Historic Preservation Officers and Indian Tribes, the Development Review Officer shall determine if an evaluation of significance pursuant to Commission Rules 350-80-540(3) is required.

350-80-130. Decision of the Development Review Officer.

(1) In making a decision on a proposed use or development the Development Review Officer shall:

(a) Consult with the applicant and such agencies as the Development Review Officer deems appropriate;

(b) Consider information submitted by the applicant and all other relevant information available;

(c) Consider all comments submitted pursuant to Commission Rule 350-80-120; and

(d) Solicit and consider the comments of the Forest Service.

(2) The Development Review Officer shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and 350-80. In approving a proposed development action, the Development Review Officer may impose conditions as necessary to ensure consistency with the guidelines of 350-80.

(3) The Development Review Officer shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and 350-80 within 72 days after acceptance of the application except in one or more of the following situations:

(a) The applicant consents to an extension of time.

(b) The Development Review Officer determines that additional information is required pursuant to Commission Rule 350-80-120.

(c) The Development Review Officer determines that additional information is necessary to evaluate the impacts of the proposed use to scenic, cultural, natural, and recreation resources.

(d) Unforeseen circumstances including, but not limited to, weather, illness, etc.

(4) The Development Review Officer shall mail a copy of the decision to the applicant, the Commission, the Forest Service, the applicable state, the Indian Tribes, the applicable county and/or city and each person who submitted comments under Commission Rule 350-8-150. The decision shall set forth the rights of appeal under Commission Rule 350-70.

(5) The decision of the Development Review Officer shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70.

(6) The decision of the Development Review Officer approving a proposed development action shall become void

(a) when the development action is not undertaken within two years of the decision, or

(b) when the development action is discontinued for any reason for one year or more.

(7) An applicant may request an extension of the validity of a development approval. Such request shall be considered an Administrative Action and shall be submitted to the Development Review Officer prior to the expiration of such approval, in writing, stating the reason why an extension should be granted.

The Development Review Officer may grant an extension of up to 12 months in the validity of a development approval if it is determined that conditions, for which the applicant was not responsible, would prevent the applicant from commencing his operation within the original time limitation.

The Development Review Officer shall not grant an extension if the site characteristics and/or new information indicates that the proposed use may adversely affect scenic, cultural, natural or recreation resources in the National Scenic Area.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-140. Changes or Alterations to an Approved Action.

Any change or alteration to a development action approved by the Commission or Development Review Officer pursuant to this division shall be processed as new action, except that the Development Review Officer may approve minor changes or alterations deemed to be consistent with the guidelines of Commission Rule 350-80 and the findings and conclusions for the original action.

350-80-150. General Guidelines.

The following uses may be permitted when allowed by the land use designation, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620):

(1) Land Divisions and Cluster Development

Land Divisions within the Columbia River Gorge National Scenic Area may be allowed subject to the following:

(a) New land divisions are not allowed in the Special Management Area, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines of the Management Plan.

(b) Unless otherwise specified, creation of a parcel, regardless of size, or any division of land except a lot-line adjustment shall be subject to the guidelines in Commission Rule 350-80.

(c) At the time of creation of one or more new parcels, consolidation of access shall be considered in order to reduce adverse effects on scenic, cultural, natural and recreation resources.

(d) Adjustment of the boundary between two or more contiguous parcels that does not result in the creation of an additional parcel may be allowed if none of the parcels

larger than the minimum parcel size before the adjustment becomes smaller than the specified minimum parcel size after the adjustment.

(e) The minimum size for new parcels created for commercial uses within a Rural Center shall be based upon the site requirements (sewerage, parking, building, size, etc.) for the proposed use. Parcel size shall be determined by the Development Review Officer on a case-by-case basis.

(f) The minimum size for new parcels created for residential uses within a Rural Center shall be 1 acre.

To encourage the efficient use of land, provide public amenities and standards for quality developments, and reduce the cost of providing services within Rural Centers, the Development Review Office may allow a minimum parcel size of less than 1 acre within Rural Centers if a planned unit development approach is used for the subject parcel, incorporating features such as consolidated access and commonly shared open areas.

(g) When allowed by a land use designation, a land division in the General Management Area may create parcels smaller than the designated minimum size and may include a bonus, as specified below, in order to cluster new dwellings. Approval of cluster development shall be contingent upon submission of plans specifying dwelling sites and areas of permanent, undeveloped open land. To approve a cluster development, the Development Review Office must find that clustering new dwellings will provide an opportunity not available through conventional parcel-by-parcel development to site new dwellings to:

(A) Be located in areas with screening vegetation or other features which reduce visibility of development as seen from Key Viewing Areas.

(B) Avoid significant landscape features.

(C) Protect the existing character of the landscape setting.

(D) Reduce interference with movement of deer or elk in winter range.

(E) Avoid areas of known cultural resources.

(F) Consolidate road access, septic drainfields or other development features in order to reduce impacts associated with grading or ground disturbance.

(G) Reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites or other natural resources.

(H) Increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.

(h) In the General Management Area, following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an Urban Area. Approval of a cluster development shall include provisions for the permanent protection of open areas. No parcel in a cluster development may be smaller than 1 acre in a 5-acre Residential or a 10-acre Residential designation or 2 acres in a Small-Scale Agriculture or Small Woodland designation.

(i) In the General Management Area, cluster development may create up to 25 percent more parcels than otherwise allowed by the minimum parcel size on lands designated 5-acre Residential or 10-acre Residential and up to 50 percent more parcels on lands designated Small-Scale Agriculture or Small Woodland. Any division in a cluster

development under this guideline may create at least one additional parcel.

(j) in the General Management Area, at least 75 percent of land subject to a cluster development shall be permanently protected as undeveloped land.

(k) In the General Management Area, contiguous parcels in the same ownership or in separate ownership may be consolidated and redivided to take advantage of cluster development bonuses.

(2) Agricultural Buffer Zones

All new buildings shall comply with the following guidelines when proposed to be located on a parcel adjacent to lands designated Large-Scale or Small-Scale Agriculture and which are currently used for or are suitable for agricultural use:

(a) Setback Guidelines

Type of Agriculture	Type of Buffer (size in feet)		
	Open or Fenced	Natural or Created Vegetation Barrier	8-foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/vegetables	300'	100'	75'
Livestock grazing pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

(b) Earth berms may be used to satisfy, in part, the setback guidelines. Berms shall be a minimum of 8 feet in height, and contoured at 3:1 slopes to look natural. Shrubs, trees and/or grasses shall be planted on the berm to control erosion and achieve a finished height of 15 feet.

(c) The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be at least 6 feet high when planted and reach an ultimate height of at least 15 feet. The vegetation screen shall be planted along the appropriate parcel line(s), and be continuous.

(d) The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.

(e) If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

(f) A variance to buffer setbacks may be granted upon a demonstration that the guidelines of Commission Rule 350-80-150(7) have been satisfied.

(3) Temporary Use Hardship Dwelling

(a) The temporary placement of a mobile home in the General Management Area may be granted under the following circumstances:

(A) A family hardship exists where conditions relate to the necessary care for a member of the family occupying the principal dwelling and where medical conditions relate to the infirm or aged.

(B) The hardship dwelling will use the same subsurface sewage disposal system used by the existing dwelling; if the system is adequate to accommodate the additional dwelling, unless the additional dwelling can use an existing public sanitary sewer system.

(C) The hardship dwelling is found to be consistent with the guidelines for protection of scenic, cultural, natural and

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recreation resources of Commission Rule 350-80-520 through 350-80-620.

(b) A permit may be issued for a 2-year period, subject to annual review for compliance with the provisions of this rule and any other conditions of approval.

(c) Upon expiration of the permit or cessation of the hardship, whichever comes first, the mobile home shall be removed within 30 days.

(d) A new permit may be granted upon a finding that a family hardship continues to exist.

(4) Home Occupations and Cottage Industries

Home occupations and cottage industries may be established as specified in various land use designations consistent with the following conditions:

(a) A home occupation may employ only residents of the home.

(b) A cottage industry may employ up to three outside employees.

(c) No more than 25 percent of the total actual living space of the dwelling may be utilized for the home occupation or cottage industry.

(d) No more than 500 square feet of an accessory structure may be used for a home occupation or cottage industry.

(e) There shall be no outside, visible evidence of the home occupation or cottage industry, including outside storage.

(f) Exterior structural alterations to the residence for the home occupation or cottage industry shall not be permitted. New structures shall not be constructed for the primary purpose of housing a home occupation or cottage industry.

(g) No retail sales may occur on the premises, except incidental sales at lodging establishments authorized in Commission rule 350-80-150(5).

(h) One non-animated, non-illuminated sign, not exceeding 2 square feet in area may be permitted on the subject structure or within the yard containing the home occupation or cottage industry.

(i) Parking not associated with residential use shall be screened so it is not visible from Key Viewing Areas.

(j) In the General Management area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Commission Rules 350-80-150 (4) and (5).

(k) In the Special Management Area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Commission Rules 350-80-150 (4) and (5), except Commission Rule 350-80-150 (5)(a).

(5) Bed and Breakfast Inns

Bed and breakfast inns may be established as authorized in specified land use designations subject to the following:

(a) In the Special Management Area, bed and breakfast inns associated with residential use shall be allowed only in structures that are included in, or eligible for inclusion in, the National Register of Historic Places.

(b) Guests may not occupy a facility for more than 14 consecutive days.

(c) One non-animated, non-illuminated sign not exceeding 4 square feet in area may be permitted on the structure or within the yard containing the structure.

(d) Parking areas shall be screened so as to not be visible from Key Viewing Areas.

(6) Docks

(a) New private docks and boathouses serving only one family and one property shall be limited to a maximum of 120 square feet in size.

(b) New private docks and boathouses serving more than one family and property shall be limited to a maximum of 200 square feet in size.

(c) Public docks open and available for public use shall be allowed.

(7) Variances from Setbacks and Buffers within the General Management Area.

Variances from setbacks and buffers within the General Management Area may be allowed subject to the following approval criteria:

(a) When setbacks or buffers for the protection of scenic, cultural, natural, recreation, agricultural or forestry resources overlap or conflict, the setbacks or buffers may be varied upon a demonstration that:

(A) A setback or buffer to protect one resource would cause the proposed use to fall within a setback or buffer to protect another resource; and

(B) Variation from the specified setbacks or buffers would, on balance, best achieve the protection of the affected resources.

(b) A setback or buffer for protection of scenic, cultural, natural, recreation, agricultural or forestry resources may be varied to allow a residence to be built on a parcel of land upon a demonstration that:

(A) The land use designation otherwise authorizes a residence on the tract;

(B) No site exists on the tract (all contiguous parcels under the same ownership) on which a residence could practicably be placed in full compliance with the setback or buffer;

(C) The variance from the specified setback or buffer is the minimum necessary to allow the residence.

(c) The Development Review Officer may grant a variance to the setback and buffer requirements in Commission Rule 350-80-610, upon a finding that the following conditions exist:

(A) The proposed project is a public use, resource-based recreation facility providing or supporting either recreational access to the Columbia River and its tributaries, or recreational opportunities associated with a Scenic Travel Corridor.

(B) All reasonable measures to redesign the proposed project to comply with required setbacks and buffers have been explored, and application of those setbacks and buffers would prohibit a viable recreation use of the site as proposed.

(C) Resource impacts have been mitigated to less than adverse levels through design provisions and mitigation measures.

(D) The variance is the minimum necessary to accommodate the use.

(d) The Development Review Officer may grant a variance of up to 10 percent to the guidelines of General Management Area and Special Management Area Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from Scenic Area recreation demand studies shall be relied upon to meet this criterion in the absence of current applicable studies.

(B) The proposed use is dependent on resources present at the site.

(C) Reasonable alternative sites, including those in nearby Urban Areas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

(D) The proposed use is consistent with the goals, objectives and policies in Chapter 4, Part I of the Management Plan.

(E) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.

(F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

(8) Indian Tribal Treaty Rights and Consultation

(a) Tribal Government Notice

(A) New uses located in, or providing recreation river access to, the Columbia River or its fishbearing tributaries shall include the following supplemental information:

(i) The site plan map shall show adjacent river areas at least 1/2 mile upstream and downstream from the project site, the locations at which river access is planned, and the locations of all tribal fishing sites known to the project applicant.

(ii) The site plan text shall include an assessment of the potential effects that new uses may have on Indian treaty rights. The assessment shall:

(I) Describe the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods.

(II) List tribal commercial fishing seasons in the project vicinity, as established by the four treaty tribes.

(III) List tribal ceremonial fishing seasons in the project vicinity.

(IV) Based on the above factors, assess the potential effects that the proposed uses may have on Indian treaty rights.

(B) Notices shall include a treaty rights protection plan if new uses may affect Indian treaty rights. The protection plan shall specify measures that will be used to avoid effects to Indian treaty rights. These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent onsite monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations.

(C) Indian tribal governments shall have 20 calendar days from the date a notice is mailed to submit substantive written comments to the Development Review Officer. Indian tribal governments must identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the new uses.

(b) Tribal Government Consultation

(A) When substantive written comments are submitted to a Development Review Officer in a timely manner, the project applicant shall offer to meet with the Development Review Officer and the Indian tribal government that submitted comments within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the Indian tribal government.

Consultation meetings should provide an opportunity for the project application and tribal representatives to identify potential conflicts and explore options to eliminate them. The project applicant must demonstrate that the proposed use would not affect or modify treaty or other rights of any Indian tribe.

(B) Any substantive comments, recommendations, or concerns expressed by Indian tribal governments during the consultation meeting shall be recorded and addressed by the project applicant in a treaty rights protection plan. The protection plan shall include measures to avoid effects to treaty and other rights of any Indian tribe.

(C) The Development Review Officer shall submit all protection plans to the Indian tribal governments. Indian tribal governments shall have 30 calendar days from the date a protection plan is mailed to submit written comments to the Development Review Officer.

(c) Conclusion of the Treaty Rights Protection Process

(A) The Development Review Officer shall decide whether the proposed uses would affect or modify any treaty or other rights of any Indian tribe.

The final decision shall integrate findings of fact that address any substantive comments, recommendations, or concerns expressed by Indian tribal governments. If the final decision contradicts the comments, recommendations, or concerns of Indian tribal governments, the Development Review Officer must justify how it reached an opposing conclusion.

(B) The treaty rights protection process may conclude if the Development Review Officer determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

(C) A finding by the Development Review Officer that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in these guidelines, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses adversely affect or modify treaty or other tribal rights.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-160. Signs.

(1) Signs may be allowed pursuant in all land use designations in the General Management Area to the following provisions:

(f) Except for signs along public highways necessary for public safety, traffic control or road construction which are consistent with the Manual for Uniform Traffic Control Devices, the following signs are prohibited:

(A) Luminous signs or those with intermittent or flashing lights. These include neon signs, fluorescent signs,

light displays and other signs which are internally illuminated, exclusive of seasonal holiday light displays.

(B) New billboards.

(C) Signs with moving elements.

(D) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.

(e) Any sign which does not conform with a provision of 350-80-160 and has existed prior to adoption of the Management Plan, shall be considered non-conforming and subject to the following:

(A) Alteration of existing non-conforming signs shall comply with Commission Rule 350-80-160.

(B) Any non-conforming sign used by a business must be brought into conformance concurrent with any expansion or change in use which requires a development permit.

(c) The following may be permitted without review and are not subject to Commission Rule 350-80-160 (1)(a):

(A) Ordinary repair and maintenance of signs.

(B) Election signs which are not displayed for more than 60 days. Removal shall be accomplished within 30 days of election day.

(C) "For Sale" signs not greater than 12 square feet. Removal shall be accomplished within 30 days of close of sale.

(D) Temporary construction site identification, public service company, safety or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the Manual for Uniform Traffic Control Devices. Removal shall be accomplished within 30 days of project completion.

(E) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet.

(F) Temporary signs advertising civil, social, or political gatherings and activities not exceeding 12 square feet. Removal shall be accomplished within 30 days of the close of the event.

(G) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the message intended.

(H) Signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings, not on roofs or marquees.

(a) All signs shall meet the following guidelines unless they conflict with the Manual for Uniform Traffic Control Devices for public safety, traffic control or highway construction signs. In such cases, the standards in the Manual for Uniform Traffic Control Devices shall supersede these guidelines.

(A) The support structure shall be unobtrusive and have low visual impact.

(B) Lettering colors with sufficient contrast to provide clear message communication shall be allowed. Colors of signs shall blend with their setting to the maximum extent practicable.

(C) Backs of all signs shall be unobtrusive, non-reflective, and blend in with the setting.

(D) Spot lighting of signs may be allowed where needed for night visibility. Backlighting is not permitted for signs.

(b) Business identification or facility entry signs located on the premises may be allowed, subject to Commission Rule 350-80-160 (1)(a).

(d) Other signs not addressed or expressly prohibited by this rule may be permitted without review.

(2) Signs in the Special Management Area shall be allowed pursuant to the following provisions:

(h) Prohibited Signs

(A) Advertising billboards.

(B) Signs that move or give the appearance of moving, except signs used for highway construction, warning or safety.

(C) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle, except for signs used for highway construction, warning or safety.

(c) Pre-existing signs are allowed to continue provided no changes occur in size, structure, color, or message.

(e) Temporary signs shall be permitted without review when in compliance with subsection (d) above and the following:

(A) One political sign per parcel road frontage. The sign shall be no greater than 12 square feet in area and displayed for no more than 60 calendar days. Removal shall be accomplished within 30 days of election day.

(B) "For Sale" signs not greater than 12 square feet, removal shall be accomplished within 30 days of close of sale.

(C) One temporary construction site identification sign which is not greater than 32 square feet. Removal shall be accomplished within 30 days of project completion.

(D) Signs providing direction to and announcement of temporary garage/yard sales provided placement duration does not exceed three days and the signs are not greater than two square feet in area.

(E) Temporary signs, not exceeding 12 square feet and placed no longer than 10 days in advance of the event, advertising civil, social, or political gatherings and activities. Removal must be accomplished within 30 days of the close of the event.

(F) Temporary signs of public service companies indicating danger and/or service and safety information. Removal must be accomplished upon project completion.

(a) New signs shall be allowed as specified in the applicable land use designation.

(b) No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or obstruct the view of any traffic sign, signal, or device.

(d) All new signs shall meet the following guidelines, and be consistent with the Manual for Uniform Traffic Control Devices:

(A) Signs shall be maintained in a neat, clean and attractive condition.

(B) The character and composition of sign materials shall be harmonious with the landscape and/or related to and compatible with the main structure upon which the sign is attached.

(C) Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.

(D) Signs shall be unobtrusive and have low contrast with the setting.

(E) The visual impact of the support structure shall be minimized.

(F) Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for, or used as, an advertising display, except for road safety signs.

(G) Backs of all signs shall be visually unobtrusive, nonreflective, and blend in with the setting.

(H) Sign internal illumination or backlighting shall not be permitted except for highway construction, warning or safety.

(f) Public signs shall meet the following guidelines in addition to subsections (a) through (e) above:

(A) The Graphic Signing System provides design guidelines for public signs in and adjacent to public road rights-of-way. All new and replacement public signs shall conform to the guidelines in this system. Types of signs addressed include recreation site entry, route marker, interpretive, guide, directional, and urban area entry.

(B) Signs located outside public road rights-of-way are encouraged to be designed in such a way as to be consistent with similar purpose signs described in the Graphic Signing System.

(C) Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that required to convey the intended message.

(g) Signs for public and commercial recreation facilities, home occupations, cottage industries, and commercial uses shall meet the following guidelines in addition to subsections (a) through (e):

(A) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than two square feet.

(B) Any sign advertising or relating to a business which is discontinued for a period of 30 consecutive days shall be presumed to be abandoned and shall be removed within 30 days thereafter, unless permitted otherwise by the jurisdictional authority.

(C) Any signs relating to, or advertising, a business shall be brought into conformance with these sign guidelines prior to any expansion or change in use which is subject to review.

(D) Off-site and on-site directional signs on approach roads to recreational facilities may be permitted. Name and interpretive signs may be permitted on-site, but should be kept to the minimum required to achieve the purpose(s) of the facilities.

(E) Commercial recreation businesses approved in conjunction with a recreational facility may have a name sign not exceeding 16 square feet.

(F) Recreation developments may have one on-premise name sign at each principal entrance. Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Signing System.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-170. Agricultural Land Designations.

Commission Rule 350-80-170 through 350-80-240 shall apply to those areas designated Large-Scale or Small-Scale Agriculture, SMA-Agriculture, and Agriculture-Special on the Scenic Area Land Use Designation Map.

350-80-180. Uses Allowed Outright-Agricultural Land.

(1) The following uses are allowed on lands designated Large-Scale or Small-Scale Agriculture without review:

(a) Agricultural use, except new cultivation.

(b) Forest practices that do not violate conditions of approval for other approved uses.

(c) Repair, maintenance, and operation of existing structures, trails, roads, railroads and utility facilities.

(d) Buildings less than 60 square feet in floor area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

(2) The following uses are allowed on land designated SMA-Agriculture without review:

(a) New agricultural uses and open space uses allowed under Commission Rule 350-80-340, except where there would be potential impact to cultural or natural resources.

(b) Maintenance, repair and operation of existing dwellings, structures, agricultural buildings, trails, roads, railroads, and utility facilities.

(c) Accessory structures less than 60 square feet in area and less than 18 feet in height measured at the roof peak.

(3) The following uses may be allowed on lands designated Agriculture-Special without review:

(a) Existing livestock grazing. A livestock operation ceases to be existing when the land on which it is conducted has lain idle for more than 5 years.

(b) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads, and utility facilities.

(c) Low-intensity recreation uses that occur with the knowledge and permission of the landowner, including hunting, fishing, trapping, native plant study, birdwatching, photography, horseback riding, and hiking.

(d) Temporary livestock facilities, such as portable livestock pens and corrals.

(e) New fences that exclude livestock from lands that are not part of an existing livestock operation.

350-80-190. Review Uses-Agricultural Land. (1)

The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture subject to compliance with the scenic, cultural, natural, and recreation resource guidelines (Commission Rule 350-20-520 through 350-80-620:

(a) New cultivation, subject to compliance with Commission Rule 350-80-540 through 350-80-590.

(b) Agricultural buildings in conjunction with agricultural use.

(c) Buildings greater than 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.

(d) The temporary use of a mobile home in the case of a family hardship, subject to Commission Rule 350-80-150(3).

(e) On lands designated Large-Scale Agriculture, a single family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:

(A) The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. Current use includes a minimum area which would satisfy subsection (e)(C)(iv) below; and

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

(i) Size of the entire farm or ranch, including all land in the same ownership;

(ii) Type(s) of agricultural uses (crops, livestock) and acreage;

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area; and

(iv) Income capability. The farm or ranch, and all its constituent parcels, is capable of producing at least \$40,000 in gross annual income. This determination shall be made using the following formula:

(A)(B)(C) = I where:

A = Average yield of the commodity per acre, or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income Capability

(f) On lands designated Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling which is included in, or is eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria for use in evaluating the eligibility of cultural resources contained in the National Register Criteria for Evaluation (36 CFR 60.4).

(g) On lands designated Small-Scale Agriculture, a single-family dwelling on any legally existing parcel.

(h) On lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative provided that all of the following conditions exist:

(A) The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister;

(B) The dwelling would be located on the same parcel as the dwelling of the principal operator; and

(C) The operation is a commercial enterprise as determined by Commission Rule 350-80-190 (1)(e)(C).

(i) Construction, reconstruction or modifications of roads not in conjunction with agriculture.

(j) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.

(k) Structures associated with hunting and fishing operations.

(l) Towers and fire stations for forest fire protection.

(m) Agricultural labor housing upon a showing that:

(A) The proposed housing is necessary and accessory to a current agricultural use;

(B) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months; and

(C) The housing will be located to minimize the conversion of lands capable of production of farm crops or livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(n) On lands designated Large-Scale Agriculture, on a parcel which was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:

(A) The dwelling will not force a change in or increase the cost of accepted agricultural practices on surrounding lands;

(B) The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be utilized in conjunction with other agricultural operations in the area;

(C) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in Commission Rule 350-80-150(2), or any abutting parcel designated Commercial Forest Land or Large or Small Woodland, as required in Commission Rule 350-80-310(1);

(D) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland; and

(E) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

(o) On parcels in Small-Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in Commission Rule 350-80-150(1). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40, 80, or 160 acres,

this provision will apply to parcels 80 acres or larger, 160 acres or larger, or 320 acres or larger, respectively.

(p) Life estates, pursuant to Commission Rule 350-80-200.

(q) Land divisions when all resulting parcels satisfy the minimum lot sizes as designated on the land use designation map.

(2) The following uses may be allowed on lands designated SMA-Agriculture, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (Commission Rule 350-80-520 through 350-80-620). The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock:

(a) Forest uses and practices as allowed in Commission Rule 350-80-270 (2)(b).

(b) A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:

(A) The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy guideline (C)(iv), below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula, with periodic adjustments for inflation:

(A)(B)(C) = I where:

A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income capability

(D) Minimum parcel size of 40 contiguous acres.

(c) Accessory structures, greater than 60 square feet.

(d) Farm labor housing and agricultural buildings upon a showing that the following conditions exist:

(A) The proposed housing or building is necessary and accessory to a current agricultural use and a showing that the operation is a commercial agricultural enterprise as determined by Commission Rule 350-80-190 (1)(e)(C).

(B) The housing or building shall be seasonal unless it is shown that an additional full-time dwelling is necessary

for the current agricultural use. Seasonal use shall not exceed nine months.

(C) The housing or building shall be located to minimize the conversion of lands capable of production of farm crops and livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.

(e) Home occupations and cottage industries pursuant to Commission Rule 350-80-150(4). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(f) Bed and breakfast inns subject to Commission Rule 350-80-150(5). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(g) Fruit stands and produce stands upon a showing that sales will be limited to agricultural products raised on the property and other agriculture properties in the local region.

(h) Aquaculture.

(i) Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands within the Special Management Area.

(j) Utility facilities necessary for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Agriculture lands.

(B) The size is the minimum necessary to provide the service.

(k) Temporary asphalt/batch plant operations related to public road projects, not to exceed six months.

(l) Signs as specified in Commission Rule 350-80-160(2).

(m) Community facilities and non-profit facilities related to agricultural resource management.

(n) Expansion of existing non-profit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(o) Recreation, interpretive and educational developments and uses consistent with Commission Rule 350-80-620.

(p) Road and railroad construction and reconstruction.

(q) Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

(r) Structures and vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-200. Review Uses with Additional Approval Criteria — Large-Scale or Small-Scale Agriculture Designations.

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (Commission Rule 350-80-520 through 350-80-620) and 350-80-220.

(a) Utility facilities and railroads necessary for public service upon a showing that:

(A) There is no practicable alternative location with less adverse effect on agricultural or forest lands, and

(B) The size is the minimum necessary to provide the service.

(b) Home occupations or cottage industries in existing residential or accessory structures, subject to Commission Rule 350-80-150(4).

(c) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

(d) Wineries, in conjunction with on-site viticulture, upon a showing that processing and sales of wine is from grapes grown on the subject farm or in the local region.

(e) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

(f) Exploration, development and production of mineral and geothermal resources subject to Commission Rule 350-80-520.

(g) Personal-use airstrips including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted, except for aircraft emergencies, to use by the owner and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airstrip other than those owned or controlled by the owner of the airstrip.

(h) Aquaculture.

(i) Recreation development, subject to Commission Rule 350-80-610 and the Recreation Development Plan (Management Plan, Part III, Chapter 1).

(j) Boarding of horses.

(k) Temporary portable asphalt/batch plants related to public road projects, not to exceed six months.

(l) Bed and breakfast inns in single-family dwellings, subject to Commission Rule 350-80-150(5) and provided that the residence:

(A) Is included in the National Register of Historic Places; or

(B) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation; or

(C) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(m) Non-profit, environmental learning or research facilities.

(n) Expansion of existing schools or places of worship.

(2) The following uses may be allowed on lands designated Agriculture-Special subject to compliance with the appropriate scenic, natural, cultural, and recreation resource guidelines (Commission Rule 350-80-520 through 350-80-620) and Commission Rule 350-80-230:

(a) New livestock grazing. Any operation that would introduce livestock to land that has not been grazed, or has laid idle, for more than 5 years shall be considered new livestock grazing.

(b) New fences, livestock watering facilities, and corrals.

(c) Soil, water, and vegetation conservation uses.

(d) Replacement or minor expansion of existing and serviceable structures within a dedicated site. Expansion shall be limited to the dedicated site.

(e) Fish and wildlife management uses, educational activities, and scientific research.

(f) Land divisions that facilitate livestock grazing or protect and enhance natural areas. No resulting parcel may be smaller than 160 acres, unless it would facilitate the protection of scenic, cultural, natural, or recreation resources.

(g) Single-family dwellings that are not in conjunction with agricultural use, if a landowner demonstrates that (1) the dwelling cannot be constructed on a portion of the parcel that is located outside of the natural area, and (2) the dwelling is sited and designed in a manner that minimizes adverse effects to the natural area. All dwellings shall meet the criteria in Commission Rule 350-80-190 (1)(n). The buffer guidelines for non-agricultural dwellings may be waived if they would prevent the optimum siting of a dwelling.

(h) Recreation uses, subject to the provisions for recreation intensity classes (Commission Rule 350-80-620).

350-80-210. Approval Criteria for Life Estates — Large-Scale or Small-Scale Agriculture Designations.

A landowner who sells or otherwise transfers real property on lands designated Large-Scale or Small-Scale Agriculture may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel as defined in Commission Rule 350-80-040. A second dwelling in conjunction with agricultural use may be allowed, subject to compliance with guidelines in Commission Rule 350-80-520 through 350-80-620 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

(1) The proposed dwelling is in conjunction with agricultural use, using guideline (350-80-190 (1)(e)).

(2) Upon termination of the life estate, the original or second dwelling shall be removed.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-220. Approval Criteria for Specified Review Uses on Lands Designated Large-Scale or Small-Scale Agriculture.

Uses identified in Commission Rule 350-80-200(1) may be allowed only if they meet both of the following criteria:

(1) The use is compatible with agricultural uses and would not force a change in or significantly increase the cost of accepted agricultural practices on nearby lands devoted to agricultural use; and

(2) The use will be sited to minimize the loss of land suitable for the production of crops or livestock.

350-80-230. Approval Criteria for Review Uses on Lands Designated Agriculture-Special.

Uses identified in Commission Rule 350-80-200(2) may be allowed only if they meet all of the following criteria:

(1) A range conservation plan pursuant to Commission Rule 350-80-240 shall be prepared before new livestock grazing commences; new fences, livestock watering facilities, and corrals are constructed; or soil, water, and vegetation conservation activities are undertaken [review uses (a), (b) and (c) in Commission Rule 350-80-190(3)].

(2) The Development Review Officer shall submit all land use applications and range conservation plans to the Oregon or Washington Natural Heritage Program. The state heritage program will have 20 days from the date that an application and/or plan is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address any written comments submitted by the state heritage program in the development review order.

(3) Based on the comments from the state heritage program, the Development Review Officer shall make a final decision on whether the proposed use is consistent with the Agriculture-Special policies of the Management Plan. If the final decision contradicts the comments submitted by the state heritage program, the Development Review Officer shall justify how it reached an opposing conclusion.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-80-240. Range Conservation Plans.

(1) If a range conservation plan is required before a use is allowed, it shall be prepared by landowners in cooperation with range scientists from local conservation districts. Specialists from the Oregon or Washington Natural Heritage Program should be consulted while the plan is being prepared.

(2) Range conservation plans shall ensure that new uses do not adversely affect natural areas. They shall accomplish the following goals:

(a) Maintain native rangeland that is in excellent or good condition; enhance rangeland that is in fair or poor condition.

(b) Preserve native trees and shrubs.

(c) Reestablish native grasses in degraded areas that have been invaded by non-native plants and weeds.

(3) Range conservation plans shall include the following elements:

(a) Range inventory. This shall include existing composition, carrying capacity, and condition of rangeland; the location of rare plants and non-native weeds; and existing fences, watering ponds, and other range improvements.

(b) Rehabilitation plan. This shall include actions that will be taken to rehabilitate native rangeland that is in fair or poor condition, such as weed and soil erosion control, seeding, and prescribed burning.

(c) Livestock management plan. This shall include the grazing system that will be used, including number and size of pastures, expected livestock numbers, and grazing/deferral periods and sequence. Management plans shall project livestock movements for at least 3 years.

(d) Monitoring program. This shall track the annual progress of the conservation plan and condition of the range. Monitoring techniques shall be described, such as line transects or photographic plots.

350-80-250. Forest Land Designations.

Commission Rule 350-80-250 through 350-80-310 shall apply to those areas designated Commercial Forest Land, Large or Small Woodland and SMA-Forest on the Scenic Area Land Use Designation Map.

350-80-260. Uses Allowed Outright — Forest Land.

(1) The following uses are allowed on lands designated Commercial Forest Land or Large or Small Woodland without review:

(a) Forest practices that do not violate conditions of approval for other approved uses.

(b) Agricultural use, except new cultivation.

(c) Repair, maintenance, and operation of existing structures, trails, roads, railroads and utility facilities.

(d) Buildings less than 60 square feet in floor area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

(2) The following uses are allowed on land designated SMA-Forest without review:

(a) New agricultural uses as allowed in Commission Rule 350-80-190(2) and the open space uses allowed in Commission Rule 350-80-340, except where there would be potential impact to cultural or natural resources.

(b) Maintenance, repair, and operation of existing dwellings, signs, structures, trails, roads, railroads, and utility facilities.

(c) Accessory structures of less than 60 square feet in area and less than 18 feet in height measured at the roof peak.

350-80-270. Review Uses — Forest Land.

(1) The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland subject to compliance with the appropriate scenic,

cultural, natural, and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620):

(a) On lands designated Large Woodland, a single-family dwelling upon a demonstration that all of the following conditions exist:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The principal purpose for locating a dwelling on lands designated Large Woodland is to enable the resident to conduct efficient and effective forest management. This requirement indicates a relationship between ongoing forest management and the location of a dwelling on the subject parcel. A dwelling may not always be required for forest management.

(B) The subject parcel has been enrolled in the appropriate state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the Development Review Officer. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor and expenses; and how the dwelling will contribute toward the successful completion of the operations.

(D) The parcel has no other dwellings that are vacant or currently occupied by persons not engaged in forestry and that could be used as the principal forest dwelling.

(E) The dwelling complies with the "Approval Criteria for the Siting of Dwellings on Forest Land" (Commission Rule 350-80-310) and "Approval Criteria for Fire Protection in Forest Zones" (Commission Rule 350-80-300).

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(b) On lands designated Small Woodland, one single-family dwelling on a legally created parcel upon the parcel's enrollment in the state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of a dwelling shall comply with Commission Rule 350-80-300 and Commission Rule 350-80-310. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(c) One single-family dwelling if shown to be in conjunction with and substantially contribute to the current agricultural use of a farm pursuant to Commission Rule 350-80-190 (1)(e). The siting of the dwelling shall comply with Commission Rule 350-80-300.

(d) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land

which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on-site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when the particular forest practice for which was approved has concluded.

(e) Temporary portable facilities for the primary processing of forest products grown on a parcel or contiguous parcels in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.

(f) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.

(g) Structures associated with hunting and fishing operations

(h) Towers and fire stations for forest fire protection.

(i) New agricultural structures subject to Commission Rule 350-80-300.

(j) The temporary use of a mobile home in the case of a family hardship, subject to Commission Rule 350-80-150(3), 350-80-300 and 350-80-310.

(k) Accessory building(s) greater than 60 square feet in floor area and/or exceeding 18 feet in height as measured at the roof peak; subject to Commission Rule 350-80-300 and 350-80-310.

(l) A second single-family dwelling for a farm operator's relative, subject to Commission Rule 350-80-190 (1)(h), 350-80-300 and 350-80-310.

(m) Private roads serving a residence, subject to Commission Rule 350-80-300 and 350-80-310.

(n) Recreation development, subject to Commission Rule 350-80-610 and the Recreation Development Plan (Management Plan, Part III, Chapter 1).

(o) Construction or reconstruction of roads or modifications not in conjunction with forest use or practices.

(p) Agricultural labor housing upon a showing that:

(A) The proposed housing is necessary and accessory to a current agricultural use.

(B) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject agricultural unit. Seasonal use shall not exceed nine months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock and will not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(q) On lands designated Commercial Forest Land, a temporary mobile home in conjunction with a timber operation, upon a finding that security personnel are required to protect equipment associated with a harvest operation or the subject forest land from fire. The mobile home must be removed upon completion of the subject harvest operation or the end of the fire season. The placement of the mobile home is subject to Commission Rule 350-80-300 and 350-80-310.

(4) On parcels in Small Woodland, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" [Commission

Rule 350-80-150(1)]. If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40 or 80 acres, this provision will apply to parcels 80 acres or larger or 160 acres or larger, respectively.

(s) New cultivation, subject to compliance with Commission Rule 350-80-540, 350-80-560, 350-80-570, 350-80-580 and 350-80-590.

(t) Life Estates on lands designated Large or Small Woodland, pursuant to Commission Rule 350-80-320.

(2) The following uses may be allowed on lands designated SMA-Forest subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620). The use or development will be sited to minimize the loss of land suitable for the production of forest products:

(a) Any use listed in Commission Rule 350-80-190(2).

(b) Forest practices in accordance with a site plan for forest practices approved by the Oregon Department of Forestry or Washington Department of Natural Resources, or other designated forest practices review agency, including the following:

(A) The following information, in addition to the site plan requirements of Commission Rule 350-80-080, shall be included on the site plan:

(i) Boundary of proposed commercial forest practice.

(ii) Location of proposed rock or aggregate sources.

(iii) Timber types.

(iv) Harvest units.

(v) Silvicultural prescriptions.

(vi) Road and structure construction and/or reconstruction design.

(vii) Major skid trails, landings, and yarding corridors.

(viii) Commercial firewood cutting areas.

(ix) Existing and proposed rock pit development plans.

(x) Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.

(B) A discussion of slash disposal methods.

(C) A reforestation plan as reviewed by the appropriate state forest practices agency.

(c) Railroad and road construction or reconstruction.

(d) Exploration, development, and production of sand, gravel, or crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products in the Special Management Area.

(e) Silvicultural nurseries.

(f) Utility facilities for public service upon a finding that:

(A) There is no alternative location with less adverse effect on Forest Land, and

(B) The size is the minimum necessary to provide the service.

(g) Structures or vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.

(h) Fish hatcheries and aquaculture facilities.

(i) Public recreation, commercial recreation, interpretive and educational developments and uses consistent with Commission Rule 350-80-620.

(j) One dwelling on a parcel of 40 contiguous acres or larger if an approved Forest Management Plan demonstrates that such dwelling is necessary for and accessory to forest

uses. The Forest Management Plan shall demonstrate the following:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forest lands is to enable the resident to conduct efficient and effective management. This requirement shall indicate a relationship between ongoing forest management and the need for dwelling on the subject property.

(B) The subject parcel has been enrolled in the state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the Development Review Officer. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor, and expenses; and how the dwelling will contribute towards the successful management of the property.

(D) There are no other dwellings on the parcel that are vacant or currently occupied by persons not engaged in forest management of the subject parcel.

(E) The dwelling complies with all applicable building code and fire protection guidelines.

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operations are entitled to carry on accepted agricultural or forest practices.

(k) Accessory structures over 60 square feet.

(l) Home occupations and cottage industries pursuant to Commission Rule 350-80-150(4).

(m) Temporary portable facility for the processing of forest products.

(n) Towers and fire stations for forest fire protection.

(o) Community facilities and nonprofit facilities related to forest resource management.

(p) Expansion of existing nonprofit group camps, retreats, or conference or education centers, necessary for the successful operation of the facility on the dedicated site. Expansion beyond the dedicated site shall be prohibited.

(q) Signs as specified in 350-80-160(2).

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-280. Review Uses with Additional Approval Criteria — Commercial Forest Land, or Large or Small Woodland Designations.

The following uses may be allowed on lands designated Commercial Forest Land, or Large or Small Woodland, subject to compliance with the appropriate scenic, cultural, natural, or recreation resources guidelines (Commission Rule

350-80-510 through 350-80-620) and Commission Rule 350-80-290:

(1) Utility facilities and railroads necessary for public service upon a showing that (a) there is no practicable alternative location with less adverse effect on agricultural and forest lands and on scenic, cultural, natural and recreation resources and (b) the size is the minimum necessary to provide the service.

(2) Home occupations or cottage industries in an existing residence or accessory structure, subject to the guidelines in Commission Rule 350-80-150(4).

(3) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

(4) Wineries, in conjunction with onsite viticulture, upon a showing that processing and sales of wine is from grapes grown on the subject farm or in the local region.

(5) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

(6) Exploration, development, and production of mineral and geothermal resources, subject to Commission Rule 350-80-520 through 350-80-530.

(7) Aquaculture.

(8) Boarding of horses.

(9) Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.

(10) Expansion of existing nonprofit group camps, retreats, or conference centers.

(11) Bed and breakfast inns in single-family dwellings, subject to Commission Rule 350-80-150(5) and provided that the residence:

(a) Is included in the National Register of Historic Places, or

(b) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation, or

(c) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(12) Nonprofit, environmental learning or research facilities.

350-80-290. Approval Criteria for Specified Review Uses on Lands Designated Commercial Forest Land or Large or Small Woodland.

Uses identified in 350-80-280 may be allowed only if they meet the following criteria:

(1) The owners of land designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture and that lies within 500 feet of the perimeter of the subject parcel have been notified of the land use application and have been given at least 10 days to comment prior to a final decision;

(2) The use will not interfere seriously with accepted forest or agricultural practices on nearby lands devoted to resource use;

(3) The use will be sited in a way that minimizes the loss of forest or agricultural land and minimizes the chance

of interference with accepted forest or agricultural practices on nearby lands; and

(4) The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel and will comply with Commission Rule 350-80-300.

350-80-300. Approval Criteria for Fire Protection in Forest Designations.

All uses, as specified, shall comply with the following fire safety guidelines:

(1) All buildings shall be surrounded by a maintained fuel break of 50 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.

(2) Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structure(s).

(3) A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.

(4) Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent. Turnouts shall be provided at a minimum of every 500 feet. Access drives shall be maintained to a level that is passable to fire equipment. Variances to road guidelines may be made only after consultation with the local rural fire district, and the Washington Department of Natural Resources in Washington, or the Oregon Department of Forestry in Oregon.

(5) Within one year of the occupancy of a dwelling, the Development Review Officer shall conduct a review of the development to assure compliance with these guidelines.

(6) Telephone and power supply systems shall be underground whenever possible.

(7) Roofs of structures should be constructed of fire-resistant materials such as metal, fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.

(8) Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.

(9) All structural projections such as balconies, decks and roof gables should be built with fire resistant materials equivalent to that specified in the Uniform Building Code.

(10) Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant.

350-80-310. Approval Criteria for Siting of Dwellings on Forest Land.

The approval of new dwellings and accessory structures on forest lands shall comply with the following guidelines:

(1) The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least 200 feet from adjacent properties. Clustering or locating proposed development closer to existing development on adjacent lands may minimize impacts on nearby or adjacent forest operations.

(2) The amount of forest land used to site dwellings, structures, access roads, and service corridors shall be minimized. This can include locating new dwellings and structures as close to existing public roads as possible, thereby minimizing the length of access roads and utility corridors; or locating the dwelling, access road, and service corridors on portions of the parcel that are least or poorly suited for forestry. Areas may not be suitable for forestry because of existing nonforest uses, adjacent dwellings, or land productivity.

(3) Dwellings shall be located to minimize the risks associated with fire. Dwellings should be located on gentle slopes and in any case not on slopes which exceed 40 percent. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty in gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.

(4) A variance to the siting guidelines of this rule may be granted pursuant to the provisions of Commission Rule 350-80-150(7).

350-80-320. Approval Criteria for Life Estates in Commercial Forest Land or Small or Large Woodland.

A landowner who sells or otherwise transfers real property on lands designated Commercial Forest Land or Large or Small Woodland may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel. A second dwelling unit on lands designated Commercial Forest Land or Large or Small Woodland may be allowed, subject to compliance with the guidelines in Commission Rule 350-80-520 through 350-80-620 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

(1) The proposed dwelling is in conjunction with agricultural use, using guideline 350-80-190 (1)(e).

(2) On lands designated Large Woodland, the dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The proposed dwelling shall comply with guideline 350-80-270 (1)(a).

(3) On lands designated Small Woodland, the proposed dwelling complies with guideline 350-80-270 (1)(b).

(4) Upon termination of the life estate, the original or second dwelling shall be removed.

350-80-330. Open Space Designations.

Commission Rule 350-80-330 through 350-80-340 shall apply to those areas designated GMA-Open Space and SMA-Open Space on the Scenic Area Land Use Designation Map.

350-80-340. Review Uses — Open Space.

(1) The following uses may be allowed on all lands designated GMA-Open Space subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620):

(a) Low intensity recreation, subject to Commission Rule 350-80-610(2).

(b) Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources.

(c) Repair, maintenance, operation and improvement of existing structures, trails, roads, railroads, utility facilities and hydroelectric facilities.

(d) Removal of timber, rocks or other materials for purposes of public safety and placement of structures for public safety.

(2) The following uses may be allowed on land designated GMA-Open Space in the Gorge Walls, Canyonlands and Wildlands landscape setting:

(a) All uses listed in Commission Rule 350-80-340(1).

(b) Livestock grazing.

(c) Fish and wildlife management uses conducted by federal, state or tribal resource agencies.

(d) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a county conservation district.

(e) Harvesting of wild crops.

(f) Educational or scientific research.

(g) Continued operation of existing quarries if they are determined to be consistent with guidelines to protect scenic, cultural, natural and recreation resources (Commission Rule 350-80-520 through 350-80-620).

(5) The following uses may be allowed on land designated GMA-Open Space within the Mosley Lakes Natural Area:

(a) All those uses allowed in Commission Rule 350-80-340(1).

(b) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

(c) Educational or scientific research, after consultation with the Washington Natural Heritage Program.

(d) Commercial trapping.

(4) The following uses may be allowed on land designated GMA-Open Space within the Chenoweth Table Natural Area:

(a) All those uses allowed in Commission Rule 350-80-340(1).

(b) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-80-610(2), after consultation with the Oregon Natural Heritage Program.

(c) Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Oregon Natural Heritage Program.

(d) Educational or scientific research, after consultation with the Oregon Natural Heritage Program.

(5) The following uses may be allowed on land designated GMA-Open Space within the Squally Point Natural Area:

(a) Except as limited by guideline (6)(b) below, all those uses allowed in Commission Rule 350-80-340(1).

(b) Except in the upland dunes south of the railroad tracks, low-intensity recreation, subject to the guidelines for recreation intensity classes 350-80-610(2), after consultation with the Oregon Natural Heritage Program.

(c) Repair and maintenance of railroads, except measures to stabilize dunes, after consultation with the Oregon Natural Heritage Program.

(6) The following uses may be allowed on land designated GMA-Open Space within the Klickitat River Wildlife and Natural Area:

(a) All those uses allowed in Commission Rule 350-80-340(1).

(b) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-80-610(2), after consultation with the Washington Natural Heritage Program and Washington Department of Wildlife.

(c) Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

(d) Educational or scientific research, after consultation with the Washington Natural Heritage Program.

(7) The following uses are allowed on land designated GMA-Open Space within the Balch Lake Wetland Area:

(a) All those uses allowed in Commission Rule 350-80-340(1).

(b) Livestock grazing, subject to a range conservation plan, after consultation with the Washington Department of Wildlife.

(c) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(d) Educational and scientific research, after consultation with the Washington Department of Wildlife.

(e) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-80-610(2), after consultation with the Washington Department of Wildlife.

(8) The following uses may be allowed on lands designated GMA-Open Space within the mouth of the Wind River Wildlife Area:

(a) All those uses allowed in Commission Rule 350-80-340(1).

(b) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(c) Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

(d) Harvesting of wild crops.

(e) Educational or scientific research, after consultation with the Washington Department of Wildlife or Fisheries.

(f) Commercial fishing and trapping.

(g) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-80-610(2), after consultation with the Washington Department of Wildlife.

(9) The following uses may be allowed on lands designated GMA-Open Space within state parks:

(a) All uses listed in Commission Rule 350-80-340(1).

(b) Fish and wildlife management uses conducted by federal, state or tribal resource agencies.

(c) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

(d) Harvesting of wild crops.

(e) Educational or scientific research.

(10) On land designated SMA-Open Space, the maintenance, repair, and operation of existing dwellings, structures, trails, roads, railroads, and utility facilities may occur without review.

(11) The following uses may be allowed on lands designated SMA-Open Space, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-650) and when consistent with an open space plan approved by the U.S. Forest Service pursuant to guideline (12) below:

(a) Changes in existing uses including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices.

(b) Structures or vegetation management activities, including scientific research, related to scenic, cultural, recreational, and natural resource enhancement projects.

(c) Low intensity recreation uses, including educational and interpretive facilities, consistent with Commission Rule 350-80-620.

(d) Utility facilities for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Open Space land.

(B) The size is the minimum necessary to provide the service.

(e) New signs, pursuant to Commission Rule 350-80-160.

(12) An Open Space plan shall be completed by the primary managing agency or landowner prior to any new land uses or development, and shall be reviewed by the Forest Service. The Open Space plan shall include the following:

(a) Direction for resource protection, enhancement, and management.

(b) Review of existing uses to determine compatibility with Open Space values.

(c) Consultation with members of the public and with agency and resource specialists.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-350. Residential Land Designations.

Commission Rule 350-80-350 through 350-80-390 shall apply to those areas designated Residential on the Scenic Area Land Use Designation Map.

350-80-360. Uses Allowed Outright — Residential Land.

(1) The following uses are allowed on lands in the General Management Area designated Residential without review:

- (a) Agricultural use, except new cultivation.
- (b) Forest practices that do not violate conditions of approval for other approved uses.
- (c) Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.
- (d) Buildings less than 60 square feet in area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

(2) The following uses are allowed on land in the Special Management Area designated Residential without review:

- (a) Agricultural uses except where there would be potential impact to cultural or natural resources.
- (b) Maintenance, repair, and operation of dwellings, signs, structures, existing trails, roads, railroads, and utility facilities.
- (c) Accessory structures of less than 60 square feet in area and 18 feet in height measured at the roof peak.

350-80-370. Review Uses — Residential Land.

(1) The following uses may be allowed on lands in the General Management Area designated Residential, subject to compliance with the scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620):

(a) One single-family dwelling per legally created parcel.

(A) If the subject parcel is located adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland, the use shall comply with the buffer and notification requirements of Commission Rule 350-80-150(2), 350-80-310(1), and the notification requirements of Commission Rules 350-80-190(1)(n)(E) and 350-80-290(1); and

(B) If the subject parcel is located adjacent to lands designated Commercial Forest Land or Large or Small Woodland, the placement of a dwelling shall also comply with the fire protection guidelines of Commission Rule 350-80-300.

(b) Buildings exceeding 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.

(c) The temporary use of a mobile home in the case of a family hardship, subject to Commission Rule 350-80-150(3).

(d) Construction or reconstruction of roads.

(e) On parcels 10 acres or larger designated Residential-5, or 20 acres or larger designated Residential-10, a land division creating new parcels smaller than the designated minimum parcel size, subject to the provisions of Commission Rule 350-80-150(1).

(f) New cultivation, subject to compliance with Commission Rule 350-80-540 through 350-80-590.

(g) Land divisions, subject to the minimum lot size as indicated on the Land Use Designation Map.

(2) The following uses may be allowed on lands in the Special Management Area designated Residential subject to compliance with the scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620):

(a) One single-family dwelling per legally created lot or consolidated parcel, subject to the guidelines of Commission Rule 350-80-270 (2)(j)(E).

(b) Accessory structures over 60 square feet.

(c) New utility facilities.

(d) Fire stations.

(e) Home occupations and cottage industries pursuant to Commission Rule 350-80-150(4).

(f) Bed and breakfast inns in structures that are included in, or eligible for inclusion in, the National Register of Historic Places, pursuant to 350-80-150(5).

(g) Community parks and playgrounds.

(h) Road and railroad construction and reconstruction.

(i) Forest practices, pursuant to the provisions of Commission Rule 350-80-270(2).

(j) Signs, as specified in Commission Rule 350-80-160.

350-80-380. Review Uses with Additional Approval Criteria — Residential Land.

The following uses may be allowed on lands in the General Management Area designated Residential subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620), and Commission Rule 350-80-390:

(1) Accredited child care centers on land designated 1-acre Residential or 2-acre Residential. A child care center may be allowed in other Residential designations within an existing church or community building.

(2) Schools within an existing church or community building.

(3) Utility facilities and railroads.

(4) Home occupations and cottage industries pursuant to Commission Rule 350-80-150(4).

(5) Fire stations.

(6) Recreation development, subject to compliance with Commission Rule 350-80-610.

(7) Community parks and playgrounds, consistent with the guidelines of the National Park and Recreation Society regarding the need for such facilities.

(8) Bed and breakfast inns in single-family dwellings located on lands designated Residential-5 or Residential-10, pursuant to 350-80-150(5).

350-80-390. Approval Criteria for Specified Review Uses on Lands Designated Residential.

The uses identified in Commission Rule 350-80-390 may be allowed only if they meet all of the following:

(1) The proposed use will be compatible with the surrounding area. Review of compatibility shall include impacts associated with the visual character of the area, traffic generation, and noise, dust and odors.

(2) The proposed use will not require public services other than those existing or approved for the area.

(3) If the subject parcel is located within 500 feet of lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, new buildings associated with the proposed use shall comply with Commission Rule 350-80-080(6).

(4) If the subject parcel is located within 500 feet of lands designated Commercial Forest Land or Large or Small Woodland, new buildings associated with the proposed use shall comply with Commission Rule 350-80-300.

350-80-400. Rural Center.

Commission Rule 350-80-400 through 350-80-420 shall apply to those areas designated Rural Center on the Scenic Area Land Use Designation Map.

350-80-410. Uses Allowed Outright — Rural Center.

The following uses are allowed on lands designated Rural Center without review:

(1) Agricultural use, except new cultivation.

(2) Forest practices that do not violate conditions of approval for other approved uses.

(3) Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.

(4) Buildings less than 60 square feet in area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

350-80-420. Review Uses — Rural Center.

The following uses may be allowed on lands designated Rural Center subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620):

(1) One single-family dwelling per legally created parcel.

(2) Buildings greater than 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.

(3) The temporary use of a mobile home in the case of a family hardship, pursuant to Commission Rule 350-80-150(3).

(4) Duplexes.

(5) Fire stations.

(6) Libraries.

(7) Government buildings.

(8) Community centers and meeting halls.

(9) Schools.

(10) Accredited child care centers.

(18) Rural service commercial and tourist commercial uses limited to 5,000 square feet of floor area per building or use.

(a) Grocery stores.

(b) Variety and hardware stores.

(c) Shops, offices and repair shops.

(d) Personal services such as barber and beauty shops.

(e) Travelers accommodations, bed and breakfast inns.

(f) Restaurants.

(g) Taverns and bars.

(h) Gas stations.

(i) Gift shops.

(15) Home occupations or cottage industries in an existing residence or accessory structure, pursuant to Commission Rule 350-80-150(4).

(11) Utility facilities and railroads.

(12) Recreation development, subject to Commission Rule 350-80-610.

(13) Places of worship.

(16) New cultivation, subject to compliance with Commission Rule 350-80-540, 350-80-560, 350-80-570, 350-80-580 and 350-80-590.

(17) Land divisions subject to Commission rule 350-80-150(1).

(14) Planned developments incorporating features such as consolidated access and commonly shared open areas.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-80-430. Commercial Land.

Commission Rule 350-80-430 through 350-80-360 shall apply to those areas designated Commercial on the Scenic Area Land Use Designation Map.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-440. Uses Allowed Outright — Commercial Land.

The following uses are allowed on lands designated Commercial without review:

(1) Agricultural use, except new cultivation.

(2) Forest practices that do not violate conditions of approval for other approved uses.

(3) Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.

(4) Buildings less than 60 square feet in area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

350-80-450. Review Uses with Additional Approval Criteria — Commercial Land.

The following uses may be allowed on lands designated Commercial, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620), and Commission Rule 350-80-460:

- (1) Travelers accommodations, bed and breakfast inns subject to Commission Rule 350-80-150(5).
- (2) Restaurants.
- (3) Gift shops.
- (4) Home occupations or cottage industries in an existing residence or accessory structure, pursuant to Commission Rule 350-80-150(4).
- (5) One single-family dwelling per legally created parcel.
- (6) Utility facilities and railroads.

350-80-460. Approval Criteria for Review Uses on Lands Designated Commercial.

The uses identified in Commission Rule 350-80-450 may be allowed only if they meet both of the following criteria:

- (1) The proposal is limited to 5,000 square feet of floor area per building or use.
- (2) The proposed use would be compatible with the surrounding areas, including review for impacts associated with the visual character of the area, traffic generation and noise, dust and odors.

350-80-470. Recreation.

Commission Rule 350-80-470 through 350-80-510 shall apply to those areas designated Public Recreation and Commercial Recreation on the Scenic Area Land Use Designation Map.

350-80-480. Uses Allowed Outright — Public Recreation and Commercial Recreation.

(1) The following uses are allowed on lands in the General Management Area designated Public Recreation and Commercial Recreation without review:

- (a) Forest practices that do not violate conditions of approval for other approved development.
- (b) Repair, maintenance and operation of existing structures, trails, roads, railroads, and utility facilities.
- (c) Agricultural uses, except for new cultivation.

(2) The following uses are allowed on lands in the Special Management Area designated Public Recreation without review:

- (a) Agricultural use, except where there would be potential impact to cultural or natural resources.
- (b) Maintenance, repair, and operation of existing dwellings, structures, trails, roads, railroads, utility facilities, and public recreation facilities.
- (c) Accessory structures less than 60 square feet in area and 18 feet in height measured at the roof peak.

490-80-490. Review Uses — Public Recreation and Commercial Recreation.

(1) The following uses are allowed on all lands in the General Management Area designated Public Recreation:

(a) The following uses may be allowed on lands in the General Management Area designated Public Recreation, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620), and where applicable Commission Rule 350-80-610 (5)(a) and (c) through (g):

(A) Publicly-owned, resource-based recreation uses consistent with Commission Rule 350-80-610.

(B) Commercial uses and non-resource based recreation uses that are part of an existing or approved, resource-based public recreation use consistent with guidelines contained in this section.

(C) New cultivation, subject to compliance with Commission Rule 350-80-540 through 350-80-590.

(b) The following uses may be allowed on lands in the General Management Area designated Public Recreation, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620), and Commission Rule 350-80-500:

(A) Residences and accessory structures, limited to one single-family dwelling for each parcel legally created prior to adoption of the Management Plan. Exceptions may be considered only upon demonstration that more than one residence is necessary for management of a public park.

(B) Agricultural buildings.

(C) Utility transmission, transportation, communication and public works facilities.

(c) Land divisions, subject to compliance with Commission Rule 350-80-500(3).

(2) The following uses are allowed on all lands in the General Management Area designated Commercial Recreation:

(a) The following uses may be allowed on lands in the General Management Area designated Commercial Recreation, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620), and where applicable Commission Rule 350-80-610 (5)(a) and (c) through (g):

(A) Commercially-owned, resource-based recreation uses consistent with Commission Rule 350-80-610.

(B) Overnight accommodations that are part of a commercially-owned resource-based recreation use, where such resource-based recreation use occurs on the subject site or is accessed through the site on adjacent lands, and which meet the following guidelines:

(i) Buildings containing individual units are no larger than 1,500 square feet in total floor area and no higher than two and one-half stories.

(ii) Buildings containing more than one unit are no larger than 5,000 square feet in total floor area and no higher than two and one-half stories.

(iii) The total number of individual units shall not exceed 25, unless the proposed development complies with guidelines for clustered accommodations in subsection (iv) below

(iv) Clustered overnight travelers accommodations meeting the following guidelines may include up to 35 individual units:

(I) Average total floor area of all units is 1,000 square feet or less per unit;

(II) A minimum of 50 percent of the project site is dedicated to undeveloped, open areas (not including roads or parking areas);

(III) The facility is in an area classified for high intensity recreation (Recreation Intensity Class 4).

(C) Commercial uses, including restaurants sized to accommodate overnight visitors and their guests, and nonresource-based recreation uses which are part of an existing or approved resource-based commercial recreation use consistent with the guidelines contained in this section.

(D) New cultivation, subject to compliance with Commission Rule 350-80-540 through 350-80-590.

(b) The following uses may be allowed, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620), and Commission Rule 350-80-510:

(A) Residences and accessory structures limited to one single-family dwelling for each lot or parcel legally created prior to adoption of the Management Plan.

(B) Agricultural buildings.

(C) Utility transmission, transportation and communication facilities.

(c) Land divisions, subject to compliance with Commission Rule 350-80-510(3).

(3) The following uses are allowed on lands in the Special Management Area designated Public Recreation subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620):

(a) Forest uses and practices as allowed in Commission Rule 350-80-270(2).

(b) Public trails, consistent with Commission Rule 350-80-620.

(c) Public recreational facilities, consistent with Commission Rule 350-80-620.

(d) Public non-profit group camps, retreats, conference or educational centers, and interpretive facilities.

(e) All dwellings and accessory structures larger than 60 square feet.

(f) Home occupations and cottage industries, pursuant to Commission Rule 350-80-150(4).

(g) Road and railroad construction and reconstruction.

(h) Utility facilities for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Public Recreation land.

(B) The size is the minimum necessary to provide the service.

(i) New signs pursuant to 350-80-160(2).

(j) Structures or vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.

(k) Agricultural uses as allowed in Commission Rule 350-80-190(2).

(4) New commercial recreation facilities shall be allowed in Forest Land and Agricultural Land use designa-

tions, consistent with the guidelines established for the recreation intensity classes Commission Rule 350-80-620.

Reviser's note: The above new section was filed by the agency as 490-80-490. This section is placed among sections forming new chapter 350-80, and therefore should be numbered 350-80-490. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

350-80-500. Approval Criteria for Non-Recreation Uses in Public Recreation Designations.

The uses identified in Commission Rule 350-80-490 (1)(b) may be allowed only if they meet the following criteria:

(1) The proposed use will not interfere with existing or approved public recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include onsite buffers, seasonal or temporary closures during peak recreation use periods, etc.

(2) The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.

(3) Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

350-80-510. Approval Criteria for Non-Recreation Uses in Commercial Recreation Designations.

The uses identified in Commission Rule 350-80-490 (2)(b) may be allowed only if they meet the following criteria:

(1) The proposed use will not interfere with existing or approved commercial recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include onsite buffers, seasonal or temporary closures during peak recreation use periods, etc.

(2) The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.

(3) Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

350-80-520. General Management Area Scenic Review Criteria.

The following scenic review guidelines shall apply to all Review Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

(1) All Review Uses:

(a) New buildings and roads shall be sited and designed to retain the existing topography and reduce necessary grading to the maximum extent practicable.

(b) New buildings shall be generally consistent with the height and size of existing nearby development.

(c) Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in Commission Rule 350-80-520.

(d) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

(e) For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable.

Such a plan shall be approved by the appropriate state agency for uses under their jurisdiction, or approved by the Development Review Officer with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At a minimum, such reclamation plans shall include:

(A) A map of the site, at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail, with 10 foot contour intervals or less, showing pre-mining existing grades and post-mining final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch-basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing and equipment areas employed for the duration of the use.

(B) Cross-sectional drawings of the site showing pre-mining and post-mining grades.

(C) Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

(D) Description of drainage/erosion control features to be employed for the duration of the use.

(E) A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

(2) All Review Uses Visible From Key Viewing Areas shall comply with the following applicable guidelines:

(a) Size, height, shape, color, reflectivity, landscaping, siting or other aspects of proposed development shall be evaluated to ensure that such development is visually subordinate to its setting as seen from Key Viewing Areas.

(b) The extent and type of conditions applied to a proposed development to achieve visual subordination should be proportionate to its potential visual impacts as seen from Key Viewing Areas. Primary factors influencing the degree of potential visual impact include: the amount of area of the building site exposed to Key Viewing Areas, the degree of existing vegetation providing screening, the distance from the building site to the Key Viewing Areas from which it is visible, the number of Key Viewing Areas from which it is visible, and the linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads). Written reports on determination of visual subordination and final conditions of approval shall include findings addressing each of these factors.

(c) Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

(d) For all buildings, roads or mining and associated activities proposed on lands visible from Key Viewing Areas, the following supplemental site plan information shall be submitted in addition to the site plan requirements in Commission Rule 350-80-080 and 350-80-520 (1)(e) for mining and associated activities:

(A) For buildings, a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used, number, size, locations of plantings, and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).

(B) Elevation drawings showing the appearance of proposed building(s) when built and surrounding final ground grades, for all buildings over 400 square feet in area.

(e) For proposed mining and associated activities on lands visible from Key Viewing Areas, in addition to submittal of plans and information pursuant to Commission Rule 350-80-520 (1)(e) and subsection (d) above, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable Key Viewing Areas.

(f) New buildings or roads shall be sited on portions of the subject property which minimize visibility from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, sensitive wildlife sites or conflict with the protection of cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

(g) In siting new buildings and roads, use of existing topography and vegetation to screen such development from Key Viewing Areas shall be give priority over other means of achieving visual subordination, such as planting of new vegetation or use of artificial berms to screen the development from Key Viewing Areas.

(h) Driveways and buildings shall be designed and sited to minimize grading activities and visibility of cut banks and fill slopes from Key Viewing Areas.

(i) The exterior of buildings on lands seen from Key Viewing Areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all Key Viewing Areas by existing topographic features.

(j) Exterior lighting shall be directed downward and sited, hooded and shielded such that it is not highly visible from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

(k) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of colors specified in the design guidelines for the subject property's landscape setting.

(l) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination requirements for lands seen from Key Viewing Areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regula-

tions. Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park Service regulations for such structures.

(m) The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use, and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.

(n) An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline of a bluff, cliff or ridge as seen from a Key Viewing Area, may itself protrude above the skyline if:

(A) The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and

(B) There is no practicable alternative means of altering the building without increasing the protrusion.

(o) New main lines on lands visible from Key Viewing Areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

(p) New communication facilities (antennae, dishes, etc.) on lands visible from Key Viewing Areas, which require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.

(q) New communications facilities may protrude above a skyline visible from a Key Viewing Area only upon demonstration that:

(A) The facility is necessary for public service;

(B) The break in the skyline is seen only in the background; and

(C) The break in the skyline is the minimum necessary to provide the service.

(r) Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a Key Viewing Area only upon a demonstration that:

(A) The facility is necessary for public service; and

(B) The break in the skyline is the minimum necessary to provide the service.

(s) Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to the setback may be authorized.

(t) New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. A variance may be authorized if the property would be rendered unbuildable through the application of this

guideline. In determining the slope, the average percent slope of the proposed building site shall be used.

(u) All proposed structural development involving more than 100 cubic yards of grading on sites visible from Key Viewing Areas and which slope between 10 and 30 percent shall include submittal of a grading plan. This plan shall be reviewed by the Development Review Officer for compliance with Key Viewing Area policies. The grading plan shall include the following:

(A) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail, with contour intervals of at least 5 feet, including:

(i) Existing and proposed final grades;

(ii) Location of all areas to be graded, with cut banks and fill slopes delineated; and

(iii) Estimated dimensions of graded areas.

(B) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:

(i) Its purpose;

(ii) An estimate of the total volume of material to be moved;

(iii) The height of all cut banks and fill slopes;

(iv) Provisions to be used for compaction, drainage, and stabilization of graded areas (preparation of this information by a licensed engineer or engineering geologist is recommended);

(v) A description of all plant materials used to revegetate exposed slopes and banks, including type of species, number of, size and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings; and

(vi) A description of any other interim or permanent erosion control measures to be utilized.

(v) Expansion of existing quarries and new production and/or development of mineral resources proposed on sites more than 3 miles from the nearest Key Viewing Areas from which it is visible may be allowed upon a demonstration that:

(A) The site plan requirements for such proposals pursuant to this chapter have been met.

(B) The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc. associated with the use would be visually subordinate as seen from any Key Viewing Areas.

(C) A reclamation plan to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved. The plan shall be approved by the applicable state agency with jurisdiction, or approved by the Development Review Officer with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At minimum, a reclamation plans shall comply with Commission Rule 350-80-520 (1)(e).

(D) A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed mining activities from Key Viewing Areas, including:

(i) A list of Key Viewing Areas from which exposed mining surfaces (and associated facilities/activities) would be visible;

(ii) An estimate of the surface area of exposed mining surfaces which would be visible from those Key Viewing Areas;

(iii) The distance from those Key Viewing Areas and the linear distance along those Key Viewing Areas from which proposed mining surfaces are visible;

(iv) The slope and aspect of mining surfaces relative to those portions of Key Viewing Areas from which they are visible;

(v) The degree to which potentially visible mining surfaces are screened from Key Viewing Areas by existing vegetation, including winter screening considerations.

(vi) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc. and appropriate time frames to achieve such results, including winter screening considerations.

(w) Unless addressed by guideline (v) above, new production and/or development of mineral resources may be allowed upon a demonstration that:

(A) The site plan requirements for such proposals pursuant to this chapter have been met;

(B) The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc. associated with the use would be fully screened from any Key Viewing Area; and

(C) A reclamation plan to restore the area to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved by the applicable state agency with jurisdiction, or approved by the Development Review Officer with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At minimum, the reclamation plan shall comply with Commission Rule 350-80-520 (1)(e).

(x) An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than 3 miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.

(y) An interim time period to achieve compliance with full screening requirements for new quarries located less than 3 miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring prior to achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

(z) Compliance with specific approval conditions to achieve visual subordination (such as landscaped screening), shall occur within a period not to exceed 2 years after the date of development approval. This guideline shall apply to all development regulated by this section except mining and associated uses.

(3) All Review Uses within the following landscape settings shall comply with the following applicable guidelines:

(a) Pastoral

(A) New development shall be compatible with the general scale (height, dimensions, overall mass) of development in the vicinity. Expansion of existing development

shall comply with this guideline to the maximum extent practicable.

(B) Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.

(iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).

(iv) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.

(v) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-80-520 (2)(k) or (l).

(D) Compatible recreation uses include resource-based recreation uses of a very low or low-intensity nature (as defined by Commission Rule 350-80-610), occurring infrequently in the landscape.

(b) Coniferous Woodland

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Structure height shall remain below the forest canopy level.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the setting. Such species include: Douglas fir, grand fir, western red cedar, western hemlock, big leaf maple, red alder, ponderosa pine and Oregon white oak, and various native willows (for riparian areas).

(iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(iv) The exteriors of structures shall be either natural or earth-tone colors unless specifically exempted by Commission Rule 350-80-520 (2)(k) or (l).

(D) Compatible recreation uses include resource-based recreation uses of varying intensities. Typically, outdoor recreation uses should be low-intensity, and include trails, small picnic areas and scenic viewpoints. Some more intensive recreation uses, such as campgrounds, may occur.

They should be scattered, interspersed with large areas of undeveloped land and low-intensity uses.

(c) Oak-Pine Woodland

(A) New development shall be compatible with the general scale (height, dimensions, and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Structure height shall remain below the tree canopy level in wooded portions of this setting.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development.

(i) At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir.

(ii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

For substantially wooded portions:

(iii) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.

(iv) The exteriors of structures shall be either natural or earth-tone colors, unless specifically exempted pursuant to Commission Rule 350-80-520 (2)(k) or (l).

For treeless portions or portions with scattered tree cover:

(v) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.

(vi) Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.

(vii) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.

(viii) The exteriors of structures shall be dark and either natural or earth-tone colors, unless specifically exempted pursuant to Commission Rule 350-80-520 (2)(k) or (l).

(D) Resource-based recreation uses of varying intensities may be compatible with this setting, although most are of low-intensity nature (such as trails or small scenic outlooks). More intensive recreation uses may be compatible where allowed pursuant to Commission Rule 350-80-610, although they are generally rare in this setting. As with Woodland settings, intensive recreation uses in Oak-Pine Woodlands may be compatible if widely scattered and not in large concentrations.

(d) Grassland

(A) New development shall be compatible with the general scale (height, dimensions, and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible. Exceptions to this guideline are permitted where necessary for farming operations.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.

(ii) Lower structures that emphasize horizontal lines and blend with this sweeping landscape should be encouraged rather than very tall structures.

(iii) Planting of trees for screening shall not be extensive, in character with the openness of this setting. Where used, screening vegetation shall either tie in with nearby riparian vegetation in seasonal drainages or emulate windrows. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include Oregon white oak, Lombardy poplar, black locust, black cottonwood (wet locations), Russian olive and ponderosa pine.

(iv) The exteriors of structures shall be dark and either natural or earth-tone colors, unless specifically exempted pursuant to Commission Rule 350-80-520 (2)(k) or (l).

(D) Resource-based recreation uses of a very low-intensity or low-intensity nature that occur infrequently are compatible with this setting, and include hiking, hunting and wildlife viewing.

(e) Rural Residential

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.

(C) In portions of this setting visible from Key Viewing Areas, and not exempt from visual subordination guidelines (pursuant to the "Developed Settings and Visual Subordination Policies" Section in Part I, Chapter 1 of the Management Plan) the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

(iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(iv) Structures' exteriors shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-80-520 (2)(k) or (l).

(D) Compatible recreation uses should be limited to small community park facilities, but occasional low-intensity resource-based recreation uses (such as small scenic overlooks).

(f) Rural Residential/Pastoral, Rural Residential/Coniferous Woodland, and Rural Residential/Oak-Pine Woodland

(A) New development in this setting shall meet the design guidelines for both the Rural Residential setting and

the more rural setting with which it is combined (either Pastoral, Coniferous Woodland or Oak-Pine Woodland), unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In the event of a possible conflict between the guidelines, the guidelines for the more rural setting (Coniferous Woodland, Oak-Pine Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.

(C) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

(g) Residential

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In portions of this setting visible from Key Viewing Areas and not exempt from visual subordination guidelines (pursuant to the "Developed Settings and Visual Subordination Policies" section of Part I, Chapter 1 of the Management Plan), the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) Structures' exteriors shall be non-reflective unless fully screened from Key Viewing Areas with existing vegetation and/or topography.

(iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

(iv) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(v) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-80-520 (2)(k) or (l).

(C) Compatible recreation uses are limited to community park facilities.

(h) Village

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) New commercial buildings shall be limited in size to a total floor area of 5,000 square feet or less, and shall be limited in height to 2 and 1/2 stories or less.

(C) For new commercial, institutional (churches, schools, government buildings) or multi-family residential uses on parcels fronting a Scenic Travel Corridor (Washington State Route 14 or the Historic Columbia River Highway) and expansion of existing development for such uses, parking shall be limited to rear or side yards of buildings to the maximum extent practicable.

(D) New vehicular access points to the Scenic Travel Corridors shall be limited to the maximum extent practicable,

and access consolidation shall be required where feasible.

(E) New development proposals and expansion of existing development shall be encouraged to follow planned unit development approaches, featuring consolidated access, commonly-shared landscaped open areas, etc.

(F) New commercial, institutional or multi-family residential uses fronting a Scenic Travel Corridor shall comply with the following landscape requirements:

(i) Parking or loading areas for 10 or more spaces shall include a landscaped strip at least 5 feet in width between the new use and the Scenic Travel Corridor roadway.

(ii) The landscape strip required in guideline (F)(i) above shall include shrubs, vegetative ground cover and, at minimum, one tree spaced as appropriate to the species and not to exceed 25 feet apart on the average.

(G) The use of building materials that reinforce the Village Setting's character, such as wood, logs or stone, and that reflect community desires, should be encouraged.

(H) Architectural styles characteristic of the area (such as 1 and 1/2 story dormer roof styles in Corbett), and that reflect community desires, should be encouraged. Entry signs should be consistent with such architectural styles.

(I) Design features which create a "pedestrian friendly" atmosphere, such as large shop windows on the ground floor of commercial buildings, porches along ground floors with street frontage, etc. should be encouraged.

(J) Pedestrian walkways and bicycle paths should be encouraged and integrated into new developments wherever feasible.

(K) Where feasible, existing tree cover of species native to the region or commonly found in the area shall be retained when designing new development or expanding existing development.

(L) Compatible recreation uses may include community parks serving the recreation needs of local residents, and varying intensities of other recreation uses.

(i) River Bottomlands

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments are encouraged to maximize the percentage of planted screening vegetation native to this setting. Such species include: black cottonwood, big leaf maple, red alder, Oregon white ash, Douglas fir, western red cedar and western hemlock (west Gorge) and various native willow species.

(iii) At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening.

(iv) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-80-520 (2)(k) or (l).

(C) Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands or special habitat requirements may be compatible.

In other River Bottomland areas, nodes of moderate-intensity and/or high-intensity recreation uses may be compatible, provided that:

(i) their designs emphasize retention and/or enhancement of native riparian communities,

(ii) structures and parking areas are visually subordinate, and

(iii) they are separated from other areas of concentrated recreation usage by stretches of natural-appearing shoreline and adjacent uplands.

(j) Gorge Walls, Canyons and Wildlands

(A) New development and expansion of existing development shall be screened so it is not seen from Key Viewing Areas, to the maximum extent practicable.

(B) All trees planted to screen permitted development and uses from Key Viewing Areas shall be native to the area.

(C) Existing tree cover shall be retained to the maximum extent practicable, except for the minimum removal necessary to accommodate facilities otherwise permitted in the underlying land use designation or for safety purposes.

(D) All structures shall be limited in height to a maximum of 1 and 1/2 stories.

(E) All structures' exteriors shall be non-reflective.

(F) Signage shall be limited to natural materials such as wood or stone, with natural or earth-tone colors, unless public safety concerns or federal or state highway guidelines require otherwise.

(G) Compatible recreation uses are limited to very low or low-intensity, resource-based activities which focus on enjoyment and appreciation of sensitive resources. Such compatible uses (such as trails) are generally associated with minimal facility development, if any.

(4) All Review Uses with Scenic Travel Corridors shall comply with the following applicable guidelines:

(a) For the purposes of implementing this section, the foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the scenic travel corridor roadway.

(b) All new buildings and alterations to existing buildings, except in a Rural Center designation (village landscape setting), shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway. A variance to this setback requirement may be granted pursuant to Commission Rule 350-80-150(7). All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway, to the maximum extent practicable.

(c) Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a Scenic Travel Corridor roadway except in a Rural Center designation (village landscape setting), shall comply with guideline (4)(b) above to the maximum extent practicable.

(d) All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:

(A) An evaluation of potential visual impacts of the proposed project as seen from any Key Viewing Area;

(B) An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable guidelines to protect the resources.

(e) When evaluating possible locations for undergrounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for undergrounding in the Columbia River Gorge National Scenic Area Corridor Visual Inventory prepared in April, 1990.

(f) New production and/or development of mineral resources proposed within one-quarter mile of the edge of pavement of a Scenic Travel Corridor may be allowed upon a demonstration that full visual screening of the site from the Scenic Travel Corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a Scenic Travel Corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in Commission Rule 350-80-520 (2)(y).

(g) Expansion of existing quarries may be allowed pursuant to Commission Rule 350-80-520 (2)(v). Compliance with visual subordination requirements shall be achieved within time frames specified in Commission Rule 350-80-520 (2)(x).

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-80-530. Special Management Area Scenic Review Criteria.

The following scenic review guidelines shall apply to all Review Uses in the Special Management Area of the Columbia River Gorge National Scenic Area with the exception of rehabilitation or modification of historic structures eligible or on the National Register of Historic Places when such modification is in compliance with the national register of historic places guidelines:

(1) All Review Uses in the Special Management Area regardless of location or landscape setting shall comply with the following applicable guidelines:

(a) Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from Key Viewing Areas.

(b) Size, scale, shape, color, texture, siting, height, building materials, lighting, or other features of a proposed structure shall be visually subordinate in the landscape and have low contrast in the landscape.

(c) Colors shall be used in a manner so that developments are visually subordinate to the natural and cultural patterns in the landscape setting. Colors for structures and signs should be slightly darker than the surrounding background.

(d) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.

(e) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.

(f) Any exterior lighting shall be sited, limited in intensity, shielded or hooded in a manner that prevents lights from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting except for road lighting necessary for safety purposes.

(h) Seasonal lighting displays shall be permitted on a temporary basis, not to exceed three months duration.

(i) Reflectivity of structures and site improvements shall be minimized.

(j) Right-of-way vegetation shall be managed to minimize visual impact of clearing and other vegetation removal as seen from Key Viewing Areas. Roadside vegetation management (vista clearing, planting, etc.) should enhance views from the highway.

(k) Encourage existing and require new road maintenance warehouse and stockpile areas to be screened from view from Key Viewing Areas.

(2) New developments and land uses shall be evaluated to ensure that scenic resources are not adversely affected, including cumulative effects, based on visibility from Key Viewing Areas.

(3) All new developments and land uses immediately adjacent to scenic routes shall be in conformance with state or county scenic route guidelines.

(4) New land uses or developments shall comply with the following applicable design guidelines:

(a) Pastoral: Pastoral areas shall retain the overall appearance of an agricultural landscape.

(A) New developments and forest practices shall meet the Visual Quality Objective of partial retention.

(B) The use of plant species common to the landscape setting shall be encouraged. The use of plant species in rows as commonly found in the landscape setting is encouraged.

(C) Exterior colors of structures shall be earth-tone colors which will result in low contrast with the surrounding landscape.

(D) Exterior colors of structures may be white, except for the roof, only in the Mt. Pleasant and Dodson-Warrendale areas where other white structures are evident in the setting.

(b) Coniferous Woodlands and Oak-Pine Woodland: Woodland areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous and Oak/Pine Woodland landscape.

(A) New developments and land uses in lands designated Federal Forest or Open Space shall meet the Visual Quality Objective of retention; all other land use designations shall meet the Visual Quality Objective of partial retention as seen from Key Viewing Areas.

(B) Forest practices on National Forest lands included in the Mt. Hood National Forest Plans shall meet the Visual Quality Objective identified for those lands in those plans.

(C) Buildings in the Coniferous Woodland landscape setting shall be encouraged to have a vertical overall appearance and a horizontal overall appearance in the Oak-Pine Woodland landscape setting.

(D) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(E) The exteriors of structures in the Coniferous Woodland landscape setting shall be dark earth-tone colors which will result in low contrast with the surrounding landscape as seen from the Key Viewing Areas.

(F) Exterior colors of structures in Oak-Pine Woodland landscape setting shall be earth-tone colors which will result in low contrast with the surrounding landscape as seen from the Key Viewing Areas.

(c) Residential: The Residential setting is characterized by concentrations of dwellings.

(A) New developments and land uses shall meet the Visual Quality Objective of partial retention.

(B) At Rowena Dell, new buildings shall have a rustic appearance and use natural materials and earth-tone colors.

(C) At Latourell Falls, new buildings shall have an appearance consistent with the predominant historical architectural style.

(D) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native appearing characteristics.

(d) River Bottomlands: River bottomland shall retain the overall visual character of a floodplain and associated islands.

(A) New developments and land uses shall meet the Visual Quality Objective of partial retention, except in areas designated Open Space which shall meet the Visual Quality Objective of retention.

(B) Buildings shall have an overall horizontal appearance in areas with little tree cover.

(C) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(D) Exterior colors of structures shall be earth-tone or water-tone colors which will result in low contrast with surrounding landscape.

(e) Gorge Walls, and Canyonlands and Wildlands: New developments and land uses shall retain the overall visual character of the natural appearing landscape.

(A) New developments and land uses shall meet the Visual Quality Objective of retention as seen from Key Viewing Areas.

(B) Structures, including signs, shall have a rustic appearance, use non-reflective materials, and have low contrast with the surrounding landscape and be of a Cascadian architectural style.

(C) Temporary roads shall be promptly closed and revegetated.

(D) New utilities shall be below ground surface, where feasible.

(E) Use of plant species non-native to the Columbia River Gorge shall not be allowed.

(F) Exterior colors of structures shall be dark earth tones that will result in the structure having low contrast with the surrounding landscape.

(5) For forest practices the following guidelines shall apply:

(a) Forest practices must meet the design guidelines and Visual Quality Objective for the landscape setting designated for the management area.

(b) Not more than 16 percent of each total ownership within a viewshed shall be in created openings at any one time. The viewshed boundaries shall be delineated by the Forest Service.

(c) Size, shape, and dispersal of created openings shall maintain the natural patterns in the landscape.

(d) The maximum size of any created opening is 15 acres. In the foreground of Key Viewing Areas, the maximum size of created openings shall be five acres.

(e) Clearcutting shall not be used as a harvest practice to land designated Federal Forest Lands.

(f) Created openings shall not create a break or opening in the vegetation in the skyline as viewed from a Key Viewing Area.

(g) Created openings shall be dispersed to maintain at least 400 feet of closed canopy between openings. Closed canopy shall be at least 20 feet tall.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-540. General Management Area Cultural Resource Review Criteria.

(1) General Provisions for Implementing the Cultural Resources Protection Process.

(a) All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).

(b) Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any person who submits written comments on a proposed use (interested person). Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.

(c) Reconnaissance and Historic Surveys and Survey Reports.

(A) Reconnaissance survey requirements and exceptions.

(i) A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource,

including those uses listed as exceptions in Commission Rule 350-80-504 (1)(c)(A)(ii) below.

(ii) A reconnaissance survey shall be required for all proposed uses, except:

(I) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

(II) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.

(III) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved.

The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

(IV) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.

(V) Proposed uses that would occur on sites that have been adequately surveyed in the past.

The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.

(VI) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

● Residential development that involves two or more new dwellings for the same project applicant.

● Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.

● Public transportation facilities that are outside improved rights-of-way.

● Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater.

● Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Areas that have a low probability of containing cultural resources shall be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.

The Gorge Commission, after consulting Indian tribal governments and state historic preservation officers, shall

prepare and adopt a map showing areas that have a low probability of containing cultural resources. This map shall be adopted within 200 days after the Secretary of Agriculture concurs with the Management Plan. It shall be refined and revised as additional reconnaissance surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

(B) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.

(C) The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the GMA. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.

For Commission Rule 350-80-540, large-scale uses include residential development involving two or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

(D) Reconnaissance Surveys for Small-Scale Uses.

Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:

(i) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.

(ii) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.

(E) Reconnaissance Survey Reports for Small-Scale Uses

The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:

(i) A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.

(ii) A description of any cultural resources that were discovered in the project area, including a written description and photographs.

(iii) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

(F) Reconnaissance Surveys for Large-Scale Uses

(i) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.

(ii) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:

(I) Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.

(II) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.

(III) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.

(IV) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.

(G) Reconnaissance Survey Reports for Large-Scale Uses

The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

(i) A description of the proposed use, including drawings and maps.

(ii) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.

(iii) A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.

(iv) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(v) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(vi) A summary of all written comments submitted by Indian tribal governments and other interested persons.

(vii) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.

(H) Historic Surveys and Reports

(i) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.

(ii) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.

(iii) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.

(d) The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant, except for resources discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.

(e) Cultural resources are significant if one of the following criteria is satisfied:

(A) The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4).

(B) The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.

(f) The Gorge Commission shall establish a Cultural Advisory Committee (CAC). The CAC shall comprise cultural resource professionals, interested individuals, and at least one representative from each of the four Indian tribes. If a project applicant's and Indian tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and Indian tribal government's substantiated concerns. The CAC will submit a recommendation to the Development Review Officer as to whether affected cultural resources are significant.

(2) Cultural Resource Reconnaissance and Historic Surveys

(a) Consultation and Ethnographic Research

(A) When written comments are submitted to the Development Review Officer within the comment period provided in Commission Rule 350-80-120, the project applicant shall offer to meet with the interested persons within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the interested persons.

Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed.

All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

(B) A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate.

All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

(b) Notice of Survey Results

(A) The Development Review Officer shall submit a copy of all cultural resource survey reports to the State Historic Preservation Officer and the Indian tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

(B) The State Historic Preservation Office and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the proposed use would be consistent with Commission Rule 350-80-540. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Development Review Officer shall justify how it reached an opposing conclusion.

(B) The cultural resource protection process may conclude when one of the following conditions exists:

(i) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 20 calendar days of the date that a notice was mailed.

(ii) A reconnaissance survey demonstrates that cultural resources do not exist in the project area and no substantiated concerns were voiced by interested persons within 20 calendar days of the date that a notice was mailed.

(iii) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground-disturbing activities shall be prohibited within the buffer zone.

Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.

An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

(C) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:

(i) The State Historic Preservation Officer concludes that the historic buildings or structures are clearly not

significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or

(ii) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission.

The historic survey and report must demonstrate that these guidelines have been clearly and absolutely satisfied. If the State Historic Preservation Officer or the Development Review Officer question whether these guidelines have been satisfied, the project applicant shall conduct an evaluation of significance.

(3) Evaluation of Significance

(a) Evaluation Criteria and Information Needs

If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:

(A) Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior, no date) and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.

(B) To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.

(C) The project applicant shall contact Indian tribal governments and interested persons, as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.

(D) The evaluation of significance shall follow the principles, guidelines, and report format recommended by the Oregon State Historic Preservation Office (Oregon SHPO 1990) or Washington Office of Archaeology and Historic Preservation (Washington SHPO, no date). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.

(E) All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with Indian tribal governments and other interested persons shall be presented. All comments, recommendations, and corre-

spondence from Indian tribal governments and interested persons shall be appended to the evaluation of significance.

(b) Notice of Evaluation Results

(A) If the evaluation of significance demonstrates that the cultural resources are not significant, the Development Review Officer shall submit a copy of the evaluation of significance to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(C) Cultural Resources are Culturally Significant

(i) If an Indian tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make an independent review of the applicant's evaluation and the Indian tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.

(ii) The Indian tribal government shall substantiate its concerns in a written report. The report shall be submitted to the Development Review Officer, CAC, and the project applicant within 15 calendar days from the date the evaluation of significance is mailed. The CAC must submit its recommendation to the Development Review Officer within 30 calendar days from the date the evaluation of significance is mailed.

(D) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Officer or CAC, the Development Review Officer shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the affected cultural resources are not significant.

(C) If the project applicant or the Development Review Officer determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

(4) Assessment of Effect

(a) Assessment Criteria and Information Needs

If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect. The assessment shall meet the following guidelines:

(A) The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.9) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.8.

(i) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR 800.9(a)].

(ii) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association [36 CFR 800.9(b)]. Adverse effects on cultural resources include, but are not limited to:

(I) Physical destruction, damage, or alteration of all or part of the cultural resource.

(II) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.

(III) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.

(IV) Neglect of a significant cultural resource resulting in its deterioration or destruction.

(B) The assessment of effect shall be prepared in consultation with Indian tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by Indian tribal governments and interested persons shall be recorded and addressed in the assessment.

(C) The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:

(i) The cultural resources are of value only for their potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines.

(ii) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

(b) Notice of Assessment Results

(A) If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the Development Review Officer shall submit a copy of the assessment to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the assessment of effect is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Development Review Officer shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

(C) A mitigation plan shall be prepared if a project applicant or the Development Review Officer determines that the proposed use would have an adverse effect on significant cultural resources.

(5) Mitigation Plans

(b) Mitigation Plan Criteria and Information Needs

Mitigation plans shall be prepared when proposed uses would have an adverse effect on significant cultural resources. The plans shall reduce an adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following guidelines:

(A) Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including Indian tribal governments, Native Americans, local governments whose jurisdiction encompasses the project area, and the State Historic Preservation Officer.

(B) Avoidance of cultural resources through project design and modification is preferred. Avoidance may be effected by reducing the size, scope, configuration, and density of the proposed use.

Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative measures include, but are not limited to, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism shall be developed and recorded in county deeds and records.

(C) Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR 800.8(d), including, but not limited to:

(i) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use.

(ii) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection.

(iii) Documentation of consultation with the State Historic Preservation Officer regarding any alternatives or mitigation measures.

(iv) A description of the project applicant's efforts to obtain and consider the views of Indian tribal governments, interested persons, and Development Review Officer.

(v) Copies of any written recommendations submitted to the Development Review Officer or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.

(b) Notice of Mitigation Plan Results

(A) If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the Development Review Officer shall submit a copy of the mitigation plan to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the mitigation plan is mailed to submit

written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Development Review Officer shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.

(C) The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

(6) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Development Review Officer and the State Historic Preservation Officer. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

(a) Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

(b) Notification. The project applicant shall notify the Development Review Officer and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.

(c) Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Officer. (See Oregon Revised Statute [ORS] 273.705, ORS 358.905 to 358.955, and Revised Code of Washington [RCW] 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in "Reconnaissance Survey Reports for Large-Scale Uses" [Commission Rule 350-80-540 (1)(c)(F)] and "Evaluation of Significance: Evaluation Criteria and Information Needs" [Commission Rule 350-80-540 (3)(a)].

Based on the survey and evaluation report and any written comments, the Development Review Officer shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant.

A mitigation plan shall be prepared if the affected cultural resources are significant.

(d) Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in the "Mitigation Plans: Mitigation Plan Criteria and Information Needs" section of this chapter.

Construction activities may recommence when the conditions in the mitigation plan have been executed.

(7) Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

(a) Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.

(b) Notification. Local law enforcement officials, the Development Review Officer, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.

(c) Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.

(d) Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.

(e) Treatment. In Oregon, prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760. In Washington, the procedures set forth in RCW 27.44 and 68.05 shall generally be implemented if the remains are prehistoric/historic.

If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in "Mitigation Plans: Mitigation Plan Criteria and Information Needs" [Commission Rule 350-80-540 (5)(a)].

The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in "Mitigation Plans: Conclusion of the Cultural Resource Protection Process" [Commission Rule 350-80-540 (5)(c)] are met and the mitigation plan is executed.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-550. Special Management Area Cultural Resource Review Criteria.

(1) General Guidelines for Implementing the Cultural Resources Protection Process

(a) All cultural resource information shall remain confidential, according to Section 6 (a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470 hh and 36 CFR 296.18.

(b) Principal investigators shall meet the professional standards published in 36 CFR part 61.

(c) The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in Commission Rule 350-80-550(4) for forest practices and National Forest System lands.

(d) New developments or land uses shall not adversely affect significant cultural resources.

(2) The procedures and guidelines in Commission Rule 350-80-540 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.

(3) The cultural resource review criteria shall be deemed satisfied if the Forest Service or the Development Review Officer does not require a cultural resource survey and no comment is received during the comment period provided in Commission Rule 350-80-120.

(4) If the Forest Service or Development Review Officer determines that a cultural resource survey is required for a new development or land use on all Federal lands, federally assisted projects and forest practices, it shall consist of the following:

(a) Literature Review and Consultation

(A) An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.

(B) A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be allowed for 30 days.

(C) Consultation with cultural resource professionals knowledgeable about the area.

(D) The cultural resources review shall be complete if the Forest Service or Development Review Officer determines that no recorded or known cultural resources exist on or within the immediate vicinity of a new development or land use after consultation with the Tribal governments.

(E) A field inventory by a cultural resource professional shall be required if the Forest Service or the Development Review Officer determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the Tribal governments.

(b) Field Inventory

(A) Tribal representatives shall be invited to participate in the field inventory.

(B) The field inventory shall consist of one or the other of the following guidelines, as determined by the cultural resource professional:

(i) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects. A complete survey may also require techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the presence of buried cultural resources.

(ii) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally

accomplished by a stratified random or non-stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

(C) A field inventory report shall be prepared, and shall include the following:

(i) A narrative integrating the literature review of section (4)(a) above with the field inventory of section (4)(b) above.

(ii) A description of the field inventory methodology used, including the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.

(iii) A statement of the presence or absence of cultural resources within the area of the new development or land use.

(iv) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.

(D) The report shall follow the format specified by the Washington Office of Archaeology and Historic Preservation for inventories conducted in the State of Washington. Reports for inventories conducted in the State of Oregon shall follow the format specified by the Oregon State Historic Preservation Office.

(E) The field inventory report shall be presented to the Forest Service or the Development Review Officer for review.

(F) The cultural resource review shall be complete if the Forest Service or the Development Review Officer determines that no cultural resources exist within the area of the new development or land use.

(c) Evaluations of Significance

(A) When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with to the criteria of the National Register of Historic Places (36 CFR 60.4).

(B) Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.

(C) Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within local and regional contexts.

(D) Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service or the Development Review Officer shall reiew evaluations for adequacy.

(E) Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

(F) The cultural resource review shall be complete if the Forest Service or the Development Review Officer determines that the inventoried cultural resources are not significant.

(G) An assessment of effect shall be required if the Forest Service or the Development Review Officer determines that the inventoried cultural resources are significant.

(d) Assessment of Effect

(A) For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.9 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for sections (4)(d)(B) through (4)(d)(D) below. The Forest Service or Development Review Officer shall review each determination for adequacy.

(B) If the proposed development or change in use will have "No Adverse Effect," as defined by 36 CFR 800.8, to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Requirements" of 36 CFR 800.8(a).

(C) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.9(b) to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented. This documentation shall follow the process outlined under 36 CFR 800.5(e).

(D) If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.8 ("Documentation Requirements").

(e) Mitigation

(A) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects. These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.

(B) Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.

(C) The Forest Service or the Development Review Officer shall review all mitigation proposals for adequacy.

(5) Discovery During Construction

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Forest Service or the Development Review Officer if cultural resources are discovered during construction or development.

(a) If cultural resources are discovered, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and/or recover the resources.

(b) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:

(A) The applicant shall stop all work in the vicinity of the discovery.

(B) The applicant shall immediately notify the Development Review Officer, the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.

(C) The Forest Service or the Development Review Officer shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.

(D) A cultural resource professional shall evaluate the potential significance of the resource pursuant to Commission Rule 350-80-550 (4)(c) and report the results to the Forest Service or the Development Review Officer.

(c) The cultural resource review process shall be complete and work may continue if the Forest Service or the Development Review Officer determines that the cultural resource is not significant.

(d) The cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to Commission Rule 350-80-550 (4)(e) if the Forest Service or the Development Review Officer determines that the cultural resource is significant.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

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350-80-560. General Management Area Wetland Review Criteria.

(1) Wetlands Boundaries and Site Plans for Review Uses in Wetlands

(a) If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for determining the exact location of the wetland boundary.

(A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands. Wetlands boundaries shall be delineated using the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (Federal Interagency Committee for Wetland Delineation, 1989), and any subsequent amendments.

(B) All wetlands delineations shall be conducted by a professional which has been trained to use the federal delineation process, such as a soil scientist, botanist, or wetlands ecologist.

(C) The Development Review Officer may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Development Review Officer shall, at the applicant's expense, obtain professional services to render a final delineation.

(b) In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include:

(A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;

(B) the exact boundary of the wetland and the wetlands buffer zone; and

(C) a description of actions that would alter or destroy the wetland.

(2) The following uses are allowed in wetlands and wetlands buffer zones without review, if they:

(a) Are conducted using best management practices;

(b) Do not require structures, grading, draining, flooding, ditching, vegetation removal, or dredging beyond the extent specified below; and

(c) Comply with all applicable federal, state, and county laws:

(A) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.

(B) Soil, water, and vegetation conservation uses that protect and enhance wetlands acreage and functions.

(C) Low-intensity recreation uses, including hunting, fishing, trapping, bird watching, hiking, boating, swimming, and canoeing.

(D) Non-commercial harvesting of wild crops, such as ferns, moss, berries, tubers, tree fruits, and seeds in a manner that does not injure natural plant reproduction or impact sensitive plant species.

(E) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation. For this guideline cultivation and vegetation removal may be allowed in conjunction with a home garden.

(F) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(G) Commercial fishing and trapping.

(H) Educational uses and scientific research.

(I) Navigation aids, including structures covered by Section 17 (a)(3) of the Scenic Area Act.

(J) Forest practices that do not violate conditions of approval for other approved uses.

(K) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(L) Proposed uses that would occur in the main stem of the Columbia River. The main stem of the Columbia River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 and dated September 1986. (This map is available at county planning departments and Commission and Forest Service offices.) The boundaries of the main stem appear as a heavy black line that generally follows the shoreline. For Commission Rule 350-80, backwaters and isolated water bodies created by roads and railroads are not part of the main stem of the Columbia River.

(3) The following uses may be allowed in wetlands and wetlands buffer zones when approved pursuant to the provisions in Commission Rule 350-80-560(5), and reviewed

under the applicable provisions of Commission Rule 350-80-520 through 350-80-620:

(a) The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

(A) Increase the size of an existing structure by more than 100 percent,

(B) Result in a loss of wetlands acreage or functions, or

(C) Intrude further into a wetland or wetlands buffer zone. New structures shall be considered intruding further into a wetland or wetlands buffer zone if any portion of the structure is located to the wetland or wetlands buffer zone than the existing structure.

(b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

(c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(4) Uses not listed in Commission Rule 350-80-560(3) may be allowed in wetlands and wetlands buffer zones, when approved pursuant to Commission Rule 350-80-560(6) and reviewed under the applicable provisions of Commission Rule 350-80-520 through 350-80-620.

(5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in wetlands shall demonstrate that:

(a) Practicable alternatives to locating the structure outside of the wetlands or wetland buffer zone and/or minimizing the impacts of the structure do not exist;

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of the wetlands, existing contour, functions, vegetation, fish and wildlife resources, and hydrology;

(c) The structure will be constructed using best management practices;

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

(e) The structure complies with all applicable federal, state, and county laws.

(6) Applications for all other Review Uses in wetlands shall demonstrate that:

(a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative considering all of the following:

(A) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands;

(B) The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in

a way that would avoid or result in less adverse effects on wetlands; and

(C) Reasonable attempts have been made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and zone designations. If a land designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

(b) The proposed use is in the public interest. The following factors shall be considered when determining if a proposed use is in the public interest:

(A) The extent of public need for the proposed use.

(B) The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.

(C) The functions and size of the wetland that may be affected.

(D) The economic value of the proposed use to the general area.

(E) The ecological value of the wetland and probable effect on public health and safety, fish, plants, and wildlife.

(c) Measures will be applied to ensure that the proposed use result in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.

(d) Groundwater and surface-water quality will not be degraded by the proposed use.

(e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlands buffer zones.

(f) The proposed use complies with all applicable federal, state, and county laws.

(g) Areas that are disturbed during construction will be rehabilitated to the maximum extent practicable.

(h) Unavoidable impacts to wetlands will be offset through restoration, creation, or enhancement of wetlands.

The following wetlands restoration, creation, and enhancement guidelines shall apply:

(A) Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.

(B) Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with a wetlands compensation plan.

(C) Wetlands restoration, creation, and enhancement projects shall use native vegetation.

(D) The size of replacement wetlands shall equal or exceed the following ratios (the first number specifies the required acreage of replacement wetlands and the second number specifies the acreage of wetlands altered or destroyed):

- (i) Restoration: 2:1
- (ii) Creation: 3:1
- (iii) Enhancement: 4:1

(E) Replacement wetlands shall replicate the functions of the wetland that will be altered or destroyed such that no net loss of wetlands functions occurs.

(F) Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss of wetlands functions occurs.

(G) Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.

(H) Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is altered or destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.

(I) Five years after a wetland is restored, created, or enhanced at least 75 percent of the replacement vegetation must survive. The owner shall monitor the hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan and this guideline.

(7) Wetlands Buffer Zones

(a) The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.

(b) The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

(A) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent. A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(B) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(C) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines.

(c) Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required:

- (A) Forest communities: 75 feet
- (B) Shrub communities: 100 feet
- (C) Herbaceous communities: 150 feet

(d) Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(8) Wetlands Compensation Plans

Wetlands compensation plans shall be prepared when a project applicant is required to restore, create or enhance wetlands. They shall satisfy the following guidelines:

(a) Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.

(b) Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered or destroyed and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.

(c) Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.

(d) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1 foot, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(A) Soil and substrata conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.

(B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(C) Water-quality parameters, water source, water depths, water-control structures, and water-level maintenance practices needed to achieve the necessary hydrologic conditions.

(e) A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.

(f) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-570. General Management Area Stream, Pond, Lake and Riparian Area Review Criteria. (1) Stream, Pond, and Lake Boundaries and Site Plans for Review Uses in Aquatic and Riparian Areas

(a) If a proposed use would be in a stream, pond, lake or their buffer zones, the project applicant shall be responsible for determining the exact location of the ordinary high watermark or normal pool elevation.

(b) In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include:

(A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;

(B) the exact boundary of the ordinary high watermark or normal pool elevation and prescribed buffer zone; and

(C) a description of actions that would alter or destroy the stream, pond, lake, or riparian area.

(2) The following uses are allowed in streams, ponds, lakes, and their buffer zones without review, if they:

(a) Are conducted using best management practices;

(b) Do not require structures, grading, draining, flooding, ditching, vegetation removal, or dredging beyond the extent specified below; and

(c) Comply with all applicable federal, state, and county laws:

(A) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.

(B) Soil, water, and vegetation conservation uses that protect water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas.

(C) Low-intensity recreation uses, including hunting, fishing, trapping, bird watching, hiking, boating, swimming, and canoeing.

(D) Non-commercial harvesting of wild crops, such as ferns, moss, berries, tubers, tree fruits, and seeds in a manner that does not injure natural plant reproduction or impact sensitive plant species.

(E) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation and shall require a review use permit. For this guideline cultivation and vegetation removal may be allowed in conjunction with a home garden.

(F) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(G) Commercial fishing and trapping.

(H) Educational uses and scientific research.

(I) Navigation aids, including structures covered by Section 17 (a)(3) of the Scenic Area Act.

(J) Forest practices that do not violate conditions of approval for other approved uses.

(K) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(L) Proposed uses that would occur in those portions of the main stem of the Columbia River that adjoin the Urban Area.

(3) The following uses may be allowed in streams, ponds, lakes and riparian areas when approved pursuant Commission Rule 350-80-570(5), and reviewed under the applicable provisions of Commission Rule 350-80-520 through 350-80-620:

(a) The modification, expansion, replacement, or reconstruction of serviceable structures, provided that such actions would not:

(A) Increase the size of an existing structure by more than 100 percent,

(B) Result in a loss of water quality, natural drainage, and fish and wildlife habitat, or

(C) Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.

(b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

(c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(4) Uses not listed in Commission Rule 350-80-570 (2) and (3) may be allowed in streams, ponds, lakes, and riparian areas, when approved pursuant to Commission Rule 350-80-570(5) and reviewed under the applicable provisions of Commission Rule 350-80-520 through 350-80-620.

(5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in aquatic and riparian areas

(a) Practicable alternatives to locating the structure outside of the stream, pond, lake, or buffer zone and/or minimizing the impacts of the structure do not exist;

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas;

(c) The structure will be constructed using best management practices;

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

(e) The structure complies with all applicable federal, state, and local laws.

(6) Applications for all other Review Uses in wetlands shall demonstrate that:

(a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by Commission Rule 350-80-560 (6)(a), substituting the term stream, pond, lake, or riparian area as appropriate.

(b) The proposed use is in the public interest as determined by Commission Rule 350-80-560 (6)(b), substituting the term stream, pond, lake, or riparian area as appropriate.

(c) Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone.

At a minimum, the following mitigation measures shall be considered when new uses are proposed in streams, ponds, lakes, and buffer zones:

(A) Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. Work in streams, ponds, and lakes shall be conducted during the periods specified in "Oregon Guidelines for Timing of

In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife, 1986). In Washington, the Washington Department of Wildlife and Washington Department of Fisheries shall evaluate specific proposals and specify periods for in-water work.

(B) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.

(C) Nonstructural controls and natural processes shall be used to the greatest extent practicable.

(D) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(E) Stream channels should not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used.

(F) Temporary and permanent control measures should be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(d) Groundwater and surface-water quality will not be degraded by the proposed use.

(e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

(f) The proposed use complies with all applicable federal, state, and county laws.

(g) Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement.

Rehabilitation and enhancement shall achieve no net loss of water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.

When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required.

The following rehabilitation and enhancement guidelines shall apply:

(A) Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation and enhancement plan.

(B) Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.

(C) Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient.

(D) The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.

(E) Riparian areas shall be rehabilitated to their original configuration, including slope and contour.

(F) Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structures. Structures include large woody debris and boulders.

(G) Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant species that replicate the original vegetation community.

(H) Rehabilitation and enhancement efforts shall be completed no later 90 days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(I) Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least 75 percent of the replacement vegetation must survive. The owner shall monitor the replacement vegetation and take corrective measures to satisfy this guideline.

(7) Stream, Pond, and Lake Buffer Zones

(a) Buffer zones shall generally be measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(A) Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet

(B) Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet

(C) Ponds and lakes: Buffer zone widths shall be based on dominant vegetative community as determined by Commission Rule 350-80-560 (7)(b), substituting the term pond or lake as appropriate.

(b) Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(c) Determining the exact location of the ordinary high watermark or normal pool elevation shall be the responsibility of the project applicant. The Development Review Officer may verify the accuracy of, and may render adjustments to, an ordinary high water-mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the applicant, the Development Review Officer shall, at the project applicant's expense, obtain professional services to render a final delineation.

(8) Rehabilitation and Enhancement Plans

Rehabilitation and enhancement plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake and/or buffer area. They shall satisfy the following guidelines:

(a) Rehabilitation and enhancement plans are the responsibility of the project applicant; they shall be prepared by qualified professionals, such as fish or wildlife biologists.

(b) All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, and/or buffer zone. The assessment shall include hydrology, flora, and fauna.

(c) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least 2 feet, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(A) Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to successfully

rehabilitate and enhance the stream, pond, lake, and buffer zone.

(B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(C) Water-quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.

(d) A 3-year monitoring, maintenance, and replacement program shall be included in all rehabilitation and enhancement plans. At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.

(e) A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a rehabilitation and enhancement plan.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-580. General Management Area Sensitive Wildlife Review Criteria.

(1) Sensitive Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife

(a) Proposed uses shall not adversely affect sensitive wildlife areas or sensitive wildlife sites:

(A) "Sensitive wildlife areas" in the Columbia Gorge means the following land and water areas that appear in the wildlife inventory map prepared and maintained by the Gorge Commission:

- Bald eagle habitat
- Deer and elk winter range
- Elk habitat
- Mountain goat habitat
- Peregrine falcon habitat
- Pika colony area
- Pileated woodpecker habitat
- Pine marten habitat
- Shallow water fish habitat (Columbia R.)
- Special streams
- Special habitat area
- Spotted owl habitat
- Sturgeon spawning area
- Tributary fish habitat
- Turkey habitat
- Waterfowl area
- Western pond turtle habitat

(B) "Sensitive wildlife sites" means sites that area used by animal species that are

(i) listed as endangered or threatened pursuant to federal or state endangered species acts,

(ii) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,

(iii) listed as sensitive by the Oregon Fish and Wildlife Commission, or

(iv) considered to be of special interest to the public (limited to great blue heron, osprey, golden eagle, and prairie falcon).

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive wildlife area or site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) The following uses may be allowed within 1,000 feet of sensitive wildlife areas and sites without review, if they do not involve new structures, vegetation removal, or actions that disturb the ground, such as grading, or ditching beyond the extent specified below:

(a) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation.

(b) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(c) Forest practices that do not violate conditions of approval for other approved uses.

(d) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(e) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.

(3) Field Survey

A field survey to identify sensitive wildlife areas or sites shall be required for:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a professional wildlife biologist hired by the project applicant. All sensitive wildlife areas and sites discovered in a project area shall be described and shown on the site plan map.

(4) Uses not listed in Commission Rule 350-80-580(2) may be allowed within 1,000 feet of a sensitive wildlife area or site, when approved pursuant to Commission Rule 350-80-580(5) and reviewed under the applicable provisions of Commission Rule 350-80-520 through 350-80-620.

(5) Uses that are proposed within 1,000 feet of a sensitive wildlife area or site shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon Department of Fish and Wildlife or the Washington Department of Wildlife by the Development Review Officer. State wildlife

biologists will review the site plan and their field survey records and:

(A) Identify/verify the precise location of the wildlife area or site,

(B) Ascertain whether the wildlife area or site is active or abandoned, and

(C) Determine if the proposed use may compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify the wildlife inventory and assess the potential effects of a proposed use.

(b) The following factors may be considered when site plans are reviewed:

(A) Biology of the affected wildlife species.

(B) Published guidelines regarding the protection and management of the affected wildlife species. The Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron. The Washington Department of Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner, 1991).

(C) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(D) Historic, current, and proposed uses in the vicinity of the sensitive wildlife area or site.

(E) Existing condition of the wildlife area or site and the surrounding habitat and the useful life of the area or site.

(c) The wildlife protection process may terminate if the Development Review Officer, in consultation with the state wildlife agency, determines:

(A) The sensitive wildlife area or site is not active, or

(B) The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

(d) If the Development Review Officer, in consultation with the state wildlife agency, determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the applicant that describes the effects and measures needed to eliminate them. If the project applicant accepts these recommendations, the Development Review Officer will incorporate them into the land use review order and the wildlife protection process may conclude.

(e) The project applicant shall prepare a wildlife management plan if the Development Review Officer, in consultation with the state wildlife agency, determines that the proposed use would adversely affect a sensitive wildlife area or site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing.

(f) The Development Review Officer shall submit a copy of all field surveys and wildlife management plans to Oregon Department of Fish and Wildlife or Washington Department of Wildlife. The state wildlife agency will have 20 days from the date that a field survey or management plan is mailed to submit written comments to the Development Review Officer.

The Development Review Officer shall record and address any written comments submitted by the state wildlife agency in the land use review order.

Based on the comments from the state wildlife agency, the Development Review Officer will make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the Development Review Officer shall justify how the opposing conclusion was reached.

The Development Review Officer shall require the applicant to revise the wildlife management plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

(6) Wildlife Management Plans

Wildlife management plans shall be prepared when a proposed use is likely to adversely affect a sensitive wildlife area or site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his/her development options, and mitigates temporary impacts to the wildlife area or site and/or buffer zone.

Wildlife management plans shall meet the following guidelines:

(a) Wildlife management plans shall be prepared by a professional wildlife biologist hired by the project applicant.

(b) All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the wildlife area or site.

(c) The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components, that are essential to maintain the long-term use and integrity of the wildlife area or site.

(d) A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.

(e) The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect sensitive wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:

(A) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. Low intensity, non-destructive uses may be conditionally authorized in the core habitat.

(B) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonal-

ly, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.

(f) Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones. When a buffer zone has been altered or degraded in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife area or site.

Rehabilitation and enhancement actions shall be documented in the wildlife management plan and shall include a map and text.

(g) The applicant shall prepare and implement a 3 year monitoring plan when the affected wildlife area or site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the wildlife area or site and the success of rehabilitation and/or enhancement actions.

At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the rehabilitation and enhancement guidelines.

(7) New fences in deer and elk winter range

(a) New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

(b) New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson, et. al. 1990), as summarized below, unless the applicant demonstrates the need for an alternative design:

(A) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.

(B) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

(C) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.

(D) Stays, or braces placed between strands of wire, shall be positioned between fences posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.

(c) Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-80-590. General Management Areas Rare Plant Review Criteria.

(1) Sensitive Plants and Site Plans for Review Uses Near Sensitive Plants

(a) Proposed uses shall not adversely affect sensitive plants. "Sensitive plants" means plant species that are

- (A) endemic to the Columbia River Gorge and vicinity,
- (B) listed as endangered or threatened pursuant to federal or state endangered species acts, or
- (C) listed as endangered, threatened, or sensitive by the Oregon or Washington Natural Heritage program.

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive plant shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) The following uses may be allowed within 200 feet of a sensitive plant without review, if they do not involve new structures, vegetation removal, or actions that disturb the ground, such as grading or ditching beyond the extent specified below:

(a) Low-intensity recreation uses, including hunting, fishing, trapping, native plant study, bird watching, boating, swimming, and hiking. Regarding sensitive plants, horse-back riding is not considered a low-intensity use.

(b) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation.

(c) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(d) Forest practices that do not violate conditions of approval for other approved uses.

(e) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(3) Field Survey

A field survey to identify sensitive plants shall be required for:

- (a) Land divisions that create four or more parcels;
- (b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. Field surveys shall identify the precise location of the sensitive plants and delineate a 200-foot buffer zone. The results of a field survey shall be shown on the site plan map.

(4) Uses not listed in Commission Rule 350-80-590(2) may be allowed within 1,000 feet of a sensitive plant, when approved pursuant to Commission Rule 350-80-590(5), and reviewed under the applicable provisions of Commission Rule 350-80-520 through 350-80-620.

(5) Uses that are proposed within 1,000 feet of a sensitive plant shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon or Washington Natural Heritage Program by the Development Review Officer. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer zone on the project applicant's site plan.

If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

(b) The rare plant protection process may conclude if the Development Review Officer, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a sensitive plant buffer zone.

(c) New uses shall be prohibited within sensitive plant species buffer zones, except those listed in Commission Rule 350-80-590(2).

(d) If a proposed use must be allowed within a sensitive plant buffer area in accordance with Commission Rule 350-80-150, the project applicant shall prepare a protection and rehabilitation plan pursuant to Commission Rule 350-80-590(6).

(e) The Development Review Officer shall submit a copy of all field surveys and protection and rehabilitation plans to the Oregon or Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that a field survey is mailed to submit written comments to the Development Review Officer.

The Development Review Officer shall record and address any written comments submitted by the Natural Heritage Program staff in the land use review order.

Based on the comments from the Natural Heritage Program staff, the Development Review Officer will make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Development Review Officer shall justify how the opposing conclusion was reached.

(6) Protection and Rehabilitation Plans

Protection and rehabilitation plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a sensitive plant buffer zone as the result of a variance.

Protection and rehabilitation plans shall meet the following guidelines:

(a) Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist hired by the project applicant.

(b) Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.

(c) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

(d) Sensitive plants and their surrounding habitat that will not be altered or destroyed shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation easements, livestock management, and noxious weed control.

(e) Habitat of a sensitive plant that will be affected by temporary uses shall be rehabilitated to a natural condition.

(f) Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.

(g) Protection and rehabilitation plans shall include maps, photographs, and text. The text shall:

(A) Describe the biology of sensitive plant species that will be affected by a proposed use.

(B) Explain the techniques that will be used to protect sensitive plants and their surrounding habitat that will not be altered or destroyed.

(C) Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will result from a proposed use.

(D) Include a 3-year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the Development Review Officer an annual report that documents milestones, successes, problems, and contingency actions.

(7) Sensitive Plant Buffer Zones

(a) A 200-foot buffer zone shall be maintained around sensitive plants. Buffer areas shall remain in an undisturbed, natural condition.

(b) Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, man-made features, or natural plant habitat boundaries negate the need for a 200 foot radius. Under no circumstances shall the buffer zone be less than 25 feet.

(c) Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the project applicant:

(A) Identifies the precise location of the sensitive plants,

(B) Describes the biology of the sensitive plants, and

(C) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected

plants and the surrounding habitat that is vital to their long-term survival.

All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.

(d) The Development Review Officer shall submit all requests to reduce sensitive plant species buffer areas to the Oregon or Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that such a request is mailed to submit written comments to the Development Review Officer.

The Development Review Officer shall record and address any written comments submitted by the Oregon or Washington Natural Heritage Program in the land use review order.

Based on the comments from the Oregon or Washington Natural Heritage Program, the Development Review Officer will make a final decision on whether the reduced buffer area is justified. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Development Review Officer shall justify how the opposing conclusion was reached.

350-80-600. Special Management Areas Natural Resource Review Criteria.

All new developments and land uses shall be evaluated to ensure that the natural resources on a site, or natural resources in danger of degradation or destruction from individual or cumulative off-site impacts, are protected from adverse effects. The Forest Service will provide the natural resource site evaluation and project analysis and evaluation for new uses and developments, except those sponsored by non-Forest Service federal and state agencies.

(1) Buffer zones shall be undisturbed unless it has been shown that no practicable alternatives exist, pursuant to Commission Rule 350-80-560 (6(a)(A) through (C)), substituting the name of the resource as appropriate. New developments and uses may only be allowed in the buffer zone upon demonstration in the natural resources mitigation plan that no adverse effects would result.

(2) The applicant's site plan shall include the following additional information to facilitate evaluation for compliance with minimum natural resource protection guidelines:

(a) Location of the following sites and areas. The Forest Service will provide this information to the applicant.

(A) Sites of sensitive wildlife and sensitive plant species.

(B) Location of riparian and wetland areas. The exact location of the wetlands boundaries shall be delineated using the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (Federal Interagency Committee for Wetland Delineation, 1989). Changes to this manual shall not apply to wetlands in the Special Management Area unless the Management Plan has been amended.

(b) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.

(3) Site plans shall be submitted to the Forest Service, and the Oregon Department of Fish and Wildlife or Washington Department of Wildlife. The site plan shall be reviewed by the Forest Service in consultation with the appropriate state or federal agency and reviewed and approved by the Development Review Officer.

(4) Review of the site plan shall consider the following:

(a) Biology and habitat requirements of the flora or fauna of concern.

(b) Historic, current, and proposed uses in the vicinity of sensitive species, including cumulative effects.

(c) Existing condition of the site and the surrounding habitat and the useful life of the site.

(d) Physical characteristics of the subject parcel and vicinity, including topography, vegetation, and soil and hydrological characteristics.

(e) Minimum natural resource protection guidelines including buffer zones.

(f) Closure of forest practice roads necessary to protect natural resources.

(g) Comments from state and federal agencies.

(5) Minimum natural resource protection guidelines include:

(a) Sites of sensitive wildlife and sensitive plant species.

(A) A 200-foot buffer zone shall be created for sensitive plant species.

(B) A buffer zone for sites of sensitive wildlife species, such as nesting, roosting and perching sites, as defined by species requirements shall be as determined by a Forest Service biologist in consultation with other state or federal agency biologists.

(b) Riparian areas, wetlands, parks, and lakes.

(A) Adding any fill or draining of wetlands is prohibited.

(B) A minimum 200-foot buffer zone shall be created on the landward side of each wetland, pond or lake; or a wider variance from this requirement shall be determined during the site plan analysis of the wetland or riparian area and those species inhabiting the area as determined by the Forest Service biologist in consultation with state and/or federal agencies;

(C) A 200 foot buffer zone shall be created along each fish-bearing and perennial stream.

(D) A 50-foot buffer zone shall be created along intermittent streams.

(E) Revegetation shall use only species native to the Columbia River Gorge, and shall provide and maintain habitat diversity beneficial to the fish, wildlife and native plants.

(F) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all the following:

(i) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way;

(ii) The wetland is not critical habitat; and

(iii) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.

(c) Fish and wildlife habitat:

(A) Structures such as bridges, culverts, and utility corridors shall be designed so as not to impede the passage of fish and wildlife.

(B) New developments and uses shall not interfere with fish passage.

(C) Filling of shallow-water fishery habitat shall be allowed only after an analysis shows that no other practicable sites exist. Filling shall only be considered for water-dependent uses, and mitigation shall be required.

(D) New developments and uses shall occur during periods when fish and wildlife are least sensitive to activities. This would include, among others, nesting and brooding periods (from nest building to fledgling of young), and those periods specified in "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Dept. of Fish and Wildlife 1986).

(E) In areas of big game winter range, adequate thermal cover shall be maintained as determined by the appropriate state wildlife agency.

(F) Forest practices shall maintain the following:

(i) Six live trees per acre, three of which shall be of the largest tree size available and three of which shall be of various sizes to provide replacements as snags and wildlife trees; and three dead trees per acre, of the largest tree size available; and three down trees per acre in the largest tree size available. All trees shall be unburned.

In areas with mixed oak and conifer stands, at least one of the three dead trees per acre shall be an oak snag of the largest tree size and one additional live conifer per acre of 16-inch diameter at breast height (dbh) or greater, preferably with limbs down to the ground, shall be maintained.

(ii) Snags and wildlife trees shall be maintained either as clumps or evenly distributed over the forest practice area.

(iii) Down logs shall be relatively solid and no area greater than two acres in size and capable of supporting forested conditions shall be without a minimum of two down logs.

(d) Bio-diversity.

(A) New uses shall avoid disturbance to old-growth forests.

(B) Forest practices shall maintain species composition at existing proportions in the activity area.

(C) Forest practices in areas with existing oak species, shall maintain a minimum of 25 square feet basal area per acre of oak in areas with predominantly oak trees of 1-foot dbh or more, or maintain a minimum forty percent oak canopy cover per 40 acres in which 10 trees per acre must be of the largest tree size, in areas with predominantly oak trees less than 1-foot dbh. No area greater than 10 acres in size and supporting existing oak species shall be devoid of oak trees.

(D) A mix in age and size of hardwoods shall be maintained to provide vertical diversity and replacement.

(E) For revegetation purposes, only plants species native to the Columbia River Gorge shall be encouraged.

(e) Soil productivity.

(A) New developments and land uses shall control all soil movement within the area shown or the site plan.

(B) The soil area disturbed by new development or land uses shall not exceed 15 percent of the project area.

(C) Within one year of project completion 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

(D) Forest practices shall maintain the following:

(i) Soil organic matter shall be provided at a minimum of 15 tons per acre and 25 tons per acre of dead and down woody material in the east and west side vegetation communities, respectively.

(ii) Potential ground disturbance activities shall be designed to minimize disturbance to the soil organic horizon.

(f) Air and water quality.

(A) Streambank and shoreline stability shall be maintained or restored with natural revegetation.

(B) All new developments shall be carried out to comply with state water quality requirements.

(C) County, state, and federal regulations for air and water quality and for pesticide use shall be followed.

(D) Existing levels of air visibility shall not be degraded.

(g) The applicant shall develop a natural resource mitigation plan for all new developments or uses proposed within a buffer zone. The applicant's mitigation plan shall:

(A) Include existing natural and cultural features.

(B) Include proposed actions within and adjacent to the buffer zone.

(C) Include mitigation measures as necessary to comply with the minimum natural resource protection guidelines and protect natural resources from adverse effects.

(D) Be prepared by a natural resource specialist as defined.

(E) Demonstrate mitigation measures that would offset the adverse effects of the proposed new use or developments and that would ensure protection, long-term viability, and function of the resource being protected by the buffer zone.

(F) Be reviewed to ensure the proposed mitigation measures are adequate and comply with minimum natural resource protection guidelines by the Forest Service in consultation with appropriate state or federal agencies and reviewed and approved by the Development Review Officer.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-80-610. General Management Areas Recreation Resource Review Criteria.

The following uses may be allowed, subject to compliance with Commission Rule 350-80-610 (5) and (6).

(1) Recreation Intensity Class 1 - Very Low Intensity

(a) Parking areas for a maximum of 10 cars for any allowed uses in Recreation Intensity Class 1.

(b) Trails for hiking, equestrian and mountain biking use.

(c) Pathways for pedestrian and bicycling use.

(d) Trailheads (with provisions for hitching rails and equestrian trailers at trailheads accommodating equestrian use).

(e) Scenic viewpoints and overlooks.

(f) Wildlife/botanical viewing and nature study areas.

(g) River access areas.

(h) Simple interpretive signs and/or displays, not to exceed a total of 50 square feet.

(i) Entry name signs not to exceed 10 square feet per sign.

(j) Boat docks, piers or wharfs.

(k) Picnic areas.

(l) Rest-rooms/comfort facilities.

(2) Recreation Intensity Class 2 - Low Intensity

(a) All uses permitted in Recreation Intensity Class 1.

(b) Parking areas for a maximum of 25 cars, including spaces for campground units, to serve any allowed uses in Recreation Intensity Class 2.

(c) Simple interpretive signs and displays, not to exceed a total of 100 square feet.

(d) Entry name signs not to exceed 20 square feet per sign.

(e) Boat ramps, not to exceed two lanes.

(f) Campgrounds for 20 units or less, tent sites only.

(3) Recreation Intensity Class 3 - Moderate Intensity

(a) All uses permitted in Recreation Intensity Classes 1 and 2.

(b) Parking areas for a maximum of 75 cars, including spaces for campground units, for any allowed uses in Recreation Intensity Class 3.

(c) Interpretive signs, displays and/or facilities.

(d) Visitor information and environmental education signs, displays or facilities.

(e) Entry name signs not to exceed 32 square feet per sign.

(f) Boat ramps, not to exceed three lanes.

(g) Concessions stands, pursuant to applicable policies in Chapter 4, Part I of the Management Plan.

(h) Campgrounds for 50 individual units or less for tents and/or recreational vehicles, with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 3 campgrounds may also include one group campsite area, in addition to the individual campground units or parking area maximums allowed as described herein.

(4) Recreation Intensity Class 4 - High Intensity

(a) All uses permitted in Recreation Intensity Classes 1, 2, and 3.

(b) Parking areas for a maximum of 250 cars, including spaces for campground units, for any allowed uses in Recreation Intensity Class 4.

(c) Horseback riding stables and associated facilities.

(d) Entry name signs, not to exceed 40 square feet per sign.

(e) Boat ramps.

(f) Campgrounds for 175 individual units or less for tents and/or recreation vehicles with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 4 campgrounds may also include up to 3 group campsite areas, in addition to individual campsite units or parking area maximums allowed as described herein.

(5) Approval Criteria for Recreation Uses

All proposed recreation projects outside of Public Recreation or Commercial Recreation land use designations shall comply with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-80-520 through 350-80-620) and shall satisfy the following:

(a) Compliance with Commission Rule 350-80-520 through 610.

(b) Cumulative effects of proposed recreation projects on landscape settings shall be based on the "compatible recreation use" guideline for the landscape setting in which the use is located.

(c) For proposed recreation projects in or adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland:

(A) The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted to forest or farm uses. Provision of on-site buffers may be used to partially or fully comply with this criterion, depending upon project design and/or site conditions.

(B) A declaration has been signed by the project applicant or owner and recorded with county deeds and records specifying that the applicant or owner is aware that operators are entitled to carry on accepted forest or farm practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland.

(d) For proposed projects including facilities for outdoor fires for cooking or other purposes or proposed campgrounds:

The project applicant shall demonstrate that a sufficient quantity of water necessary for fire suppression (as determined pursuant to applicable fire codes or the county fire marshal) is readily available to the proposed facility, either through connection to a community water system or on-site wells, storage tanks, sumps, ponds or similar storage devices. If connection to a community water system is proposed, the project applicant shall demonstrate that the water system has adequate capacity to meet the facility's emergency fire suppression needs without adversely affecting the remainder of the water system with respect to fire suppression capabilities. In addition, in order to provide access for fire-fighting equipment, access drives shall be constructed to a minimum of 12 feet in width and a maximum grade of 12 percent. Access drives shall be maintained to a level that is passable to fire-fighting equipment.

(e) Trail or trailhead projects shall comply with applicable trails policies in the Management Plan.

(f) For proposed projects providing boating or windsurfing access to the Columbia River or its tributaries: compliance with applicable "River Access and Protection of Treaty Rights" objectives in the Management Plan.

(g) For proposed projects on public lands or proposed projects providing access to the Columbia River or its tributaries: compliance with guidelines for protection of tribal treaty rights in Part IV, Chapter 3, Indian Tribal Treaty Rights and Consultation in the Management Plan.

(h) For proposed projects which include interpretation of natural or cultural resources:

A demonstration that the interpretive facilities will not adversely affect natural or cultural resources and that appropriate and necessary resource protection measures shall be employed.

(i) For proposed Recreation Intensity Class projects (except for projects predominantly devoted to boat access):

A demonstration that the project accommodates provision of mass transportation access to the site. The number and size of the mass transportation facilities shall reflect the physical capacity of the site. This requirement may be waived upon a demonstration that provision of such facilities

would result in overuse of the site, either degrading the quality of the recreation experience or adversely affecting other resources at the site.

(6) Facility Design Guidelines for All Recreation Projects

(a) Recreation facilities which are not resource-based in nature may be included at sites providing resource-based recreation uses consistent with the guidelines contained herein, as long as such facilities comprise no more than one-third of the total land area dedicated to recreation uses and/or facilities. Required landscaped buffers may be included in calculations of total land area dedicated to recreation uses and/or facilities.

(b) The facility design guidelines contained herein are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another.

To be considered a separate facility from other developments or improvements within the same Recreation Intensity Class, recreation developments or improvements must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

(c) Parking areas, access roads, and campsites shall be sited and designed to fit into the existing natural contours as much as possible, both to minimize ground-disturbing grading activities and utilize topography to screen parking areas and associated structures. Parking areas, access roads, and campsites shall be sited and set back sufficiently from bluffs so as to be visually subordinate as seen from Key Viewing Areas.

(d) Existing vegetation, particularly mature trees, shall be maintained to the maximum extent practicable, and utilized to screen parking areas and campsites from Key Viewing Areas and satisfy requirements for perimeter and interior landscaped buffers.

(e) Parking areas providing over 50 spaces shall be divided into discrete "islands" separated by unpaved, landscaped buffer areas.

(f) Lineal frontage of parking areas and campsite loops to Scenic Travel Corridors shall be minimized to the greatest extent practicable.

(g) Ingress/egress points shall be consolidated to the maximum extent practicable, providing for adequate emergency access pursuant to applicable fire and safety codes.

(h) Signage shall be limited to that necessary to provide relevant recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes.

(i) Exterior lighting shall be shielded, designed and sited in a manner which prevents such lighting from projecting off-site or being highly visible from Key Viewing Areas.

(j) Innovative designs and materials which reduce visual impacts (such as "turf blocks" instead of conventional asphalt paving) shall be encouraged through incentives such as additional allowable parking spaces and reduce required minimum interior or perimeter landscaped buffers. Upon determination that potential visual impacts have been substantially reduced by use of such designs and materials, the Development Review Officer may allow either reductions in required minimum interior or perimeter landscape buffers

up to 50 percent of what would otherwise be required, or additional parking spaces not to exceed 10 percent of what would otherwise be permitted.

(k) A majority of trees, shrubs and other plants in landscaped areas shall be species native or naturalized to the landscape setting in which they occur (landscape setting design guidelines specify lists of appropriate species).

(l) All structures shall be designed such that height, exterior colors, reflectivity, mass and siting result in the structures blending with and not noticeably contrasting with their setting.

(m) Landscape buffers around the perimeter of parking areas accommodating more than 10 vehicles shall be provided. Minimum required widths are 5 feet for 20 vehicles or less, 20 feet for 50 vehicles or less, 30 feet for 100 vehicles or less, and 40 feet for 250 vehicles or less.

(n) Interior landscaped buffers breaking up continuous areas of parking shall be provided for any parking areas over 50 spaces in size. The minimum width of interior landscaped buffers between each parking lot of 50 spaces or less shall be 20 feet.

(o) Within required perimeter and interior landscaped buffer areas, a minimum of one tree of at least 6 feet in height shall be planted for every 10 lineal feet as averaged for the entire perimeter width. A minimum of 25 percent of planted species in perimeter buffers shall be coniferous to provide screening during the winter. Project applicants are encouraged to place such trees in random groupings approximating natural conditions. In addition to the required trees, landscaping shall include appropriate shrubs, groundcover and other plant materials.

(p) Minimum required perimeter landscape buffer widths for parking areas or campgrounds may be reduced by as much as 50 percent, at the discretion of the Development Review Officer, if existing vegetation stands and/or existing topography are utilized such that the development is not visible from any Key Viewing Area.

(q) Grading or soil compaction within the drip line of existing mature trees shall be avoided to the maximum extent practicable, to reduce risk of root damage and associated tree mortality.

(r) All parking areas and campsites shall be set back from Scenic Travel Corridors, and the Columbia River and its major tributaries at least 100 feet. Required perimeter landscaped buffers may be included when calculating such setbacks. Setbacks from rivers shall be measured from the ordinary high water mark. Setbacks from Scenic Travel Corridors shall be measured from the edge of road pavements.

(s) Project applicants shall utilize measures and equipment necessary for the proper maintenance and survival of all vegetation utilized to meet the landscape guidelines contained herein, and shall be responsible for such maintenance and survival.

(t) All parking areas shall be set back from property boundaries by at least 50 feet. All campsites and associated facilities shall be set back from property boundaries by at least 100 feet.

(u) All proposed projects at levels consistent with Recreation Intensity Class 4 on lands classified RIC 4 (except for proposals predominantly devoted to boat access)

shall comply with Commission Rule 350-80-610 (5)(h) regarding provision of mass transportation access.

350-80-620. Special Management Area Recreation Resource Review Criteria.

(1) The following shall apply to all new recreation developments and land uses in the Special Management Area:

(a) New developments and land uses shall not displace existing recreational use.

(b) Recreation resources shall be protected from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both on and off site cumulative effects shall be required.

(c) New pedestrian or equestrian trails shall not have motorized uses, except for emergency services.

(d) Mitigation measures shall be provided to preclude adverse effects on the recreation resource.

(e) The facility guidelines contained in Commission Rule 350-80-620(1) are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another. Recreation developments or improvements to be considered a separate facility from other developments or improvements within the same Recreation Intensity Class must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

(f) New development and reconstruction of scenic routes (see Part III, Chapter 1 of the Management Plan) shall include provisions for bicycle lanes.

(g) The Development Review Officer may grant a variance of up to 10 percent to the guidelines of Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from National Scenic Area recreation demand studies shall be relied upon to meet the criterion in the absence of current applicable studies.

(B) The proposed use is dependent on resources present at the site.

(C) Reasonable alternative sites, including those in Urban Areas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

(D) The proposed use is consistent with the goals, objectives, and policies in Chapter 4, Part I of the Management Plan.

(E) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.

(F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

(2) Special Management Areas Recreation Intensity Class Guidelines

(a) Recreation Intensity Class 1 - Very Low Intensity
Emphasis is to provide opportunities for semi-primitive recreation opportunities.

(A) Permitted uses are those in which people participate in outdoor activities to realize experiences such as solitude, tension reduction, and nature appreciation.

(B) The maximum site design capacity shall not exceed 35 people at one time on the site. The maximum design capacity for parking areas shall be 10 vehicles.

(C) The following uses may be permitted:

- (i) Trails and trailheads.
- (ii) Parking areas.
- (iii) Dispersed campsites accessible only by a trail.
- (iv) Viewpoints and overlooks.
- (v) Picnic areas.
- (vi) Signs.
- (vii) Interpretive exhibits and displays.
- (viii) Rest-rooms.

(b) Recreation Intensity Class 2 - Low Intensity

Emphasis is to provide semi-primitive recreation opportunities.

(A) Permitted uses are those that provide settings where people can participate in activities such as physical fitness, outdoor learning, relaxation, and escape from noise and crowds.

(B) The maximum site design capacity shall not exceed 70 people at one time on the site. The maximum design capacity shall be 25 vehicles.

(C) All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class 2. The following uses may also be permitted:

- (i) Campground with vehicle access.
- (ii) Boat anchorages designed for no more than 10 boats at one time.
- (iii) Swimming areas.

(c) Recreation Intensity Class 3 - Moderate Intensity

Emphasis is on facilities with design themes emphasizing the natural qualities of the area. Developments are complementary to the natural landscape, yet can accommodate moderate numbers of people.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as group socialization, nature appreciation, relaxation, cultural learning, and physical activity.

(B) Maximum site design capacity shall not exceed 250 people at on the site. The maximum design capacity shall be 50 vehicles. The General Management vehicle capacity level of 75 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 10% of the site.

(C) All uses permitted in Recreation Intensity Classes 1 and 2 are permitted in Recreation Intensity Class 3. The following uses may also be permitted:

- (i) Campgrounds improvement may include water, power, sewer, and sewage dump stations.
- (ii) Boat anchorages designed for not more than 15 boats.
- (iii) Public visitor, interpretive, historic, and environmental education facilities.
- (iv) Full service rest-rooms, may include showers.

(v) Boat ramps.

(vi) Riding stables.

(d) Recreation Intensity Class 4 - High Intensity

Emphasis is for providing road natural, rural, and suburban recreation opportunities with a high level of social interaction.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as socialization, cultural and natural history appreciation, and physical activity.

(B) The maximum design capacity shall not exceed 1000 people at one time on the site. The maximum design capacity for parking areas shall be 200 vehicles. The General Management Area vehicle capacity of 250 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 20 percent of the site.

(C) All uses permitted in Recreation Intensity Classes 1, 2, and 3 are permitted in Recreation Intensity Class 4.

NOTICE OF APPLICATION REQUIREMENTS

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
GENERAL MANAGEMENT AREA								
Residential LUD - Review uses except SFDs located adjacent to Agriculture & Forest LUDs, and those uses within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs except those within 1000' of sensitive wildlife area or site, or a rare plant	X	X	X	X		X		
Residential LUD - Review uses within 1000' of a sensitive wildlife area or site except SFDs located adjacent to Agriculture or Forest LUDs	X	X	X	X	X		X	
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs within 1000' of a sensitive wildlife area or site	X	X	X	X		X	X	
Residential LUD - Review uses within 1000' of a rare plant except SFDs located adjacent to Agriculture or Forest LUDs	X	X	X	X	X			X
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs within 1000' of rare plant	X	X	X	X		X		X
Agriculture LUD - Review uses except non-farm SFD in Large-Scale Agriculture LUD and uses within 1000' of sensitive wildlife area or site, or rare plant	X	X	X	X	X			
Agriculture LUD - Review uses within 1000' of sensitive wildlife area or site except non-farm SFD in Large-Scale Agriculture LUD	X	X	X	X	X		X	
Agriculture LUD - Review uses within 1000' of a rare plant except non-farm SFD in Large-Scale Agriculture LUD	X	X	X	X	X			X
Agriculture LUD - Non-farm SFD in Large-Scale Agriculture LUD, except those within 1000' of sensitive wildlife area or site, or rare plant	X	X	X	X		X		
Agriculture LUD - Non-farm SFD in Large-Scale Agriculture within 1000' of sensitive wildlife area or site	X	X	X	X		X	X	
Agriculture LUD - Non-farm SFD in Large-Scale Agriculture within 1000' of rare plant	X	X	X	X		X		X
Forest LUD - Review uses except utility facilities, railroads, home occupations, cottage industries, wineries, ag. product process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities, and those review uses within 1000' feet of a sensitive wildlife area or site, or rare plant	X	X	X	X	X			
Forest LUD - Utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities, and not within 1000' feet of a sensitive wildlife area or site, or rare plant	X	X	X	X		X		

MISCELLANEOUS

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
Forest LUD - Review uses within 1000' of a sensitive wildlife area or site, except utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities	X	X	X	X	X		X	
Forest LUD - Review uses within 1000' of a rare plant except utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities	X	X	X	X	X			X
Forest LUD - Utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities within 1000' of a sensitive wildlife area or site	X	X	X	X		X	X	
Forest LUD - Utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities within 1000' of a rare plant	X	X	X	X		X		X
Commercial LUD - Review uses except those within 1000' of a sensitive wildlife area or site, or rare plant	X	X	X	X	X			
Commercial LUD - Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	
Commercial LUD - Review uses within 1000' of a rare plant	X	X	X	X	X			X
Recreation LUD - Review uses except those within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Recreation LUD - Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	
Recreation LUD - Review uses within 1000' of a rare plant	X	X	X	X	X			X
Open Space LUD - Review uses except those within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Open Space LUD - Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	
Open Space LUD - Review uses within 1000' of a rare plant	X	X	X	X	X			X
Agriculture-Special LUD - Review uses	X	X	X	X	X			X
SPECIAL MANAGEMENT AREAS								
Review Uses - All LUDs	X	X	X	X	X		X	

MISCELLANEOUS

WSR 93-04-125
PROPOSED RULES
COLUMBIA RIVER
GORGE COMMISSION
 [Filed February 3, 1993, 11:36 a.m.]

The above named agency gives notice of hearing.

Hearings to be Held: On April 8, 1993, at 2:00 p.m., Hood River Inn, Gorge Club, Marina Way, Hood River, Oregon.

The hearing will be continued to the commission's regularly scheduled meeting on April 13, 1993, with discussion and proposed adoption by the commission.

The Columbia River Gorge Commission proposes to adopt rules relating to land use ordinances for Hood River County, 350-100, at its regularly scheduled meeting on April 13, 1993, at 10:30 a.m., Skamania Lodge, Rock Creek Drive, Stevenson, Washington.

Hearings Officer(s): Pat Bleakney, Chair.

Pursuant to the statutory authority of RCW 43.97.015 the following action is proposed: Adopt 350-100, Hood River County land use ordinance.

No prior notice given.

Columbia River Gorge Commission
 Proposed Rule Adoption
 350-100

Summary: The rule sets forth a land use ordinance to implement the Columbia River Gorge National Scenic Area Management Plan in Hood River County, Oregon.

Statement of Need: 1. The National Scenic Area Act requires the commission to adopt land use ordinances in gorge counties that have not met the act's requirement and schedule for adopting county land use ordinances. 2. The public needs a detailed process for proceeding with land use applications under the Columbia River Gorge National Scenic Area Management Plan. 3. Delay in adoption of the rule will cause the commission to be out of compliance with the National Scenic Area Act.

Authority: 16 U.S.C. § 544 et seq., ORS 196.150 to ORS 165, and RCW 43.97.015 to 49.97.035 [43.97.035].

The proposed rule is necessary as a result of federal law, 16 U.S.C. § 544 et seq. The rule is proposed by the Columbia River Gorge Commission.

Documents Relied Upon: The Columbia River Gorge National Scenic Area Management Plan and the National Scenic Area Act. The documents are available at the commission office.

Effect of Rule: This rule will implement the Management Plan for the Columbia River Gorge National Scenic Area Act through a land use ordinance as required by the National Scenic Area Act. The rule is derived directly from the Management Plan. It includes guidelines for allowable land uses, provisions for protecting scenic, natural, cultural and recreational resources, and procedural requirements for making land use applications. These rules will have the effect of governing land uses within the "general management area" and "special management areas" of the Columbia River Gorge National Scenic Area. Any proposed develop-

ment project on lands within these areas will be subject to the rule when making a land use application.

Fiscal Impact:

I. Background

Commission Rule 350-16-004 requires that the commission prepare: "A statement of fiscal impact identifying the state agencies, units of local government, and the public which may be economically affected by the adoption, amendment, or repeal of [a] rule and an estimate of that economic impact on state agencies, units or local government, and the public. In considering the economic effect of the proposed action on the public, the [commission] shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance on small businesses affected."

The proposed rule implements the Management Plan for the Columbia River Gorge National Scenic Area which was adopted by the Columbia River Gorge Commission in October 1991 and concurred with by the Secretary of Agriculture in February 1992. The Management Plan was written pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.R. [U.S.C.] § 544 et seq. (Public Law 99-663).

The act further requires that the gorge commission adopt land use ordinances for those counties which do not adopt their own. These proposed rules will implement the Management Plan in four of the six gorge counties; the other two counties have adopted their own land use ordinances which will implement the Management Plan.

The act identifies two purposes: To establish a national Scenic Area to protect and provide for the enhancement of the scenic, cultural, recreation, and natural resources of the Columbia River Gorge; and to protect and support the economy of the Columbia Gorge area by encouraging growth to occur in existing Urban Areas and by allowing future economic development in a manner that is consistent with paragraph 1.

The regulations of the act apply to only 90% of the land area in the Scenic Area (the General Management Areas and Special Management Areas). Urban areas, which make up the remaining 10% of the land area, are exempt from the regulations of the act. Urban areas are the cities, towns, and communities where there is significant residential, commercial, or industrial development and extensive supporting infrastructure; the majority of the population and economic activity in the Scenic Area is found in Urban Areas. Thus the proposed rules will affect only a small portion of the residents and businesses in the Scenic Area.

II. Enhancement of the Overall Economy

Implementing the Management Plan will protect and enhance the overall economy of the Scenic Area in many ways:

Utilizing the over \$32 million in federal funding which was authorized in the Scenic Act for recreation and economic development.

Increasing tourism by protecting the scenic, natural, and cultural resources, and enhancing recreational opportunities.

Protecting agricultural and forest land for continued agriculture and forest management, two of the regions principal industries.

Enhancing the economic viability of gorge communities by encouraging economic growth in Urban Areas and Rural Centers.

Economic Development Monies. Congress authorized over \$32 million in federal monies for recreation and economic development. The authorizations are as follows:

\$10 million for recreation development

\$5 million for an Oregon interpretive center

\$5 million for a Washington conference center

\$2.8 million to restore the Historic Columbia River Highway

\$5 million each to Oregon and Washington for the purpose of making economic development loans and grants

Increasing Tourism. In 1987, approximately 3.8 million nonresident visitors traveled through and/or participated in recreation activities in the Scenic Area. Total 1987 nonresident visitor expenditures were estimated to be approximately \$61.8 million. (Economics Research Associates, 1988)

Grant funds will be given over several years to promote the Scenic Area and a number of major developments are currently underway or being planned. These include the new Skamania Lodge in Stevenson, Washington, and the proposed Discovery Center near The Dalles, Oregon. Constructing and operating these new facilities provides many new jobs for Scenic Area residents.

For example, over a ten year period, Skamania Lodge is expected to generate approximately 235 jobs with an annual payroll over \$3.9 million. In related services, the lodge is expected to generate 460 jobs and annual expenditures of \$25 million.

Additional recreation development is allowed on virtually all land in the Scenic Area. Expanding recreational opportunities was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Protecting Resource Land. The gorge has a long history of land-based industries. Extensive agriculture and forest management operations remain in the Scenic Area. Approximately 140,000 acres (nearly one-half) of the Scenic Area is designated either agriculture or forest land. In 1987, the total forest industry employment was over 4,000 with a total payroll of approximately \$100 million. (Economics Research Associates from industry, 1988)

By limiting further fragmentation of this resource land for residential uses, the Management Plan encourages the retention of these resource-based jobs and supports an existing strong industry. Protecting resource land was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Enhancing the economic viability of gorge communities. The Management Plan encourages growth to occur in Urban Areas and rural centers. By limiting commercial and other urban-related activities in more rural areas, the need to expand infrastructure to remote locations is reduced, and existing infrastructure is used more efficiently. As communities spend less money extending urban services, they will be better able to support business development and expansion in areas where urban services already exist. Some commercial development which is less reliant on urban services is allowed outside of Urban Areas. Limiting major

infrastructure investment was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

III. Effects on State Agencies and Local Government

The Scenic Act envisions a partnership between federal, state, and local agencies and the gorge commission. Together the expertise of each agency will achieve the purposes of the act. The planning process used to develop the Management Plan allowed each agency to clarify its own role. While it is not possible to quantify to economic effects to each agency, below is a discussion of possible effects.

State Agencies. A number of state agencies, such as Fish and Wildlife, Archaeology and Historic Preservation, and Transportation have important roles in the proposed rules. These agencies are given an opportunity to comment on proposed development projects. In most cases, comments from these agencies will not be required.

These agencies have already transferred enough information to the Gorge Commission so that the commission staff may evaluate potential impacts. Thus the commission is already doing much of the work that these agencies might do themselves.

It is not expected that the roles of these agencies will differ from their current roles. Currently, these agencies are given an opportunity to comment on proposed development projects, and additional information is often sent.

County Governments. There are six counties in the Scenic Area; however, the proposed rules will apply to only four of the six counties. Possible economic effects on these counties is not expected to differ from the current situation. Although the gorge commission will continue to make land use permitting decisions, counties will continue to be an important part of the land use decision process. This has some economic effects.

The burden of administering the proposed rule, including staff time and mailing costs, will still lie with the gorge commission. And counties will not [be] liable for any costs related to implementing the land use decisions made by the gorge commission. A potential benefit to counties is the opportunity to adopt the ordinances written by the gorge commission. This will help defray the costs of writing ordinances themselves.

The only additional economic cost to counties will be not having access to the federal recreation and economic development monies. Only when these counties adopt their own land use ordinances, and those ordinances are found to be consistent with the Management Plan, are these counties and the Urban Areas within the counties become eligible for the federal economic and recreation development funds authorized in the act.

Columbia River Gorge Commission. The gorge commission will continue to make land use decisions on proposed development projects in these four counties. The decision-making process is expected to remain much the same as the current process, except that additional time will be necessary to collect all the necessary information to make a full decision. The gorge commission will be assisted by many other agencies such as state natural resource and archaeological agencies, the U.S. Forest Service, and Native American Tribal Governments.

Administration of the land use ordinances by the gorge commission will also limit the time that the gorge commis-

sion can spend on implementing recreation and economic development projects and lobbying for additional funds.

Native American Tribal Governments. Native American Tribal Governments will be consulted under the proposed rules and will have the opportunity to review and comment on proposed new uses on lands or in waters where cultural resources exist and where tribal members exercise treaty or other rights. The tribal governments have a similar role now and would have the same role even if the counties adopted their own ordinances.

IV. Effects on the Public and Small Businesses

Landowners and the public. Implementing the Management Plan will immediately institute uniformity in regulations, predictability in decision-making, and simplification of the decision process. These are positive effects of the proposed rules. Landowners will have a much better understanding of the value of their land without the uncertainty of the development guidelines currently in effect. Many landowners or potential buyers have submitted land use development applications just to find out what they could potentially build on the land. The proposed rules will eliminate many of the current costly delays and unanticipated decisions.

Additional information prior to submittal of a land use application will be required. This however, follows the "Go slow to go fast" adage. Currently, most of the land use approvals require the applicant to return to the commission with color samples, refined site plans, and other information before construction begins. The new rules require this information up-front, thus when an approval is issued, in most cases, the applicant may proceed without further approvals from the gorge commission.

In addition, the proposed rules bring many resource protection laws under the same umbrella. The rules defer to some existing laws and mimics provisions of others. Completing the development review process in the new rules will assist landowners in meeting the needs of other natural resource agencies.

Potential economic costs to landowners include a somewhat longer decision-making process under the proposed rules, and some additional information requirements for major development projects. The proposed rule will increase the development review time from six weeks to ten weeks, and require more detail before an application will be accepted.

The gorge commission, in preparing the development guidelines for the General Management Area, was careful to ensure that a viable economic use was left on each individual parcel. In the Special Management Area, where some commercial-scale forest land was designated as open space, the forest service will buy the land within three years, or the land will revert to a nonrestrictive General Management Area designation. In the general management, forest practices are exempt from the regulations of the Management Plan, and thus exempt from these proposed rules.

Because the procedural and substantive development guidelines are given in the Management Plan, these economic effects are not unique to these proposed rules; they will be the same when the counties adopt their own land use ordinances.

Small Businesses. As mentioned above, the majority of the commercial and industrial activity in the Scenic Area

occurs in the Urban Areas which are exempt from the regulations of the Management Plan and thus the proposed rules as well. The proposed rules will not change the current or future operation of these activities.

The proposed rules will not have an economic effect on small businesses. Existing businesses are grandfathered and will not require new use permits. The most significant economic effect will come when the counties adopt their own land use ordinances, thus making the federal monies available for grants and loans.

V. Conclusion

While it is not possible to quantify the economic effects of the proposed rules, the greatest economic effect will be when the benefits counties receive when they adopt their own land use ordinances. Any new administrative costs will be generally absorbed by the gorge commission and not other agencies or the public.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by April 8, 1993, will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from: Columbia River Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, Attn: Jan Brending, Rules Coordinator, (509) 493-3323.

February 2, 1993
Jonathan Doherty

COLUMBIA RIVER GORGE COMMISSION
Chapter 350
Division 100
Hood River County Land Use Ordinance

350-100-010. Purposes.

The purposes of the Land Use Ordinance are to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge, and to protect and support the economy of the Columbia River Gorge by allowing future economic development in a manner that enhances the scenic, cultural, recreational, and natural resources of the Gorge.

350-100-020. Area Affected.

Commission Rule 350-100 shall apply to all lands in Hood River County, Oregon within the Columbia River Gorge National Scenic Area as designated by the Columbia River Gorge National Scenic Area Act.

Commission Rule 350-100 becomes effective 30 days after adoption and filing by the Columbia River Gorge Commission with the exception of those portions of Commission Rule 350-100 pertaining to the Special Management Areas, which become effective upon concurrence by the Secretary of Agriculture.

Those portions of Commission Rule 350-100 pertaining to the General Management Area are no longer effective once Hood River County has submitted a land use ordinance and the Columbia River Gorge Commission finds it consistent with the Management Plan. Those portions of Commission Rule 350-100 pertaining to the Special Management

Area remain effective until the Secretary of Agriculture concurs on the ordinances adopted by Hood River County.

350-100-030. Review and Approval Required.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged, including those proposed by state or federal agencies, in the Columbia River Gorge National Scenic Area except for the uses listed in Commission Rule 350-100, when considered under the applicable procedural and substantive guidelines of this Rule.

350-100-040. Definitions.

As used in Commission Rule 350-100, unless otherwise noted, the following words and their derivations shall have the following meanings:

(1) Accepted agricultural practice: A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

(2) Accessory building: A building or structure whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use.

(3) Active wildlife site: A wildlife site that has been used within the past 5 years by a sensitive wildlife species.

(4) Agency official: The federal, state, or local agency head or designee who has authority over a proposed project.

(5) Agricultural structure: A structure located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

(6) Agricultural use: The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

(a) The operation or use of farmland subject to any agriculture-related government program.

(b) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.

(c) Land planted in orchards or other perennials prior to maturity.

(d) Land under buildings supporting accepted agricultural practices.

Agricultural use does not include livestock feedlots.

(7) Anadromous fish: Species of fish that migrate upstream to freshwater after spending part of their life in the ocean (saltwater).

(8) Anaerobic: A condition in which molecular oxygen is absent (or effectively so) from the environment.

(9) Aquaculture: The cultivation, maintenance, and harvesting of aquatic species.

(10) Aquatic area: The water area of a stream, pond, or lake measured at the ordinary high water mark.

(11) Archaeological resources: See cultural resource.

(12) Archival research: Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.

(13) Bed and breakfast inn: An establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodations, not as rooming or boarding houses.

(14) Best management practices: Conservation techniques and management measures that

(a) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;

(b) minimize adverse affects to groundwater and surface-water flow and circulation patterns; and

(c) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.

(15) Biodiversity (SMA): A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.

(16) Boat landing: Cleared area or developed structure used to facilitate launching or retrieving watercraft.

(17) Buffer zone: An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.

(18) Building: Any structure used or intended for supporting or sheltering any use or occupancy.

(19) Camping or recreational vehicle: A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a sewer system (including septic tank), water, and electrical lines or is occupied on the same parcel for more than 60 days in any consecutive 12-month period.

(20) Campsite: Single camping unit, that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.

(21) Capability: The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.

(22) Cascadian architecture (SMA): Architectural style using native rock work, large timber, and steeply pitched roofs in a rustic manner.

(23) Catastrophic situations (SMA): Forces such as fire, insect and disease infestations, and earth movements.

(24) Childcare center: A facility providing daycare to three or more children, but not including:

(a) The provision of care that is primarily educational, unless provided to a preschool child for more than 4 hours a day.

(b) The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion.

(c) The provision of short-term care related to or associated with group athletic or social activities.

(d) The provision of daycare in the provider's home in the family living quarters for less than 13 children.

(25) Clearcut: A created opening of 1 acre or more.

(26) Columbia River Gorge National Scenic Area Graphic Signing System: Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.

(27) Commercial development/use: Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.

(28) Commercial forest products: These include timber for lumber, pulp, and firewood for commercial purposes.

(29) Commercial recreation: Any private (non-governmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.

(29) Community facility: Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.

(30) Consulting parties (cultural resources): Organizations or individuals who submit substantive written comments to a Development Review Officer in a timely manner because they are concerned with the effects of a proposed use on cultural resources.

(31) Contiguous land: Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.

(32) Counties: The six counties within the Scenic Area: Hood River, Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.

(33) Created opening (SMA): A created forest opening with less than 80 percent crown cover closure of trees averaging less than 20 feet tall.

(34) Creation (wetlands): A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).

(35) Cultivation: Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

(36) Cultural resource: Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:

(a) Archaeological resources. Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least 50 years old.

Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains, and associated artifacts.

(b) Historic buildings and structures. Standing or above-ground buildings and structures that are at least 50 years old.

Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.

(c) Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community.

Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.

(37) Cumulative effects: The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

(38) Cut: An area where soil or earth is excavated or removed in conjunction with development activities.

(39) Dedicated site: An area actively devoted to the current use and as delineated on the site plan.

(40) Deer and elk winter range: Areas normally used, or capable of being used, by deer and elk from December through April.

(41) Destruction of wetlands: Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.

(42) Developed recreation: Recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.

(43) Development: Any land division or structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.

(44) Diameter at breast height (dbh): The diameter of a tree as measured at breast height.

(45) Duplex: A building containing two dwelling units and designed for occupancy by two families.

(46) Dwelling, single-family: A detached building containing one dwelling unit and designed for occupancy by one family only.

(47) Dwelling unit: A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

(48) Effect on Treaty Rights: To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.

(49) Endemic: Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.

(50) Enhancement (natural resources): A human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.

(51) Ethnography: The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.

(52) Existing use or structure: A legally established use that existed before the effective date of the Scenic Area Act, the Management Plan, or a land use ordinance established pursuant to the Scenic Area Act. "Legally-established" means established in accordance with the law in effect at the time of establishment of the use.

(53) Exploration, development (extraction and excavation), and production of mineral resources: Includes all or any part of the process of surface, underground, or submersed mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For the Management Plan, this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.

(54) Fill: The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.

(55) Fire break: A break in ground cover fuels, adjacent to and surrounding buildings.

(56) Forbs: Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grasslike plants.

(57) Foreground (SMA): One-half mile on either side of a traveled road or trail.

(58) Forest products: Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.

(59) Forest practices: Those activities related to the growing and harvesting of forest tree species, as defined by the Oregon Forest Practices Act or the Washington Forest Practices Act.

(60) Forest use: The growing, propagation, and harvesting of forest tree species and other forest products.

(61) Fully screened: A description of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan).

(62) Grade (ground level): The average elevation of the finished ground elevation as defined by the Uniform Building Code.

(63) Grading: Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(64) Height of building: The vertical distance from the grade to the highest point of the roof.

(65) Herbaceous: A plant with no persistent woody stem above the ground, with characteristics of an herb.

(66) Herbs: Nonwoody (herbaceous) plants, including grasses and grasslike plants, forbs, ferns, fern allies, and nonwoody vines. (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(67) Historic buildings and structures: See cultural resource.

(68) Historic survey: Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.

(69) Horses, boarding of: The stabling, feeding, and grooming for a fee, or the renting of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks.

(70) Hydric soil: A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

(71) In-lieu sites: Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 14 and Public Law 100-581, Section 401. Additional in-lieu sites will be provided for.

(72) Indian tribal government: The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakima Indian Nation (Tribal Council).

(73) Indian tribes: The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakima Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

(74) Industrial uses: Any use of land or water primarily involved in:

- (a) Assembly or manufacture of goods or products,
- (b) Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit,
- (c) Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural

products, forest products, or recyclable materials for purposes other than retail sale and service, or

(d) Production of electric power for commercial purposes.

(75) Interpretive displays: Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.

(76) Key components: The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.

(77) Key viewing areas: Those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These include:

Historic Columbia River Highway
Crown Point
Highway I-84, including rest stops
Multnomah Falls
Washington State Route 14
Beacon Rock
Panorama Point Park
Cape Horn
Dog Mountain Trail
Cook-Underwood Road
Rowena Plateau and Nature Conservancy Viewpoint
Portland Women's Forum State Park
Bridal Veil State Park
Larch Mountain
Rooster Rock State Park
Bonneville Dam Visitor Centers
Columbia River
Washington State Route 141
Washington State Route 142
Oregon Highway 35
Sandy River
Pacific Crest Trail

SMA only:

Old Washington State Route 14 (County Road 1230)
Wyeth Bench Road
Larch Mountain Road
Sherrard Point on Larch Mountain

(78) Land division: The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.

(79) Landscape setting: The combination of land use, landform, and vegetation patterns that distinguish an area in appearance and character from other portions of the Scenic Area.

(80) Livestock feedlot: Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and fur bearers. Feedlots do not include winter pasture or winter hay-feeding grounds.

(81) Lot line adjustment: Transfer of a portion of a parcel from one owner to the owner of an adjacent parcel resulting in no increase in the number of parcels.

(82) Management plan: The document entitled Management Plan for the Columbia River Gorge National Scenic Area adopted October 14, 1991. The Management Plan becomes effective upon approval of land use ordinances by the Commission for the General Management Area and concurrence of land use ordinances by the Secretary of Agriculture for Special Management Area.

(83) Mitigation: The use of any or all of the following actions:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(84) Multifamily dwelling: A dwelling constructed or modified into two or more single-family units.

(85) Native species: Species that naturally inhabit an area.

(84) Natural resources: Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.

(86) Natural resource specialist: A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.

(87) Natural resource-based recreation (SMA): Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.

(88) Nonprofit organization: An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.

(89) Old growth: Any stand of trees 10 acres or greater generally containing the following characteristics:

(a) contain mature and overmature trees in the overstory and are well into the mature growth state;

(b) in coniferous forests, will usually contain a multilayered canopy and trees of several age classes;

(c) in coniferous forests, standing dead trees and down material are present; and

(d) evidences of man's activities may be present, but do not significantly alter the other characteristics and would be a subordinate factor in description of such a stand.

(90) Open Spaces: Unimproved lands not designated as agricultural lands or forest lands by the Management Plan and designated as open space by the Management Plan. Open spaces include:

(a) Scenic, cultural, and historic areas;

(b) Fish and wildlife habitat;

(c) Lands which support plant species that are endemic to the Scenic Area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;

(d) Ecologically and scientifically significant natural areas;

(e) Outstanding scenic views and sites;

(f) Water areas and wetlands;

(g) Archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;

(h) Potential and existing recreation resources; and

(i) Federal and state wild, scenic, and recreation waterways.

(91) Ordinary high water mark: The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.

(92) Parcel:

(a) Any parcel legally created by a short division, partition, or subdivision.

(b) Any unit of land legally created and separately described by deed or sales contract prior to November 17, 1986, if there were no applicable planning, zoning, and land division ordinances or regulations.

(c) In the state of Washington, a unit of land created and separately described by deed or sales contract after November 17, 1986 if the unit created was approved by the Gorge Commission or the Forest Service Scenic Area Office.

(d) A unit of land shall not be considered a separate parcel simply because the subject tract of land:

(A) Is a unit of land created solely to establish a separate tax account;

(B) Lies in different counties;

(C) Lies in different sections or government lots;

(D) Lies in different land use or zoning designations; or

(E) Is dissected by a public or private road.

(93) Partial retention: A visual quality objective that provides for management activities that may be evident but must remain visually subordinate to the characteristic landscape. Activities may repeat form, line, color, or texture common to the characteristic landscape, but changes in their qualities of size, amount, intensity, direction, pattern, etc., shall remain visually subordinate to the characteristic landscape.

(94) Practicable: Able to be done, considering technology and cost.

(95) Preexisting: Existing prior to the adoption of the Columbia River Gorge National Scenic Area Management Plan.

(96) Primarily: A clear majority as measured by volume, weight, or value.

(97) Project area: The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

(98) Public use facility: Recreation development(s) that meet the definition of "recreation facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

(99) Rare plant species: Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.

(100) Recreation facility: A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than 1/4 mile of land that does not contain any such developments or improvements, except for roads and/or pathways.

(101) Reconnaissance survey: Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, subsurface testing, and ethnographic research.

(102) Recreation Opportunity Spectrum (ROS): A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).

(a) Primitive: Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.

(b) Semiprimitive: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.

(c) Roaded Natural: Roaded areas with moderately frequent human encounters and with resource modifications evident.

(d) Rural: Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.

(e) Suburban: Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.

(f) Urban: Highly accessible, roaded areas dominated by human encounters and human-related structures.

(103) Recreation resources: Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semiprimitive areas with few facilities and developed sites.

(104) Rehabilitation (natural resources): A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or preconstruction condition.

(105) Repair and maintenance: An activity that restores the size, scope, configuration, and design of a serviceable structure to its previously authorized and undamaged condition. Activities that change the size, scope, and configuration of a structure beyond its original design are not included in this definition.

(106) Resource-based recreation: Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend.

(107) Restoration (wetlands): A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.

(108) Retention: A visual quality objective that provides for management activities that are not visually evident

to the casual visitor. Management activities may only repeat form, line, color, and texture that are frequently found in the characteristic landscape. Changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be evident.

(109) Review uses: Proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.

(110) Riparian area: The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.

(111) Road: The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys.

(b) Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures.

(c) Structures that provide for continuity of the right-of-way, such as bridges.

(112) Scenic Area: The Columbia River Gorge National Scenic Area.

(113) Scenic travel corridor: Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

(114) Secretary: The Secretary of Agriculture.

(115) Sensitive plant species: Plant species that are

(a) endemic to the Columbia River Gorge and vicinity,
(b) listed as endangered or threatened pursuant to federal or state endangered species acts, or

(c) listed as endangered, threatened or sensitive by the Oregon or Washington Natural Heritage Program.

In the SMA, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(116) Sensitive wildlife species: Animal species that are

(a) listed as endangered or threatened pursuant to federal or state endangered species acts,

(b) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,

(c) listed as sensitive by the Oregon Fish and Wildlife Commission, or

(d) considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

In the SMA, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(117) Service station: A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

(118) Serviceable: Presently useable.

(119) Shall: Action is mandatory.

(120) Should: Action is encouraged.

(121) Shrub: A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(122) Sign: Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.

(123) Significant cultural resource (SMA): A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].)

(124) Skyline: The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.

(125) Soil Capability Class: A classification system developed by the U.S. Department of Agriculture Soil Conservation Service to group soils as to their capability for agricultural use.

(126) Special habitat area: Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.

(127) Special streams: Streams that are primary water supplies for fish hatcheries and rearing ponds.

(128) Stand: A group of trees possessing uniformity in regard to type, age, vigor, or size.

(129) Story: A single floor level of a structure, as defined by the Uniform Building Code.

(130) Streams: Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams

naturally occurring prior to construction of such watercourses.

For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

(131) Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.

(132) Subsurface testing: Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.

(133) Suitability: The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.

(134) Travelers accommodations: Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.

(135) Treaty rights or other rights: Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.

(136) Tributary fish habitat: Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

(137) Undertaking: Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.2(o)].

(138) Unimproved lands: Lands that generally do not have developments such as buildings or structures.

(139) Upland: Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

(140) Uses allowed outright: New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.

(141) Utility facility: Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

(142) Viewshed: A landscape unit seen from a key viewing area.

(143) Visual Quality Objective (VQO): A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

(144) Visually subordinate: A description of the relative visibility of a structure where that structure does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings.

(145) Water-dependent: Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.

(146) Water-related: Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.

(147) Wetlands: Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.

(148) Wetlands functions: The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

(149) Woody plant: A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-100-050. Exempt Land Uses and Activities.

Commission Rule 350-100 shall not apply to:

- (1) Any treaty or other rights of any Indian tribes.

(2) Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of Indian tribes, and lands acquired by the U.S. Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes or of individual members of Indian tribes. This exemption shall extend to lands selected by the U.S. Army Corps of Engineers as in lieu fishing sites pursuant to Public Law 100-581 before or after the effective date of the Management Plan. For those in lieu sites chosen after the effective date of the Management Plan, the exemption shall commence upon selection by the U.S. Army Corps of Engineers.

(3) Rights to surface or ground water.

(4) Water transportation activities on the Columbia River or its tributaries. The term "activities" includes those facilities necessary for navigation.

(5) The operation, maintenance and modification of existing transmission facilities of the Bonneville Power Administration.

(6) Laws, rules or regulations pertaining to hunting or fishing.

(7) The operation, maintenance and improvement of navigation facilities at Bonneville Dam pursuant to federal law, except for the offsite disposal of excavation material.

(8) In the General Management Area, the rights and responsibilities of non-federal timber landowners under the Washington and Oregon Forest Practices Acts, or under county regulations that supersede those acts.

350-100-060. Prohibited Land Uses and Activities.

The following land uses and activities shall not be allowed within the Columbia River Gorge National Scenic Area:

(1) Solid waste disposal sites or sanitary landfills within the Special Management Area.

(2) New industrial development in the Scenic Area outside of the Urban Areas.

(3) Except for uses allowed outright and review uses, new uses shall be prohibited on lands designated Agriculture-Special. Prohibited uses include, but are not limited to:

(a) Cultivation, including plowing, harrowing, leveling, tilling, or any activity that prepares land for raising crops by turning, breaking up, or loosening soil.

(b) Removal or clearing of native grasses, shrubs, and trees.

(c) Single-family dwellings and accessory structures, other than non-agricultural dwellings allowed as a review use.

(d) Barns, silos, and other agricultural buildings.

(e) Irrigation systems.

(f) Exploration, development, and production of mineral resources.

(g) Utility facilities, public use facilities, and roads.

350-100-070. Existing Uses.

Except as otherwise provided below, existing uses in the Scenic Area may continue, notwithstanding the provisions of Commission Rule 350-100.

(1) Except as otherwise provided, any use or structure existing on the effective date of the Management Plan, may continue so long as it is used in the same manner and for the same purpose as on that date.

(2) Any use or structure damaged or destroyed by fire shall be treated as an existing use or structure if an application for replacement in kind and in the same location is filed within one year of such damage or destruction. Such uses or structures shall be subject to compliance with guidelines for protection of scenic resources involving color, reflectivity and landscaping. Replacement of an existing use or structure by a use or structure different in purpose, size or scope shall be subject to Commission Rule 350-100.

(3) Replacement or reestablishment of a use or structure discontinued for more than one year shall be subject to Commission Rule 350-100. Except as otherwise provided, an existing use or structure may be replaced within one year of discontinuation if used for the same purpose at the same location. This includes replacing an existing mobile home with a framed residence.

(4) In the Special Management Area, existing commercial and multi-family residential uses may expand as necessary for successful operation on the dedicated site, subject to Commission Rule 350-100-520 through 350-100-620 to minimize adverse effects on scenic, cultural, natural and recreation resources. Expansion beyond the dedicated site is prohibited. Commercial uses discontinued for 1 year or more shall no longer be considered as an existing use and shall no longer be permitted, in accordance with the provisions this rule.

(5) Existing industrial uses in the General Management Area may expand as necessary for successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(6) In the General Management Area, existing industrial uses may convert to less intensive uses. A less intensive use is a commercial, recreation or residential use with fewer adverse effects upon scenic, cultural, natural and recreation resources.

(7) In the General Management Area, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to Commission Rule 350-100 if any of the following conditions exist:

(a) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to 50 percent of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain which was merely leveled or cleared of vegetation.

(b) The site has not maintained a required state permit.

(c) The site has not operated legally within 5 years before the date of adoption of the Management Plan.

(8) Uses involving the exploration, development or production of sand, gravel or crushed rock in the Special Management Area may continue when:

(a) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the Special Management Area.

(b) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural or recreation resources.

(9) Except as otherwise provided, whether a use has a vested right to continue will be determined by the law on vested rights in the appropriate state.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-100-080. Application for Review and Approval.

(1) Prior to initiating any use or development which requires review and approval by the Development Review Officer, an application shall be completed pursuant to Commission Rule 350-100-080. The Development Review Officer shall accept and review the application pursuant to Commission Rule 350-100-100 through 350-100-170 for consistency with the appropriate guidelines of this rule. Review of a proposed use or development shall commence upon the acceptance of an application by the Development Review Officer. The Commission may charge a fee for review of applications.

(2) Standard application forms shall be available at county and city planning offices, the office of the Columbia River Gorge Commission and the Forest Service.

(3) Applications for the review and approval of a proposed use or development shall provide the following information:

(a) The applicant's name, address and telephone number;

(b) The land owner's name, address and telephone number (if different from applicant's);

(c) The county in which the proposed use or development would be located;

(d) The section, quarter section, township and range in which the proposed development would be located;

(e) The street address of the proposed use or development;

(f) The tax lot number(s) and size in acres of the parcel(s) involved;

(g) A description of the current land use for the parcel(s) involved and adjoining lands;

(h) A written description of the proposed use or development, including details on the height, exterior color(s), and construction materials of the proposed structures.

(i) A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the Development Review Officer to determine the location and extent of the proposed use or development and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail. If a parcel is very large, the map does not need to show the entire parcel. Rather, it can show only those portions of the parcel affected by the proposed use. The map shall include the following elements:

(A) North arrow.

(B) Map scale.

(C) Boundaries, dimensions, and size of the subject parcel.

(D) Significant terrain features or landforms.

(E) Groupings and species of trees or other vegetation on the parcel.

(F) Location and species of vegetation that would be removed or planted.

(G) Bodies of water and watercourses.

(H) Location and width of existing and proposed roads, driveways, and trails.

(I) Location and size of existing and proposed structures.

(J) Location of existing and proposed services including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting.

(K) Location and depth of all proposed grading and ditching.

(j) In the Special Management Area, applications and/or site plans shall contain the natural resources information required in Commission Rule 350-100-600(2).

(j) Any additional information which the applicant feels will assist in the evaluation of the proposal including, but not limited to, maps, drawings, and development plans.

(k) The signature of the applicant and property owner or a statement from the property owner indicating that he is aware of the application being made on his property.

(l) The signature of the property owner on a statement that authorizes the Development Review Officer or the Development Review Officer's designee reasonable access to the site in order to evaluate the application.

(4) Applications for the following uses or developments shall include additional information as required by the appropriate guidelines in Commission rule 350-100 or by the Development Review Officer:

(a) All buildings, roads, or mining and associated activities proposed on lands visible from Key Viewing Areas, pursuant to 350-100-520 (2)(d).

(b) In the General Management Area, production and/or development of mineral resources and expansion of existing quarries pursuant to 350-100-520 (1)(e), 350-100-520 (2)(de), (2)(e), (2)(v), and (2)(w).

(c) In the General Management Area, any structural development involving more than 100 cubic yards of grading on sites visible from key viewing areas and which slope is between 10 and 30 percent, pursuant to 350-100-520 (2)(u)

(d) In the General Management Area, vegetation management projects in public rights of way along Scenic Travel Corridors, pursuant to 350-100-520 (4)(d).

(e) Large-scale uses as defined by guideline 350-100-540 (4)(b) shall include reconnaissance survey reports, pursuant to 350-100-540 (4)(b)

(f) Proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings that are 50 years old or older, pursuant to 350-100-520 (4)(c).

(g) In the General Management Area, new uses located in, or providing recreational access to the Columbia River or its fishbearing tributaries, pursuant to 350-100-150 (8)(a)(A).

(h) In the General Management Area, any review use in a wetland or within a wetland buffer zone, pursuant to Commission Rule 350-100-560 (1)(b).

(i) In the General Management Area, any review use in a stream, pond, lake, or within their buffer zones, pursuant to Commission Rule 350-100-570 (1)(b).

(j) In the General Management Area, any review use within 1000 feet of a sensitive wildlife area or site, pursuant to 350-100-580 (1)(b). Large-scale uses as defined by 350-100-580(3) shall also include field survey information, pursuant to 350-100-580 (3)(e).

(k) In the General Management Area, any review use within 1000 feet of a sensitive plant, pursuant to Commission Rule 350-100-590(b). Large-scale uses as defined by 350-100-590(3) shall also include field survey information, pursuant to Commission Rule 350-100-590 (3)(e).

(l) In the General Management Area, on lands designated Large-Scale Agriculture, a single family dwelling in conjunction with agricultural use, pursuant to Commission Rule 350-100-190 (1)(e), and if applicable, 350-100-190 (1)(f).

(m) In the General Management Area, on lands designated Large-Scale Agriculture, a single family dwelling not in conjunction with agricultural use, pursuant to Commission Rule 350-100-190 (1)(n).

(n) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative, pursuant to Commission Rule 350-100-190 (1)(h).

(o) In the General Management Area, on lands designated Large-Woodland, a single family dwelling, pursuant to Commission Rule 350-100-270 (1)(a), (c), and (k).

(p) In the Special Management Area, on lands designated Forest, a single family dwelling, pursuant to Commission Rule 350-100-270 (2)(j).

(q) In the Special Management Area, on lands designated Forest, forest practices, pursuant to Commission Rule 350-100-270 (2)(b).

(r) In the Special Management Area, on lands designated Open Space, any new use or development, pursuant to Commission Rule 350-100-340(2).

(s) In the General Management Area, on lands designated Agriculture-Special, a single-family dwelling pursuant to 350-100-190 (1)(h).

(t) In the Special Management Area, on lands designated Agriculture, a single-family dwelling necessary and accessory to agricultural use, pursuant to Commission Rule 350-100-190 (2)(b).

(u) In the Special Management Area, on lands designated Agriculture, farm labor housing and agricultural buildings, pursuant to Commission Rule 350-100-190 (2)(d).

(v) In the General Management Area, on lands designated Small Woodland, a single-family dwelling pursuant to Commission Rule 350-100-270 (1)(b).

(w) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, a single-family dwelling in conjunction with agricultural use pursuant to Commission Rule 350-100-190 (1)(e).

(x) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Wood-

land, agricultural labor housing, pursuant to Commission Rule 350-100-270 (1)(o).

(y) In the General Management Area, on lands designated Agriculture-Special, new livestock grazing, new fences, livestock watering facilities, and corrals; or soil, water, and vegetation conservation activities, pursuant to Commission Rule 350-100-240.

(z) Other uses as deemed necessary by the Development Review Officer.

(5) Completed application forms shall be submitted directly to the office of the Columbia River Gorge Commission.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

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350-100-090. Pre-Application Conference.

An applicant may request a pre-application conference prior to submitting an application for development review. The purposes of the conference shall be to acquaint the applicant with the substantive and procedural requirements of Commission Rule 350-100, to discuss the principle elements of the proposed action, and to identify guidelines that create opportunities or pose constraints for the proposed action.

350-100-100. Acceptance of Application.

Within 14 days of the receipt of an application, the Development Review Officer shall review the application for completeness and adequacy. The Development Review Officer shall accept a complete and adequate application within 14 days of receipt within 14 days of receipt of the application.

(1) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Development Review Officer shall notify the applicant of all omissions and deficiencies in writing within 14 days of receipt of the application.

(2) No application shall be accepted which the Development Review Officer deems cannot be acted upon reasonably within 72 days, pursuant to 350-100-130(3), except when the applicant consents to a longer period for action.

(3) No application shall be accepted unless accompanied by a list of names and addresses of the adjacent property owners within a distance of the subject parcel as determined in Commission Rule 350-100-630. A statement from the County Assessor or appropriate agency confirming the accuracy of the list shall accompany the list.

(4) No application for a proposed use which is explicitly prohibited by Commission Rule 350-100-060 shall be accepted.

(a) The application shall be returned to the applicant.

(b) A letter, signed by the Development Review Officer, stating that the proposed use is prohibited and citing the

guideline which explicitly prohibits the proposed use, shall be sent to the applicant.

(c) Issuance of this letter shall not prohibit the applicant from appealing the decision pursuant to 350-70.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-100-110. Notice of Development Review.

(1) Within seven days of the acceptance of an application, the Development Review Officer shall issue notice of a proposed development review. The notice shall provide the following information:

- (a) The name of the applicant;
- (b) The general and specific location of the subject property;
- (c) A brief description of the proposed action;
- (d) The deadline for rendering a decision; and
- (e) The deadline for filing comments on the proposed action.

(2) The notice shall state that the application and supporting documents are available for inspection at the Commission office during normal working hours.

(3) The notice shall state the applicant must comply with all applicable local, state, and federal laws.

(4) The notice shall be mailed to:

- (a) The Forest Service, the applicable state, Indian Tribes and the applicable county and/or city; and
- (b) Owners of property within a radius of the subject parcel(s) as determined by 350-100-630; and
- (c) Other agencies and interested parties which request a notice which the Development Review Officer determines should be notified.

(4) The notice shall be posted at the Commission and Forest Service offices and shall be made available for posting at the applicable county or city planning office(s) and applicable library or libraries.

(5) For all development, notice shall be published in a newspaper of general circulation nearest to the site of the proposed action.

(6) A copy of the notice shall be filed in the records of the Commission.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-100-120. Comment Period

Interested persons shall have 21 days from the date which the notice is sent to submit written comments to the Development Review Officer relative to the consistency of the proposed actions with the guidelines of Commission Rule 350-100:

(1) Within seven days of the close of the comment period, the Development Review Officer shall determine if a wildlife management plan pursuant to Commission Rules 350-100-580(6), or a rare plant protection and rehabilitation plan pursuant to Commission Rules 350-100-590(6) is required.

(2) For proposed uses or developments where a cultural resources survey (reconnaissance or historic) is required and where the Commission is performing the survey, the survey shall be completed by the close of the comment period. Upon receipt of the completed survey, the Development Review Officer shall forward the survey to the State Historic Preservation Officers, and Indian Tribes pursuant to Commission Rules 350-100-540 (1)(b) and (2)(b)(A).

(3) Within seven days of the close of the 30 day reconnaissance survey comment period for State Historic Preservation Officers and Indian Tribes, the Development Review Officer shall determine if an evaluation of significance pursuant to Commission Rules 350-100-540(3) is required.

350-100-130. Decision of the Development Review Officer.

(1) In making a decision on a proposed use or development the Development Review Officer shall:

- (a) Consult with the applicant and such agencies as the Development Review Officer deems appropriate;
- (b) Consider information submitted by the applicant and all other relevant information available;
- (c) Consider all comments submitted pursuant to Commission Rule 350-100-120; and
- (d) Solicit and consider the comments of the Forest Service.

(2) The Development Review Officer shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and 350-100. In approving a proposed development action, the Development Review Officer may impose conditions as necessary to ensure consistency with the guidelines of 350-100.

(3) The Development Review Officer shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and 350-100 within 72 days after acceptance of the application except in one or more of the following situations:

- (a) The applicant consents to an extension of time.
- (b) The Development Review Officer determines that additional information is required pursuant to Commission Rule 350-100-120.

(c) The Development Review Officer determines that additional information is necessary to evaluate the impacts of the proposed use to scenic, cultural, natural, and recreation resources.

(d) Unforeseen circumstances including, but not limited to, weather, illness, etc.

(4) The Development Review Officer shall mail a copy of the decision to the applicant, the Commission, the Forest Service, the applicable state, the Indian Tribes, the applicable county and/or city and each person who submitted comments under Commission Rule 350-8-150. The decision shall set forth the rights of appeal under Commission Rule 350-70.

(5) The decision of the Development Review Officer shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70.

(6) The decision of the Development Review Officer approving a proposed development action shall become void

(a) when the development action is not undertaken within two years of the decision, or

(b) when the development action is discontinued for any reason for one year or more.

(7) An applicant may request an extension of the validity of a development approval. Such request shall be considered an Administrative Action and shall be submitted to the Development Review Officer prior to the expiration of such approval, in writing, stating the reason why an extension should be granted.

The Development Review Officer may grant an extension of up to 12 months in the validity of a development approval if it is determined that conditions, for which the applicant was not responsible, would prevent the applicant from commencing his operation within the original time limitation.

The Development Review Officer shall not grant an extension if the site characteristics and/or new information indicates that the proposed use may adversely affect scenic, cultural, natural or recreation resources in the National Scenic Area.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-100-140. Changes or Alterations to an Approved Action.

Any change or alteration to a development action approved by the Commission or Development Review Officer pursuant to this division shall be processed as new action, except that the Development Review Officer may approve minor changes or alterations deemed to be consistent with the guidelines of Commission Rule 350-100 and the findings and conclusions for the original action.

350-100-150. General Guidelines.

The following uses may be permitted when allowed by the land use designation, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620):

(1) Land Divisions and Cluster Development

Land Divisions within the Columbia River Gorge National Scenic Area may be allowed subject to the following:

(a) New land divisions are not allowed in the Special Management Area, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines of the Management Plan.

(b) Unless otherwise specified, creation of a parcel, regardless of size, or any division of land except a lot-line adjustment shall be subject to the guidelines in Commission Rule 350-100.

(c) At the time of creation of one or more new parcels, consolidation of access shall be considered in order to reduce

adverse effects on scenic, cultural, natural and recreation resources.

(d) Adjustment of the boundary between two or more contiguous parcels that does not result in the creation of an additional parcel may be allowed if none of the parcels larger than the minimum parcel size before the adjustment becomes smaller than the specified minimum parcel size after the adjustment.

(e) The minimum size for new parcels created for commercial uses within a Rural Center shall be based upon the site requirements (sewerage, parking, building, size, etc.) for the proposed use. Parcel size shall be determined by the Development Review Officer on a case-by-case basis.

(f) The minimum size for new parcels created for residential uses within a Rural Center shall be 1 acre.

To encourage the efficient use of land, provide public amenities and standards for quality developments, and reduce the cost of providing services within Rural Centers, the Development Review Office may allow a minimum parcel size of less than 1 acre within Rural Centers if a planned unit development approach is used for the subject parcel, incorporating features such as consolidated access and commonly shared open areas.

(g) When allowed by a land use designation, a land division in the General Management Area may create parcels smaller than the designated minimum size and may include a bonus, as specified below, in order to cluster new dwellings. Approval of cluster development shall be contingent upon submission of plans specifying dwelling sites and areas of permanent, undeveloped open land. To approve a cluster development, the Development Review Office must find that clustering new dwellings will provide an opportunity not available through conventional parcel-by-parcel development to site new dwellings to:

(A) Be located in areas with screening vegetation or other features which reduce visibility of development as seen from Key Viewing Areas.

(B) Avoid significant landscape features.

(C) Protect the existing character of the landscape setting.

(D) Reduce interference with movement of deer or elk in winter range.

(E) Avoid areas of known cultural resources.

(F) Consolidate road access, septic drainfields or other development features in order to reduce impacts associated with grading or ground disturbance.

(G) Reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites or other natural resources.

(H) Increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.

(i) In the General Management Area, following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an Urban Area. Approval of a cluster development shall include provisions for the permanent protection of open areas. No parcel in a cluster development may be smaller than 1 acre in a 5-acre Residential or a 10-acre Residential designation or 2 acres in a Small-Scale Agriculture or Small Woodland designation.

(i) In the General Management Area, cluster development may create up to 25 percent more parcels than otherwise allowed by the minimum parcel size on lands designated 5-acre Residential or 10-acre Residential and up to 50 percent more parcels on lands designated Small-Scale Agriculture or Small Woodland. Any division in a cluster development under this guideline may create at least one additional parcel.

(j) in the General Management Area, at least 75 percent of land subject to a cluster development shall be permanently protected as undeveloped land.

(k) In the General Management Area, contiguous parcels in the same ownership or in separate ownership may be consolidated and redivided to take advantage of cluster development bonuses.

(2) Agricultural Buffer Zones

All new buildings shall comply with the following guidelines when proposed to be located on a parcel adjacent to lands designated Large-Scale or Small-Scale Agriculture and which are currently used for or are suitable for agricultural use:

(a) Setback Guidelines

Type of Buffer (size in feet)

Type of Agriculture	Open or Fenced	Natural or Created Vegetation Barrier	8-foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/vegetables	300'	100'	75'
Livestock grazing pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

(b) Earth berms may be used to satisfy, in part, the setback guidelines. Berms shall be a minimum of 8 feet in height, and contoured at 3:1 slopes to look natural. Shrubs, trees and/or grasses shall be planted on the berm to control erosion and achieve a finished height of 15 feet.

(c) The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be at least 6 feet high when planted and reach an ultimate height of at least 15 feet. The vegetation screen shall be planted along the appropriate parcel line(s), and be continuous.

(d) The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.

(e) If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

(f) A variance to buffer setbacks may be granted upon a demonstration that the guidelines of Commission Rule 350-100-150(7) have been satisfied.

(3) Temporary Use Hardship Dwelling

(a) The temporary placement of a mobile home in the General Management Area may be granted under the following circumstances:

(A) A family hardship exists where conditions relate to the necessary care for a member of the family occupying the principal dwelling and where medical conditions relate to the infirm or aged.

(B) The hardship dwelling will use the same subsurface sewage disposal system used by the existing dwelling, if the system is adequate to accommodate the additional dwelling, unless the additional dwelling can use an existing public sanitary sewer system.

(C) The hardship dwelling is found to be consistent with the guidelines for protection of scenic, cultural, natural and recreation resources of Commission Rule 350-100-520 through 350-100-620.

(b) A permit may be issued for a 2-year period, subject to annual review for compliance with the provisions of this rule and any other conditions of approval.

(c) Upon expiration of the permit or cessation of the hardship, whichever comes first, the mobile home shall be removed within 30 days.

(d) A new permit may be granted upon a finding that a family hardship continues to exist.

(4) Home Occupations and Cottage Industries

Home occupations and cottage industries may be established as specified in various land use designations consistent with the following conditions:

(a) A home occupation may employ only residents of the home.

(b) A cottage industry may employ up to three outside employees.

(c) No more than 25 percent of the total actual living space of the dwelling may be utilized for the home occupation or cottage industry.

(d) No more than 500 square feet of an accessory structure may be used for a home occupation or cottage industry.

(e) There shall be no outside, visible evidence of the home occupation or cottage industry, including outside storage.

(f) Exterior structural alterations to the residence for the home occupation or cottage industry shall not be permitted. New structures shall not be constructed for the primary purpose of housing a home occupation or cottage industry.

(g) No retail sales may occur on the premises, except incidental sales at lodging establishments authorized in Commission rule 350-100-150(5).

(h) One non-animated, non-illuminated sign, not exceeding 2 square feet in area may be permitted on the subject structure or within the yard containing the home occupation or cottage industry.

(i) Parking not associated with residential use shall be screened so it is not visible from Key Viewing Areas.

(j) In the General Management area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Commission Rules 350-100-150 (4) and (5).

(k) In the Special Management Area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Commission Rules 350-100-150 (4) and (5), except Commission Rule 350-100-150 (5)(a).

(5) Bed and Breakfast Inns

Bed and breakfast inns may be established as authorized in specified land use designations subject to the following:

(a) In the Special Management Area, bed and breakfast inns associated with residential use shall be allowed only in

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structures that are included in, or eligible for inclusion in, the National Register of Historic Places.

(b) Guests may not occupy a facility for more than 14 consecutive days.

(c) One non-animated, non-illuminated sign not exceeding 4 square feet in area may be permitted on the structure or within the yard containing the structure.

(d) Parking areas shall be screened so as to not be visible from Key Viewing Areas.

(6) Docks

(a) New private docks and boathouses serving only one family and one property shall be limited to a maximum of 120 square feet in size.

(b) New private docks and boathouses serving more than one family and property shall be limited to a maximum of 200 square feet in size.

(c) Public docks open and available for public use shall be allowed.

(7) Variances from Setbacks and Buffers within the General Management Area.

Variances from setbacks and buffers within the General Management Area may be allowed subject to the following approval criteria:

(a) When setbacks or buffers for the protection of scenic, cultural, natural, recreation, agricultural or forestry resources overlap or conflict, the setbacks or buffers may be varied upon a demonstration that:

(A) A setback or buffer to protect one resource would cause the proposed use to fall within a setback or buffer to protect another resource; and

(B) Variation from the specified setbacks or buffers would, on balance, best achieve the protection of the affected resources.

(b) A setback or buffer for protection of scenic, cultural, natural, recreation, agricultural or forestry resources may be varied to allow a residence to be built on a parcel of land upon a demonstration that:

(A) The land use designation otherwise authorizes a residence on the tract;

(B) No site exists on the tract (all contiguous parcels under the same ownership) on which a residence could practicably be placed in full compliance with the setback or buffer;

(C) The variance from the specified setback or buffer is the minimum necessary to allow the residence.

(c) The Development Review Officer may grant a variance to the setback and buffer requirements in Commission Rule 350-100-610, upon a finding that the following conditions exist:

(A) The proposed project is a public use, resource-based recreation facility providing or supporting either recreational access to the Columbia River and its tributaries, or recreational opportunities associated with a Scenic Travel Corridor.

(B) All reasonable measures to redesign the proposed project to comply with required setbacks and buffers have been explored, and application of those setbacks and buffers would prohibit a viable recreation use of the site as proposed.

(C) Resource impacts have been mitigated to less than adverse levels through design provisions and mitigation measures.

(D) The variance is the minimum necessary to accommodate the use.

(d) The Development Review Officer may grant a variance of up to 10 percent to the guidelines of General Management Area and Special Management Area Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from Scenic Area recreation demand studies shall be relied upon to meet this criterion in the absence of current applicable studies.

(B) The proposed use is dependent on resources present at the site.

(C) Reasonable alternative sites, including those in nearby Urban Areas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

(D) The proposed use is consistent with the goals, objectives and policies in Chapter 4, Part I of the Management Plan.

(E) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.

(F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

(8) Indian Tribal Treaty Rights and Consultation

(a) Tribal Government Notice

(A) New uses located in, or providing recreation river access to, the Columbia River or its fishbearing tributaries shall include the following supplemental information:

(i) The site plan map shall show adjacent river areas at least 1/2 mile upstream and downstream from the project site, the locations at which river access is planned, and the locations of all tribal fishing sites known to the project applicant.

(ii) The site plan text shall include an assessment of the potential effects that new uses may have on Indian treaty rights. The assessment shall:

(I) Describe the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods.

(II) List tribal commercial fishing seasons in the project vicinity, as established by the four treaty tribes.

(III) List tribal ceremonial fishing seasons in the project vicinity.

(IV) Based on the above factors, assess the potential effects that the proposed uses may have on Indian treaty rights.

(B) Notices shall include a treaty rights protection plan if new uses may affect Indian treaty rights. The protection plan shall specify measures that will be used to avoid effects to Indian treaty rights. These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent onsite monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations.

(C) Indian tribal governments shall have 20 calendar days from the date a notice is mailed to submit substantive written comments to the Development Review Officer. Indian tribal governments must identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the new uses.

(b) Tribal Government Consultation

(A) When substantive written comments are submitted to a Development Review Officer in a timely manner, the project applicant shall offer to meet with the Development Review Officer and the Indian tribal government that submitted comments within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the Indian tribal government.

Consultation meetings should provide an opportunity for the project application and tribal representatives to identify potential conflicts and explore options to eliminate them. The project applicant must demonstrate that the proposed use would not affect or modify treaty or other rights of any Indian tribe.

(B) Any substantive comments, recommendations, or concerns expressed by Indian tribal governments during the consultation meeting shall be recorded and addressed by the project applicant in a treaty rights protection plan. The protection plan shall include measures to avoid effects to treaty and other rights of any Indian tribe.

(C) The Development Review Officer shall submit all protection plans to the Indian tribal governments. Indian tribal governments shall have 30 calendar days from the date a protection plan is mailed to submit written comments to the Development Review Officer.

(c) Conclusion of the Treaty Rights Protection Process

(A) The Development Review Officer shall decide whether the proposed uses would affect or modify any treaty or other rights of any Indian tribe.

The final decision shall integrate findings of fact that address any substantive comments, recommendations, or concerns expressed by Indian tribal governments. If the final decision contradicts the comments, recommendations, or concerns of Indian tribal governments, the Development Review Officer must justify how it reached an opposing conclusion.

(B) The treaty rights protection process may conclude if the Development Review Officer determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

(C) A finding by the Development Review Officer that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in these guidelines, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses adversely affect or modify treaty or other tribal rights.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-100-160. Signs.

(1) Signs may be allowed pursuant in all land use designations in the General Management Area to the following provisions:

(f) Except for signs along public highways necessary for public safety, traffic control or road construction which are consistent with the Manual for Uniform Traffic Control Devices, the following signs are prohibited:

(A) Luminous signs or those with intermittent or flashing lights. These include neon signs, fluorescent signs, light displays and other signs which are internally illuminated, exclusive of seasonal holiday light displays.

(B) New billboards.

(C) Signs with moving elements.

(D) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.

(e) Any sign which does not conform with a provision of 350-100-160 and has existed prior to adoption of the Management Plan, shall be considered non-conforming and subject to the following:

(A) Alteration of existing non-conforming signs shall comply with Commission Rule 350-100-160.

(B) Any non-conforming sign used by a business must be brought into conformance concurrent with any expansion or change in use which requires a development permit.

(c) The following may be permitted without review and are not subject to Commission Rule 350-100-160 (1)(a):

(A) Ordinary repair and maintenance of signs.

(B) Election signs which are not displayed for more than 60 days. Removal shall be accomplished within 30 days of election day.

(C) "For Sale" signs not greater than 12 square feet. Removal shall be accomplished within 30 days of close of sale.

(D) Temporary construction site identification, public service company, safety or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the Manual for Uniform Traffic Control Devices. Removal shall be accomplished within 30 days of project completion.

(E) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet.

(F) Temporary signs advertising civil, social, or political gatherings and activities not exceeding 12 square feet. Removal shall be accomplished within 30 days of the close of the event.

(G) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the message intended.

(H) Signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings, not on roofs or marquees.

(a) All signs shall meet the following guidelines unless they conflict with the Manual for Uniform Traffic Control Devices for public safety, traffic control or highway construction signs. In such cases, the standards in the Manual

for Uniform Traffic Control Devices shall supersede these guidelines.

(A) The support structure shall be unobtrusive and have low visual impact.

(B) Lettering colors with sufficient contrast to provide clear message communication shall be allowed. Colors of signs shall blend with their setting to the maximum extent practicable.

(C) Backs of all signs shall be unobtrusive, non-reflective, and blend in with the setting.

(D) Spot lighting of signs may be allowed where needed for night visibility. Backlighting is not permitted for signs.

(b) Business identification or facility entry signs located on the premises may be allowed, subject to Commission Rule 350-100-160 (1)(a).

(d) Other signs not addressed or expressly prohibited by this rule may be permitted without review.

(2) Signs in the Special Management Area shall be allowed pursuant to the following provisions:

(h) Prohibited Signs

(A) Advertising billboards.

(B) Signs that move or give the appearance of moving, except signs used for highway construction, warning or safety.

(C) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle, except for signs used for highway construction, warning or safety.

(c) Pre-existing signs are allowed to continue provided no changes occur in size, structure, color, or message.

(e) Temporary signs shall be permitted without review when in compliance with subsection (d) above and the following:

(A) One political sign per parcel road frontage. The sign shall be no greater than 12 square feet in area and displayed for no more than 60 calendar days. Removal shall be accomplished within 30 days of election day.

(B) "For Sale" signs not greater than 12 square feet, removal shall be accomplished within 30 days of close of sale.

(C) One temporary construction site identification sign which is not greater than 32 square feet. Removal shall be accomplished within 30 days of project completion.

(D) Signs providing direction to and announcement of temporary garage/yard sales provided placement duration does not exceed three days and the signs are not greater than two square feet in area.

(E) Temporary signs, not exceeding 12 square feet and placed no longer than 10 days in advance of the event, advertising civil, social, or political gatherings and activities. Removal must be accomplished within 30 days of the close of the event.

(F) Temporary signs of public service companies indicating danger and/or service and safety information. Removal must be accomplished upon project completion.

(a) New signs shall be allowed as specified in the applicable land use designation.

(b) No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or obstruct the view of any traffic sign, signal, or device.

(d) All new signs shall meet the following guidelines, and be consistent with the Manual for Uniform Traffic Control Devices:

(A) Signs shall be maintained in a neat, clean and attractive condition.

(B) The character and composition of sign materials shall be harmonious with the landscape and/or related to and compatible with the main structure upon which the sign is attached.

(C) Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.

(D) Signs shall be unobtrusive and have low contrast with the setting.

(E) The visual impact of the support structure shall be minimized.

(F) Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for, or used as, an advertising display, except for road safety signs.

(G) Backs of all signs shall be visually unobtrusive, nonreflective, and blend in with the setting.

(H) Sign internal illumination or backlighting shall not be permitted except for highway construction, warning or safety.

(f) Public signs shall meet the following guidelines in addition to subsections (a) through (e) above:

(A) The Graphic Signing System provides design guidelines for public signs in and adjacent to public road rights-of-way. All new and replacement public signs shall conform to the guidelines in this system. Types of signs addressed include recreation site entry, route marker, interpretive, guide, directional, and urban area entry.

(B) Signs located outside public road rights-of-way are encouraged to be designed in such a way as to be consistent with similar purpose signs described in the Graphic Signing System.

(C) Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that required to convey the intended message.

(g) Signs for public and commercial recreation facilities, home occupations, cottage industries, and commercial uses shall meet the following guidelines in addition to subsections (a) through (e):

(A) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than two square feet.

(B) Any sign advertising or relating to a business which is discontinued for a period of 30 consecutive days shall be presumed to be abandoned and shall be removed within 30 days thereafter, unless permitted otherwise by the jurisdictional authority.

(C) Any signs relating to, or advertising, a business shall be brought into conformance with these sign guidelines prior to any expansion or change in use which is subject to review.

(D) Off-site and on-site directional signs on approach roads to recreational facilities may be permitted. Name and interpretive signs may be permitted on-site, but should be kept to the minimum required to achieve the purpose(s) of the facilities.

(E) Commercial recreation businesses approved in conjunction with a recreational facility may have a name sign not exceeding 16 square feet.

(F) Recreation developments may have one on-premise name sign at each principal entrance. Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Signing System.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-100-170. Agricultural Land Designations.

Commission Rule 350-100-170 through 350-100-240 shall apply to those areas designated Large-Scale or Small-Scale Agriculture, SMA-Agriculture, and Agriculture-Special on the Scenic Area Land Use Designation Map.

350-100-180. Uses Allowed Outright-Agricultural Land.

(1) The following uses are allowed on lands designated Large-Scale or Small-Scale Agriculture without review:

- (a) Agricultural use, except new cultivation.
- (b) Forest practices that do not violate conditions of approval for other approved uses.
- (c) Repair, maintenance, and operation of existing structures, trails, roads, railroads and utility facilities.
- (d) Buildings less than 60 square feet in floor area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

(2) The following uses are allowed on land designated SMA-Agriculture without review:

- (a) New agricultural uses and open space uses allowed under Commission Rule 350-100-340, except where there would be potential impact to cultural or natural resources.
- (b) Maintenance, repair and operation of existing dwellings, structures, agricultural buildings, trails, roads, railroads, and utility facilities.
- (c) Accessory structures less than 60 square feet in area and less than 18 feet in height measured at the roof peak.

(3) The following uses may be allowed on lands designated Agriculture-Special without review:

- (a) Existing livestock grazing. A livestock operation ceases to be existing when the land on which it is conducted has lain idle for more than 5 years.
- (b) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads, and utility facilities.
- (c) Low-intensity recreation uses that occur with the knowledge and permission of the landowner, including hunting, fishing, trapping, native plant study, birdwatching, photography, horseback riding, and hiking.
- (d) Temporary livestock facilities, such as portable livestock pens and corrals.
- (e) New fences that exclude livestock from lands that are not part of an existing livestock operation.

350-100-190. Review Uses-Agricultural Land.

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture subject to compliance with the scenic, cultural, natural, and recreation resource guidelines (Commission Rule 350-20-520 through 350-100-620):

- (a) New cultivation, subject to compliance with Commission Rule 350-100-540 through 350-100-590.
- (b) Agricultural buildings in conjunction with agricultural use.
- (c) Buildings greater than 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.
- (d) The temporary use of a mobile home in the case of a family hardship, subject to Commission Rule 350-100-150(3).
- (e) On lands designated Large-Scale Agriculture, a single family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:

(A) The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. Current use includes a minimum area which would satisfy subsection (e)(C)(iv) below; and

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

- (i) Size of the entire farm or ranch, including all land in the same ownership;
- (ii) Type(s) of agricultural uses (crops, livestock) and acreage;
- (iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area; and
- (iv) Income capability. The farm or ranch, and all its constituent parcels, is capable of producing at least \$40,000 in gross annual income. This determination shall be made using the following formula:

(A)(B)(C) = I where:

A = Average yield of the commodity per acre, or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income Capability

(f) On lands designated Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling which is included in, or is eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria for use in evaluating the eligibility of cultural

resources contained in the National Register Criteria for Evaluation (36 CFR 60.4).

(g) On lands designated Small-Scale Agriculture, a single-family dwelling on any legally existing parcel.

(h) On lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative provided that all of the following conditions exist:

(A) The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister;

(B) The dwelling would be located on the same parcel as the dwelling of the principal operator; and

(C) The operation is a commercial enterprise as determined by Commission Rule 350-100-190 (1)(e)(C).

(i) Construction, reconstruction or modifications of roads not in conjunction with agriculture.

(j) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.

(k) Structures associated with hunting and fishing operations.

(l) Towers and fire stations for forest fire protection.

(m) Agricultural labor housing upon a showing that:

(A) The proposed housing is necessary and accessory to a current agricultural use;

(B) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months; and

(C) The housing will be located to minimize the conversion of lands capable of production of farm crops or livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(n) On lands designated Large-Scale Agriculture, on a parcel which was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:

(A) The dwelling will not force a change in or increase the cost of accepted agricultural practices on surrounding lands;

(B) The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be utilized in conjunction with other agricultural operations in the area;

(C) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in Commission Rule 350-100-150(2), or any abutting parcel designated Commercial Forest Land or Large or Small Woodland, as required in Commission Rule 350-100-310(1);

(D) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands

designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland; and

(E) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

(o) On parcels in Small-Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in Commission Rule 350-100-150(1). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40, 80, or 160 acres, this provision will apply to parcels 80 acres or larger, 160 acres or larger, or 320 acres or larger, respectively.

(p) Life estates, pursuant to Commission Rule 350-100-200.

(q) Land divisions when all resulting parcels satisfy the minimum lot sizes as designated on the land use designation map.

(2) The following uses may be allowed on lands designated SMA-Agriculture, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (Commission Rule 350-100-520 through 350-100-620). The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock:

(a) Forest uses and practices as allowed in Commission Rule 350-100-270 (2)(b).

(b) A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:

(A) The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy guideline (C)(iv), below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula, with periodic adjustments for inflation:

(A)(B)(C) = I where:

A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income capability

(D) Minimum parcel size of 40 contiguous acres.

(c) Accessory structures, greater than 60 square feet.

(d) Farm labor housing and agricultural buildings upon a showing that the following conditions exist:

(A) The proposed housing or building is necessary and accessory to a current agricultural use and a showing that the operation is a commercial agricultural enterprise as determined by Commission Rule 350-100-190 (1)(e)(C).

(B) The housing or building shall be seasonal unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed nine months.

(C) The housing or building shall be located to minimize the conversion of lands capable of production of farm crops and livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.

(e) Home occupations and cottage industries pursuant to Commission Rule 350-100-150(4). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(f) Bed and breakfast inns subject to Commission Rule 350-100-150(5). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(g) Fruit stands and produce stands upon a showing that sales will be limited to agricultural products raised on the property and other agriculture properties in the local region.

(h) Aquaculture.

(i) Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands within the Special Management Area.

(j) Utility facilities necessary for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Agriculture lands.

(B) The size is the minimum necessary to provide the service.

(k) Temporary asphalt/batch plant operations related to public road projects, not to exceed six months.

(l) Signs as specified in Commission Rule 350-100-160(2).

(m) Community facilities and non-profit facilities related to agricultural resource management.

(n) Expansion of existing non-profit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(o) Recreation, interpretive and educational developments and uses consistent with Commission Rule 350-100-620.

(p) Road and railroad construction and reconstruction.

(q) Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primari-

ly" means a clear majority of the product as measured by volume, weight, or value.

(r) Structures and vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-100-200. Review Uses with Additional Approval Criteria — Large-Scale or Small-Scale Agriculture Designations.

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (Commission Rule 350-100-520 through 350-100-620) and 350-100-220.

(a) Utility facilities and railroads necessary for public service upon a showing that:

(A) There is no practicable alternative location with less adverse effect on agricultural or forest lands, and

(B) The size is the minimum necessary to provide the service.

(b) Home occupations or cottage industries in existing residential or accessory structures, subject to Commission Rule 350-100-150(4).

(c) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

(d) Wineries, in conjunction with on-site viticulture, upon a showing that processing and sales of wine is from grapes grown on the subject farm or in the local region.

(e) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

(f) Exploration, development and production of mineral and geothermal resources subject to Commission Rule 350-100-520.

(g) Personal-use airstrips including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted, except for aircraft emergencies, to use by the owner and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airstrip other than those owned or controlled by the owner of the airstrip.

(h) Aquaculture.

(i) Recreation development, subject to Commission Rule 350-100-610 and the Recreation Development Plan (Management Plan, Part III, Chapter 1).

(j) Boarding of horses.

(k) Temporary portable asphalt/batch plants related to public road projects, not to exceed six months.

(l) Bed and breakfast inns in single-family dwellings, subject to Commission Rule 350-100-150(5) and provided that the residence:

(A) Is included in the National Register of Historic Places; or

(B) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation; or

(C) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(m) Non-profit, environmental learning or research facilities.

(n) Expansion of existing schools or places of worship.

(2) The following uses may be allowed on lands designated Agriculture-Special subject to compliance with the appropriate scenic, natural, cultural, and recreation resource guidelines (Commission Rule 350-100-520 through 350-100-620) and Commission Rule 350-100-230:

(a) New livestock grazing. Any operation that would introduce livestock to land that has not been grazed, or has laid idle, for more than 5 years shall be considered new livestock grazing.

(b) New fences, livestock watering facilities, and corrals.

(c) Soil, water, and vegetation conservation uses.

(d) Replacement or minor expansion of existing and serviceable structures within a dedicated site. Expansion shall be limited to the dedicated site.

(e) Fish and wildlife management uses, educational activities, and scientific research.

(f) Land divisions that facilitate livestock grazing or protect and enhance natural areas. No resulting parcel may be smaller than 160 acres, unless it would facilitate the protection of scenic, cultural, natural, or recreation resources.

(g) Single-family dwellings that are not in conjunction with agricultural use, if a landowner demonstrates that (1) the dwelling cannot be constructed on a portion of the parcel that is located outside of the natural area, and (2) the dwelling is sited and designed in a manner that minimizes adverse effects to the natural area. All dwellings shall meet the criteria in Commission Rule 350-100-190 (1)(n). The buffer guidelines for non-agricultural dwellings may be waived if they would prevent the optimum siting of a dwelling.

(h) Recreation uses, subject to the provisions for recreation intensity classes (Commission Rule 350-100-620).

350-100-210. Approval Criteria for Life Estates — Large-Scale or Small-Scale Agriculture Designations.

A landowner who sells or otherwise transfers real property on lands designated Large-Scale or Small-Scale Agriculture may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel as defined in Commission Rule 350-100-040. A second dwelling in conjunction with agricultural use may be allowed, subject to compliance with guidelines in Commission Rule 350-100-520 through 350-100-620 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

(1) The proposed dwelling is in conjunction with agricultural use, using guideline (350-100-190 (1)(e)).

(2) Upon termination of the life estate, the original or second dwelling shall be removed.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-100-220. Approval Criteria for Specified Review Uses on Lands Designated Large-Scale or Small-Scale Agriculture.

Uses identified in Commission Rule 350-100-200(1) may be allowed only if they meet both of the following criteria:

(1) The use is compatible with agricultural uses and would not force a change in or significantly increase the cost of accepted agricultural practices on nearby lands devoted to agricultural use; and

(2) The use will be sited to minimize the loss of land suitable for the production of crops or livestock.

350-100-230. Approval Criteria for Review Uses on Lands Designated Agriculture-Special.

Uses identified in Commission Rule 350-100-200(2) may be allowed only if they meet all of the following criteria:

(1) A range conservation plan pursuant to Commission Rule 350-100-240 shall be prepared before new livestock grazing commences; new fences, livestock watering facilities, and corrals are constructed; or soil, water, and vegetation conservation activities are undertaken [review uses (a), (b) and (c) in Commission Rule 350-100-190(3)].

(2) The Development Review Officer shall submit all land use applications and range conservation plans to the Oregon or Washington Natural Heritage Program. The state heritage program will have 20 days from the date that an application and/or plan is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address any written comments submitted by the state heritage program in the development review order.

(3) Based on the comments from the state heritage program, the Development Review Officer shall make a final decision on whether the proposed use is consistent with the Agriculture-Special policies of the Management Plan. If the final decision contradicts the comments submitted by the state heritage program, the Development Review Officer shall justify how it reached an opposing conclusion.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-100-240. Range Conservation Plans.

(1) If a range conservation plan is required before a use is allowed, it shall be prepared by landowners in cooperation with range scientists from local conservation districts. Specialists from the Oregon or Washington Natural Heritage Program should be consulted while the plan is being prepared.

(2) Range conservation plans shall ensure that new uses do not adversely affect natural areas. They shall accomplish the following goals:

(a) Maintain native rangeland that is in excellent or good condition; enhance rangeland that is in fair or poor condition.

(b) Preserve native trees and shrubs.

(c) Reestablish native grasses in degraded areas that have been invaded by non-native plants and weeds.

(3) Range conservation plans shall include the following elements:

(a) Range inventory. This shall include existing composition, carrying capacity, and condition of rangeland; the location of rare plants and non-native weeds; and existing fences, watering ponds, and other range improvements.

(b) Rehabilitation plan. This shall include actions that will be taken to rehabilitate native rangeland that is in fair or poor condition, such as weed and soil erosion control, seeding, and prescribed burning.

(c) Livestock management plan. This shall include the grazing system that will be used, including number and size of pastures, expected livestock numbers, and grazing/deferral periods and sequence. Management plans shall project livestock movements for at least 3 years.

(d) Monitoring program. This shall track the annual progress of the conservation plan and condition of the range. Monitoring techniques shall be described, such as line transects or photographic plots.

350-100-250. Forest Land Designations.

Commission Rule 350-100-250 through 350-100-310 shall apply to those areas designated Commercial Forest Land, Large or Small Woodland and SMA-Forest on the Scenic Area Land Use Designation Map.

350-100-260. Uses Allowed Outright — Forest Land.

(1) The following uses are allowed on lands designated Commercial Forest Land or Large or Small Woodland without review:

(a) Forest practices that do not violate conditions of approval for other approved uses.

(b) Agricultural use, except new cultivation.

(c) Repair, maintenance, and operation of existing structures, trails, roads, railroads and utility facilities.

(d) Buildings less than 60 square feet in floor area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

(2) The following uses are allowed on land designated SMA-Forest without review:

(a) New agricultural uses as allowed in Commission Rule 350-100-190(2) and the open space uses allowed in Commission Rule 350-100-340, except where there would be potential impact to cultural or natural resources.

(b) Maintenance, repair, and operation of existing dwellings, signs, structures, trails, roads, railroads, and utility facilities.

(c) Accessory structures of less than 60 square feet in area and less than 18 feet in height measured at the roof peak.

350-100-270. Review Uses — Forest Land.

(1) The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620):

(a) On lands designated Large Woodland, a single-family dwelling upon a demonstration that all of the following conditions exist:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The principal purpose for locating a dwelling on lands designated Large Woodland is to enable the resident to conduct efficient and effective forest management. This requirement indicates a relationship between ongoing forest management and the location of a dwelling on the subject parcel. A dwelling may not always be required for forest management.

(B) The subject parcel has been enrolled in the appropriate state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the Development Review Officer. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor and expenses; and how the dwelling will contribute toward the successful completion of the operations.

(D) The parcel has no other dwellings that are vacant or currently occupied by persons not engaged in forestry and that could be used as the principal forest dwelling.

(E) The dwelling complies with the "Approval Criteria for the Siting of Dwellings on Forest Land" (Commission Rule 350-100-310) and "Approval Criteria for Fire Protection in Forest Zones" (Commission Rule 350-100-300).

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(b) On lands designated Small Woodland, one single-family dwelling on a legally created parcel upon the parcel's enrollment in the state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of a dwelling shall comply with Commission Rule 350-100-300 and Commission Rule 350-100-310. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(c) One single-family dwelling if shown to be in conjunction with and substantially contribute to the current agricultural use of a farm pursuant to Commission Rule 350-

100-190 (1)(e). The siting of the dwelling shall comply with Commission Rule 350-100-300.

(d) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on-site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when the particular forest practice for which was approved has concluded.

(e) Temporary portable facilities for the primary processing of forest products grown on a parcel or contiguous parcels in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.

(f) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.

(g) Structures associated with hunting and fishing operations

(h) Towers and fire stations for forest fire protection.

(i) New agricultural structures subject to Commission Rule 350-100-300.

(j) The temporary use of a mobile home in the case of a family hardship, subject to Commission Rule 350-100-150(3), 350-100-300 and 350-100-310.

(k) Accessory building(s) greater than 60 square feet in floor area and/or exceeding 18 feet in height as measured at the roof peak; subject to Commission Rule 350-100-300 and 350-100-310.

(l) A second single-family dwelling for a farm operator's relative, subject to Commission Rule 350-100-190 (1)(h), 350-100-300 and 350-100-310.

(m) Private roads serving a residence, subject to Commission Rule 350-100-300 and 350-100-310.

(n) Recreation development, subject to Commission Rule 350-100-610 and the Recreation Development Plan (Management Plan, Part III, Chapter 1).

(o) Construction or reconstruction of roads or modifications not in conjunction with forest use or practices.

(p) Agricultural labor housing upon a showing that:

(A) The proposed housing is necessary and accessory to a current agricultural use.

(B) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject agricultural unit. Seasonal use shall not exceed nine months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock and will not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(q) On lands designated Commercial Forest Land, a temporary mobile home in conjunction with a timber operation, upon a finding that security personnel are required to protect equipment associated with a harvest operation or the subject forest land from fire. The mobile home must be removed upon completion of the subject harvest operation or the end of the fire season. The placement of the mobile

home is subject to Commission Rule 350-100-300 and 350-100-310.

(4) On parcels in Small Woodland, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" [Commission Rule 350-100-150(1)]. If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40 or 80 acres, this provision will apply to parcels 80 acres or larger or 160 acres or larger, respectively.

(s) New cultivation, subject to compliance with Commission Rule 350-100-540, 350-100-560, 350-100-570, 350-100-580 and 350-100-590.

(t) Life Estates on lands designated Large or Small Woodland, pursuant to Commission Rule 350-100-320.

(2) The following uses may be allowed on lands designated SMA-Forest subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620). The use or development will be sited to minimize the loss of land suitable for the production of forest products:

(a) Any use listed in Commission Rule 350-100-190(2).

(b) Forest practices in accordance with a site plan for forest practices approved by the Oregon Department of Forestry or Washington Department of Natural Resources, or other designated forest practices review agency, including the following:

(A) The following information, in addition to the site plan requirements of Commission Rule 350-100-080, shall be included on the site plan:

(i) Boundary of proposed commercial forest practice.

(ii) Location of proposed rock or aggregate sources.

(iii) Timber types.

(iv) Harvest units.

(v) Silvicultural prescriptions.

(vi) Road and structure construction and/or reconstruction design.

(vii) Major skid trails, landings, and yarding corridors.

(viii) Commercial firewood cutting areas.

(ix) Existing and proposed rock pit development plans.

(x) Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.

(B) A discussion of slash disposal methods.

(C) A reforestation plan as reviewed by the appropriate state forest practices agency.

(c) Railroad and road construction or reconstruction.

(d) Exploration, development, and production of sand, gravel, or crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products in the Special Management Area.

(e) Silvicultural nurseries.

(f) Utility facilities for public service upon a finding that:

(A) There is no alternative location with less adverse effect on Forest Land, and

(B) The size is the minimum necessary to provide the service.

(g) Structures or vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.

(h) Fish hatcheries and aquaculture facilities.

(i) Public recreation, commercial recreation, interpretive and educational developments and uses consistent with Commission Rule 350-100-620.

(j) One dwelling on a parcel of 40 contiguous acres or larger if an approved Forest Management Plan demonstrates that such dwelling is necessary for and accessory to forest uses. The Forest Management Plan shall demonstrate the following:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forest lands is to enable the resident to conduct efficient and effective management. This requirement shall indicate a relationship between ongoing forest management and the need for dwelling on the subject property.

(B) The subject parcel has been enrolled in the state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the Development Review Officer. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor, and expenses; and how the dwelling will contribute towards the successful management of the property.

(D) There are no other dwellings on the parcel that are vacant or currently occupied by persons not engaged in forest management of the subject parcel.

(E) The dwelling complies with all applicable building code and fire protection guidelines.

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operations are entitled to carry on accepted agricultural or forest practices.

(k) Accessory structures over 60 square feet.

(l) Home occupations and cottage industries pursuant to Commission Rule 350-100-150(4).

(m) Temporary portable facility for the processing of forest products.

(n) Towers and fire stations for forest fire protection.

(o) Community facilities and nonprofit facilities related to forest resource management.

(p) Expansion of existing nonprofit group camps, retreats, or conference or education centers, necessary for the successful operation of the facility on the dedicated site. Expansion beyond the dedicated site shall be prohibited.

(q) Signs as specified in 350-100-160(2).

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-100-280. Review Uses with Additional Approval Criteria — Commercial Forest Land, or Large or Small Woodland Designations.

The following uses may be allowed on lands designated Commercial Forest Land, or Large or Small Woodland, subject to compliance with the appropriate scenic, cultural, natural, or recreation resources guidelines (Commission Rule 350-100-510 through 350-100-620) and Commission Rule 350-100-290:

(1) Utility facilities and railroads necessary for public service upon a showing that (a) there is no practicable alternative location with less adverse effect on agricultural and forest lands and on scenic, cultural, natural and recreation resources and (b) the size is the minimum necessary to provide the service.

(2) Home occupations or cottage industries in an existing residence or accessory structure, subject to the guidelines in Commission Rule 350-100-150(4).

(3) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

(4) Wineries, in conjunction with onsite viticulture, upon a showing that processing and sales of wine is from grapes grown on the subject farm or in the local region.

(5) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

(6) Exploration, development, and production of mineral and geothermal resources, subject to Commission Rule 350-100-520 through 350-100-530.

(7) Aquaculture.

(8) Boarding of horses.

(9) Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.

(10) Expansion of existing nonprofit group camps, retreats, or conference centers.

(11) Bed and breakfast inns in single-family dwellings, subject to Commission Rule 350-100-150(5) and provided that the residence:

(a) Is included in the National Register of Historic Places, or

(b) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation, or

(c) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(12) Nonprofit, environmental learning or research facilities.

350-100-290. Approval Criteria for Specified Review Uses on Lands Designated Commercial Forest Land or Large or Small Woodland.

Uses identified in 350-100-280 may be allowed only if they meet the following criteria:

(1) The owners of land designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture and that lies within 500 feet of the perimeter of the subject parcel have been notified of the land

use application and have been given at least 10 days to comment prior to a final decision;

(2) The use will not interfere seriously with accepted forest or agricultural practices on nearby lands devoted to resource use;

(3) The use will be sited in a way that minimizes the loss of forest or agricultural land and minimizes the chance of interference with accepted forest or agricultural practices on nearby lands; and

(4) The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel and will comply with Commission Rule 350-100-300.

350-100-300. Approval Criteria for Fire Protection in Forest Designations.

All uses, as specified, shall comply with the following fire safety guidelines:

(1) All buildings shall be surrounded by a maintained fuel break of 50 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.

(2) Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structure(s).

(3) A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.

(4) Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent. Turnouts shall be provided at a minimum of every 500 feet. Access drives shall be maintained to a level that is passable to fire equipment. Variances to road guidelines may be made only after consultation with the local rural fire district, and the Washington Department of Natural Resources in Washington, or the Oregon Department of Forestry in Oregon.

(5) Within one year of the occupancy of a dwelling, the Development Review Officer shall conduct a review of the development to assure compliance with these guidelines.

(6) Telephone and power supply systems shall be underground whenever possible.

(7) Roofs of structures should be constructed of fire-resistant materials such as metal, fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.

(8) Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.

(9) All structural projections such as balconies, decks and roof gables should be built with fire resistant materials equivalent to that specified in the Uniform Building Code.

(10) Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant.

350-100-310. Approval Criteria for Siting of Dwellings on Forest Land.

The approval of new dwellings and accessory structures on forest lands shall comply with the following guidelines:

(1) The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least 200 feet from adjacent properties. Clustering or locating proposed development closer to existing development on adjacent lands may minimize impacts on nearby or adjacent forest operations.

(2) The amount of forest land used to site dwellings, structures, access roads, and service corridors shall be minimized. This can include locating new dwellings and structures as close to existing public roads as possible, thereby minimizing the length of access roads and utility corridors; or locating the dwelling, access road, and service corridors on portions of the parcel that are least or poorly suited for forestry. Areas may not be suitable for forestry because of existing nonforest uses, adjacent dwellings, or land productivity.

(3) Dwellings shall be located to minimize the risks associated with fire. Dwellings should be located on gentle slopes and in any case not on slopes which exceed 40 percent. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty in gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.

(4) A variance to the siting guidelines of this rule may be granted pursuant to the provisions of Commission Rule 350-100-150(7).

350-100-320. Approval Criteria for Life Estates in Commercial Forest Land or Small or Large Woodland.

A landowner who sells or otherwise transfers real property on lands designated Commercial Forest Land or Large or Small Woodland may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel. A second dwelling unit on lands designated Commercial Forest Land or Large or Small Woodland may be allowed, subject to compliance with the guidelines in Commission Rule 350-100-520 through 350-100-620 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

(1) The proposed dwelling is in conjunction with agricultural use, using guideline 350-100-190 (1)(e).

(2) On lands designated Large Woodland, the dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The proposed dwelling shall comply with guideline 350-100-270 (1)(a).

(3) On lands designated Small Woodland, the proposed dwelling complies with guideline 350-100-270 (1)(b).

(4) Upon termination of the life estate, the original or second dwelling shall be removed.

350-100-330. Open Space Designations.

Commission Rule 350-100-330 through 350-100-340 shall apply to those areas designated GMA-Open Space and SMA-Open Space on the Scenic Area Land Use Designation Map.

350-100-340. Review Uses — Open Space.

(1) The following uses may be allowed on all lands designated GMA-Open Space subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620):

(a) Low intensity recreation, subject to Commission Rule 350-100-610(2).

(b) Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources.

(c) Repair, maintenance, operation and improvement of existing structures, trails, roads, railroads, utility facilities and hydroelectric facilities.

(d) Removal of timber, rocks or other materials for purposes of public safety and placement of structures for public safety.

(2) The following uses may be allowed on land designated GMA-Open Space in the Gorge Walls, Canyonlands and Wildlands landscape setting:

(a) All uses listed in Commission Rule 350-100-340(1).

(b) Livestock grazing.

(c) Fish and wildlife management uses conducted by federal, state or tribal resource agencies.

(d) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a county conservation district.

(e) Harvesting of wild crops.

(f) Educational or scientific research.

(g) Continued operation of existing quarries if they are determined to be consistent with guidelines to protect scenic, cultural, natural and recreation resources (Commission Rule 350-100-520 through 350-100-620).

(5) The following uses may be allowed on land designated GMA-Open Space within the Mosley Lakes Natural Area:

(a) All those uses allowed in Commission Rule 350-100-340(1).

(b) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

(c) Educational or scientific research, after consultation with the Washington Natural Heritage Program.

(d) Commercial trapping.

(4) The following uses may be allowed on land designated GMA-Open Space within the Chenoweth Table Natural Area:

(a) All those uses allowed in Commission Rule 350-100-340(1).

(b) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-100-610(2), after consultation with the Oregon Natural Heritage Program.

(c) Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Oregon Natural Heritage Program.

(d) Educational or scientific research, after consultation with the Oregon Natural Heritage Program.

(5) The following uses may be allowed on land designated GMA-Open Space within the Squally Point Natural Area:

(a) Except as limited by guideline (6)(b) below, all those uses allowed in Commission Rule 350-100-340(1).

(b) Except in the upland dunes south of the railroad tracks, low-intensity recreation, subject to the guidelines for recreation intensity classes 350-100-610(2), after consultation with the Oregon Natural Heritage Program.

(c) Repair and maintenance of railroads, except measures to stabilize dunes, after consultation with the Oregon Natural Heritage Program.

(6) The following uses may be allowed on land designated GMA-Open Space within the Klickitat River Wildlife and Natural Area:

(a) All those uses allowed in Commission Rule 350-100-340(1).

(b) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-100-610(2), after consultation with the Washington Natural Heritage Program and Washington Department of Wildlife.

(c) Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

(d) Educational or scientific research, after consultation with the Washington Natural Heritage Program.

(7) The following uses are allowed on land designated GMA-Open Space within the Balch Lake Wetland Area:

(a) All those uses allowed in Commission Rule 350-100-340(1).

(b) Livestock grazing, subject to a range conservation plan, after consultation with the Washington Department of Wildlife.

(c) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(d) Educational and scientific research, after consultation with the Washington Department of Wildlife.

(e) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-100-610(2), after consultation with the Washington Department of Wildlife.

(8) The following uses may be allowed on lands designated GMA-Open Space within the mouth of the Wind River Wildlife Area:

(a) All those uses allowed in Commission Rule 350-100-340(1).

(b) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(c) Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

(d) Harvesting of wild crops.

(e) Educational or scientific research, after consultation with the Washington Department of Wildlife or Fisheries.

(f) Commercial fishing and trapping.

(g) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-100-610(2), after consultation with the Washington Department of Wildlife.

(9) The following uses may be allowed on lands designated GMA-Open Space within state parks:

(a) All uses listed in Commission Rule 350-100-340(1).

(b) Fish and wildlife management uses conducted by federal, state or tribal resource agencies.

(c) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

(d) Harvesting of wild crops.

(e) Educational or scientific research.

(10) On land designated SMA-Open Space, the maintenance, repair, and operation of existing dwellings, structures, trails, roads, railroads, and utility facilities may occur without review.

(11) The following uses may be allowed on lands designated SMA-Open Space, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-650) and when consistent with an open space plan approved by the U.S. Forest Service pursuant to guideline (12) below:

(a) Changes in existing uses including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices.

(b) Structures or vegetation management activities, including scientific research, related to scenic, cultural, recreational, and natural resource enhancement projects.

(c) Low intensity recreation uses, including educational and interpretive facilities, consistent with Commission Rule 350-100-620.

(d) Utility facilities for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Open Space land.

(B) The size is the minimum necessary to provide the service.

(e) New signs, pursuant to Commission Rule 350-100-160.

(12) An Open Space plan shall be completed by the primary managing agency or landowner prior to any new land uses or development, and shall be reviewed by the Forest Service. The Open Space plan shall include the following:

(a) Direction for resource protection, enhancement, and management.

(b) Review of existing uses to determine compatibility with Open Space values.

(c) Consultation with members of the public and with agency and resource specialists.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-100-350. Residential Land Designations.

Commission Rule 350-100-350 through 350-100-390 shall apply to those areas designated Residential on the Scenic Area Land Use Designation Map.

350-100-360. Uses Allowed Outright — Residential Land.

(1) The following uses are allowed on lands in the General Management Area designated Residential without review:

(a) Agricultural use, except new cultivation.

(b) Forest practices that do not violate conditions of approval for other approved uses.

(c) Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.

(d) Buildings less than 60 square feet in area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

(2) The following uses are allowed on land in the Special Management Area designated Residential without review:

(a) Agricultural uses except where there would be potential impact to cultural or natural resources.

(b) Maintenance, repair, and operation of dwellings, signs, structures, existing trails, roads, railroads, and utility facilities.

(c) Accessory structures of less than 60 square feet in area and 18 feet in height measured at the roof peak.

350-100-370. Review Uses — Residential Land.

(1) The following uses may be allowed on lands in the General Management Area designated Residential, subject to compliance with the scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620):

(a) One single-family dwelling per legally created parcel.

(A) If the subject parcel is located adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland, the use shall comply with the buffer and notification requirements of Commission Rule 350-100-150(2), 350-100-310(1), and the notification requirements of Commission Rules 350-100-190(1)(n)(E) and 350-100-290(1); and

(B) If the subject parcel is located adjacent to lands designated Commercial Forest Land or Large or Small Woodland, the placement of a dwelling shall also comply with the fire protection guidelines of Commission Rule 350-100-300.

(b) Buildings exceeding 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.

(c) The temporary use of a mobile home in the case of a family hardship, subject to Commission Rule 350-100-150(3).

(d) Construction or reconstruction of roads.

(e) On parcels 10 acres or larger designated Residential-5, or 20 acres or larger designated Residential-10, a land division creating new parcels smaller than the designated minimum parcel size, subject to the provisions of Commission Rule 350-100-150(1).

(f) New cultivation, subject to compliance with Commission Rule 350-100-540 through 350-100-590.

(g) Land divisions, subject to the minimum lot size as indicated on the Land Use Designation Map.

(2) The following uses may be allowed on lands in the Special Management Area designated Residential subject to compliance with the scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620):

(a) One single-family dwelling per legally created lot or consolidated parcel, subject to the guidelines of Commission Rule 350-100-270 (2)(j)(E).

(b) Accessory structures over 60 square feet.

(c) New utility facilities.

(d) Fire stations.

(e) Home occupations and cottage industries pursuant to Commission Rule 350-100-150(4).

(f) Bed and breakfast inns in structures that are included in, or eligible for inclusion in, the National Register of Historic Places, pursuant to 350-100-150(5).

(g) Community parks and playgrounds.

(h) Road and railroad construction and reconstruction.

(i) Forest practices, pursuant to the provisions of Commission Rule 350-100-270(2).

(j) Signs, as specified in Commission Rule 350-100-160.

350-100-380. Review Uses with Additional Approval Criteria — Residential Land.

The following uses may be allowed on lands in the General Management Area designated Residential subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620), and Commission Rule 350-100-390:

(1) Accredited child care centers on land designated 1-acre Residential or 2-acre Residential. A child care center may be allowed in other Residential designations within an existing church or community building.

(2) Schools within an existing church or community building.

(3) Utility facilities and railroads.

(4) Home occupations and cottage industries pursuant to Commission Rule 350-100-150(4).

(5) Fire stations.

(6) Recreation development, subject to compliance with Commission Rule 350-100-610.

(7) Community parks and playgrounds, consistent with the guidelines of the National Park and Recreation Society regarding the need for such facilities.

(8) Bed and breakfast inns in single-family dwellings located on lands designated Residential-5 or Residential-10, pursuant to 350-100-150(5).

350-100-390. Approval Criteria for Specified Review Uses on Lands Designated Residential.

The uses identified in Commission Rule 350-100-390 may be allowed only if they meet all of the following:

(1) The proposed use will be compatible with the surrounding area. Review of compatibility shall include impacts associated with the visual character of the area, traffic generation, and noise, dust and odors.

(2) The proposed use will not require public services other than those existing or approved for the area.

(3) If the subject parcel is located within 500 feet of lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, new buildings associated with the proposed use shall comply with Commission Rule 350-100-080(6).

(4) If the subject parcel is located within 500 feet of lands designated Commercial Forest Land or Large or Small Woodland, new buildings associated with the proposed use shall comply with Commission Rule 350-100-300.

350-100-400. Rural Center.

Commission Rule 350-100-400 through 350-100-420 shall apply to those areas designated Rural Center on the Scenic Area Land Use Designation Map.

350-100-410. Uses Allowed Outright — Rural Center.

The following uses are allowed on lands designated Rural Center without review:

(1) Agricultural use, except new cultivation.

(2) Forest practices that do not violate conditions of approval for other approved uses.

(3) Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.

(4) Buildings less than 60 square feet in area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

350-100-420. Review Uses — Rural Center.

The following uses may be allowed on lands designated Rural Center subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620):

(1) One single-family dwelling per legally created parcel.

(2) Buildings greater than 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.

(3) The temporary use of a mobile home in the case of a family hardship, pursuant to Commission Rule 350-100-150(3).

(4) Duplexes.

- (5) Fire stations.
- (6) Libraries.
- (7) Government buildings.
- (8) Community centers and meeting halls.
- (9) Schools.
- (10) Accredited child care centers.
- (18) Rural service commercial and tourist commercial uses limited to 5,000 square feet of floor area per building or use.
 - (a) Grocery stores.
 - (b) Variety and hardware stores.
 - (c) Shops, offices and repair shops.
 - (d) Personal services such as barber and beauty shops.
 - (e) Travelers accommodations, bed and breakfast inns.
 - (f) Restaurants.
 - (g) Taverns and bars.
 - (h) Gas stations.
 - (i) Gift shops.
- (15) Home occupations or cottage industries in an existing residence or accessory structure, pursuant to Commission Rule 350-100-150(4).
- (11) Utility facilities and railroads.
- (12) Recreation development, subject to Commission Rule 350-100-610.
- (13) Places of worship.
- (16) New cultivation, subject to compliance with Commission Rule 350-100-540, 350-100-560, 350-100-570, 350-100-580 and 350-100-590.
- (17) Land divisions subject to Commission rule 350-100-150(1).
- (14) Planned developments incorporating features such as consolidated access and commonly shared open areas.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-100-430. Commercial Land.

Commission Rule 350-100-430 through 350-100-360 shall apply to those areas designated Commercial on the Scenic Area Land Use Designation Map.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-100-440. Uses Allowed Outright — Commercial Land.

The following uses are allowed on lands designated Commercial without review:

- (1) Agricultural use, except new cultivation.
- (2) Forest practices that do not violate conditions of approval for other approved uses.
- (3) Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.
- (4) Buildings less than 60 square feet in area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

350-100-450. Review Uses with Additional Approval Criteria — Commercial Land.

The following uses may be allowed on lands designated Commercial, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620), and Commission Rule 350-100-460:

- (1) Travelers accommodations, bed and breakfast inns subject to Commission Rule 350-100-150(5).
- (2) Restaurants.
- (3) Gift shops.
- (4) Home occupations or cottage industries in an existing residence or accessory structure, pursuant to Commission Rule 350-100-150(4).
- (5) One single-family dwelling per legally created parcel.
- (6) Utility facilities and railroads.

350-100-460. Approval Criteria for Review Uses on Lands Designated Commercial.

The uses identified in Commission Rule 350-100-450 may be allowed only if they meet both of the following criteria:

- (1) The proposal is limited to 5,000 square feet of floor area per building or use.
- (2) The proposed use would be compatible with the surrounding areas, including review for impacts associated with the visual character of the area, traffic generation and noise, dust and odors.

350-100-470. Recreation.

Commission Rule 350-100-470 through 350-100-510 shall apply to those areas designated Public Recreation and Commercial Recreation on the Scenic Area Land Use Designation Map.

350-100-480. Uses Allowed Outright — Public Recreation and Commercial Recreation.

(1) The following uses are allowed on lands in the General Management Area designated Public Recreation and Commercial Recreation without review:

(a) Forest practices that do not violate conditions of approval for other approved development.

(b) Repair, maintenance and operation of existing structures, trails, roads, railroads, and utility facilities.

(c) Agricultural uses, except for new cultivation.

(2) The following uses are allowed on lands in the Special Management Area designated Public Recreation without review:

(a) Agricultural use, except where there would be potential impact to cultural or natural resources.

(b) Maintenance, repair, and operation of existing dwellings, structures, trails, roads, railroads, utility facilities, and public recreation facilities.

(c) Accessory structures less than 60 square feet in area and 18 feet in height measured at the roof peak.

490-80-490. Review Uses — Public Recreation and Commercial Recreation.

(1) The following uses are allowed on all lands in the General Management Area designated Public Recreation:

(a) The following uses may be allowed on lands in the General Management Area designated Public Recreation, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620), and where applicable Commission Rule 350-100-610 (5)(a) and (c) through (g):

(A) Publicly-owned, resource-based recreation uses consistent with Commission Rule 350-100-610.

(B) Commercial uses and non-resource based recreation uses that are part of an existing or approved, resource-based public recreation use consistent with guidelines contained in this section.

(C) New cultivation, subject to compliance with Commission Rule 350-100-540 through 350-100-590.

(b) The following uses may be allowed on lands in the General Management Area designated Public Recreation, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620), and Commission Rule 350-100-500:

(A) Residences and accessory structures, limited to one single-family dwelling for each parcel legally created prior to adoption of the Management Plan. Exceptions may be considered only upon demonstration that more than one residence is necessary for management of a public park.

(B) Agricultural buildings.

(C) Utility transmission, transportation, communication and public works facilities.

(c) Land divisions, subject to compliance with Commission Rule 350-100-500(3).

(2) The following uses are allowed on all lands in the General Management Area designated Commercial Recreation:

(a) The following uses may be allowed on lands in the General Management Area designated Commercial Recreation, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620), and where applicable Commission Rule 350-100-610 (5)(a) and (c) through (g):

(A) Commercially-owned, resource-based recreation uses consistent with Commission Rule 350-100-610.

(B) Overnight accommodations that are part of a commercially-owned resource-based recreation use, where such resource-based recreation use occurs on the subject site or is accessed through the site on adjacent lands, and which meet the following guidelines:

(i) Buildings containing individual units are no larger than 1,500 square feet in total floor area and no higher than two and one-half stories.

(ii) Buildings containing more than one unit are no larger than 5,000 square feet in total floor area and no higher than two and one-half stories.

(iii) The total number of individual units shall not exceed 25, unless the proposed development complies with

guidelines for clustered accommodations in subsection (iv) below

(iv) Clustered overnight travelers accommodations meeting the following guidelines may include up to 35 individual units:

(I) Average total floor area of all units is 1,000 square feet or less per unit;

(II) A minimum of 50 percent of the project site is dedicated to undeveloped, open areas (not including roads or parking areas);

(III) The facility is in an area classified for high intensity recreation (Recreation Intensity Class 4).

(C) Commercial uses, including restaurants sized to accommodate overnight visitors and their guests, and nonresource-based recreation uses which are part of an existing or approved resource-based commercial recreation use consistent with the guidelines contained in this section.

(D) New cultivation, subject to compliance with Commission Rule 350-100-540 through 350-100-590.

(b) The following uses may be allowed, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620), and Commission Rule 350-100-510:

(A) Residences and accessory structures limited to one single-family dwelling for each lot or parcel legally created prior to adoption of the Management Plan.

(B) Agricultural buildings.

(C) Utility transmission, transportation and communication facilities.

(c) Land divisions, subject to compliance with Commission Rule 350-100-510(3).

(3) The following uses are allowed on lands in the Special Management Area designated Public Recreation subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620):

(a) Forest uses and practices as allowed in Commission Rule 350-100-270(2).

(b) Public trails, consistent with Commission Rule 350-100-620.

(c) Public recreational facilities, consistent with Commission Rule 350-100-620.

(d) Public non-profit group camps, retreats, conference or educational centers, and interpretive facilities.

(e) All dwellings and accessory structures larger than 60 square feet.

(f) Home occupations and cottage industries, pursuant to Commission Rule 350-100-150(4).

(g) Road and railroad construction and reconstruction.

(h) Utility facilities for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Public Recreation land.

(B) The size is the minimum necessary to provide the service.

(i) New signs pursuant to 350-100-160(2).

(j) Structures or vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.

(k) Agricultural uses as allowed in Commission Rule 350-100-190(2).

(4) New commercial recreation facilities shall be allowed in Forest Land and Agricultural Land use designations, consistent with the guidelines established for the recreation-intensity classes Commission Rule 350-100-620.

Reviser's note: The above new section was filed by the agency as 490-80-490. This section is placed among sections forming new chapter 350-100, and therefore should be numbered 350-100-490. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

350-100-500. Approval Criteria for Non-Recreation Uses in Public Recreation Designations.

The uses identified in Commission Rule 350-100-490

(1)(b) may be allowed only if they meet the following criteria:

(1) The proposed use will not interfere with existing or approved public recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include onsite buffers, seasonal or temporary closures during peak recreation use periods, etc.

(2) The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.

(3) Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

350-100-510. Approval Criteria for Non-Recreation Uses in Commercial Recreation Designations.

The uses identified in Commission Rule 350-100-490

(2)(b) may be allowed only if they meet the following criteria:

(1) The proposed use will not interfere with existing or approved commercial recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include onsite buffers, seasonal or temporary closures during peak recreation use periods, etc.

(2) The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.

(3) Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

350-100-520. General Management Area Scenic Review Criteria.

The following scenic review guidelines shall apply to all Review Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

(1) All Review Uses:

(a) New buildings and roads shall be sited and designed to retain the existing topography and reduce necessary grading to the maximum extent practicable.

(b) New buildings shall be generally consistent with the height and size of existing nearby development.

(c) Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in Commission Rule 350-100-520.

(d) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

(e) For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable.

Such a plan shall be approved by the appropriate state agency for uses under their jurisdiction, or approved by the Development Review Officer with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At a minimum, such reclamation plans shall include:

(A) A map of the site, at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail, with 10 foot contour intervals or less, showing pre-mining existing grades and post-mining final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch-basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing and equipment areas employed for the duration of the use.

(B) Cross-sectional drawings of the site showing pre-mining and post-mining grades.

(C) Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

(D) Description of drainage/erosion control features to be employed for the duration of the use.

(E) A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

(2) All Review Uses Visible From Key Viewing Areas shall comply with the following applicable guidelines:

(a) Size, height, shape, color, reflectivity, landscaping, siting or other aspects of proposed development shall be evaluated to ensure that such development is visually subordinate to its setting as seen from Key Viewing Areas.

(b) The extent and type of conditions applied to a proposed development to achieve visual subordination should be proportionate to its potential visual impacts as seen from Key Viewing Areas. Primary factors influencing the degree of potential visual impact include: the amount of area of the building site exposed to Key Viewing Areas, the degree of existing vegetation providing screening, the distance from the building site to the Key Viewing Areas from which it is visible, the number of Key Viewing Areas from which it is visible, and the linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads). Written reports on determination of visual subordination and final conditions of approval shall include findings addressing each of these factors.

(c) Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

(d) For all buildings, roads or mining and associated activities proposed on lands visible from Key Viewing Areas, the following supplemental site plan information shall be submitted in addition to the site plan requirements in Commission Rule 350-100-080 and 350-100-520 (1)(e) for mining and associated activities:

(A) For buildings, a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used, number, size, locations of plantings, and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).

(B) Elevation drawings showing the appearance of proposed building(s) when built and surrounding final ground grades, for all buildings over 400 square feet in area.

(e) For proposed mining and associated activities on lands visible from Key Viewing Areas, in addition to submittal of plans and information pursuant to Commission Rule 350-100-520 (1)(e) and subsection (d) above, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable Key Viewing Areas.

(f) New buildings or roads shall be sited on portions of the subject property which minimize visibility from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, sensitive wildlife sites or conflict with the protection of cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

(g) In siting new buildings and roads, use of existing topography and vegetation to screen such development from Key Viewing Areas shall be give priority over other means of achieving visual subordination, such as planting of new vegetation or use of artificial berms to screen the development from Key Viewing Areas.

(h) Driveways and buildings shall be designed and sited to minimize grading activities and visibility of cut banks and fill slopes from Key Viewing Areas.

(i) The exterior of buildings on lands seen from Key Viewing Areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all Key Viewing Areas by existing topographic features.

(j) Exterior lighting shall be directed downward and sited, hooded and shielded such that it is not highly visible from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

(k) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of colors specified in the design guidelines for the subject property's landscape setting.

(l) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination requirements for lands seen from Key Viewing Areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regula-

tions. Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park Service regulations for such structures.

(m) The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use, and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.

(n) An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline of a bluff, cliff or ridge as seen from a Key Viewing Area, may itself protrude above the skyline if:

(A) The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and

(B) There is no practicable alternative means of altering the building without increasing the protrusion.

(o) New main lines on lands visible from Key Viewing Areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

(p) New communication facilities (antennae, dishes, etc.) on lands visible from Key Viewing Areas, which require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.

(q) New communications facilities may protrude above a skyline visible from a Key Viewing Area only upon demonstration that:

(A) The facility is necessary for public service;

(B) The break in the skyline is seen only in the background; and

(C) The break in the skyline is the minimum necessary to provide the service.

(r) Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a Key Viewing Area only upon a demonstration that:

(A) The facility is necessary for public service; and

(B) The break in the skyline is the minimum necessary to provide the service.

(s) Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to the setback may be authorized.

(t) New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. A variance may be authorized if the property would be rendered unbuildable through the application of this

guideline. In determining the slope, the average percent slope of the proposed building site shall be used.

(u) All proposed structural development involving more than 100 cubic yards of grading on sites visible from Key Viewing Areas and which slope between 10 and 30 percent shall include submittal of a grading plan. This plan shall be reviewed by the Development Review Officer for compliance with Key Viewing Area policies. The grading plan shall include the following:

(A) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail, with contour intervals of at least 5 feet, including:

- (i) Existing and proposed final grades;
- (ii) Location of all areas to be graded, with cut banks and fill slopes delineated; and
- (iii) Estimated dimensions of graded areas.

(B) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:

- (i) Its purpose;
- (ii) An estimate of the total volume of material to be moved;
- (iii) The height of all cut banks and fill slopes;
- (iv) Provisions to be used for compaction, drainage, and stabilization of graded areas (preparation of this information by a licensed engineer or engineering geologist is recommended);

(v) A description of all plant materials used to revegetate exposed slopes and banks, including type of species, number of, size and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings; and

(vi) A description of any other interim or permanent erosion control measures to be utilized.

(v) Expansion of existing quarries and new production and/or development of mineral resources proposed on sites more than 3 miles from the nearest Key Viewing Areas from which it is visible may be allowed upon a demonstration that:

(A) The site plan requirements for such proposals pursuant to this chapter have been met.

(B) The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc. associated with the use would be visually subordinate as seen from any Key Viewing Areas.

(C) A reclamation plan to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved. The plan shall be approved by the applicable state agency with jurisdiction, or approved by the Development Review Officer with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At minimum, a reclamation plans shall comply with Commission Rule 350-100-520 (1)(e).

(D) A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed mining activities from Key Viewing Areas, including:

(i) A list of Key Viewing Areas from which exposed mining surfaces (and associated facilities/activities) would be visible;

(ii) An estimate of the surface area of exposed mining surfaces which would be visible from those Key Viewing Areas;

(iii) The distance from those Key Viewing Areas and the linear distance along those Key Viewing Areas from which proposed mining surfaces are visible;

(iv) The slope and aspect of mining surfaces relative to those portions of Key Viewing Areas from which they are visible;

(v) The degree to which potentially visible mining surfaces are screened from Key Viewing Areas by existing vegetation, including winter screening considerations.

(vi) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc. and appropriate time frames to achieve such results, including winter screening considerations.

(w) Unless addressed by guideline (v) above, new production and/or development of mineral resources may be allowed upon a demonstration that:

(A) The site plan requirements for such proposals pursuant to this chapter have been met;

(B) The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc. associated with the use would be fully screened from any Key Viewing Area; and

(C) A reclamation plan to restore the area to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved by the applicable state agency with jurisdiction, or approved by the Development Review Officer with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At minimum, the reclamation plan shall comply with Commission Rule 350-100-520 (1)(e).

(x) An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than 3 miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.

(y) An interim time period to achieve compliance with full screening requirements for new quarries located less than 3 miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring prior to achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

(z) Compliance with specific approval conditions to achieve visual subordination (such as landscaped screening), shall occur within a period not to exceed 2 years after the date of development approval. This guideline shall apply to all development regulated by this section except mining and associated uses.

(3) All Review Uses within the following landscape settings shall comply with the following applicable guidelines:

(a) Pastoral

(A) New development shall be compatible with the general scale (height, dimensions, overall mass) of development in the vicinity. Expansion of existing development

shall comply with this guideline to the maximum extent practicable.

(B) Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.

(iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).

(iv) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.

(v) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-100-520 (2)(k) or (l).

(D) Compatible recreation uses include resource-based recreation uses of a very low or low-intensity nature (as defined by Commission Rule 350-100-610), occurring infrequently in the landscape.

(b) Coniferous Woodland

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Structure height shall remain below the forest canopy level.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the setting. Such species include: Douglas fir, grand fir, western red cedar, western hemlock, big leaf maple, red alder, ponderosa pine and Oregon white oak, and various native willows (for riparian areas).

(iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(iv) The exteriors of structures shall be either natural or earth-tone colors unless specifically exempted by Commission Rule 350-100-520 (2)(k) or (l).

(D) Compatible recreation uses include resource-based recreation uses of varying intensities. Typically, outdoor recreation uses should be low-intensity, and include trails, small picnic areas and scenic viewpoints. Some more intensive recreation uses, such as campgrounds, may occur.

They should be scattered, interspersed with large areas of undeveloped land and low-intensity uses.

(c) Oak-Pine Woodland

(A) New development shall be compatible with the general scale (height, dimensions, and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Structure height shall remain below the tree canopy level in wooded portions of this setting.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development.

(i) At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir.

(ii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

For substantially wooded portions:

(iii) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.

(iv) The exteriors of structures shall be either natural or earth-tone colors, unless specifically exempted pursuant to Commission Rule 350-100-520 (2)(k) or (l).

For treeless portions or portions with scattered tree cover:

(v) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.

(vi) Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.

(vii) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.

(viii) The exteriors of structures shall be dark and either natural or earth-tone colors, unless specifically exempted pursuant to Commission Rule 350-100-520 (2)(k) or (l).

(D) Resource-based recreation uses of varying intensities may be compatible with this setting, although most are of low-intensity nature (such as trails or small scenic outlooks). More intensive recreation uses may be compatible where allowed pursuant to Commission Rule 350-100-610, although they are generally rare in this setting. As with Woodland settings, intensive recreation uses in Oak-Pine Woodlands may be compatible if widely scattered and not in large concentrations.

(d) Grassland

(A) New development shall be compatible with the general scale (height, dimensions, and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible. Exceptions to this guideline are permitted where necessary for farming operations.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.

(ii) Lower structures that emphasize horizontal lines and blend with this sweeping landscape should be encouraged rather than very tall structures.

(iii) Planting of trees for screening shall not be extensive, in character with the openness of this setting. Where used, screening vegetation shall either tie in with nearby riparian vegetation in seasonal drainages or emulate windrows. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include Oregon white oak, Lombardy poplar, black locust, black cottonwood (wet locations), Russian olive and ponderosa pine.

(iv) The exteriors of structures shall be dark and either natural or earth-tone colors, unless specifically exempted pursuant to Commission Rule 350-100-520 (2)(k) or (l).

(D) Resource-based recreation uses of a very low-intensity or low-intensity nature that occur infrequently are compatible with this setting, and include hiking, hunting and wildlife viewing.

(e) Rural Residential

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.

(C) In portions of this setting visible from Key Viewing Areas, and not exempt from visual subordination guidelines (pursuant to the "Developed Settings and Visual Subordination Policies" Section in Part I, Chapter 1 of the Management Plan) the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

(iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(iv) Structures' exteriors shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-100-520 (2)(k) or (l).

(D) Compatible recreation uses should be limited to small community park facilities, but occasional low-intensity resource-based recreation uses (such as small scenic overlooks).

(f) Rural Residential/Pastoral, Rural Residential/Coniferous Woodland, and Rural Residential/Oak-Pine Woodland

(A) New development in this setting shall meet the design guidelines for both the Rural Residential setting and

the more rural setting with which it is combined (either Pastoral, Coniferous Woodland or Oak-Pine Woodland), unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In the event of a possible conflict between the guidelines, the guidelines for the more rural setting (Coniferous Woodland, Oak-Pine Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.

(C) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

(g) Residential

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In portions of this setting visible from Key Viewing Areas and not exempt from visual subordination guidelines (pursuant to the "Developed Settings and Visual Subordination Policies" section of Part I, Chapter 1 of the Management Plan), the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) Structures' exteriors shall be non-reflective unless fully screened from Key Viewing Areas with existing vegetation and/or topography.

(iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

(iv) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(v) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-100-520 (2)(k) or (l).

(C) Compatible recreation uses are limited to community park facilities.

(h) Village

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) New commercial buildings shall be limited in size to a total floor area of 5,000 square feet or less, and shall be limited in height to 2 and 1/2 stories or less.

(C) For new commercial, institutional (churches, schools, government buildings) or multi-family residential uses on parcels fronting a Scenic Travel Corridor (Washington State Route 14 or the Historic Columbia River Highway) and expansion of existing development for such uses, parking shall be limited to rear or side yards of buildings to the maximum extent practicable.

(D) New vehicular access points to the Scenic Travel Corridors shall be limited to the maximum extent practica-

ble, and access consolidation shall be required where feasible.

(E) New development proposals and expansion of existing development shall be encouraged to follow planned unit development approaches, featuring consolidated access, commonly-shared landscaped open areas, etc.

(F) New commercial, institutional or multi-family residential uses fronting a Scenic Travel Corridor shall comply with the following landscape requirements:

(i) Parking or loading areas for 10 or more spaces shall include a landscaped strip at least 5 feet in width between the new use and the Scenic Travel Corridor roadway.

(ii) The landscape strip required in guideline (F)(i) above shall include shrubs, vegetative ground cover and, at minimum, one tree spaced as appropriate to the species and not to exceed 25 feet apart on the average.

(G) The use of building materials that reinforce the Village Setting's character, such as wood, logs or stone, and that reflect community desires, should be encouraged.

(H) Architectural styles characteristic of the area (such as 1 and 1/2 story dormer roof styles in Corbett), and that reflect community desires, should be encouraged. Entry signs should be consistent with such architectural styles.

(I) Design features which create a "pedestrian friendly" atmosphere, such as large shop windows on the ground floor of commercial buildings, porches along ground floors with street frontage, etc. should be encouraged.

(J) Pedestrian walkways and bicycle paths should be encouraged and integrated into new developments wherever feasible.

(K) Where feasible, existing tree cover of species native to the region or commonly found in the area shall be retained when designing new development or expanding existing development.

(L) Compatible recreation uses may include community parks serving the recreation needs of local residents, and varying intensities of other recreation uses.

(i) River Bottomlands

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments are encouraged to maximize the percentage of planted screening vegetation native to this setting. Such species include: black cottonwood, big leaf maple, red alder, Oregon white ash, Douglas fir, western red cedar and western hemlock (west Gorge) and various native willow species.

(iii) At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening.

(iv) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-100-520 (2)(k) or (l).

(C) Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands or special habitat requirements may be compatible.

In other River Bottomland areas, nodes of moderate-intensity and/or high-intensity recreation uses may be compatible, provided that:

(i) their designs emphasize retention and/or enhancement of native riparian communities,

(ii) structures and parking areas are visually subordinate, and

(iii) they are separated from other areas of concentrated recreation usage by stretches of natural-appearing shoreline and adjacent uplands.

(j) Gorge Walls, Canyons and Wildlands

(A) New development and expansion of existing development shall be screened so it is not seen from Key Viewing Areas, to the maximum extent practicable.

(B) All trees planted to screen permitted development and uses from Key Viewing Areas shall be native to the area.

(C) Existing tree cover shall be retained to the maximum extent practicable, except for the minimum removal necessary to accommodate facilities otherwise permitted in the underlying land use designation or for safety purposes.

(D) All structures shall be limited in height to a maximum of 1 and 1/2 stories.

(E) All structures' exteriors shall be non-reflective.

(F) Signage shall be limited to natural materials such as wood or stone, with natural or earth-tone colors, unless public safety concerns or federal or state highway guidelines require otherwise.

(G) Compatible recreation uses are limited to very low or low-intensity, resource-based activities which focus on enjoyment and appreciation of sensitive resources. Such compatible uses (such as trails) are generally associated with minimal facility development, if any.

(4) All Review Uses with Scenic Travel Corridors shall comply with the following applicable guidelines:

(a) For the purposes of implementing this section, the foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the scenic travel corridor roadway.

(b) All new buildings and alterations to existing buildings, except in a Rural Center designation (village landscape setting), shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway. A variance to this setback requirement may be granted pursuant to Commission Rule 350-100-150(7). All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway, to the maximum extent practicable.

(c) Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a Scenic Travel Corridor roadway except in a Rural Center designation (village landscape setting), shall comply with guideline (4)(b) above to the maximum extent practicable.

(d) All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:

(A) An evaluation of potential visual impacts of the proposed project as seen from any Key Viewing Area;

(B) An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable guidelines to protect the resources.

(e) When evaluating possible locations for undergrounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for undergrounding in the Columbia River Gorge National Scenic Area Corridor Visual Inventory prepared in April, 1990.

(f) New production and/or development of mineral resources proposed within one-quarter mile of the edge of pavement of a Scenic Travel Corridor may be allowed upon a demonstration that full visual screening of the site from the Scenic Travel Corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a Scenic Travel Corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in Commission Rule 350-100-520 (2)(y).

(g) Expansion of existing quarries may be allowed pursuant to Commission Rule 350-100-520 (2)(v). Compliance with visual subordination requirements shall be achieved within time frames specified in Commission Rule 350-100-520 (2)(x).

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-100-530. Special Management Area Scenic Review Criteria.

The following scenic review guidelines shall apply to all Review Uses in the Special Management Area of the Columbia River Gorge National Scenic Area with the exception of rehabilitation or modification of historic structures eligible or on the National Register of Historic Places when such modification is in compliance with the national register of historic places guidelines:

(1) All Review Uses in the Special Management Area regardless of location or landscape setting shall comply with the following applicable guidelines:

(a) Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from Key Viewing Areas.

(b) Size, scale, shape, color, texture, siting, height, building materials, lighting, or other features of a proposed structure shall be visually subordinate in the landscape and have low contrast in the landscape.

(c) Colors shall be used in a manner so that developments are visually subordinate to the natural and cultural patterns in the landscape setting. Colors for structures and signs should be slightly darker than the surrounding background.

(d) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.

(e) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.

(f) Any exterior lighting shall be sited, limited in intensity, shielded or hooded in a manner that prevents lights from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting except for road lighting necessary for safety purposes.

(h) Seasonal lighting displays shall be permitted on a temporary basis, not to exceed three months duration.

(i) Reflectivity of structures and site improvements shall be minimized.

(j) Right-of-way vegetation shall be managed to minimize visual impact of clearing and other vegetation removal as seen from Key Viewing Areas. Roadside vegetation management (vista clearing, planting, etc.) should enhance views from the highway.

(k) Encourage existing and require new road maintenance warehouse and stockpile areas to be screened from view from Key Viewing Areas.

(2) New developments and land uses shall be evaluated to ensure that scenic resources are not adversely affected, including cumulative effects, based on visibility from Key Viewing Areas.

(3) All new developments and land uses immediately adjacent to scenic routes shall be in conformance with state or county scenic route guidelines.

(4) New land uses or developments shall comply with the following applicable design guidelines:

(a) Pastoral: Pastoral areas shall retain the overall appearance of an agricultural landscape.

(A) New developments and forest practices shall meet the Visual Quality Objective of partial retention.

(B) The use of plant species common to the landscape setting shall be encouraged. The use of plant species in rows as commonly found in the landscape setting is encouraged.

(C) Exterior colors of structures shall be earth-tone colors which will result in low contrast with the surrounding landscape.

(D) Exterior colors of structures may be white, except for the roof, only in the Mt. Pleasant and Dodson-Warrendale areas where other white structures are evident in the setting.

(b) Coniferous Woodlands and Oak-Pine Woodland: Woodland areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous and Oak/Pine Woodland landscape.

(A) New developments and land uses in lands designated Federal Forest or Open Space shall meet the Visual Quality Objective of retention; all other land use designations shall meet the Visual Quality Objective of partial retention as seen from Key Viewing Areas.

(B) Forest practices on National Forest lands included in the Mt. Hood National Forest Plans shall meet the Visual Quality Objective identified for those lands in those plans.

(C) Buildings in the Coniferous Woodland landscape setting shall be encouraged to have a vertical overall appearance and a horizontal overall appearance in the Oak-Pine Woodland landscape setting.

(D) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(E) The exteriors of structures in the Coniferous Woodland landscape setting shall be dark earth-tone colors which will result in low contrast with the surrounding landscape as seen from the Key Viewing Areas.

(F) Exterior colors of structures in Oak-Pine Woodland landscape setting shall be earth-tone colors which will result in low contrast with the surrounding landscape as seen from the Key Viewing Areas.

(c) Residential: The Residential setting is characterized by concentrations of dwellings.

(A) New developments and land uses shall meet the Visual Quality Objective of partial retention.

(B) At Rowena Dell, new buildings shall have a rustic appearance and use natural materials and earth-tone colors.

(C) At Latourell Falls, new buildings shall have an appearance consistent with the predominant historical architectural style.

(D) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native appearing characteristics.

(d) River Bottomlands: River bottomland shall retain the overall visual character of a floodplain and associated islands.

(A) New developments and land uses shall meet the Visual Quality Objective of partial retention, except in areas designated Open Space which shall meet the Visual Quality Objective of retention.

(B) Buildings shall have an overall horizontal appearance in areas with little tree cover.

(C) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(D) Exterior colors of structures shall be earth-tone or water-tone colors which will result in low contrast with surrounding landscape.

(e) Gorge Walls, and Canyonlands and Wildlands: New developments and land uses shall retain the overall visual character of the natural appearing landscape.

(A) New developments and land uses shall meet the Visual Quality Objective of retention as seen from Key Viewing Areas.

(B) Structures, including signs, shall have a rustic appearance, use non-reflective materials, and have low contrast with the surrounding landscape and be of a Cascadian architectural style.

(C) Temporary roads shall be promptly closed and revegetated.

(D) New utilities shall be below ground surface, where feasible.

(E) Use of plant species non-native to the Columbia River Gorge shall not be allowed.

(F) Exterior colors of structures shall be dark earth tones that will result in the structure having low contrast with the surrounding landscape.

(5) For forest practices the following guidelines shall apply:

(a) Forest practices must meet the design guidelines and Visual Quality Objective for the landscape setting designated for the management area.

(b) Not more than 16 percent of each total ownership within a viewshed shall be in created openings at any one time. The viewshed boundaries shall be delineated by the Forest Service.

(c) Size, shape, and dispersal of created openings shall maintain the natural patterns in the landscape.

(d) The maximum size of any created opening is 15 acres. In the foreground of Key Viewing Areas, the maximum size of created openings shall be five acres.

(e) Clearcutting shall not be used as a harvest practice to land designated Federal Forest Lands.

(f) Created openings shall not create a break or opening in the vegetation in the skyline as viewed from a Key Viewing Area.

(g) Created openings shall be dispersed to maintain at least 400 feet of closed canopy between openings. Closed canopy shall be at least 20 feet tall.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-100-540. General Management Area Cultural Resource Review Criteria.

(1) General Provisions for Implementing the Cultural Resources Protection Process.

(a) All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).

(b) Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any person who submits written comments on a proposed use (interested person). Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.

(c) Reconnaissance and Historic Surveys and Survey Reports.

(A) Reconnaissance survey requirements and exceptions.

(i) A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource,

including those uses listed as exceptions in Commission Rule 350-100-504 (1)(c)(A)(ii) below.

(ii) A reconnaissance survey shall be required for all proposed uses, except:

(I) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

(II) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.

(III) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved.

The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

(IV) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.

(V) Proposed uses that would occur on sites that have been adequately surveyed in the past.

The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.

(VI) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

- Residential development that involves two or more new dwellings for the same project applicant.

- Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.

- Public transportation facilities that are outside improved rights-of-way.

- Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater.

- Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Areas that have a low probability of containing cultural resources shall be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.

The Gorge Commission, after consulting Indian tribal governments and state historic preservation officers, shall

prepare and adopt a map showing areas that have a low probability of containing cultural resources. This map shall be adopted within 200 days after the Secretary of Agriculture concurs with the Management Plan. It shall be refined and revised as additional reconnaissance surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

(B) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.

(C) The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the GMA. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.

For Commission Rule 350-100-540, large-scale uses include residential development involving two or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

(D) Reconnaissance Surveys for Small-Scale Uses.

Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:

(i) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.

(ii) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.

(E) Reconnaissance Survey Reports for Small-Scale Uses

The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:

(i) A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.

(ii) A description of any cultural resources that were discovered in the project area, including a written description and photographs.

(iii) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

(F) Reconnaissance Surveys for Large-Scale Uses

(i) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.

(ii) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:

(I) Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.

(II) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.

(III) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.

(IV) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.

(G) Reconnaissance Survey Reports for Large-Scale Uses

The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

(i) A description of the proposed use, including drawings and maps.

(ii) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.

(iii) A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.

(iv) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(v) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(vi) A summary of all written comments submitted by Indian tribal governments and other interested persons.

(vii) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.

(H) Historic Surveys and Reports

(i) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.

(ii) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.

(iii) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.

(d) The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant, except for resources discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.

(e) Cultural resources are significant if one of the following criteria is satisfied:

(A) The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4).

(B) The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.

(f) The Gorge Commission shall establish a Cultural Advisory Committee (CAC). The CAC shall comprise cultural resource professionals, interested individuals, and at least one representative from each of the four Indian tribes. If a project applicant's and Indian tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and Indian tribal government's substantiated concerns. The CAC will submit a recommendation to the Development Review Officer as to whether affected cultural resources are significant.

(2) Cultural Resource Reconnaissance and Historic Surveys

(a) Consultation and Ethnographic Research

(A) When written comments are submitted to the Development Review Officer within the comment period provided in Commission Rule 350-100-120, the project applicant shall offer to meet with the interested persons within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the interested persons.

Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed.

All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

(B) A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate.

All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

(b) Notice of Survey Results

(A) The Development Review Officer shall submit a copy of all cultural resource survey reports to the State Historic Preservation Officer and the Indian tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

(B) The State Historic Preservation Office and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the proposed use would be consistent with Commission Rule 350-100-540. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Development Review Officer shall justify how it reached an opposing conclusion.

(B) The cultural resource protection process may conclude when one of the following conditions exists:

(i) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 20 calendar days of the date that a notice was mailed.

(ii) A reconnaissance survey demonstrates that cultural resources do not exist in the project area and no substantiated concerns were voiced by interested persons within 20 calendar days of the date that a notice was mailed.

(iii) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground-disturbing activities shall be prohibited within the buffer zone.

Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.

An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

(C) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:

(i) The State Historic Preservation Officer concludes that the historic buildings or structures are clearly not

significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or

(ii) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission.

The historic survey and report must demonstrate that these guidelines have been clearly and absolutely satisfied. If the State Historic Preservation Officer or the Development Review Officer question whether these guidelines have been satisfied, the project applicant shall conduct an evaluation of significance.

(3) Evaluation of Significance

(a) Evaluation Criteria and Information Needs

If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:

(A) Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior, no date) and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.

(B) To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.

(C) The project applicant shall contact Indian tribal governments and interested persons, as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.

(D) The evaluation of significance shall follow the principles, guidelines, and report format recommended by the Oregon State Historic Preservation Office (Oregon SHPO 1990) or Washington Office of Archaeology and Historic Preservation (Washington SHPO, no date). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.

(E) All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with Indian tribal governments and other interested persons shall be presented. All comments, recommendations, and corre-

spondence from Indian tribal governments and interested persons shall be appended to the evaluation of significance.

(b) Notice of Evaluation Results

(A) If the evaluation of significance demonstrates that the cultural resources are not significant, the Development Review Officer shall submit a copy of the evaluation of significance to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(C) Cultural Resources are Culturally Significant

(i) If an Indian tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make an independent review of the applicant's evaluation and the Indian tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.

(ii) The Indian tribal government shall substantiate its concerns in a written report. The report shall be submitted to the Development Review Officer, CAC, and the project applicant within 15 calendar days from the date the evaluation of significance is mailed. The CAC must submit its recommendation to the Development Review Officer within 30 calendar days from the date the evaluation of significance is mailed.

(d) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Officer or CAC, the Development Review Officer shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the affected cultural resources are not significant.

(C) If the project applicant or the Development Review Officer determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

(4) Assessment of Effect

(a) Assessment Criteria and Information Needs

If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect. The assessment shall meet the following guidelines:

(A) The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.9) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.8.

(i) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR 800.9(a)].

(ii) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association [36 CFR 800.9(b)]. Adverse effects on cultural resources include, but are not limited to:

(I) Physical destruction, damage, or alteration of all or part of the cultural resource.

(II) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.

(III) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.

(IV) Neglect of a significant cultural resource resulting in its deterioration or destruction.

(B) The assessment of effect shall be prepared in consultation with Indian tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by Indian tribal governments and interested persons shall be recorded and addressed in the assessment.

(C) The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:

(i) The cultural resources are of value only for their potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines.

(ii) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

(b) Notice of Assessment Results

(A) If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the Development Review Officer shall submit a copy of the assessment to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the assessment of effect is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Development Review Officer shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

(C) A mitigation plan shall be prepared if a project applicant or the Development Review Officer determines that the proposed use would have an adverse effect on significant cultural resources.

(5) Mitigation Plans

(b) Mitigation Plan Criteria and Information Needs

Mitigation plans shall be prepared when proposed uses would have an adverse effect on significant cultural resources. The plans shall reduce an adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following guidelines:

(A) Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including Indian tribal governments, Native Americans, local governments whose jurisdiction encompasses the project area, and the State Historic Preservation Officer.

(B) Avoidance of cultural resources through project design and modification is preferred. Avoidance may be effected by reducing the size, scope, configuration, and density of the proposed use.

Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative measures include, but are not limited to, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism shall be developed and recorded in county deeds and records.

(C) Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR 800.8(d), including, but not limited to:

(i) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use.

(ii) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection.

(iii) Documentation of consultation with the State Historic Preservation Officer regarding any alternatives or mitigation measures.

(iv) A description of the project applicant's efforts to obtain and consider the views of Indian tribal governments, interested persons, and Development Review Officer.

(v) Copies of any written recommendations submitted to the Development Review Officer or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.

(b) Notice of Mitigation Plan Results

(A) If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the Development Review Officer shall submit a copy of the mitigation plan to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the mitigation plan is mailed to submit

written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Development Review Officer shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.

(C) The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

(6) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Development Review Officer and the State Historic Preservation Officer. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

(a) Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

(b) Notification. The project applicant shall notify the Development Review Officer and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.

(c) Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Officer. (See Oregon Revised Statute [ORS] 273.705, ORS 358.905 to 358.955, and Revised Code of Washington [RCW] 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in "Reconnaissance Survey Reports for Large-Scale Uses" [Commission Rule 350-100-540 (1)(c)(F)] and "Evaluation of Significance: Evaluation Criteria and Information Needs" [Commission Rule 350-100-540 (3)(a)].

Based on the survey and evaluation report and any written comments, the Development Review Officer shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant.

A mitigation plan shall be prepared if the affected cultural resources are significant.

(d) Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in the "Mitigation Plans: Mitigation Plan Criteria and Information Needs" section of this chapter.

Construction activities may recommence when the conditions in the mitigation plan have been executed.

(7) Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

(a) Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.

(b) Notification. Local law enforcement officials, the Development Review Officer, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.

(c) Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.

(d) Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.

(e) Treatment. In Oregon, prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760. In Washington, the procedures set forth in RCW 27.44 and 68.05 shall generally be implemented if the remains are prehistoric/historic.

If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in "Mitigation Plans: Mitigation Plan Criteria and Information Needs" [Commission Rule 350-100-540 (5)(a)].

The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in "Mitigation Plans: Conclusion of the Cultural Resource Protection Process" [Commission Rule 350-100-540 (5)(c)] are met and the mitigation plan is executed.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-100-550. Special Management Area Cultural Resource Review Criteria.

(1) General Guidelines for Implementing the Cultural Resources Protection Process

(a) All cultural resource information shall remain confidential, according to Section 6 (a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470 hh and 36 CFR 296.18.

(b) Principal investigators shall meet the professional standards published in 36 CFR part 61.

(c) The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in Commission Rule 350-100-550(4) for forest practices and National Forest System lands.

(d) New developments or land uses shall not adversely affect significant cultural resources.

(2) The procedures and guidelines in Commission Rule 350-100-540 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.

(3) The cultural resource review criteria shall be deemed satisfied if the Forest Service or the Development Review Officer does not require a cultural resource survey and no comment is received during the comment period provided in Commission Rule 350-100-120.

(4) If the Forest Service or Development Review Officer determines that a cultural resource survey is required for a new development or land use on all Federal lands, federally assisted projects and forest practices, it shall consist of the following:

(a) Literature Review and Consultation

(A) An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.

(B) A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be allowed for 30 days.

(C) Consultation with cultural resource professionals knowledgeable about the area.

(D) The cultural resources review shall be complete if the Forest Service or Development Review Officer determines that no recorded or known cultural resources exist on or within the immediate vicinity of a new development or land use after consultation with the Tribal governments.

(E) A field inventory by a cultural resource professional shall be required if the Forest Service or the Development Review Officer determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the Tribal governments.

(b) Field Inventory

(A) Tribal representatives shall be invited to participate in the field inventory.

(B) The field inventory shall consist of one or the other of the following guidelines, as determined by the cultural resource professional:

(i) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects. A complete survey may also require techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the presence of buried cultural resources.

(ii) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally

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accomplished by a stratified random or non-stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

(C) A field inventory report shall be prepared, and shall include the following:

(i) A narrative integrating the literature review of section (4)(a) above with the field inventory of section (4)(b) above.

(ii) A description of the field inventory methodology used, including the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.

(iii) A statement of the presence or absence of cultural resources within the area of the new development or land use.

(iv) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.

(D) The report shall follow the format specified by the Washington Office of Archaeology and Historic Preservation for inventories conducted in the State of Washington. Reports for inventories conducted in the State of Oregon shall follow the format specified by the Oregon State Historic Preservation Office.

(E) The field inventory report shall be presented to the Forest Service or the Development Review Officer for review.

(F) The cultural resource review shall be complete if the Forest Service or the Development Review Officer determines that no cultural resources exist within the area of the new development or land use.

(c) Evaluations of Significance

(A) When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with to the criteria of the National Register of Historic Places (36 CFR 60.4).

(B) Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.

(C) Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within local and regional contexts.

(D) Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service or the Development Review Officer shall reiew evaluations for adequacy.

(E) Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

(F) The cultural resource review shall be complete if the Forest Service or the Development Review Officer determines that the inventoried cultural resources are not significant.

(G) An assessment of effect shall be required if the Forest Service or the Development Review Officer determines that the inventoried cultural resources are significant.

(d) Assessment of Effect

(A) For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.9 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for sections (4)(d)(B) through (4)(d)(D) below. The Forest Service or Development Review Officer shall review each determination for adequacy.

(B) If the proposed development or change in use will have "No Adverse Effect," as defined by 36 CFR 800.8, to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Requirements" of 36 CFR 800.8(a).

(C) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.9(b) to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented. This documentation shall follow the process outlined under 36 CFR 800.5(e).

(D) If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.8 ("Documentation Requirements").

(e) Mitigation

(A) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects. These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.

(B) Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.

(C) The Forest Service or the Development Review Officer shall review all mitigation proposals for adequacy.

(5) Discovery During Construction

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Forest Service or the Development Review Officer if cultural resources are discovered during construction or development.

(a) If cultural resources are discovered, particularly human bone or burials,, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and/or recover the resources.

(b) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:

(A) The applicant shall stop all work in the vicinity of the discovery.

(B) The applicant shall immediately notify the Development Review Officer, the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.

(C) The Forest Service or the Development Review Officer shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.

(D) A cultural resource professional shall evaluate the potential significance of the resource pursuant to Commission Rule 350-100-550 (4)(c) and report the results to the Forest Service or the Development Review Officer.

(c) The cultural resource review process shall be complete and work may continue if the Forest Service or the Development Review Officer determines that the cultural resource is not significant.

(d) The cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to Commission Rule 350-100-550 (4)(e) if the Forest Service or the Development Review Officer determines that the cultural resource is significant.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

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350-100-560. General Management Area Wetland Review Criteria.

(1) Wetlands Boundaries and Site Plans for Review Uses in Wetlands

(a) If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for determining the exact location of the wetland boundary.

(A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands. Wetlands boundaries shall be delineated using the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (Federal Interagency Committee for Wetland Delineation, 1989), and any subsequent amendments.

(B) All wetlands delineations shall be conducted by a professional which has been trained to use the federal delineation process, such as a soil scientist, botanist, or wetlands ecologist.

(C) The Development Review Officer may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Development Review Officer shall, at the applicant's expense, obtain professional services to render a final delineation.

(b) In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include:

(A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;

(B) the exact boundary of the wetland and the wetlands buffer zone; and

(C) a description of actions that would alter or destroy the wetland.

(2) The following uses are allowed in wetlands and wetlands buffer zones without review, if they:

(a) Are conducted using best management practices;

(b) Do not require structures, grading, draining, flooding, ditching, vegetation removal, or dredging beyond the extent specified below; and

(c) Comply with all applicable federal, state, and county laws:

(A) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.

(B) Soil, water, and vegetation conservation uses that protect and enhance wetlands acreage and functions.

(C) Low-intensity recreation uses, including hunting, fishing, trapping, bird watching, hiking, boating, swimming, and canoeing.

(D) Non-commercial harvesting of wild crops, such as ferns, moss, berries, tubers, tree fruits, and seeds in a manner that does not injure natural plant reproduction or impact sensitive plant species.

(E) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation. For this guideline cultivation and vegetation removal may be allowed in conjunction with a home garden.

(F) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(G) Commercial fishing and trapping.

(H) Educational uses and scientific research.

(I) Navigation aids, including structures covered by Section 17 (a)(3) of the Scenic Area Act.

(J) Forest practices that do not violate conditions of approval for other approved uses.

(K) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(L) Proposed uses that would occur in the main stem of the Columbia River. The main stem of the Columbia River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 and dated September 1986. (This map is available at county planning departments and Commission and Forest Service offices.) The boundaries of the main stem appear as a heavy black line that generally follows the shoreline. For Commission Rule 350-100, backwaters and isolated water bodies created by roads and railroads are not part of the main stem of the Columbia River.

(3) The following uses may be allowed in wetlands and wetlands buffer zones when approved pursuant to the provisions in Commission Rule 350-100-560(5), and re-

viewed under the applicable provisions of Commission Rule 350-100-520 through 350-100-620:

(a) The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

(A) Increase the size of an existing structure by more than 100 percent,

(B) Result in a loss of wetlands acreage or functions, or

(C) Intrude further into a wetland or wetlands buffer zone. New structures shall be considered intruding further into a wetland or wetlands buffer zone if any portion of the structure is located to the wetland or wetlands buffer zone than the existing structure.

(b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

(c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(4) Uses not listed in Commission Rule 350-100-560(3) may be allowed in wetlands and wetlands buffer zones, when approved pursuant to Commission Rule 350-100-560(6) and reviewed under the applicable provisions of Commission Rule 350-100-520 through 350-100-620.

(5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in wetlands shall demonstrate that:

(a) Practicable alternatives to locating the structure outside of the wetlands or wetland buffer zone and/or minimizing the impacts of the structure do not exist;

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of the wetlands, existing contour, functions, vegetation, fish and wildlife resources, and hydrology;

(c) The structure will be constructed using best management practices;

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

(e) The structure complies with all applicable federal, state, and county laws.

(6) Applications for all other Review Uses in wetlands shall demonstrate that:

(a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative considering all of the following:

(A) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands;

(B) The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in

a way that would avoid or result in less adverse effects on wetlands; and

(C) Reasonable attempts have been made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and zone designations. If a land designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

(b) The proposed use is in the public interest. The following factors shall be considered when determining if a proposed use is in the public interest:

(A) The extent of public need for the proposed use.

(B) The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.

(C) The functions and size of the wetland that may be affected.

(D) The economic value of the proposed use to the general area.

(E) The ecological value of the wetland and probable effect on public health and safety, fish, plants, and wildlife.

(c) Measures will be applied to ensure that the proposed use result in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.

(d) Groundwater and surface-water quality will not be degraded by the proposed use.

(e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlands buffer zones.

(f) The proposed use complies with all applicable federal, state, and county laws.

(g) Areas that are disturbed during construction will be rehabilitated to the maximum extent practicable.

(h) Unavoidable impacts to wetlands will be offset through restoration, creation, or enhancement of wetlands.

The following wetlands restoration, creation, and enhancement guidelines shall apply:

(A) Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.

(B) Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with a wetlands compensation plan.

(C) Wetlands restoration, creation, and enhancement projects shall use native vegetation.

(D) The size of replacement wetlands shall equal or exceed the following ratios (the first number specifies the required acreage of replacement wetlands and the second number specifies the acreage of wetlands altered or destroyed):

(i) Restoration: 2:1

(ii) Creation: 3:1

(iii) Enhancement: 4:1

(E) Replacement wetlands shall replicate the functions of the wetland that will be altered or destroyed such that no net loss of wetlands functions occurs.

(F) Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss of wetlands functions occurs.

(G) Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.

(H) Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is altered or destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.

(I) Five years after a wetland is restored, created, or enhanced at least 75 percent of the replacement vegetation must survive. The owner shall monitor the hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan and this guideline.

(7) Wetlands Buffer Zones

(a) The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.

(b) The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

(A) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent. A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(B) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(C) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines.

(c) Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required:

(A) Forest communities: 75 feet

(B) Shrub communities: 100 feet

(C) Herbaceous communities: 150 feet

(d) Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(8) Wetlands Compensation Plans

Wetlands compensation plans shall be prepared when a project applicant is required to restore, create or enhance wetlands. They shall satisfy the following guidelines:

(a) Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.

(b) Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered or destroyed and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.

(c) Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.

(d) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1 foot, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(A) Soil and substrata conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.

(B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(C) Water-quality parameters, water source, water depths, water-control structures, and water-level maintenance practices needed to achieve the necessary hydrologic conditions.

(e) A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.

(f) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-100-570. General Management Area Stream, Pond, Lake and Riparian Area Review Criteria. (1) Stream, Pond, and Lake Boundaries and Site Plans for Review Uses in Aquatic and Riparian Areas

(a) If a proposed use would be in a stream, pond, lake or their buffer zones, the project applicant shall be responsible for determining the exact location of the ordinary high watermark or normal pool elevation.

(b) In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include:

(A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;

(B) the exact boundary of the ordinary high watermark or normal pool elevation and prescribed buffer zone; and

(C) a description of actions that would alter or destroy the stream, pond, lake, or riparian area.

(2) The following uses are allowed in streams, ponds, lakes, and their buffer zones without review, if they:

(a) Are conducted using best management practices;

(b) Do not require structures, grading, draining, flooding, ditching, vegetation removal, or dredging beyond the extent specified below; and

(c) Comply with all applicable federal, state, and county laws:

(A) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.

(B) Soil, water, and vegetation conservation uses that protect water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas.

(C) Low-intensity recreation uses, including hunting, fishing, trapping, bird watching, hiking, boating, swimming, and canoeing.

(D) Non-commercial harvesting of wild crops, such as ferns, moss, berries, tubers, tree fruits, and seeds in a manner that does not injure natural plant reproduction or impact sensitive plant species.

(E) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation and shall require a review use permit. For this guideline cultivation and vegetation removal may be allowed in conjunction with a home garden.

(F) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(G) Commercial fishing and trapping.

(H) Educational uses and scientific research.

(I) Navigation aids, including structures covered by Section 17 (a)(3) of the Scenic Area Act.

(J) Forest practices that do not violate conditions of approval for other approved uses.

(K) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(L) Proposed uses that would occur in those portions of the main stem of the Columbia River that adjoin the Urban Area.

(3) The following uses may be allowed in streams, ponds, lakes and riparian areas when approved pursuant Commission Rule 350-100-570(5), and reviewed under the applicable provisions of Commission Rule 350-100-520 through 350-100-620:

(a) The modification, expansion, replacement, or reconstruction of serviceable structures, provided that such actions would not:

(A) Increase the size of an existing structure by more than 100 percent,

(B) Result in a loss of water quality, natural drainage, and fish and wildlife habitat, or

(C) Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.

(b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

(c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(4) Uses not listed in Commission Rule 350-100-570 (2) and (3) may be allowed in streams, ponds, lakes, and riparian areas, when approved pursuant to Commission Rule 350-100-570(5) and reviewed under the applicable provisions of Commission Rule 350-100-520 through 350-100-620.

(5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in aquatic and riparian areas

(a) Practicable alternatives to locating the structure outside of the stream, pond, lake, or buffer zone and/or minimizing the impacts of the structure do not exist;

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas;

(c) The structure will be constructed using best management practices;

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

(e) The structure complies with all applicable federal, state, and local laws.

(6) Applications for all other Review Uses in wetlands shall demonstrate that:

(a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by Commission Rule 350-100-560 (6)(a), substituting the term stream, pond, lake, or riparian area as appropriate.

(b) The proposed use is in the public interest as determined by Commission Rule 350-100-560 (6)(b), substituting the term stream, pond, lake, or riparian area as appropriate.

(c) Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone.

At a minimum, the following mitigation measures shall be considered when new uses are proposed in streams, ponds, lakes, and buffer zones:

(A) Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. Work in streams, ponds, and lakes shall be conducted during the periods specified in "Oregon Guidelines for Timing of

In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife, 1986). In Washington, the Washington Department of Wildlife and Washington Department of Fisheries shall evaluate specific proposals and specify periods for in-water work.

(B) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.

(C) Nonstructural controls and natural processes shall be used to the greatest extent practicable.

(D) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(E) Stream channels should not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used.

(F) Temporary and permanent control measures should be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(d) Groundwater and surface-water quality will not be degraded by the proposed use.

(e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

(f) The proposed use complies with all applicable federal, state, and county laws.

(g) Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement.

Rehabilitation and enhancement shall achieve no net loss of water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.

When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required.

The following rehabilitation and enhancement guidelines shall apply:

(A) Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation and enhancement plan.

(B) Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.

(C) Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient.

(D) The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.

(E) Riparian areas shall be rehabilitated to their original configuration, including slope and contour.

(F) Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structures. Structures include large woody debris and boulders.

(G) Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant species that replicate the original vegetation community.

(H) Rehabilitation and enhancement efforts shall be completed no later 90 days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(I) Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least 75 percent of the replacement vegetation must survive. The owner shall monitor the replacement vegetation and take corrective measures to satisfy this guideline.

(7) Stream, Pond, and Lake Buffer Zones

(a) Buffer zones shall generally be measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(A) Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet

(B) Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet

(C) Ponds and lakes: Buffer zone widths shall be based on dominant vegetative community as determined by Commission Rule 350-100-560 (7)(b), substituting the term pond or lake as appropriate.

(b) Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(c) Determining the exact location of the ordinary high watermark or normal pool elevation shall be the responsibility of the project applicant. The Development Review Officer may verify the accuracy of, and may render adjustments to, an ordinary high water-mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the applicant, the Development Review Officer shall, at the project applicant's expense, obtain professional services to render a final delineation.

(8) Rehabilitation and Enhancement Plans

Rehabilitation and enhancement plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake and/or buffer area. They shall satisfy the following guidelines:

(a) Rehabilitation and enhancement plans are the responsibility of the project applicant; they shall be prepared by qualified professionals, such as fish or wildlife biologists.

(b) All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, and/or buffer zone. The assessment shall include hydrology, flora, and fauna.

(c) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least 2 feet, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(A) Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to successfully

rehabilitate and enhance the stream, pond, lake, and buffer zone.

(B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(C) Water-quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.

(d) A 3-year monitoring, maintenance, and replacement program shall be included in all rehabilitation and enhancement plans. At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.

(e) A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a rehabilitation and enhancement plan.

350-100-580. General Management Area Sensitive Wildlife Review Criteria.

(1) Sensitive Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife

(a) Proposed uses shall not adversely affect sensitive wildlife areas or sensitive wildlife sites:

(A) "Sensitive wildlife areas" in the Columbia Gorge means the following land and water areas that appear in the wildlife inventory map prepared and maintained by the Gorge Commission:

- Bald eagle habitat
- Deer and elk winter range
- Elk habitat
- Mountain goat habitat
- Peregrine falcon habitat
- Pika colony area
- Pileated woodpecker habitat
- Pine marten habitat
- Shallow water fish habitat (Columbia R.)
- Special streams
- Special habitat area
- Spotted owl habitat
- Sturgeon spawning area
- Tributary fish habitat
- Turkey habitat
- Waterfowl area
- Western pond turtle habitat

(B) "Sensitive wildlife sites" means sites that are used by animal species that are

(i) listed as endangered or threatened pursuant to federal or state endangered species acts,

(ii) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,

(iii) listed as sensitive by the Oregon Fish and Wildlife Commission, or

(iv) considered to be of special interest to the public (limited to great blue heron, osprey, golden eagle, and prairie falcon).

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive wildlife area or site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) The following uses may be allowed within 1,000 feet of sensitive wildlife areas and sites without review, if they do not involve new structures, vegetation removal, or actions that disturb the ground, such as grading, or ditching beyond the extent specified below:

(a) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation.

(b) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(c) Forest practices that do not violate conditions of approval for other approved uses.

(d) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(e) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.

(3) Field Survey

A field survey to identify sensitive wildlife areas or sites shall be required for:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a professional wildlife biologist hired by the project applicant. All sensitive wildlife areas and sites discovered in a project area shall be described and shown on the site plan map.

(4) Uses not listed in Commission Rule 350-100-580(2) may be allowed within 1,000 feet of a sensitive wildlife area or site, when approved pursuant to Commission Rule 350-100-580(5) and reviewed under the applicable provisions of Commission Rule 350-100-520 through 350-100-620.

(5) Uses that are proposed within 1,000 feet of a sensitive wildlife area or site shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon Department of Fish and Wildlife or the Washington Department of Wildlife by the Development Review Officer. State wildlife biologists will review the site plan and their field survey records and:

(A) Identify/verify the precise location of the wildlife area or site,

(B) Ascertain whether the wildlife area or site is active or abandoned, and

(C) Determine if the proposed use may compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify the wildlife inventory and assess the potential effects of a proposed use.

(b) The following factors may be considered when site plans are reviewed:

(A) Biology of the affected wildlife species.

(B) Published guidelines regarding the protection and management of the affected wildlife species. The Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron. The Washington Department of Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner, 1991).

(C) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(D) Historic, current, and proposed uses in the vicinity of the sensitive wildlife area or site.

(E) Existing condition of the wildlife area or site and the surrounding habitat and the useful life of the area or site.

(c) The wildlife protection process may terminate if the Development Review Officer, in consultation with the state wildlife agency, determines:

(A) The sensitive wildlife area or site is not active, or

(B) The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

(d) If the Development Review Officer, in consultation with the state wildlife agency, determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the applicant that describes the effects and measures needed to eliminate them. If the project applicant accepts these recommendations, the Development Review Officer will incorporate them into the land use review order and the wildlife protection process may conclude.

(e) The project applicant shall prepare a wildlife management plan if the Development Review Officer, in consultation with the state wildlife agency, determines that the proposed use would adversely affect a sensitive wildlife area or site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing.

(f) The Development Review Officer shall submit a copy of all field surveys and wildlife management plans to Oregon Department of Fish and Wildlife or Washington Department of Wildlife. The state wildlife agency will have 20 days from the date that a field survey or management plan is mailed to submit written comments to the Development Review Officer.

The Development Review Officer shall record and address any written comments submitted by the state wildlife agency in the land use review order.

Based on the comments from the state wildlife agency, the Development Review Officer will make a final decision

on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the Development Review Officer shall justify how the opposing conclusion was reached.

The Development Review Officer shall require the applicant to revise the wildlife management plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

(6) Wildlife Management Plans

Wildlife management plans shall be prepared when a proposed use is likely to adversely affect a sensitive wildlife area or site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his/her development options, and mitigates temporary impacts to the wildlife area or site and/or buffer zone.

Wildlife management plans shall meet the following guidelines:

(a) Wildlife management plans shall be prepared by a professional wildlife biologist hired by the project applicant.

(b) All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the wildlife area or site.

(c) The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components, that are essential to maintain the long-term use and integrity of the wildlife area or site.

(d) A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.

(e) The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect sensitive wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:

(A) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. Low intensity, non-destructive uses may be conditionally authorized in the core habitat.

(B) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.

(f) Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones.

When a buffer zone has been altered or degraded in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife area or site.

Rehabilitation and enhancement actions shall be documented in the wildlife management plan and shall include a map and text.

(g) The applicant shall prepare and implement a 3 year monitoring plan when the affected wildlife area or site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the wildlife area or site and the success of rehabilitation and/or enhancement actions.

At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the rehabilitation and enhancement guidelines.

(7) New fences in deer and elk winter range

(a) New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

(b) New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson, et. al. 1990), as summarized below, unless the applicant demonstrates the need for an alternative design:

(A) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.

(B) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

(C) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.

(D) Stays, or braces placed between strands of wire, shall be positioned between fences posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.

(c) Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

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350-100-590. General Management Areas Rare Plant Review Criteria.

(1) Sensitive Plants and Site Plans for Review Uses Near Sensitive Plants

(a) Proposed uses shall not adversely affect sensitive plants. "Sensitive plants" means plant species that are

(A) endemic to the Columbia River Gorge and vicinity,

(B) listed as endangered or threatened pursuant to federal or state endangered species acts, or

(C) listed as endangered, threatened, or sensitive by the Oregon or Washington Natural Heritage program.

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive plant shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) The following uses may be allowed within 200 feet of a sensitive plant without review, if they do not involve new structures, vegetation removal, or actions that disturb the ground, such as grading or ditching beyond the extent specified below:

(a) Low-intensity recreation uses, including hunting, fishing, trapping, native plant study, bird watching, boating, swimming, and hiking. Regarding sensitive plants, horseback riding is not considered a low-intensity use.

(b) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation.

(c) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(d) Forest practices that do not violate conditions of approval for other approved uses.

(e) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(3) Field Survey

A field survey to identify sensitive plants shall be required for:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. Field surveys shall identify the precise location of the sensitive plants and delineate a 200-foot buffer zone. The results of a field survey shall be shown on the site plan map.

(4) Uses not listed in Commission Rule 350-100-590(2) may be allowed within 1,000 feet of a sensitive plant, when approved pursuant to Commission Rule 350-100-590(5), and reviewed under the applicable provisions of Commission Rule 350-100-520 through 350-100-620.

(5) Uses that are proposed within 1,000 feet of a sensitive plant shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon or Washington Natural Heritage Program by the Development Review Officer. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer zone on the project applicant's site plan.

If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

(b) The rare plant protection process may conclude if the Development Review Officer, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a sensitive plant buffer zone.

(c) New uses shall be prohibited within sensitive plant species buffer zones, except those listed in Commission Rule 350-100-590(2).

(d) If a proposed use must be allowed within a sensitive plant buffer area in accordance with Commission Rule 350-100-150, the project applicant shall prepare a protection and rehabilitation plan pursuant to Commission Rule 350-100-590(6).

(e) The Development Review Officer shall submit a copy of all field surveys and protection and rehabilitation plans to the Oregon or Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that a field survey is mailed to submit written comments to the Development Review Officer.

The Development Review Officer shall record and address any written comments submitted by the Natural Heritage Program staff in the land use review order.

Based on the comments from the Natural Heritage Program staff, the Development Review Officer will make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Development Review Officer shall justify how the opposing conclusion was reached.

(6) Protection and Rehabilitation Plans

Protection and rehabilitation plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a sensitive plant buffer zone as the result of a variance.

Protection and rehabilitation plans shall meet the following guidelines:

(a) Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist hired by the project applicant.

(b) Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.

(c) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

(d) Sensitive plants and their surrounding habitat that will not be altered or destroyed shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation easements, livestock management, and noxious weed control.

(e) Habitat of a sensitive plant that will be affected by temporary uses shall be rehabilitated to a natural condition.

(f) Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.

(g) Protection and rehabilitation plans shall include maps, photographs, and text. The text shall:

(A) Describe the biology of sensitive plant species that will be affected by a proposed use.

(B) Explain the techniques that will be used to protect sensitive plants and their surrounding habitat that will not be altered or destroyed.

(C) Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will result from a proposed use.

(D) Include a 3-year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the Development Review Officer an annual report that documents milestones, successes, problems, and contingency actions.

(7) Sensitive Plant Buffer Zones

(a) A 200-foot buffer zone shall be maintained around sensitive plants. Buffer areas shall remain in an undisturbed, natural condition.

(b) Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, man-made features, or natural plant habitat boundaries negate the need for a 200 foot radius. Under no circumstances shall the buffer zone be less than 25 feet.

(c) Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the project applicant:

(A) Identifies the precise location of the sensitive plants,

(B) Describes the biology of the sensitive plants, and

(C) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.

All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.

(d) The Development Review Officer shall submit all requests to reduce sensitive plant species buffer areas to the Oregon or Washington Natural Heritage Program. The

Natural Heritage Program staff will have 20 days from the date that such a request is mailed to submit written comments to the Development Review Officer.

The Development Review Officer shall record and address any written comments submitted by the Oregon or Washington Natural Heritage Program in the land use review order.

Based on the comments from the Oregon or Washington Natural Heritage Program, the Development Review Officer will make a final decision on whether the reduced buffer area is justified. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Development Review Officer shall justify how the opposing conclusion was reached.

350-100-600. Special Management Areas Natural Resource Review Criteria.

All new developments and land uses shall be evaluated to ensure that the natural resources on a site, or natural resources in danger of degradation or destruction from individual or cumulative off-site impacts, are protected from adverse effects. The Forest Service will provide the natural resource site evaluation and project analysis and evaluation for new uses and developments, except those sponsored by non-Forest Service federal and state agencies.

(1) Buffer zones shall be undisturbed unless it has been shown that no practicable alternatives exist, pursuant to Commission Rule 350-100-560 (6(a)(A) through (C)), substituting the name of the resource as appropriate. New developments and uses may only be allowed in the buffer zone upon demonstration in the natural resources mitigation plan that no adverse effects would result.

(2) The applicant's site plan shall include the following additional information to facilitate evaluation for compliance with minimum natural resource protection guidelines:

(a) Location of the following sites and areas. The Forest Service will provide this information to the applicant.

(A) Sites of sensitive wildlife and sensitive plant species.

(B) Location of riparian and wetland areas. The exact location of the wetlands boundaries shall be delineated using the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (Federal Inter-agency Committee for Wetland Delineation, 1989). Changes to this manual shall not apply to wetlands in the Special Management Area unless the Management Plan has been amended.

(b) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.

(3) Site plans shall be submitted to the Forest Service, and the Oregon Department of Fish and Wildlife or Washington Department of Wildlife. The site plan shall be reviewed by the Forest Service in consultation with the appropriate state or federal agency and reviewed and approved by the Development Review Officer.

(4) Review of the site plan shall consider the following:

(a) Biology and habitat requirements of the flora or fauna of concern.

(b) Historic, current, and proposed uses in the vicinity of sensitive species, including cumulative effects.

(c) Existing condition of the site and the surrounding habitat and the useful life of the site.

(d) Physical characteristics of the subject parcel and vicinity, including topography, vegetation, and soil and hydrological characteristics.

(e) Minimum natural resource protection guidelines including buffer zones.

(f) Closure of forest practice roads necessary to protect natural resources.

(g) Comments from state and federal agencies.

(5) Minimum natural resource protection guidelines include:

(a) Sites of sensitive wildlife and sensitive plant species.

(A) A 200-foot buffer zone shall be created for sensitive plant species.

(B) A buffer zone for sites of sensitive wildlife species, such as nesting, roosting and perching sites, as defined by species requirements shall be as determined by a Forest Service biologist in consultation with other state or federal agency biologists.

(b) Riparian areas, wetlands, parks, and lakes.

(A) Adding any fill or draining of wetlands is prohibited.

(B) A minimum 200-foot buffer zone shall be created on the landward side of each wetland, pond or lake; or a wider variance from this requirement shall be determined during the site plan analysis of the wetland or riparian area and those species inhabiting the area as determined by the Forest Service biologist in consultation with state and/or federal agencies;

(C) A 200 foot buffer zone shall be created along each fish-bearing and perennial stream.

(D) A 50-foot buffer zone shall be created along intermittent streams.

(E) Revegetation shall use only species native to the Columbia River Gorge, and shall provide and maintain habitat diversity beneficial to the fish, wildlife and native plants.

(F) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all the following:

(i) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way;

(ii) The wetland is not critical habitat; and

(iii) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.

(c) Fish and wildlife habitat:

(A) Structures such as bridges, culverts, and utility corridors shall be designed so as not to impede the passage of fish and wildlife.

(B) New developments and uses shall not interfere with fish passage.

(C) Filling of shallow-water fishery habitat shall be allowed only after an analysis shows that no other practicable sites exist. Filling shall only be considered for water-dependent uses, and mitigation shall be required.

(D) New developments and uses shall occur during periods when fish and wildlife are least sensitive to activities. This would include, among others, nesting and brooding periods (from nest building to fledgling of young), and those periods specified in "Oregon Guidelines for Timing of

In-Water Work to Protect Fish and Wildlife Resources" (Oregon Dept. of Fish and Wildlife 1986).

(E) In areas of big game winter range, adequate thermal cover shall be maintained as determined by the appropriate state wildlife agency.

(F) Forest practices shall maintain the following:

(i) Six live trees per acre, three of which shall be of the largest tree size available and three of which shall be of various sizes to provide replacements as snags and wildlife trees; and three dead trees per acre, of the largest tree size available; and three down trees per acre in the largest tree size available. All trees shall be unburned.

In areas with mixed oak and conifer stands, at least one of the three dead trees per acre shall be an oak snag of the largest tree size and one additional live conifer per acre of 16-inch diameter at breast height (dbh) or greater, preferably with limbs down to the ground, shall be maintained.

(ii) Snags and wildlife trees shall be maintained either as clumps or evenly distributed over the forest practice area.

(iii) Down logs shall be relatively solid and no area greater than two acres in size and capable of supporting forested conditions shall be without a minimum of two down logs.

(d) Bio-diversity.

(A) New uses shall avoid disturbance to old-growth forests.

(B) Forest practices shall maintain species composition at existing proportions in the activity area.

(C) Forest practices in areas with existing oak species, shall maintain a minimum of 25 square feet basal area per acre of oak in areas with predominantly oak trees of 1-foot dbh or more, or maintain a minimum forty percent oak canopy cover per 40 acres in which 10 trees per acre must be of the largest tree size, in areas with predominantly oak trees less than 1-foot dbh. No area greater than 10 acres in size and supporting existing oak species shall be devoid of oak trees.

(D) A mix in age and size of hardwoods shall be maintained to provide vertical diversity and replacement.

(E) For revegetation purposes, only plants species native to the Columbia River Gorge shall be encouraged.

(e) Soil productivity.

(A) New developments and land uses shall control all soil movement within the area shown on the site plan.

(B) The soil area disturbed by new development or land uses shall not exceed 15 percent of the project area.

(C) Within one year of project completion 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

(D) Forest practices shall maintain the following:

(i) Soil organic matter shall be provided at a minimum of 15 tons per acre and 25 tons per acre of dead and down woody material in the east and west side vegetation communities, respectively.

(ii) Potential ground disturbance activities shall be designed to minimize disturbance to the soil organic horizon.

(f) Air and water quality.

(A) Streambank and shoreline stability shall be maintained or restored with natural revegetation.

(B) All new developments shall be carried out to comply with state water quality requirements.

(C) County, state, and federal regulations for air and water quality and for pesticide use shall be followed.

(D) Existing levels of air visibility shall not be degraded.

(g) The applicant shall develop a natural resource mitigation plan for all new developments or uses proposed within a buffer zone. The applicant's mitigation plan shall:

(A) Include existing natural and cultural features.

(B) Include proposed actions within and adjacent to the buffer zone.

(C) Include mitigation measures as necessary to comply with the minimum natural resource protection guidelines and protect natural resources from adverse effects.

(D) Be prepared by a natural resource specialist as defined.

(E) Demonstrate mitigation measures that would offset the adverse effects of the proposed new use or developments and that would ensure protection, long-term viability, and function of the resource being protected by the buffer zone.

(F) Be reviewed to ensure the proposed mitigation measures are adequate and comply with minimum natural resource protection guidelines by the Forest Service in consultation with appropriate state or federal agencies and reviewed and approved by the Development Review Officer.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-100-610. General Management Areas Recreation Resource Review Criteria.

The following uses may be allowed, subject to compliance with Commission Rule 350-100-610 (5) and (6).

(1) Recreation Intensity Class 1 - Very Low Intensity

(a) Parking areas for a maximum of 10 cars for any allowed uses in Recreation Intensity Class 1.

(b) Trails for hiking, equestrian and mountain biking use.

(c) Pathways for pedestrian and bicycling use.

(d) Trailheads (with provisions for hitching rails and equestrian trailers at trailheads accommodating equestrian use).

(e) Scenic viewpoints and overlooks.

(f) Wildlife/botanical viewing and nature study areas.

(g) River access areas.

(h) Simple interpretive signs and/or displays, not to exceed a total of 50 square feet.

(i) Entry name signs not to exceed 10 square feet per sign.

(j) Boat docks, piers or wharfs.

(k) Picnic areas.

(l) Rest-rooms/comfort facilities.

(2) Recreation Intensity Class 2 - Low Intensity

(a) All uses permitted in Recreation Intensity Class 1.

(b) Parking areas for a maximum of 25 cars, including spaces for campground units, to serve any allowed uses in Recreation Intensity Class 2.

(c) Simple interpretive signs and displays, not to exceed a total of 100 square feet.

(d) Entry name signs not to exceed 20 square feet per sign.

(e) Boat ramps, not to exceed two lanes.

(f) Campgrounds for 20 units or less, tent sites only.

(3) Recreation Intensity Class 3 - Moderate Intensity

(a) All uses permitted in Recreation Intensity Classes 1 and 2.

(b) Parking areas for a maximum of 75 cars, including spaces for campground units, for any allowed uses in Recreation Intensity Class 3.

(c) Interpretive signs, displays and/or facilities.

(d) Visitor information and environmental education signs, displays or facilities.

(e) Entry name signs not to exceed 32 square feet per sign.

(f) Boat ramps, not to exceed three lanes.

(g) Concessions stands, pursuant to applicable policies in Chapter 4, Part I of the Management Plan.

(h) Campgrounds for 50 individual units or less for tents and/or recreational vehicles, with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 3 campgrounds may also include one group campsite area, in addition to the individual campground units or parking area maximums allowed as described herein.

(4) Recreation Intensity Class 4 - High Intensity

(a) All uses permitted in Recreation Intensity Classes 1, 2, and 3.

(b) Parking areas for a maximum of 250 cars, including spaces for campground units, for any allowed uses in Recreation Intensity Class 4.

(c) Horseback riding stables and associated facilities.

(d) Entry name signs, not to exceed 40 square feet per sign.

(e) Boat ramps.

(f) Campgrounds for 175 individual units or less for tents and/or recreation vehicles with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 4 campgrounds may also include up to 3 group campsite areas, in addition to individual campsite units or parking area maximums allowed as described herein.

(5) Approval Criteria for Recreation Uses

All proposed recreation projects outside of Public Recreation or Commercial Recreation land use designations shall comply with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-100-520 through 350-100-620) and shall satisfy the following:

(a) Compliance with Commission Rule 350-100-520 through 610.

(b) Cumulative effects of proposed recreation projects on landscape settings shall be based on the "compatible recreation use" guideline for the landscape setting in which the use is located.

(c) For proposed recreation projects in or adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland:

(A) The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted

to forest or farm uses. Provision of on-site buffers may be used to partially or fully comply with this criterion, depending upon project design and/or site conditions.

(B) A declaration has been signed by the project applicant or owner and recorded with county deeds and records specifying that the applicant or owner is aware that operators are entitled to carry on accepted forest or farm practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland.

(d) For proposed projects including facilities for outdoor fires for cooking or other purposes or proposed campgrounds:

The project applicant shall demonstrate that a sufficient quantity of water necessary for fire suppression (as determined pursuant to applicable fire codes or the county fire marshal) is readily available to the proposed facility, either through connection to a community water system or on-site wells, storage tanks, sumps, ponds or similar storage devices. If connection to a community water system is proposed, the project applicant shall demonstrate that the water system has adequate capacity to meet the facility's emergency fire suppression needs without adversely affecting the remainder of the water system with respect to fire suppression capabilities. In addition, in order to provide access for fire-fighting equipment, access drives shall be constructed to a minimum of 12 feet in width and a maximum grade of 12 percent. Access drives shall be maintained to a level that is passable to fire-fighting equipment.

(e) Trail or trailhead projects shall comply with applicable trails policies in the Management Plan.

(f) For proposed projects providing boating or windsurfing access to the Columbia River or its tributaries: compliance with applicable "River Access and Protection of Treaty Rights" objectives in the Management Plan.

(g) For proposed projects on public lands or proposed projects providing access to the Columbia River or its tributaries: compliance with guidelines for protection of tribal treaty rights in Part IV, Chapter 3, Indian Tribal Treaty Rights and Consultation in the Management Plan.

(h) For proposed projects which include interpretation of natural or cultural resources:

A demonstration that the interpretive facilities will not adversely affect natural or cultural resources and that appropriate and necessary resource protection measures shall be employed.

(i) For proposed Recreation Intensity Class projects (except for projects predominantly devoted to boat access):

A demonstration that the project accommodates provision of mass transportation access to the site. The number and size of the mass transportation facilities shall reflect the physical capacity of the site. This requirement may be waived upon a demonstration that provision of such facilities would result in overuse of the site, either degrading the quality of the recreation experience or adversely affecting other resources at the site.

(6) Facility Design Guidelines for All Recreation Projects

(a) Recreation facilities which are not resource-based in nature may be included at sites providing resource-based recreation uses consistent with the guidelines contained herein, as long as such facilities comprise no more than

one-third of the total land area dedicated to recreation uses and/or facilities. Required landscaped buffers may be included in calculations of total land area dedicated to recreation uses and/or facilities.

(b) The facility design guidelines contained herein are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another.

To be considered a separate facility from other developments or improvements within the same Recreation Intensity Class, recreation developments or improvements must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

(c) Parking areas, access roads, and campsites shall be sited and designed to fit into the existing natural contours as much as possible, both to minimize ground-disturbing grading activities and utilize topography to screen parking areas and associated structures. Parking areas, access roads, and campsites shall be sited and set back sufficiently from bluffs so as to be visually subordinate as seen from Key Viewing Areas.

(d) Existing vegetation, particularly mature trees, shall be maintained to the maximum extent practicable, and utilized to screen parking areas and campsites from Key Viewing Areas and satisfy requirements for perimeter and interior landscaped buffers.

(e) Parking areas providing over 50 spaces shall be divided into discrete "islands" separated by unpaved, landscaped buffer areas.

(f) Lineal frontage of parking areas and campsite loops to Scenic Travel Corridors shall be minimized to the greatest extent practicable.

(g) Ingress/egress points shall be consolidated to the maximum extent practicable, providing for adequate emergency access pursuant to applicable fire and safety codes.

(h) Signage shall be limited to that necessary to provide relevant recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes.

(i) Exterior lighting shall be shielded, designed and sited in a manner which prevents such lighting from projecting off-site or being highly visible from Key Viewing Areas.

(j) Innovative designs and materials which reduce visual impacts (such as "turf blocks" instead of conventional asphalt paving) shall be encouraged through incentives such as additional allowable parking spaces and reduce required minimum interior or perimeter landscaped buffers. Upon determination that potential visual impacts have been substantially reduced by use of such designs and materials, the Development Review Officer may allow either reductions in required minimum interior or perimeter landscape buffers up to 50 percent of what would otherwise be required, or additional parking spaces not to exceed 10 percent of what would otherwise be permitted.

(k) A majority of trees, shrubs and other plants in landscaped areas shall be species native or naturalized to the landscape setting in which they occur (landscape setting design guidelines specify lists of appropriate species).

(l) All structures shall be designed such that height, exterior colors, reflectivity, mass and siting result in the

structures blending with and not noticeably contrasting with their setting.

(m) Landscape buffers around the perimeter of parking areas accommodating more than 10 vehicles shall be provided. Minimum required widths are 5 feet for 20 vehicles or less, 20 feet for 50 vehicles or less, 30 feet for 100 vehicles or less, and 40 feet for 250 vehicles or less.

(n) Interior landscaped buffers breaking up continuous areas of parking shall be provided for any parking areas over 50 spaces in size. The minimum width of interior landscaped buffers between each parking lot of 50 spaces or less shall be 20 feet.

(o) Within required perimeter and interior landscaped buffer areas, a minimum of one tree of at least 6 feet in height shall be planted for every 10 lineal feet as averaged for the entire perimeter width. A minimum of 25 percent of planted species in perimeter buffers shall be coniferous to provide screening during the winter. Project applicants are encouraged to place such trees in random groupings approximating natural conditions. In addition to the required trees, landscaping shall include appropriate shrubs, groundcover and other plant materials.

(p) Minimum required perimeter landscape buffer widths for parking areas or campgrounds may be reduced by as much as 50 percent, at the discretion of the Development Review Officer, if existing vegetation stands and/or existing topography are utilized such that the development is not visible from any Key Viewing Area.

(q) Grading or soil compaction within the drip line of existing mature trees shall be avoided to the maximum extent practicable, to reduce risk of root damage and associated tree mortality.

(r) All parking areas and campsites shall be set back from Scenic Travel Corridors, and the Columbia River and its major tributaries at least 100 feet. Required perimeter landscaped buffers may be included when calculating such setbacks. Setbacks from rivers shall be measured from the ordinary high water mark. Setbacks from Scenic Travel Corridors shall be measured from the edge of road pavements.

(s) Project applicants shall utilize measures and equipment necessary for the proper maintenance and survival of all vegetation utilized to meet the landscape guidelines contained herein, and shall be responsible for such maintenance and survival.

(t) All parking areas shall be set back from property boundaries by at least 50 feet. All campsites and associated facilities shall be set back from property boundaries by at least 100 feet.

(u) All proposed projects at levels consistent with Recreation Intensity Class 4 on lands classified RIC 4 (except for proposals predominantly devoted to boat access) shall comply with Commission Rule 350-100-610 (5)(h) regarding provision of mass transportation access.

350-100-620. Special Management Area Recreation Resource Review Criteria.

(1) The following shall apply to all new recreation developments and land uses in the Special Management Area:

(a) New developments and land uses shall not displace existing recreational use.

(b) Recreation resources shall be protected from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both on and off site cumulative effects shall be required.

(c) New pedestrian or equestrian trails shall not have motorized uses, except for emergency services.

(d) Mitigation measures shall be provided to preclude adverse effects on the recreation resource.

(e) The facility guidelines contained in Commission Rule 350-100-620(1) are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another. Recreation developments or improvements to be considered a separate facility from other developments or improvements within the same Recreation Intensity Class must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

(f) New development and reconstruction of scenic routes (see Part III, Chapter 1 of the Management Plan) shall include provisions for bicycle lanes.

(g) The Development Review Officer may grant a variance of up to 10 percent to the guidelines of Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from National Scenic Area recreation demand studies shall be relied upon to meet the criterion in the absence of current applicable studies.

(B) The proposed use is dependent on resources present at the site.

(C) Reasonable alternative sites, including those in Urban Areas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

(D) The proposed use is consistent with the goals, objectives, and policies in Chapter 4, Part I of the Management Plan.

(E) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.

(F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

(2) Special Management Areas Recreation Intensity Class Guidelines

(a) Recreation Intensity Class 1 - Very Low Intensity
Emphasis is to provide opportunities for semi-primitive recreation opportunities.

(A) Permitted uses are those in which people participate in outdoor activities to realize experiences such as solitude, tension reduction, and nature appreciation.

(B) The maximum site design capacity shall not exceed 35 people at one time on the site. The maximum design capacity for parking areas shall be 10 vehicles.

(C) The following uses may be permitted:

(i) Trails and trailheads.

(ii) Parking areas.

(iii) Dispersed campsites accessible only by a trail.

(iv) Viewpoints and overlooks.

(v) Picnic areas.

(vi) Signs.

(vii) Interpretive exhibits and displays.

(viii) Rest-rooms.

(b) Recreation Intensity Class 2 - Low Intensity

Emphasis is to provide semi-primitive recreation opportunities.

(A) Permitted uses are those that provide settings where people can participate in activities such as physical fitness, outdoor learning, relaxation, and escape from noise and crowds.

(B) The maximum site design capacity shall not exceed 70 people at one time on the site. The maximum design capacity shall be 25 vehicles.

(C) All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class 2. The following uses may also be permitted:

(i) Campground with vehicle access.

(ii) Boat anchorages designed for no more than 10 boats at one time.

(iii) Swimming areas.

(c) Recreation Intensity Class 3 - Moderate Intensity

Emphasis is on facilities with design themes emphasizing the natural qualities of the area. Developments are complementary to the natural landscape, yet can accommodate moderate numbers of people.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as group socialization, nature appreciation, relaxation, cultural learning, and physical activity.

(B) Maximum site design capacity shall not exceed 250 people at one time on the site. The maximum design capacity shall be 50 vehicles. The General Management vehicle capacity level of 75 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 10% of the site.

(C) All uses permitted in Recreation Intensity Classes 1 and 2 are permitted in Recreation Intensity Class 3. The following uses may also be permitted:

(i) Campgrounds improvement may include water, power, sewer, and sewage dump stations.

(ii) Boat anchorages designed for not more than 15 boats.

(iii) Public visitor, interpretive, historic, and environmental education facilities.

(iv) Full service rest-rooms, may include showers.

(v) Boat ramps.

(vi) Riding stables.

(d) Recreation Intensity Class 4 - High Intensity

Emphasis is for providing road natural, rural, and suburban recreation opportunities with a high level of social interaction.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as socialization, cultural and natural history appreciation, and physical activity.

(B) The maximum design capacity shall not exceed 1000 people at one time on the site. The maximum design capacity for parking areas shall be 200 vehicles. The General Management Area vehicle capacity of 250 vehicles shall be allowed if enhancement or mitigation measures for

scenic, cultural, or natural resources are approved for at least 20 percent of the site.

(C) All uses permitted in Recreation Intensity Classes 1, 2, and 3 are permitted in Recreation Intensity Class 4.

NOTICE OF APPLICATION REQUIREMENTS

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
GENERAL MANAGEMENT AREA								
Residential LUD - Review uses except SFDs located adjacent to Agriculture & Forest LUDs, and those uses within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs except those within 1000' of sensitive wildlife area or site, or a rare plant	X	X	X	X		X		
Residential LUD - Review uses within 1000' of a sensitive wildlife area or site except SFDs located adjacent to Agriculture or Forest LUDs	X	X	X	X	X		X	
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs within 1000' of a sensitive wildlife area or site	X	X	X	X		X	X	
Residential LUD - Review uses within 1000' of a rare plant except SFDs located adjacent to Agriculture or Forest LUDs	X	X	X	X	X			X
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs within 1000' of rare plant	X	X	X	X		X		X
Agriculture LUD - Review uses except non-farm SFD in Large-Scale Agriculture LUD and uses within 1000' of sensitive wildlife area or site, or rare plant	X	X	X	X	X			
Agriculture LUD - Review uses within 1000' of sensitive wildlife area or site except non-farm SFD in Large-Scale Agriculture LUD	X	X	X	X	X		X	
Agriculture LUD - Review uses within 1000' of a rare plant except non-farm SFD in Large-Scale Agriculture LUD	X	X	X	X	X			X

MISCELLANEOUS

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
Agriculture LUD - Non-farm SFD in Large-Scale Agriculture LUD, except those within 1000' of sensitive wildlife area or site, or rare plant	X	X	X	X		X		
Agriculture LUD - Non-farm SFD in Large-Scale Agriculture within 1000' of sensitive wildlife area or site	X	X	X	X		X	X	
Agriculture LUD - Non-farm SFD in Large-Scale Agriculture within 1000' of rare plant	X	X	X	X		X		X
Forest LUD - Review uses except utility facilities, railroads, home occupations, cottage industries, wineries, ag. product process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities, and those review uses within 1000' feet of a sensitive wildlife area or site, or rare plant	X	X	X	X	X			
Forest LUD - Utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities, and not within 1000' feet of a sensitive wildlife area or site, or rare plant	X	X	X	X		X		

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
Forest LUD - Review uses within 1000' of a sensitive wildlife area or site, except utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities	X	X	X	X	X		X	
Forest LUD - Review uses within 1000' of a rare plant except utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities	X	X	X	X	X			X
Forest LUD - Utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities within 1000' of a sensitive wildlife area or site	X	X	X	X		X	X	
Forest LUD - Utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities within 1000' of a rare plant	X	X	X	X		X		X
Commercial LUD - Review uses except those within 1000' of a sensitive wildlife area or site, or rare plant	X	X	X	X	X			

MISCELLANEOUS

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
Commercial LUD - Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	
Commercial LUD - Review uses within 1000' of a rare plant	X	X	X	X	X			X
Recreation LUD - Review uses except those within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Recreation LUD - Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	
Recreation LUD - Review uses within 1000' of a rare plant	X	X	X	X	X			X
Open Space LUD - Review uses except those within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Open Space LUD - Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	
Open Space LUD - Review uses within 1000' of a rare plant	X	X	X	X	X			X
Agriculture-Special LUD - Review uses	X	X	X	X	X			X
SPECIAL MANAGEMENT AREAS								
Review Uses - All LUDs	X	X	X	X	X		X	

WSR 93-04-126
PROPOSED RULES
COLUMBIA RIVER
GORGE COMMISSION
 [Filed February 3, 1993, 11:37 a.m.]

The above named agency gives notice of hearing.
 Hearings to be Held: On April 8, 1993, at 9:00 a.m., Clark County PUD, 89 "C" Street, Washougal, WA.

The hearing will be continued to the commission's regularly scheduled meeting on April 13, 1993, with discussion and proposed adoption by the commission.

The Columbia River Gorge Commission proposes to adopt rules relating to land use ordinances for Clark County, 350-90, at its regularly scheduled meeting on April 13, 1993, at 10:30 a.m., Skamania Lodge, Rock Creek Drive, Stevenson, Washington.

Hearings Officer(s): Pat Bleakney, Chair.

Pursuant to the statutory authority of RCW 43.97.015 the following action is proposed: Adopt 350-90, Clark County land use ordinance.

No prior notice given.

Columbia River Gorge Commission
 Proposed Rule Adoption
 350-90

Summary: The rule sets forth a land use ordinance to implement the Columbia River Gorge National Scenic Area Management Plan in Clark County, Washington.

Statement of Need: 1. The National Scenic Area Act requires the commission to adopt land use ordinances in gorge counties that have not met the act's requirement and schedule for adopting county land use ordinances. 2. The public needs a detailed process for proceeding with land use applications under the Columbia River Gorge National Scenic Area Management Plan. 3. Delay in adoption of the rule will cause the commission to be out of compliance with the National Scenic Area Act.

Authority: 16 U.S.C. § 544 et seq., ORS 196.150 to ORS 165, and RCW 43.97.015 to 49.97.035 [43.97.035].

The proposed rule is necessary as a result of federal law, 16 U.S.C. § 544 et seq. The rule is proposed by the Columbia River Gorge Commission.

Documents Relied Upon: The Columbia River Gorge National Scenic Area Management Plan and the National Scenic Area Act. The documents are available at the commission office.

Effect of Rule: This rule will implement the Management Plan for the Columbia River Gorge National Scenic Area Act through a land use ordinance as required by the National Scenic Area Act. The rule is derived directly from the Management Plan. It includes guidelines for allowable land uses, provisions for protecting scenic, natural, cultural and recreational resources, and procedural requirements for making land use applications. These rules will have the effect of governing land uses within the "general management area" and "special management areas" of the Columbia River Gorge National Scenic Area. Any proposed development project on lands within these areas will be subject to the rule when making a land use application.

MISCELLANEOUS

Fiscal Impact:**I. Background**

Commission Rule 350-16-004 requires that the commission prepare: "A statement of fiscal impact identifying the state agencies, units of local government, and the public which may be economically affected by the adoption, amendment, or repeal of [a] rule and an estimate of that economic impact on state agencies, units or local government, and the public. In considering the economic effect of the proposed action on the public, the [commission] shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance on small businesses affected."

The proposed rule implements the Management Plan for the Columbia River Gorge National Scenic Area which was adopted by the Columbia River Gorge Commission in October 1991 and concurred with by the Secretary of Agriculture in February 1992. The Management Plan was written pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.R. [U.S.C.] § 544 et seq. (Public Law 99-663).

The act further requires that the gorge commission adopt land use ordinances for those counties which do not adopt their own. These proposed rules will implement the Management Plan in four of the six gorge counties; the other two counties have adopted their own land use ordinances which will implement the Management Plan.

The act identifies two purposes: To establish a national Scenic Area to protect and provide for the enhancement of the scenic, cultural, recreation, and natural resources of the Columbia River Gorge; and to protect and support the economy of the Columbia Gorge area by encouraging growth to occur in existing Urban Areas and by allowing future economic development in a manner that is consistent with paragraph 1.

The regulations of the act apply to only 90% of the land area in the Scenic Area (the General Management Areas and Special Management Areas). Urban areas, which make up the remaining 10% of the land area, are exempt from the regulations of the act. Urban areas are the cities, towns, and communities where there is significant residential, commercial, or industrial development and extensive supporting infrastructure; the majority of the population and economic activity in the Scenic Area is found in Urban Areas. Thus the proposed rules will affect only a small portion of the residents and businesses in the Scenic Area.

II. Enhancement of the Overall Economy

Implementing the Management Plan will protect and enhance the overall economy of the Scenic Area in many ways:

Utilizing the over \$32 million in federal funding which was authorized in the Scenic Act for recreation and economic development.

Increasing tourism by protecting the scenic, natural, and cultural resources, and enhancing recreational opportunities.

Protecting agricultural and forest land for continued agriculture and forest management, two of the regions principal industries.

Enhancing the economic viability of gorge communities by encouraging economic growth in Urban Areas and Rural Centers.

Economic Development Monies. Congress authorized over \$32 million in federal monies for recreation and economic development. The authorizations are as follows:

\$10 million for recreation development

\$5 million for an Oregon interpretive center

\$5 million for a Washington conference center

\$2.8 million to restore the Historic Columbia River Highway

\$5 million each to Oregon and Washington for the purpose of making economic development loans and grants

Increasing Tourism. In 1987, approximately 3.8 million nonresident visitors traveled through and/or participated in recreation activities in the Scenic Area. Total 1987 nonresident visitor expenditures were estimated to be approximately \$61.8 million. (Economics Research Associates, 1988)

Grant funds will be given over several years to promote the Scenic Area and a number of major developments are currently underway or being planned. These include the new Skamania Lodge in Stevenson, Washington, and the proposed Discovery Center near The Dalles, Oregon. Constructing and operating these new facilities provides many new jobs for Scenic Area residents.

For example, over a ten year period, Skamania Lodge is expected to generate approximately 235 jobs with an annual payroll over \$3.9 million. In related services, the lodge is expected to generate 460 jobs and annual expenditures of \$25 million.

Additional recreation development is allowed on virtually all land in the Scenic Area. Expanding recreational opportunities was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Protecting Resource Land. The gorge has a long history of land-based industries. Extensive agriculture and forest management operations remain in the Scenic Area. Approximately 140,000 acres (nearly one-half) of the Scenic Area is designated either agriculture or forest land. In 1987, the total forest industry employment was over 4,000 with a total payroll of approximately \$100 million. (Economics Research Associates from industry, 1988)

By limiting further fragmentation of this resource land for residential uses, the Management Plan encourages the retention of these resource-based jobs and supports an existing strong industry. Protecting resource land was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Enhancing the economic viability of gorge communities. The Management Plan encourages growth to occur in Urban Areas and rural centers. By limiting commercial and other urban-related activities in more rural areas, the need to expand infrastructure to remote locations is reduced, and existing infrastructure is used more efficiently. As communities spend less money extending urban services, they will be better able to support business development and expansion in areas where urban services already exist. Some commercial development which is less reliant on urban services is allowed outside of Urban Areas. Limiting major infrastructure investment was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

III. Effects on State Agencies and Local Government

The Scenic Act envisions a partnership between federal, state, and local agencies and the gorge commission. Together the expertise of each agency will achieve the purposes of the act. The planning process used to develop the Management Plan allowed each agency to clarify its own role. While it is not possible to quantify to economic effects to each agency, below is a discussion of possible effects.

State Agencies. A number of state agencies, such as Fish and Wildlife, Archaeology and Historic Preservation, and Transportation have important roles in the proposed rules. These agencies are given an opportunity to comment on proposed development projects. In most cases, comments from these agencies will not be required.

These agencies have already transferred enough information to the gorge commission so that the commission staff may evaluate potential impacts. Thus the commission is already doing much of the work that these agencies might do themselves.

It is not expected that the roles of these agencies will differ from their current roles. Currently, these agencies are given an opportunity to comment on proposed development projects, and additional information is often sent.

County Governments. There are six counties in the Scenic Area; however, the proposed rules will apply to only four of the six counties. Possible economic effects on these counties is not expected to differ from the current situation. Although the gorge commission will continue to make land use permitting decisions, counties will continue to be an important part of the land use decision process. This has some economic effects.

The burden of administering the proposed rule, including staff time and mailing costs, will still lie with the gorge commission. And counties will not [be] liable for any costs related to implementing the land use decisions made by the gorge commission. A potential benefit to counties is the opportunity to adopt the ordinances written by the gorge commission. This will help defray the costs of writing ordinances themselves.

The only additional economic cost to counties will be not having access to the federal recreation and economic development monies. Only when these counties adopt their own land use ordinances, and those ordinances are found to be consistent with the Management Plan, are these counties and the Urban Areas within the counties become eligible for the federal economic and recreation development funds authorized in the act.

Columbia River Gorge Commission. The gorge commission will continue to make land use decisions on proposed development projects in these four counties. The decision-making process is expected to remain much the same as the current process, except that additional time will be necessary to collect all the necessary information to make a full decision. The gorge commission will be assisted by many other agencies such as state natural resource and archaeological agencies, the U.S. Forest Service, and Native American Tribal Governments.

Administration of the land use ordinances by the gorge commission will also limit the time that the gorge commission can spend on implementing recreation and economic development projects and lobbying for additional funds.

Native American Tribal Governments. Native American Tribal Governments will be consulted under the proposed rules and will have the opportunity to review and comment on proposed new uses on lands or in waters where cultural resources exist and where tribal members exercise treaty or other rights. The tribal governments have a similar role now and would have the same role even if the counties adopted their own ordinances.

IV. Effects on the Public and Small Businesses

Landowners and the public. Implementing the Management Plan will immediately institute uniformity in regulations, predictability in decision-making, and simplification of the decision process. These are positive effects of the proposed rules. Landowners will have a much better understanding of the value of their land without the uncertainty of the development guidelines currently in effect. Many landowners or potential buyers have submitted land use development applications just to find out what they could potentially build on the land. The proposed rules will eliminate many of the current costly delays and unanticipated decisions.

Additional information prior to submittal of a land use application will be required. This however, follows the "Go slow to go fast" adage. Currently, most of the land use approvals require the applicant to return to the commission with color samples, refined site plans, and other information before construction begins. The new rules require this information up-front, thus when an approval is issued, in most cases, the applicant may proceed without further approvals from the gorge commission.

In addition, the proposed rules bring many resource protection laws under the same umbrella. The rules defer to some existing laws and mimics provisions of others. Completing the development review process in the new rules will assist landowners in meeting the needs of other natural resource agencies.

Potential economic costs to landowners include a somewhat longer decision-making process under the proposed rules, and some additional information requirements for major development projects. The proposed rule will increase the development review time from six weeks to ten weeks, and require more detail before an application will be accepted.

The gorge commission, in preparing the development guidelines for the General Management Area, was careful to ensure that a viable economic use was left on each individual parcel. In the Special Management Area, where some commercial-scale forest land was designated as open space, the forest service will buy the land within three years, or the land will revert to a nonrestrictive General Management Area designation. In the general management, forest practices are exempt from the regulations of the Management Plan, and thus exempt from these proposed rules.

Because the procedural and substantive development guidelines are given in the Management Plan, these economic effects are not unique to these proposed rules; they will be the same when the counties adopt their own land use ordinances.

Small Businesses. As mentioned above, the majority of the commercial and industrial activity in the Scenic Area occurs in the Urban Areas which are exempt from the regulations of the Management Plan and thus the proposed

rules as well. The proposed rules will not change the current or future operation of these activities.

The proposed rules will not have an economic effect on small businesses. Existing businesses are grandfathered and will not require new use permits. The most significant economic effect will come when the counties adopt their own land use ordinances, thus making the federal monies available for grants and loans.

V. Conclusion

While it is not possible to quantify the economic effects of the proposed rules, the greatest economic effect will be when the benefits counties receive when they adopt their own land use ordinances. Any new administrative costs will be generally absorbed by the gorge commission and not other agencies or the public.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by April 8, 1993, will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from: Columbia River Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, Attn: Jan Brending, Rules Coordinator, (509) 493-3323.

February 2, 1993
Jonathan Doherty

COLUMBIA RIVER GORGE COMMISSION

Chapter 350

Division 90

Clark County Land Use Ordinance

350-90-010. Purposes.

The purposes of the Land Use Ordinance are to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge, and to protect and support the economy of the Columbia River Gorge by allowing future economic development in a manner that enhances the scenic, cultural, recreational, and natural resources of the Gorge.

350-90-020. Area Affected.

Commission Rule 350-90 shall apply to all lands in Clark County, Washington within the Columbia River Gorge National Scenic Area as designated by the Columbia River Gorge National Scenic Area Act.

Commission Rule 350-90 becomes effective 30 days after adoption and filing by the Columbia River Gorge Commission with the exception of those portions of Commission Rule 350-90 pertaining to the Special Management Areas, which become effective upon concurrence by the Secretary of Agriculture.

Those portions of Commission Rule 350-90 pertaining to the General Management Area are no longer effective once Clark County has submitted a land use ordinance and the Columbia River Gorge Commission finds it consistent with the Management Plan. Those portions of Commission Rule 350-90 pertaining to the Special Management Area remain effective until the Secretary of Agriculture concurs on the ordinances adopted by Clark County.

350-90-030. Review and Approval Required.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged, including those proposed by state or federal agencies, in the Columbia River Gorge National Scenic Area except for the uses listed in Commission Rule 350-90, when considered under the applicable procedural and substantive guidelines of this Rule.

350-90-040. Definitions.

As used in Commission Rule 350-90, unless otherwise noted, the following words and their derivations shall have the following meanings:

(1) Accepted agricultural practice: A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

(2) Accessory building: A building or structure whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use.

(3) Active wildlife site: A wildlife site that has been used within the past 5 years by a sensitive wildlife species.

(4) Agency official: The federal, state, or local agency head or designee who has authority over a proposed project.

(5) Agricultural structure: A structure located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

(6) Agricultural use: The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

(a) The operation or use of farmland subject to any agriculture-related government program.

(b) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.

(c) Land planted in orchards or other perennials prior to maturity.

(d) Land under buildings supporting accepted agricultural practices.

Agricultural use does not include livestock feedlots.

(7) Anadromous fish: Species of fish that migrate upstream to freshwater after spending part of their life in the ocean (saltwater).

(8) Anaerobic: A condition in which molecular oxygen is absent (or effectively so) from the environment.

(9) Aquaculture: The cultivation, maintenance, and harvesting of aquatic species.

(10) Aquatic area: The water area of a stream, pond, or lake measured at the ordinary high water mark.

(11) Archaeological resources: See cultural resource.

(12) Archival research: Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.

(13) Bed and breakfast inn: An establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodations, not as rooming or boarding houses.

(14) Best management practices: Conservation techniques and management measures that

(a) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;

(b) minimize adverse affects to groundwater and surface-water flow and circulation patterns; and

(c) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.

(15) Biodiversity (SMA): A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.

(16) Boat landing: Cleared area or developed structure used to facilitate launching or retrieving watercraft.

(17) Buffer zone: An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.

(18) Building: Any structure used or intended for supporting or sheltering any use or occupancy.

(19) Camping or recreational vehicle: A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a sewer system (including septic tank), water, and electrical lines or is occupied on the same parcel for more than 60 days in any consecutive 12-month period.

(20) Campsite: Single camping unit, that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.

(21) Capability: The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.

(22) Cascadian architecture (SMA): Architectural style using native rock work, large timber, and steeply pitched roofs in a rustic manner.

(23) Catastrophic situations (SMA): Forces such as fire, insect and disease infestations, and earth movements.

(24) Childcare center: A facility providing daycare to three or more children, but not including:

(a) The provision of care that is primarily educational, unless provided to a preschool child for more than 4 hours a day.

(b) The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion.

(c) The provision of short-term care related to or associated with group athletic or social activities.

(d) The provision of daycare in the provider's home in the family living quarters for less than 13 children.

(25) Clearcut: A created opening of 1 acre or more.

(26) Columbia River Gorge National Scenic Area Graphic Signing System: Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.

(27) Commercial development/use: Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.

(28) Commercial forest products: These include timber for lumber, pulp, and firewood for commercial purposes.

(29) Commercial recreation: Any private (non-governmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.

(29) Community facility: Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.

(30) Consulting parties (cultural resources): Organizations or individuals who submit substantive written comments to a Development Review Officer in a timely manner because they are concerned with the effects of a proposed use on cultural resources.

(31) Contiguous land: Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.

(32) Counties: The six counties within the Scenic Area: Hood River, Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.

(33) Created opening (SMA): A created forest opening with less than 80 percent crown cover closure of trees averaging less than 20 feet tall.

(34) Creation (wetlands): A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).

(35) Cultivation: Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

(36) Cultural resource: Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:

(a) Archaeological resources. Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least 50 years old.

Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains, and associated artifacts.

(b) Historic buildings and structures. Standing or above-ground buildings and structures that are at least 50 years old.

Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.

(c) Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community.

Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.

(37) Cumulative effects: The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

(38) Cut: An area where soil or earth is excavated or removed in conjunction with development activities.

(39) Dedicated site: An area actively devoted to the current use and as delineated on the site plan.

(40) Deer and elk winter range: Areas normally used, or capable of being used, by deer and elk from December through April.

(41) Destruction of wetlands: Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.

(42) Developed recreation: Recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.

(43) Development: Any land division or structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.

(44) Diameter at breast height (dbh): The diameter of a tree as measured at breast height.

(45) Duplex: A building containing two dwelling units and designed for occupancy by two families.

(46) Dwelling, single-family: A detached building containing one dwelling unit and designed for occupancy by one family only.

(47) Dwelling unit: A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

(48) Effect on Treaty Rights: To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.

(49) Endemic: Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.

(50) Enhancement (natural resources): A human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.

(51) Ethnography: The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.

(52) Existing use or structure: A legally established use that existed before the effective date of the Scenic Area Act, the Management Plan, or a land use ordinance established pursuant to the Scenic Area Act. "Legally-established" means established in accordance with the law in effect at the time of establishment of the use.

(53) Exploration, development (extraction and excavation), and production of mineral resources: Includes all or any part of the process of surface, underground, or submerged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For the Management Plan, this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.

(54) Fill: The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.

(55) Fire break: A break in ground cover fuels, adjacent to and surrounding buildings.

(56) Forbs: Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grasslike plants.

(57) Foreground (SMA): One-half mile on either side of a traveled road or trail.

(58) Forest products: Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.

(59) Forest practices: Those activities related to the growing and harvesting of forest tree species, as defined by the Oregon Forest Practices Act or the Washington Forest Practices Act.

(60) Forest use: The growing, propagation, and harvesting of forest tree species and other forest products.

(61) Fully screened: A description of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan).

(62) Grade (ground level): The average elevation of the finished ground elevation as defined by the Uniform Building Code.

(63) Grading: Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(64) Height of building: The vertical distance from the grade to the highest point of the roof.

(65) Herbaceous: A plant with no persistent woody stem above the ground, with characteristics of an herb.

(66) Herbs: Nonwoody (herbaceous) plants, including grasses and grasslike plants, forbs, ferns, fern allies, and nonwoody vines. (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(67) Historic buildings and structures: See cultural resource.

(68) Historic survey: Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.

(69) Horses, boarding of: The stabling, feeding, and grooming for a fee, or the renting of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks.

(70) Hydric soil: A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

(71) In-lieu sites: Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 14 and Public Law 100-581, Section 401. Additional in-lieu sites will be provided for.

(72) Indian tribal government: The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakima Indian Nation (Tribal Council).

(73) Indian tribes: The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakima Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

(74) Industrial uses: Any use of land or water primarily involved in:

(a) Assembly or manufacture of goods or products,

(b) Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit,

(c) Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural

products, forest products, or recyclable materials for purposes other than retail sale and service, or

(d) Production of electric power for commercial purposes.

(75) Interpretive displays: Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.

(76) Key components: The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.

(77) Key viewing areas: Those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These include:

Historic Columbia River Highway

Crown Point

Highway I-84, including rest stops

Multnomah Falls

Washington State Route 14

Beacon Rock

Panorama Point Park

Cape Horn

Dog Mountain Trail

Cook-Underwood Road

Rowena Plateau and Nature Conservancy Viewpoint

Portland Women's Forum State Park

Bridal Veil State Park

Larch Mountain

Rooster Rock State Park

Bonneville Dam Visitor Centers

Columbia River

Washington State Route 141

Washington State Route 142

Oregon Highway 35

Sandy River

Pacific Crest Trail

SMA only:

Old Washington State Route 14 (County Road 1230)

Wyeth Bench Road

Larch Mountain Road

Sherrard Point on Larch Mountain

(78) Land division: The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.

(79) Landscape setting: The combination of land use, landform, and vegetation patterns that distinguish an area in appearance and character from other portions of the Scenic Area.

(80) Livestock feedlot: Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and fur bearers. Feedlots do not include winter pasture or winter hay-feeding grounds.

(81) Lot line adjustment: Transfer of a portion of a parcel from one owner to the owner of an adjacent parcel resulting in no increase in the number of parcels.

(82) Management plan: The document entitled Management Plan for the Columbia River Gorge National Scenic Area adopted October 14, 1991. The Management Plan becomes effective upon approval of land use ordinances by the Commission for the General Management Area and concurrence of land use ordinances by the Secretary of Agriculture for Special Management Area.

(83) Mitigation: The use of any or all of the following actions:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(84) Multifamily dwelling: A dwelling constructed or modified into two or more single-family units.

(85) Native species: Species that naturally inhabit an area.

(84) Natural resources: Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.

(86) Natural resource specialist: A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.

(87) Natural resource-based recreation (SMA): Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.

(88) Nonprofit organization: An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.

(89) Old growth: Any stand of trees 10 acres or greater generally containing the following characteristics:

(a) contain mature and overmature trees in the overstory and are well into the mature growth state;

(b) in coniferous forests, will usually contain a multilayered canopy and trees of several age classes;

(c) in coniferous forests, standing dead trees and down material are present; and

(d) evidences of man's activities may be present, but do not significantly alter the other characteristics and would be a subordinate factor in description of such a stand.

(90) Open Spaces: Unimproved lands not designated as agricultural lands or forest lands by the Management Plan and designated as open space by the Management Plan. Open spaces include:

(a) Scenic, cultural, and historic areas;

(b) Fish and wildlife habitat;

(c) Lands which support plant species that are endemic to the Scenic Area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;

(d) Ecologically and scientifically significant natural areas;

(e) Outstanding scenic views and sites;

(f) Water areas and wetlands;

(g) Archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;

(h) Potential and existing recreation resources; and

(i) Federal and state wild, scenic, and recreation waterways.

(91) Ordinary high water mark: The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.

(92) Parcel:

(a) Any parcel legally created by a short division, partition, or subdivision.

(b) Any unit of land legally created and separately described by deed or sales contract prior to November 17, 1986, if there were no applicable planning, zoning, and land division ordinances or regulations.

(c) In the state of Washington, a unit of land created and separately described by deed or sales contract after November 17, 1986 if the unit created was approved by the Gorge Commission or the Forest Service Scenic Area Office.

(d) A unit of land shall not be considered a separate parcel simply because the subject tract of land:

(A) Is a unit of land created solely to establish a separate tax account;

(B) Lies in different counties;

(C) Lies in different sections or government lots;

(D) Lies in different land use or zoning designations; or

(E) Is dissected by a public or private road.

(93) Partial retention: A visual quality objective that provides for management activities that may be evident but must remain visually subordinate to the characteristic landscape. Activities may repeat form, line, color, or texture common to the characteristic landscape, but changes in their qualities of size, amount, intensity, direction, pattern, etc., shall remain visually subordinate to the characteristic landscape.

(94) Practicable: Able to be done, considering technology and cost.

(95) Preexisting: Existing prior to the adoption of the Columbia River Gorge National Scenic Area Management Plan.

(96) Primarily: A clear majority as measured by volume, weight, or value.

(97) Project area: The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

(98) Public use facility: Recreation development(s) that meet the definition of "recreation facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

(99) Rare plant species: Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.

(100) Recreation facility: A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than 1/4 mile of land that does not contain any such developments or improvements, except for roads and/or pathways.

(101) Reconnaissance survey: Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, subsurface testing, and ethnographic research.

(102) Recreation Opportunity Spectrum (ROS): A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).

(a) Primitive: Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.

(b) Semiprimitive: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.

(c) Roaded Natural: Roaded areas with moderately frequent human encounters and with resource modifications evident.

(d) Rural: Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.

(e) Suburban: Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.

(f) Urban: Highly accessible, roaded areas dominated by human encounters and human-related structures.

(103) Recreation resources: Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semiprimitive areas with few facilities and developed sites.

(104) Rehabilitation (natural resources): A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or preconstruction condition.

(105) Repair and maintenance: An activity that restores the size, scope, configuration, and design of a serviceable structure to its previously authorized and undamaged condition. Activities that change the size, scope, and configuration of a structure beyond its original design are not included in this definition.

(106) Resource-based recreation: Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend.

(107) Restoration (wetlands): A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.

(108) Retention: A visual quality objective that provides for management activities that are not visually evident

to the casual visitor. Management activities may only repeat form, line, color, and texture that are frequently found in the characteristic landscape. Changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be evident.

(109) Review uses: Proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.

(110) Riparian area: The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.

(111) Road: The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys.

(b) Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures.

(c) Structures that provide for continuity of the right-of-way, such as bridges.

(112) Scenic Area: The Columbia River Gorge National Scenic Area.

(113) Scenic travel corridor: Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

(114) Secretary: The Secretary of Agriculture.

(115) Sensitive plant species: Plant species that are

(a) endemic to the Columbia River Gorge and vicinity,

(b) listed as endangered or threatened pursuant to federal or state endangered species acts, or

(c) listed as endangered, threatened or sensitive by the Oregon or Washington Natural Heritage Program.

In the SMA, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(116) Sensitive wildlife species: Animal species that are

(a) listed as endangered or threatened pursuant to federal or state endangered species acts,

(b) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,

(c) listed as sensitive by the Oregon Fish and Wildlife Commission, or

(d) considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

In the SMA, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(117) Service station: A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

(118) Serviceable: Presently useable.

(119) Shall: Action is mandatory.

(120) Should: Action is encouraged.

(121) Shrub: A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(122) Sign: Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.

(123) Significant cultural resource (SMA): A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].)

(124) Skyline: The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.

(125) Soil Capability Class: A classification system developed by the U.S. Department of Agriculture Soil Conservation Service to group soils as to their capability for agricultural use.

(126) Special habitat area: Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.

(127) Special streams: Streams that are primary water supplies for fish hatcheries and rearing ponds.

(128) Stand: A group of trees possessing uniformity in regard to type, age, vigor, or size.

(129) Story: A single floor level of a structure, as defined by the Uniform Building Code.

(130) Streams: Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams

naturally occurring prior to construction of such watercourses.

For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

(131) Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.

(132) Subsurface testing: Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.

(133) Suitability: The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.

(134) Travelers accommodations: Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.

(135) Treaty rights or other rights: Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.

(136) Tributary fish habitat: Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

(137) Undertaking: Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.2(o)].

(138) Unimproved lands: Lands that generally do not have developments such as buildings or structures.

(139) Upland: Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

(140) Uses allowed outright: New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.

(141) Utility facility: Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

(142) Viewshed: A landscape unit seen from a key viewing area.

(143) Visual Quality Objective (VQO): A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

(144) Visually subordinate: A description of the relative visibility of a structure where that structure does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings.

(145) Water-dependent: Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.

(146) Water-related: Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.

(147) Wetlands: Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.

(148) Wetlands functions: The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

(149) Woody plant: A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-90-050. Exempt Land Uses and Activities.

Commission Rule 350-90 shall not apply to:

- (1) Any treaty or other rights of any Indian tribes.

- (2) Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of Indian tribes, and lands acquired by the U.S. Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes or of individual members of Indian tribes. This exemption shall extend to lands selected by the U.S. Army Corps of Engineers as in lieu fishing sites pursuant to Public Law 100-581 before or after the effective date of the Management Plan. For those in lieu sites chosen after the effective date of the Management Plan, the exemption shall commence upon selection by the U.S. Army Corps of Engineers.

- (3) Rights to surface or ground water.

- (4) Water transportation activities on the Columbia River or its tributaries. The term "activities" includes those facilities necessary for navigation.

- (5) The operation, maintenance and modification of existing transmission facilities of the Bonneville Power Administration.

- (6) Laws, rules or regulations pertaining to hunting or fishing.

- (7) The operation, maintenance and improvement of navigation facilities at Bonneville Dam pursuant to federal law, except for the offsite disposal of excavation material.

- (8) In the General Management Area, the rights and responsibilities of non-federal timber landowners under the Washington and Oregon Forest Practices Acts, or under county regulations that supersede those acts.

350-90-060. Prohibited Land Uses and Activities.

The following land uses and activities shall not be allowed within the Columbia River Gorge National Scenic Area:

- (1) Solid waste disposal sites or sanitary landfills within the Special Management Area.

- (2) New industrial development in the Scenic Area outside of the Urban Areas.

- (3) Except for uses allowed outright and review uses, new uses shall be prohibited on lands designated Agriculture-Special. Prohibited uses include, but are not limited to:

- (a) Cultivation, including plowing, harrowing, leveling, tilling, or any activity that prepares land for raising crops by turning, breaking up, or loosening soil.

- (b) Removal or clearing of native grasses, shrubs, and trees.

- (c) Single-family dwellings and accessory structures, other than non-agricultural dwellings allowed as a review use.

- (d) Barns, silos, and other agricultural buildings.

- (e) Irrigation systems.

- (f) Exploration, development, and production of mineral resources.

- (g) Utility facilities, public use facilities, and roads.

350-90-070. Existing Uses.

Except as otherwise provided below, existing uses in the Scenic Area may continue, notwithstanding the provisions of Commission Rule 350-90.

- (1) Except as otherwise provided, any use or structure existing on the effective date of the Management Plan, may

continue so long as it is used in the same manner and for the same purpose as on that date.

(2) Any use or structure damaged or destroyed by fire shall be treated as an existing use or structure if an application for replacement in kind and in the same location is filed within one year of such damage or destruction. Such uses or structures shall be subject to compliance with guidelines for protection of scenic resources involving color, reflectivity and landscaping. Replacement of an existing use or structure by a use or structure different in purpose, size or scope shall be subject to Commission Rule 350-90.

(3) Replacement or reestablishment of a use or structure discontinued for more than one year shall be subject to Commission Rule 350-90. Except as otherwise provided, an existing use or structure may be replaced within one year of discontinuation if used for the same purpose at the same location. This includes replacing an existing mobile home with a framed residence.

(4) In the Special Management Area, existing commercial and multi-family residential uses may expand as necessary for successful operation on the dedicated site, subject to Commission Rule 350-90-520 through 350-90-620 to minimize adverse effects on scenic, cultural, natural and recreation resources. Expansion beyond the dedicated site is prohibited. Commercial uses discontinued for 1 year or more shall no longer be considered as an existing use and shall no longer be permitted, in accordance with the provisions this rule.

(5) Existing industrial uses in the General Management Area may expand as necessary for successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(6) In the General Management Area, existing industrial uses may convert to less intensive uses. A less intensive use is a commercial, recreation or residential use with fewer adverse effects upon scenic, cultural, natural and recreation resources.

(7) In the General Management Area, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to Commission Rule 350-90 if any of the following conditions exist:

(a) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to 50 percent of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain which was merely leveled or cleared of vegetation.

(b) The site has not maintained a required state permit.

(c) The site has not operated legally within 5 years before the date of adoption of the Management Plan.

(8) Uses involving the exploration, development or production of sand, gravel or crushed rock in the Special Management Area may continue when:

(a) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the Special Management Area.

(b) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural or recreation resources.

(9) Except as otherwise provided, whether a use has a vested right to continue will be determined by the law on vested rights in the appropriate state.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-080. Application for Review and Approval.

(1) Prior to initiating any use or development which requires review and approval by the Development Review Officer, an application shall be completed pursuant to Commission Rule 350-90-080. The Development Review Officer shall accept and review the application pursuant to Commission Rule 350-90-100 through 350-90-170 for consistency with the appropriate guidelines of this rule. Review of a proposed use or development shall commence upon the acceptance of an application by the Development Review Officer. The Commission may charge a fee for review of applications.

(2) Standard application forms shall be available at county and city planning offices, the office of the Columbia River Gorge Commission and the Forest Service.

(3) Applications for the review and approval of a proposed use or development shall provide the following information:

(a) The applicant's name, address and telephone number;

(b) The land owner's name, address and telephone number (if different from applicant's);

(c) The county in which the proposed use or development would be located;

(d) The section, quarter section, township and range in which the proposed development would be located;

(e) The street address of the proposed use or development;

(f) The tax lot number(s) and size in acres of the parcel(s) involved;

(g) A description of the current land use for the parcel(s) involved and adjoining lands;

(h) A written description of the proposed use or development, including details on the height, exterior color(s), and construction materials of the proposed structures.

(i) A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the Development Review Officer to determine the location and extent of the proposed use or development and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail. If a parcel is very large, the map does not need to show the entire parcel. Rather, it can show only those portions of the parcel affected by the proposed use. The map shall include the following elements:

(A) North arrow.

(B) Map scale.

(C) Boundaries, dimensions, and size of the subject parcel.

(D) Significant terrain features or landforms.

(E) Groupings and species of trees or other vegetation on the parcel.

(F) Location and species of vegetation that would be removed or planted.

(G) Bodies of water and watercourses.

(H) Location and width of existing and proposed roads, driveways, and trails.

(I) Location and size of existing and proposed structures.

(J) Location of existing and proposed services including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting.

(K) Location and depth of all proposed grading and ditching.

(j) In the Special Management Area, applications and/or site plans shall contain the natural resources information required in Commission Rule 350-90-600(2).

(j) Any additional information which the applicant feels will assist in the evaluation of the proposal including, but not limited to, maps, drawings, and development plans.

(k) The signature of the applicant and property owner or a statement from the property owner indicating that he is aware of the application being made on his property.

(l) The signature of the property owner on a statement that authorizes the Development Review Officer or the Development Review Officer's designee reasonable access to the site in order to evaluate the application.

(4) Applications for the following uses or developments shall include additional information as required by the appropriate guidelines in Commission rule 350-90 or by the Development Review Officer:

(a) All buildings, roads, or mining and associated activities proposed on lands visible from Key Viewing Areas, pursuant to 350-90-520 (2)(d).

(b) In the General Management Area, production and/or development of mineral resources and expansion of existing quarries pursuant to 350-90-520 (1)(e), 350-90-520 (2)(de), (2)(e), (2)(v), and (2)(w).

(c) In the General Management Area, any structural development involving more than 100 cubic yards of grading on sites visible from key viewing areas and which slope is between 10 and 30 percent, pursuant to 350-90-520 (2)(u)

(d) In the General Management Area, vegetation management projects in public rights of way along Scenic Travel Corridors, pursuant to 350-90-520 (4)(d).

(e) Large-scale uses as defined by guideline 350-90-540 (4)(b) shall include reconnaissance survey reports, pursuant to 350-90-540 (4)(b)

(f) Proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings that are 50 years old or older, pursuant to 350-90-520 (4)(c).

(g) In the General Management Area, new uses located in, or providing recreational access to the Columbia River or its fishbearing tributaries, pursuant to 350-90-150 (8)(a)(A).

(h) In the General Management Area, any review use in a wetland or within a wetland buffer zone, pursuant to Commission Rule 350-90-560 (1)(b).

(i) In the General Management Area, any review use in a stream, pond, lake, or within their buffer zones, pursuant to Commission Rule 350-90-570 (1)(b).

(j) In the General Management Area, any review use within 1000 feet of a sensitive wildlife area or site, pursuant to 350-90-580 (1)(b). Large-scale uses as defined by 350-90-580(3) shall also include field survey information, pursuant to 350-90-580 (3)(e).

(k) In the General Management Area, any review use within 1000 feet of a sensitive plant, pursuant to Commission Rule 350-90-590(b). Large-scale uses as defined by 350-90-590(3) shall also include field survey information, pursuant to Commission Rule 350-90-590 (3)(e).

(l) In the General Management Area, on lands designated Large-Scale Agriculture, a single family dwelling in conjunction with agricultural use, pursuant to Commission Rule 350-90-190 (1)(e), and if applicable, 350-90-190 (1)(f).

(m) In the General Management Area, on lands designated Large-Scale Agriculture, a single family dwelling not in conjunction with agricultural use, pursuant to Commission Rule 350-90-190 (1)(n).

(n) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative, pursuant to Commission Rule 350-90-190 (1)(h).

(o) In the General Management Area, on lands designated Large-Woodland, a single family dwelling, pursuant to Commission Rule 350-90-270 (1)(a), (c), and (k).

(p) In the Special Management Area, on lands designated Forest, a single family dwelling, pursuant to Commission Rule 350-90-270 (2)(j).

(q) In the Special Management Area, on lands designated Forest, forest practices, pursuant to Commission Rule 350-90-270 (2)(b).

(r) In the Special Management Area, on lands designated Open Space, any new use or development, pursuant to Commission Rule 350-90-340(2).

(s) In the General Management Area, on lands designated Agriculture-Special, a single-family dwelling pursuant to 350-90-190 (1)(h).

(t) In the Special Management Area, on lands designated Agriculture, a single-family dwelling necessary and accessory to agricultural use, pursuant to Commission Rule 350-90-190 (2)(b).

(u) In the Special Management Area, on lands designated Agriculture, farm labor housing and agricultural buildings, pursuant to Commission Rule 350-90-190 (2)(d).

(v) In the General Management Area, on lands designated Small Woodland, a single-family dwelling pursuant to Commission Rule 350-90-270 (1)(b).

(w) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, a single-family dwelling in conjunction with agricultural use pursuant to Commission Rule 350-90-190 (1)(e).

(x) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, agricultural labor housing, pursuant to Commission Rule 350-90-270 (1)(o).

(y) In the General Management Area, on lands designated Agriculture-Special, new livestock grazing, new fences, livestock watering facilities, and corrals; or soil, water, and

vegetation conservation activities, pursuant to Commission Rule 350-90-240.

(z) Other uses as deemed necessary by the Development Review Officer.

(5) Completed application forms shall be submitted directly to the office of the Columbia River Gorge Commission.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-090. Pre-Application Conference.

An applicant may request a pre-application conference prior to submitting an application for development review. The purposes of the conference shall be to acquaint the applicant with the substantive and procedural requirements of Commission Rule 350-90, to discuss the principle elements of the proposed action, and to identify guidelines that create opportunities or pose constraints for the proposed action.

350-90-100. Acceptance of Application.

Within 14 days of the receipt of an application, the Development Review Officer shall review the application for completeness and adequacy. The Development Review Officer shall accept a complete and adequate application within 14 days of receipt within 14 days of receipt of the application.

(1) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Development Review Officer shall notify the applicant of all omissions and deficiencies in writing within 14 days of receipt of the application.

(2) No application shall be accepted which the Development Review Officer deems cannot be acted upon reasonably within 72 days, pursuant to 350-90-130(3), except when the applicant consents to a longer period for action.

(3) No application shall be accepted unless accompanied by a list of names and addresses of the adjacent property owners within a distance of the subject parcel as determined in Commission Rule 350-90-630. A statement from the County Assessor or appropriate agency confirming the accuracy of the list shall accompany the list.

(4) No application for a proposed use which is explicitly prohibited by Commission Rule 350-90-060 shall be accepted.

(a) The application shall be returned to the applicant.

(b) A letter, signed by the Development Review Officer, stating that the proposed use is prohibited and citing the guideline which explicitly prohibits the proposed use, shall be sent to the applicant.

(c) Issuance of this letter shall not prohibit the applicant from appealing the decision pursuant to 350-70.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-110. Notice of Development Review.

(1) Within seven days of the acceptance of an application, the Development Review Officer shall issue notice of a proposed development review. The notice shall provide the following information:

(a) The name of the applicant;

(b) The general and specific location of the subject property;

(c) A brief description of the proposed action;

(d) The deadline for rendering a decision; and

(e) The deadline for filing comments on the proposed action.

(2) The notice shall state that the application and supporting documents are available for inspection at the Commission office during normal working hours.

(3) The notice shall state the applicant must comply with all applicable local, state, and federal laws.

(4) The notice shall be mailed to:

(a) The Forest Service, the applicable state, Indian Tribes and the applicable county and/or city; and

(b) Owners of property within a radius of the subject parcel(s) as determined by 350-90-630; and

(c) Other agencies and interested parties which request a notice which the Development Review Officer determines should be notified.

(4) The notice shall be posted at the Commission and Forest Service offices and shall be made available for posting at the applicable county or city planning office(s) and applicable library or libraries.

(5) For all development, notice shall be published in a newspaper of general circulation nearest to the site of the proposed action.

(6) A copy of the notice shall be filed in the records of the Commission.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-120. Comment Period

Interested persons shall have 21 days from the date which the notice is sent to submit written comments to the Development Review Officer relative to the consistency of the proposed actions with the guidelines of Commission Rule 350-90:

(1) Within seven days of the close of the comment period, the Development Review Officer shall determine if a wildlife management plan pursuant to Commission Rules 350-90-580(6), or a rare plant protection and rehabilitation plan pursuant to Commission Rules 350-90-590(6) is required.

(2) For proposed uses or developments where a cultural resources survey (reconnaissance or historic) is required and where the Commission is performing the survey, the survey shall be completed by the close of the comment period. Upon receipt of the completed survey, the Development

Review Officer shall forward the survey to the State Historic Preservation Officers, and Indian Tribes pursuant to Commission Rules 350-90-540 (1)(b) and (2)(b)(A).

(3) Within seven days of the close of the 30 day reconnaissance survey comment period for State Historic Preservation Officers and Indian Tribes, the Development Review Officer shall determine if an evaluation of significance pursuant to Commission Rules 350-90-540(3) is required.

350-90-130. Decision of the Development Review Officer.

(1) In making a decision on a proposed use or development the Development Review Officer shall:

(a) Consult with the applicant and such agencies as the Development Review Officer deems appropriate;

(b) Consider information submitted by the applicant and all other relevant information available;

(c) Consider all comments submitted pursuant to Commission Rule 350-90-120; and

(d) Solicit and consider the comments of the Forest Service.

(2) The Development Review Officer shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and 350-90. In approving a proposed development action, the Development Review Officer may impose conditions as necessary to ensure consistency with the guidelines of 350-90.

(3) The Development Review Officer shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and 350-90 within 72 days after acceptance of the application except in one or more of the following situations:

(a) The applicant consents to an extension of time.

(b) The Development Review Officer determines that additional information is required pursuant to Commission Rule 350-90-120.

(c) The Development Review Officer determines that additional information is necessary to evaluate the impacts of the proposed use to scenic, cultural, natural, and recreation resources.

(d) Unforeseen circumstances including, but not limited to, weather, illness, etc.

(4) The Development Review Officer shall mail a copy of the decision to the applicant, the Commission, the Forest Service, the applicable state, the Indian Tribes, the applicable county and/or city and each person who submitted comments under Commission Rule 350-8-150. The decision shall set forth the rights of appeal under Commission Rule 350-70.

(5) The decision of the Development Review Officer shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70.

(6) The decision of the Development Review Officer approving a proposed development action shall become void

(a) when the development action is not undertaken within two years of the decision, or

(b) when the development action is discontinued for any reason for one year or more.

(7) An applicant may request an extension of the validity of a development approval. Such request shall be considered an Administrative Action and shall be submitted to the Development Review Officer prior to the expiration of such approval, in writing, stating the reason why an extension should be granted.

The Development Review Officer may grant an extension of up to 12 months in the validity of a development approval if it is determined that conditions, for which the applicant was not responsible, would prevent the applicant from commencing his operation within the original time limitation.

The Development Review Officer shall not grant an extension if the site characteristics and/or new information indicates that the proposed use may adversely affect scenic, cultural, natural or recreation resources in the National Scenic Area.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-140. Changes or Alterations to an Approved Action.

Any change or alteration to a development action approved by the Commission or Development Review Officer pursuant to this division shall be processed as new action, except that the Development Review Officer may approve minor changes or alterations deemed to be consistent with the guidelines of Commission Rule 350-90 and the findings and conclusions for the original action.

350-90-150. General Guidelines.

The following uses may be permitted when allowed by the land use designation, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620):

(1) Land Divisions and Cluster Development

Land Divisions within the Columbia River Gorge National Scenic Area may be allowed subject to the following:

(a) New land divisions are not allowed in the Special Management Area, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines of the Management Plan.

(b) Unless otherwise specified, creation of a parcel, regardless of size, or any division of land except a lot-line adjustment shall be subject to the guidelines in Commission Rule 350-90.

(c) At the time of creation of one or more new parcels, consolidation of access shall be considered in order to reduce adverse effects on scenic, cultural, natural and recreation resources.

(d) Adjustment of the boundary between two or more contiguous parcels that does not result in the creation of an additional parcel may be allowed if none of the parcels

larger than the minimum parcel size before the adjustment becomes smaller than the specified minimum parcel size after the adjustment.

(e) The minimum size for new parcels created for commercial uses within a Rural Center shall be based upon the site requirements (sewerage, parking, building, size, etc.) for the proposed use. Parcel size shall be determined by the Development Review Officer on a case-by-case basis.

(f) The minimum size for new parcels created for residential uses within a Rural Center shall be 1 acre.

To encourage the efficient use of land, provide public amenities and standards for quality developments, and reduce the cost of providing services within Rural Centers, the Development Review Office may allow a minimum parcel size of less than 1 acre within Rural Centers if a planned unit development approach is used for the subject parcel, incorporating features such as consolidated access and commonly shared open areas.

(g) When allowed by a land use designation, a land division in the General Management Area may create parcels smaller than the designated minimum size and may include a bonus, as specified below, in order to cluster new dwellings. Approval of cluster development shall be contingent upon submission of plans specifying dwelling sites and areas of permanent, undeveloped open land. To approve a cluster development, the Development Review Office must find that clustering new dwellings will provide an opportunity not available through conventional parcel-by-parcel development to site new dwellings to:

(A) Be located in areas with screening vegetation or other features which reduce visibility of development as seen from Key Viewing Areas.

(B) Avoid significant landscape features.

(C) Protect the existing character of the landscape setting.

(D) Reduce interference with movement of deer or elk in winter range.

(E) Avoid areas of known cultural resources.

(F) Consolidate road access, septic drainfields or other development features in order to reduce impacts associated with grading or ground disturbance.

(G) Reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites or other natural resources.

(H) Increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.

(h) In the General Management Area, following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an Urban Area. Approval of a cluster development shall include provisions for the permanent protection of open areas. No parcel in a cluster development may be smaller than 1 acre in a 5-acre Residential or a 10-acre Residential designation or 2 acres in a Small-Scale Agriculture or Small Woodland designation.

(i) In the General Management Area, cluster development may create up to 25 percent more parcels than otherwise allowed by the minimum parcel size on lands designated 5-acre Residential or 10-acre Residential and up to 50 percent more parcels on lands designated Small-Scale Agriculture or Small Woodland. Any division in a cluster

development under this guideline may create at least one additional parcel.

(j) in the General Management Area, at least 75 percent of land subject to a cluster development shall be permanently protected as undeveloped land.

(k) In the General Management Area, contiguous parcels in the same ownership or in separate ownership may be consolidated and redivided to take advantage of cluster development bonuses.

(2) Agricultural Buffer Zones

All new buildings shall comply with the following guidelines when proposed to be located on a parcel adjacent to lands designated Large-Scale or Small-Scale Agriculture and which are currently used for or are suitable for agricultural use:

(a) Setback Guidelines

Type of Agriculture	Type of Buffer (size in feet)		
	Open or Fenced	Natural or Created Vegetation Barrier	8-foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/ vegetables	300'	100'	75'
Livestock grazing pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

(b) Earth berms may be used to satisfy, in part, the setback guidelines. Berms shall be a minimum of 8 feet in height, and contoured at 3:1 slopes to look natural. Shrubs, trees and/or grasses shall be planted on the berm to control erosion and achieve a finished height of 15 feet.

(c) The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be at least 6 feet high when planted and reach an ultimate height of at least 15 feet. The vegetation screen shall be planted along the appropriate parcel line(s), and be continuous.

(d) The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.

(e) If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

(f) A variance to buffer setbacks may be granted upon a demonstration that the guidelines of Commission Rule 350-90-150(7) have been satisfied.

(3) Temporary Use Hardship Dwelling

(a) The temporary placement of a mobile home in the General Management Area may be granted under the following circumstances:

(A) A family hardship exists where conditions relate to the necessary care for a member of the family occupying the principal dwelling and where medical conditions relate to the infirm or aged.

(B) The hardship dwelling will use the same subsurface sewage disposal system used by the existing dwelling, if the system is adequate to accommodate the additional dwelling, unless the additional dwelling can use an existing public sanitary sewer system.

(C) The hardship dwelling is found to be consistent with the guidelines for protection of scenic, cultural, natural and

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recreation resources of Commission Rule 350-90-520 through 350-90-620.

(b) A permit may be issued for a 2-year period, subject to annual review for compliance with the provisions of this rule and any other conditions of approval.

(c) Upon expiration of the permit or cessation of the hardship, whichever comes first, the mobile home shall be removed within 30 days.

(d) A new permit may be granted upon a finding that a family hardship continues to exist.

(4) Home Occupations and Cottage Industries

Home occupations and cottage industries may be established as specified in various land use designations consistent with the following conditions:

(a) A home occupation may employ only residents of the home.

(b) A cottage industry may employ up to three outside employees.

(c) No more than 25 percent of the total actual living space of the dwelling may be utilized for the home occupation or cottage industry.

(d) No more than 500 square feet of an accessory structure may be used for a home occupation or cottage industry.

(e) There shall be no outside, visible evidence of the home occupation or cottage industry, including outside storage.

(f) Exterior structural alterations to the residence for the home occupation or cottage industry shall not be permitted. New structures shall not be constructed for the primary purpose of housing a home occupation or cottage industry.

(g) No retail sales may occur on the premises, except incidental sales at lodging establishments authorized in Commission rule 350-90-150(5).

(h) One non-animated, non-illuminated sign, not exceeding 2 square feet in area may be permitted on the subject structure or within the yard containing the home occupation or cottage industry.

(i) Parking not associated with residential use shall be screened so it is not visible from Key Viewing Areas.

(j) In the General Management area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Commission Rules 350-90-150 (4) and (5).

(k) In the Special Management Area, a bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines of Commission Rules 350-90-150 (4) and (5), except Commission Rule 350-90-150 (5)(a).

(5) Bed and Breakfast Inns

Bed and breakfast inns may be established as authorized in specified land use designations subject to the following:

(a) In the Special Management Area, bed and breakfast inns associated with residential use shall be allowed only in structures that are included in, or eligible for inclusion in, the National Register of Historic Places.

(b) Guests may not occupy a facility for more than 14 consecutive days.

(c) One non-animated, non-illuminated sign not exceeding 4 square feet in area may be permitted on the structure or within the yard containing the structure.

(d) Parking areas shall be screened so as to not be visible from Key Viewing Areas.

(6) Docks

(a) New private docks and boathouses serving only one family and one property shall be limited to a maximum of 120 square feet in size.

(b) New private docks and boathouses serving more than one family and property shall be limited to a maximum of 200 square feet in size.

(c) Public docks open and available for public use shall be allowed.

(7) Variances from Setbacks and Buffers within the General Management Area.

Variances from setbacks and buffers within the General Management Area may be allowed subject to the following approval criteria:

(a) When setbacks or buffers for the protection of scenic, cultural, natural, recreation, agricultural or forestry resources overlap or conflict, the setbacks or buffers may be varied upon a demonstration that:

(A) A setback or buffer to protect one resource would cause the proposed use to fall within a setback or buffer to protect another resource; and

(B) Variation from the specified setbacks or buffers would, on balance, best achieve the protection of the affected resources.

(b) A setback or buffer for protection of scenic, cultural, natural, recreation, agricultural or forestry resources may be varied to allow a residence to be built on a parcel of land upon a demonstration that:

(A) The land use designation otherwise authorizes a residence on the tract;

(B) No site exists on the tract (all contiguous parcels under the same ownership) on which a residence could practicably be placed in full compliance with the setback or buffer;

(C) The variance from the specified setback or buffer is the minimum necessary to allow the residence.

(c) The Development Review Officer may grant a variance to the setback and buffer requirements in Commission Rule 350-90-610, upon a finding that the following conditions exist:

(A) The proposed project is a public use, resource-based recreation facility providing or supporting either recreational access to the Columbia River and its tributaries, or recreational opportunities associated with a Scenic Travel Corridor.

(B) All reasonable measures to redesign the proposed project to comply with required setbacks and buffers have been explored, and application of those setbacks and buffers would prohibit a viable recreation use of the site as proposed.

(C) Resource impacts have been mitigated to less than adverse levels through design provisions and mitigation measures.

(D) The variance is the minimum necessary to accommodate the use.

(d) The Development Review Officer may grant a variance of up to 10 percent to the guidelines of General Management Area and Special Management Area Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from Scenic Area recreation demand studies shall be relied upon to meet this criterion in the absence of current applicable studies.

(B) The proposed use is dependent on resources present at the site.

(C) Reasonable alternative sites, including those in nearby Urban Areas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

(D) The proposed use is consistent with the goals, objectives and policies in Chapter 4, Part I of the Management Plan.

(E) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.

(F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

(8) Indian Tribal Treaty Rights and Consultation

(a) Tribal Government Notice

(A) New uses located in, or providing recreation river access to, the Columbia River or its fishbearing tributaries shall include the following supplemental information:

(i) The site plan map shall show adjacent river areas at least 1/2 mile upstream and downstream from the project site, the locations at which river access is planned, and the locations of all tribal fishing sites known to the project applicant.

(ii) The site plan text shall include an assessment of the potential effects that new uses may have on Indian treaty rights. The assessment shall:

(I) Describe the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods.

(II) List tribal commercial fishing seasons in the project vicinity, as established by the four treaty tribes.

(III) List tribal ceremonial fishing seasons in the project vicinity.

(IV) Based on the above factors, assess the potential effects that the proposed uses may have on Indian treaty rights.

(B) Notices shall include a treaty rights protection plan if new uses may affect Indian treaty rights. The protection plan shall specify measures that will be used to avoid effects to Indian treaty rights. These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent onsite monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations.

(C) Indian tribal governments shall have 20 calendar days from the date a notice is mailed to submit substantive written comments to the Development Review Officer. Indian tribal governments must identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the new uses.

(b) Tribal Government Consultation

(A) When substantive written comments are submitted to a Development Review Officer in a timely manner, the project applicant shall offer to meet with the Development Review Officer and the Indian tribal government that submitted comments within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the Indian tribal government.

Consultation meetings should provide an opportunity for the project application and tribal representatives to identify potential conflicts and explore options to eliminate them. The project applicant must demonstrate that the proposed use would not affect or modify treaty or other rights of any Indian tribe.

(B) Any substantive comments, recommendations, or concerns expressed by Indian tribal governments during the consultation meeting shall be recorded and addressed by the project applicant in a treaty rights protection plan. The protection plan shall include measures to avoid effects to treaty and other rights of any Indian tribe.

(C) The Development Review Officer shall submit all protection plans to the Indian tribal governments. Indian tribal governments shall have 30 calendar days from the date a protection plan is mailed to submit written comments to the Development Review Officer.

(c) Conclusion of the Treaty Rights Protection Process

(A) The Development Review Officer shall decide whether the proposed uses would affect or modify any treaty or other rights of any Indian tribe.

The final decision shall integrate findings of fact that address any substantive comments, recommendations, or concerns expressed by Indian tribal governments. If the final decision contradicts the comments, recommendations, or concerns of Indian tribal governments, the Development Review Officer must justify how it reached an opposing conclusion.

(B) The treaty rights protection process may conclude if the Development Review Officer determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

(C) A finding by the Development Review Officer that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in these guidelines, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses adversely affect or modify treaty or other tribal rights.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-160. Signs.

(1) Signs may be allowed pursuant in all land use designations in the General Management Area to the following provisions:

(f) Except for signs along public highways necessary for public safety, traffic control or road construction which are consistent with the Manual for Uniform Traffic Control Devices, the following signs are prohibited:

(A) Luminous signs or those with intermittent or flashing lights. These include neon signs, fluorescent signs, light displays and other signs which are internally illuminated, exclusive of seasonal holiday light displays.

(B) New billboards.

(C) Signs with moving elements.

(D) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.

(e) Any sign which does not conform with a provision of 350-90-160 and has existed prior to adoption of the Management Plan, shall be considered non-conforming and subject to the following:

(A) Alteration of existing non-conforming signs shall comply with Commission Rule 350-90-160.

(B) Any non-conforming sign used by a business must be brought into conformance concurrent with any expansion or change in use which requires a development permit.

(c) The following may be permitted without review and are not subject to Commission Rule 350-90-160 (1)(a):

(A) Ordinary repair and maintenance of signs.

(B) Election signs which are not displayed for more than 60 days. Removal shall be accomplished within 30 days of election day.

(C) "For Sale" signs not greater than 12 square feet. Removal shall be accomplished within 30 days of close of sale.

(D) Temporary construction site identification, public service company, safety or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the Manual for Uniform Traffic Control Devices. Removal shall be accomplished within 30 days of project completion.

(E) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet.

(F) Temporary signs advertising civil, social, or political gatherings and activities not exceeding 12 square feet. Removal shall be accomplished within 30 days of the close of the event.

(G) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the message intended.

(H) Signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings, not on roofs or marquees.

(a) All signs shall meet the following guidelines unless they conflict with the Manual for Uniform Traffic Control Devices for public safety, traffic control or highway construction signs. In such cases, the standards in the Manual for Uniform Traffic Control Devices shall supersede these guidelines.

(A) The support structure shall be unobtrusive and have low visual impact.

(B) Lettering colors with sufficient contrast to provide clear message communication shall be allowed. Colors of signs shall blend with their setting to the maximum extent practicable.

(C) Backs of all signs shall be unobtrusive, non-reflective, and blend in with the setting.

(D) Spot lighting of signs may be allowed where needed for night visibility. Backlighting is not permitted for signs.

(b) Business identification or facility entry signs located on the premises may be allowed, subject to Commission Rule 350-90-160 (1)(a).

(d) Other signs not addressed or expressly prohibited by this rule may be permitted without review.

(2) Signs in the Special Management Area shall be allowed pursuant to the following provisions:

(h) Prohibited Signs

(A) Advertising billboards.

(B) Signs that move or give the appearance of moving, except signs used for highway construction, warning or safety.

(C) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle, except for signs used for highway construction, warning or safety.

(c) Pre-existing signs are allowed to continue provided no changes occur in size, structure, color, or message.

(e) Temporary signs shall be permitted without review when in compliance with subsection (d) above and the following:

(A) One political sign per parcel road frontage. The sign shall be no greater than 12 square feet in area and displayed for no more than 60 calendar days. Removal shall be accomplished within 30 days of election day.

(B) "For Sale" signs not greater than 12 square feet, removal shall be accomplished within 30 days of close of sale.

(C) One temporary construction site identification sign which is not greater than 32 square feet. Removal shall be accomplished within 30 days of project completion.

(D) Signs providing direction to and announcement of temporary garage/yard sales provided placement duration does not exceed three days and the signs are not greater than two square feet in area.

(E) Temporary signs, not exceeding 12 square feet and placed no longer than 10 days in advance of the event, advertising civil, social, or political gatherings and activities. Removal must be accomplished within 30 days of the close of the event.

(F) Temporary signs of public service companies indicating danger and/or service and safety information. Removal must be accomplished upon project completion.

(a) New signs shall be allowed as specified in the applicable land use designation.

(b) No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or obstruct the view of any traffic sign, signal, or device.

(d) All new signs shall meet the following guidelines, and be consistent with the Manual for Uniform Traffic Control Devices:

(A) Signs shall be maintained in a neat, clean and attractive condition.

(B) The character and composition of sign materials shall be harmonious with the landscape and/or related to and compatible with the main structure upon which the sign is attached.

(C) Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.

(D) Signs shall be unobtrusive and have low contrast with the setting.

(E) The visual impact of the support structure shall be minimized.

(F) Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for, or used as, an advertising display, except for road safety signs.

(G) Backs of all signs shall be visually unobtrusive, nonreflective, and blend in with the setting.

(H) Sign internal illumination or backlighting shall not be permitted except for highway construction, warning or safety.

(f) Public signs shall meet the following guidelines in addition to subsections (a) through (e) above:

(A) The Graphic Signing System provides design guidelines for public signs in and adjacent to public road rights-of-way. All new and replacement public signs shall conform to the guidelines in this system. Types of signs addressed include recreation site entry, route marker, interpretive, guide, directional, and urban area entry.

(B) Signs located outside public road rights-of-way are encouraged to be designed in such a way as to be consistent with similar purpose signs described in the Graphic Signing System.

(C) Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that required to convey the intended message.

(g) Signs for public and commercial recreation facilities, home occupations, cottage industries, and commercial uses shall meet the following guidelines in addition to subsections (a) through (e):

(A) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than two square feet.

(B) Any sign advertising or relating to a business which is discontinued for a period of 30 consecutive days shall be presumed to be abandoned and shall be removed within 30 days thereafter, unless permitted otherwise by the jurisdictional authority.

(C) Any signs relating to, or advertising, a business shall be brought into conformance with these sign guidelines prior to any expansion or change in use which is subject to review.

(D) Off-site and on-site directional signs on approach roads to recreational facilities may be permitted. Name and interpretive signs may be permitted on-site, but should be kept to the minimum required to achieve the purpose(s) of the facilities.

(E) Commercial recreation businesses approved in conjunction with a recreational facility may have a name sign not exceeding 16 square feet.

(F) Recreation developments may have one on-premise name sign at each principal entrance. Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Signing System.

350-90-170. Agricultural Land Designations.

Commission Rule 350-90-170 through 350-90-240 shall apply to those areas designated Large-Scale or Small-Scale Agriculture, SMA-Agriculture, and Agriculture-Special on the Scenic Area Land Use Designation Map.

350-90-180. Uses Allowed Outright-Agricultural Land.

(1) The following uses are allowed on lands designated Large-Scale or Small-Scale Agriculture without review:

(a) Agricultural use, except new cultivation.

(b) Forest practices that do not violate conditions of approval for other approved uses.

(c) Repair, maintenance, and operation of existing structures, trails, roads, railroads and utility facilities.

(d) Buildings less than 60 square feet in floor area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

(2) The following uses are allowed on land designated SMA-Agriculture without review:

(a) New agricultural uses and open space uses allowed under Commission Rule 350-90-340, except where there would be potential impact to cultural or natural resources.

(b) Maintenance, repair and operation of existing dwellings, structures, agricultural buildings, trails, roads, railroads, and utility facilities.

(c) Accessory structures less than 60 square feet in area and less than 18 feet in height measured at the roof peak.

(3) The following uses may be allowed on lands designated Agriculture-Special without review:

(a) Existing livestock grazing. A livestock operation ceases to be existing when the land on which it is conducted has lain idle for more than 5 years.

(b) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads, and utility facilities.

(c) Low-intensity recreation uses that occur with the knowledge and permission of the landowner, including hunting, fishing, trapping, native plant study, birdwatching, photography, horseback riding, and hiking.

(d) Temporary livestock facilities, such as portable livestock pens and corrals.

(e) New fences that exclude livestock from lands that are not part of an existing livestock operation.

350-90-190. Review Uses-Agricultural Land.

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture subject to compliance with the scenic, cultural, natural, and recreation resource guidelines (Commission Rule 350-20-520 through 350-90-620):

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

(a) New cultivation, subject to compliance with Commission Rule 350-90-540 through 350-90-590.

(b) Agricultural buildings in conjunction with agricultural use.

(c) Buildings greater than 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.

(d) The temporary use of a mobile home in the case of a family hardship, subject to Commission Rule 350-90-150(3).

(e) On lands designated Large-Scale Agriculture, a single family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:

(A) The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. Current use includes a minimum area which would satisfy subsection (e)(C)(iv) below; and

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

(i) Size of the entire farm or ranch, including all land in the same ownership;

(ii) Type(s) of agricultural uses (crops, livestock) and acreage;

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area; and

(iv) Income capability. The farm or ranch, and all its constituent parcels, is capable of producing at least \$40,000 in gross annual income. This determination shall be made using the following formula:

$(A)(B)(C) = I$ where:

A = Average yield of the commodity per acre, or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income Capability

(f) On lands designated Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling which is included in, or is eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria for use in evaluating the eligibility of cultural resources contained in the National Register Criteria for Evaluation (36 CFR 60.4).

(g) On lands designated Small-Scale Agriculture, a single-family dwelling on any legally existing parcel.

(h) On lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative provided that all of the following conditions exist:

(A) The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister;

(B) The dwelling would be located on the same parcel as the dwelling of the principal operator; and

(C) The operation is a commercial enterprise as determined by Commission Rule 350-90-190 (1)(e)(C).

(i) Construction, reconstruction or modifications of roads not in conjunction with agriculture.

(j) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.

(k) Structures associated with hunting and fishing operations.

(l) Towers and fire stations for forest fire protection.

(m) Agricultural labor housing upon a showing that:

(A) The proposed housing is necessary and accessory to a current agricultural use;

(B) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months; and

(C) The housing will be located to minimize the conversion of lands capable of production of farm crops or livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(n) On lands designated Large-Scale Agriculture, on a parcel which was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:

(A) The dwelling will not force a change in or increase the cost of accepted agricultural practices on surrounding lands;

(B) The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be utilized in conjunction with other agricultural operations in the area;

(C) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in Commission Rule 350-90-150(2), or any abutting parcel designated Commercial Forest Land or Large or Small Woodland, as required in Commission Rule 350-90-310(1);

(D) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland; and

(E) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

(o) On parcels in Small-Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in Commission Rule 350-90-150(1). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40, 80, or 160 acres, this provision will apply to parcels 80 acres or larger, 160 acres or larger, or 320 acres or larger, respectively.

(p) Life estates, pursuant to Commission Rule 350-90-200.

(q) Land divisions when all resulting parcels satisfy the minimum lot sizes as designated on the land use designation map.

(2) The following uses may be allowed on lands designated SMA-Agriculture, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (Commission Rule 350-90-520 through 350-90-620). The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock:

(a) Forest uses and practices as allowed in Commission Rule 350-90-270 (2)(b).

(b) A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:

(A) The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy guideline (C)(iv), below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula, with periodic adjustments for inflation:

$(A)(B)(C) = I$ where:

A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income capability

(D) Minimum parcel size of 40 contiguous acres.

(c) Accessory structures, greater than 60 square feet.

(d) Farm labor housing and agricultural buildings upon a showing that the following conditions exist:

(A) The proposed housing or building is necessary and accessory to a current agricultural use and a showing that the operation is a commercial agricultural enterprise as determined by Commission Rule 350-90-190 (1)(e)(C).

(B) The housing or building shall be seasonal unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed nine months.

(C) The housing or building shall be located to minimize the conversion of lands capable of production of farm crops and livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.

(e) Home occupations and cottage industries pursuant to Commission Rule 350-90-150(4). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(f) Bed and breakfast inns subject to Commission Rule 350-90-150(5). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(g) Fruit stands and produce stands upon a showing that sales will be limited to agricultural products raised on the property and other agriculture properties in the local region.

(h) Aquaculture.

(i) Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands within the Special Management Area.

(j) Utility facilities necessary for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Agriculture lands.

(B) The size is the minimum necessary to provide the service.

(k) Temporary asphalt/batch plant operations related to public road projects, not to exceed six months.

(l) Signs as specified in Commission Rule 350-90-160(2).

(m) Community facilities and non-profit facilities related to agricultural resource management.

(n) Expansion of existing non-profit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(o) Recreation, interpretive and educational developments and uses consistent with Commission Rule 350-90-620.

(p) Road and railroad construction and reconstruction.

(q) Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

(r) Structures and vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-200. Review Uses with Additional Approval Criteria — Large-Scale or Small-Scale Agriculture Designations.

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (Commission Rule 350-90-520 through 350-90-620) and 350-90-220.

(a) Utility facilities and railroads necessary for public service upon a showing that:

(A) There is no practicable alternative location with less adverse effect on agricultural or forest lands, and

(B) The size is the minimum necessary to provide the service.

(b) Home occupations or cottage industries in existing residential or accessory structures, subject to Commission Rule 350-90-150(4).

(c) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

(d) Wineries, in conjunction with on-site viticulture, upon a showing that processing and sales of wine is from grapes grown on the subject farm or in the local region.

(e) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

(f) Exploration, development and production of mineral and geothermal resources subject to Commission Rule 350-90-520.

(g) Personal-use airstrips including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted, except for aircraft emergencies, to use by the owner and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airstrip other than those owned or controlled by the owner of the airstrip.

(h) Aquaculture.

(i) Recreation development, subject to Commission Rule 350-90-610 and the Recreation Development Plan (Management Plan, Part III, Chapter 1).

(j) Boarding of horses.

(k) Temporary portable asphalt/batch plants related to public road projects, not to exceed six months.

(l) Bed and breakfast inns in single-family dwellings, subject to Commission Rule 350-90-150(5) and provided that the residence:

(A) Is included in the National Register of Historic Places; or

(B) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation; or

(C) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(m) Non-profit, environmental learning or research facilities.

(n) Expansion of existing schools or places of worship.

(2) The following uses may be allowed on lands designated Agriculture-Special subject to compliance with the appropriate scenic, natural, cultural, and recreation resource guidelines (Commission Rule 350-90-520 through 350-90-620) and Commission Rule 350-90-230:

(a) New livestock grazing. Any operation that would introduce livestock to land that has not been grazed, or has laid idle, for more than 5 years shall be considered new livestock grazing.

(b) New fences, livestock watering facilities, and corrals.

(c) Soil, water, and vegetation conservation uses.

(d) Replacement or minor expansion of existing and serviceable structures within a dedicated site. Expansion shall be limited to the dedicated site.

(e) Fish and wildlife management uses, educational activities, and scientific research.

(f) Land divisions that facilitate livestock grazing or protect and enhance natural areas. No resulting parcel may be smaller than 160 acres, unless it would facilitate the protection of scenic, cultural, natural, or recreation resources.

(g) Single-family dwellings that are not in conjunction with agricultural use, if a landowner demonstrates that (1) the dwelling cannot be constructed on a portion of the parcel that is located outside of the natural area, and (2) the dwelling is sited and designed in a manner that minimizes adverse effects to the natural area. All dwellings shall meet the criteria in Commission Rule 350-90-190 (1)(n). The buffer guidelines for non-agricultural dwellings may be waived if they would prevent the optimum siting of a dwelling.

(h) Recreation uses, subject to the provisions for recreation intensity classes (Commission Rule 350-90-620).

350-90-210. Approval Criteria for Life Estates — Large-Scale or Small-Scale Agriculture Designations.

A landowner who sells or otherwise transfers real property on lands designated Large-Scale or Small-Scale Agriculture may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel as defined in Commission Rule 350-90-040. A second dwelling in conjunction with agricultural use may be allowed, subject to compliance with guidelines in Commission Rule 350-90-520 through 350-90-620 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

(1) The proposed dwelling is in conjunction with agricultural use, using guideline (350-90-190 (1)(e)).

(2) Upon termination of the life estate, the original or second dwelling shall be removed.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-220. Approval Criteria for Specified Review Uses on Lands Designated Large-Scale or Small-Scale Agriculture.

Uses identified in Commission Rule 350-90-200(1) may be allowed only if they meet both of the following criteria:

- (1) The use is compatible with agricultural uses and would not force a change in or significantly increase the cost of accepted agricultural practices on nearby lands devoted to agricultural use; and
- (2) The use will be sited to minimize the loss of land suitable for the production of crops or livestock.

350-90-230. Approval Criteria for Review Uses on Lands Designated Agriculture-Special.

Uses identified in Commission Rule 350-90-200(2) may be allowed only if they meet all of the following criteria:

(1) A range conservation plan pursuant to Commission Rule 350-90-240 shall be prepared before new livestock grazing commences; new fences, livestock watering facilities, and corrals are constructed; or soil, water, and vegetation conservation activities are undertaken [review uses (a), (b) and (c) in Commission Rule 350-90-190(3)].

(2) The Development Review Officer shall submit all land use applications and range conservation plans to the Oregon or Washington Natural Heritage Program. The state heritage program will have 20 days from the date that an application and/or plan is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address any written comments submitted by the state heritage program in the development review order.

(3) Based on the comments from the state heritage program, the Development Review Officer shall make a final decision on whether the proposed use is consistent with the Agriculture-Special policies of the Management Plan. If the final decision contradicts the comments submitted by the state heritage program, the Development Review Officer shall justify how it reached an opposing conclusion.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-90-240. Range Conservation Plans.

(1) If a range conservation plan is required before a use is allowed, it shall be prepared by landowners in cooperation with range scientists from local conservation districts. Specialists from the Oregon or Washington Natural Heritage Program should be consulted while the plan is being prepared.

(2) Range conservation plans shall ensure that new uses do not adversely affect natural areas. They shall accomplish the following goals:

- (a) Maintain native rangeland that is in excellent or good condition; enhance rangeland that is in fair or poor condition.
- (b) Preserve native trees and shrubs.
- (c) Reestablish native grasses in degraded areas that have been invaded by non-native plants and weeds.

(3) Range conservation plans shall include the following elements:

(a) Range inventory. This shall include existing composition, carrying capacity, and condition of rangeland; the location of rare plants and non-native weeds; and existing fences, watering ponds, and other range improvements.

(b) Rehabilitation plan. This shall include actions that will be taken to rehabilitate native rangeland that is in fair or poor condition, such as weed and soil erosion control, seeding, and prescribed burning.

(c) Livestock management plan. This shall include the grazing system that will be used, including number and size of pastures, expected livestock numbers, and grazing/deferral periods and sequence. Management plans shall project livestock movements for at least 3 years.

(d) Monitoring program. This shall track the annual progress of the conservation plan and condition of the range. Monitoring techniques shall be described, such as line transects or photographic plots.

350-90-250. Forest Land Designations.

Commission Rule 350-90-250 through 350-90-310 shall apply to those areas designated Commercial Forest Land, Large or Small Woodland and SMA-Forest on the Scenic Area Land Use Designation Map.

350-90-260. Uses Allowed Outright — Forest Land.

(1) The following uses are allowed on lands designated Commercial Forest Land or Large or Small Woodland without review:

- (a) Forest practices that do not violate conditions of approval for other approved uses.
- (b) Agricultural use, except new cultivation.
- (c) Repair, maintenance, and operation of existing structures, trails, roads, railroads and utility facilities.
- (d) Buildings less than 60 square feet in floor area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

(2) The following uses are allowed on land designated SMA-Forest without review:

- (a) New agricultural uses as allowed in Commission Rule 350-90-190(2) and the open space uses allowed in Commission Rule 350-90-340, except where there would be potential impact to cultural or natural resources.
- (b) Maintenance, repair, and operation of existing dwellings, signs, structures, trails, roads, railroads, and utility facilities.
- (c) Accessory structures of less than 60 square feet in area and less than 18 feet in height measured at the roof peak.

350-90-270. Review Uses — Forest Land.

(1) The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620):

(a) On lands designated Large Woodland, a single-family dwelling upon a demonstration that all of the following conditions exist:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The principal purpose for locating a dwelling on lands designated Large Woodland is to enable the resident to conduct efficient and effective forest management. This requirement indicates a relationship between ongoing forest management and the location of a dwelling on the subject parcel. A dwelling may not always be required for forest management.

(B) The subject parcel has been enrolled in the appropriate state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the Development Review Officer. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor and expenses; and how the dwelling will contribute toward the successful completion of the operations.

(D) The parcel has no other dwellings that are vacant or currently occupied by persons not engaged in forestry and that could be used as the principal forest dwelling.

(E) The dwelling complies with the "Approval Criteria for the Siting of Dwellings on Forest Land" (Commission Rule 350-90-310) and "Approval Criteria for Fire Protection in Forest Zones" (Commission Rule 350-90-300).

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(b) On lands designated Small Woodland, one single-family dwelling on a legally created parcel upon the parcel's enrollment in the state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of a dwelling shall comply with Commission Rule 350-90-300 and Commission Rule 350-90-310. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(c) One single-family dwelling if shown to be in conjunction with and substantially contribute to the current agricultural use of a farm pursuant to Commission Rule 350-90-190 (1)(e). The siting of the dwelling shall comply with Commission Rule 350-90-300.

(d) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure

shall be located on-site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when the particular forest practice for which was approved has concluded.

(e) Temporary portable facilities for the primary processing of forest products grown on a parcel or contiguous parcels in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.

(f) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.

(g) Structures associated with hunting and fishing operations

(h) Towers and fire stations for forest fire protection.

(i) New agricultural structures subject to Commission Rule 350-90-300.

(j) The temporary use of a mobile home in the case of a family hardship, subject to Commission Rule 350-90-150(3), 350-90-300 and 350-90-310.

(k) Accessory building(s) greater than 60 square feet in floor area and/or exceeding 18 feet in height as measured at the roof peak; subject to Commission Rule 350-90-300 and 350-90-310.

(l) A second single-family dwelling for a farm operator's relative, subject to Commission Rule 350-90-190 (1)(h), 350-90-300 and 350-90-310.

(m) Private roads serving a residence, subject to Commission Rule 350-90-300 and 350-90-310.

(n) Recreation development, subject to Commission Rule 350-90-610 and the Recreation Development Plan (Management Plan, Part III, Chapter 1).

(o) Construction or reconstruction of roads or modifications not in conjunction with forest use or practices.

(p) Agricultural labor housing upon a showing that:

(A) The proposed housing is necessary and accessory to a current agricultural use.

(B) The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject agricultural unit. Seasonal use shall not exceed nine months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock and will not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(q) On lands designated Commercial Forest Land, a temporary mobile home in conjunction with a timber operation, upon a finding that security personnel are required to protect equipment associated with a harvest operation or the subject forest land from fire. The mobile home must be removed upon completion of the subject harvest operation or the end of the fire season. The placement of the mobile home is subject to Commission Rule 350-90-300 and 350-90-310.

(4) On parcels in Small Woodland, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" [Commission Rule 350-90-150(1)]. If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in

size or larger. Similarly, if the designated minimum parcel size is 40 or 80 acres, this provision will apply to parcels 80 acres or larger or 160 acres or larger, respectively.

(s) New cultivation, subject to compliance with Commission Rule 350-90-540, 350-90-560, 350-90-570, 350-90-580 and 350-90-590.

(t) Life Estates on lands designated Large or Small Woodland, pursuant to Commission Rule 350-90-320.

(2) The following uses may be allowed on lands designated SMA-Forest subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620). The use or development will be sited to minimize the loss of land suitable for the production of forest products:

(a) Any use listed in Commission Rule 350-90-190(2).

(b) Forest practices in accordance with a site plan for forest practices approved by the Oregon Department of Forestry or Washington Department of Natural Resources, or other designated forest practices review agency, including the following:

(A) The following information, in addition to the site plan requirements of Commission Rule 350-90-080, shall be included on the site plan:

(i) Boundary of proposed commercial forest practice.

(ii) Location of proposed rock or aggregate sources.

(iii) Timber types.

(iv) Harvest units.

(v) Silvicultural prescriptions.

(vi) Road and structure construction and/or reconstruction design.

(vii) Major skid trails, landings, and yarding corridors.

(viii) Commercial firewood cutting areas.

(ix) Existing and proposed rock pit development plans.

(x) Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.

(B) A discussion of slash disposal methods.

(C) A reforestation plan as reviewed by the appropriate state forest practices agency.

(c) Railroad and road construction or reconstruction.

(d) Exploration, development, and production of sand, gravel, or crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products in the Special Management Area.

(e) Silvicultural nurseries.

(f) Utility facilities for public service upon a finding that:

(A) There is no alternative location with less adverse effect on Forest Land, and

(B) The size is the minimum necessary to provide the service.

(g) Structures or vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.

(h) Fish hatcheries and aquaculture facilities.

(i) Public recreation, commercial recreation, interpretive and educational developments and uses consistent with Commission Rule 350-90-620.

(j) One dwelling on a parcel of 40 contiguous acres or larger if an approved Forest Management Plan demonstrates that such dwelling is necessary for and accessory to forest uses. The Forest Management Plan shall demonstrate the following:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forest lands is to enable the resident to conduct efficient and effective management. This requirement shall indicate a relationship between ongoing forest management and the need for dwelling on the subject property.

(B) The subject parcel has been enrolled in the state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the Development Review Officer. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor, and expenses; and how the dwelling will contribute towards the successful management of the property.

(D) There are no other dwellings on the parcel that are vacant or currently occupied by persons not engaged in forest management of the subject parcel.

(E) The dwelling complies with all applicable building code and fire protection guidelines.

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operations are entitled to carry on accepted agricultural or forest practices.

(k) Accessory structures over 60 square feet.

(l) Home occupations and cottage industries pursuant to Commission Rule 350-90-150(4).

(m) Temporary portable facility for the processing of forest products.

(n) Towers and fire stations for forest fire protection.

(o) Community facilities and nonprofit facilities related to forest resource management.

(p) Expansion of existing nonprofit group camps, retreats, or conference or education centers, necessary for the successful operation of the facility on the dedicated site. Expansion beyond the dedicated site shall be prohibited.

(q) Signs as specified in 350-90-160(2).

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-280. Review Uses with Additional Approval Criteria — Commercial Forest Land, or Large or Small Woodland Designations.

The following uses may be allowed on lands designated Commercial Forest Land, or Large or Small Woodland, subject to compliance with the appropriate scenic, cultural, natural, or recreation resources guidelines (Commission Rule 350-90-510 through 350-90-620) and Commission Rule 350-90-290:

(1) Utility facilities and railroads necessary for public service upon a showing that (a) there is no practicable alternative location with less adverse effect on agricultural and forest lands and on scenic, cultural, natural and recreation resources and (b) the size is the minimum necessary to provide the service.

(2) Home occupations or cottage industries in an existing residence or accessory structure, subject to the guidelines in Commission Rule 350-90-150(4).

(3) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

(4) Wineries, in conjunction with onsite viticulture, upon a showing that processing and sales of wine is from grapes grown on the subject farm or in the local region.

(5) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

(6) Exploration, development, and production of mineral and geothermal resources, subject to Commission Rule 350-90-520 through 350-90-530.

(7) Aquaculture.

(8) Boarding of horses.

(9) Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.

(10) Expansion of existing nonprofit group camps, retreats, or conference centers.

(11) Bed and breakfast inns in single-family dwellings, subject to Commission Rule 350-90-150(5) and provided that the residence:

(a) Is included in the National Register of Historic Places, or

(b) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation, or

(c) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(12) Nonprofit, environmental learning or research facilities.

350-90-290. Approval Criteria for Specified Review Uses on Lands Designated Commercial Forest Land or Large or Small Woodland.

Uses identified in 350-90-280 may be allowed only if they meet the following criteria:

(1) The owners of land designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture and that lies within 500 feet of the perimeter of the subject parcel have been notified of the land use application and have been given at least 10 days to comment prior to a final decision;

(2) The use will not interfere seriously with accepted forest or agricultural practices on nearby lands devoted to resource use;

(3) The use will be sited in a way that minimizes the loss of forest or agricultural land and minimizes the chance of interference with accepted forest or agricultural practices on nearby lands; and

(4) The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel and will comply with Commission Rule 350-90-300.

350-90-300. Approval Criteria for Fire Protection in Forest Designations.

All uses, as specified, shall comply with the following fire safety guidelines:

(1) All buildings shall be surrounded by a maintained fuel break of 50 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.

(2) Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structure(s).

(3) A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.

(4) Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent. Turnouts shall be provided at a minimum of every 500 feet. Access drives shall be maintained to a level that is passable to fire equipment. Variances to road guidelines may be made only after consultation with the local rural fire district, and the Washington Department of Natural Resources in Washington, or the Oregon Department of Forestry in Oregon.

(5) Within one year of the occupancy of a dwelling, the Development Review Officer shall conduct a review of the development to assure compliance with these guidelines.

(6) Telephone and power supply systems shall be underground whenever possible.

(7) Roofs of structures should be constructed of fire-resistant materials such as metal, fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.

(8) Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.

(9) All structural projections such as balconies, decks and roof gables should be built with fire resistant materials equivalent to that specified in the Uniform Building Code.

(10) Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant.

350-90-310. Approval Criteria for Siting of Dwellings on Forest Land.

The approval of new dwellings and accessory structures on forest lands shall comply with the following guidelines:

(1) The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least 200 feet from adjacent properties. Clustering or locating proposed development closer to existing development on adjacent lands may minimize impacts on nearby or adjacent forest operations.

(2) The amount of forest land used to site dwellings, structures, access roads, and service corridors shall be minimized. This can include locating new dwellings and structures as close to existing public roads as possible, thereby minimizing the length of access roads and utility corridors; or locating the dwelling, access road, and service corridors on portions of the parcel that are least or poorly suited for forestry. Areas may not be suitable for forestry because of existing nonforest uses, adjacent dwellings, or land productivity.

(3) Dwellings shall be located to minimize the risks associated with fire. Dwellings should be located on gentle slopes and in any case not on slopes which exceed 40 percent. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty in gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.

(4) A variance to the siting guidelines of this rule may be granted pursuant to the provisions of Commission Rule 350-90-150(7).

350-90-320. Approval Criteria for Life Estates in Commercial Forest Land or Small or Large Woodland.

A landowner who sells or otherwise transfers real property on lands designated Commercial Forest Land or Large or Small Woodland may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel. A second dwelling unit on lands designated Commercial Forest Land or Large or Small Woodland may be allowed, subject to compliance with the guidelines in Commission Rule 350-90-520 through 350-90-620 for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

(1) The proposed dwelling is in conjunction with agricultural use, using guideline 350-90-190 (1)(e).

(2) On lands designated Large Woodland, the dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The proposed dwelling shall comply with guideline 350-90-270 (1)(a).

(3) On lands designated Small Woodland, the proposed dwelling complies with guideline 350-90-270 (1)(b).

(4) Upon termination of the life estate, the original or second dwelling shall be removed.

350-90-330. Open Space Designations.

Commission Rule 350-90-330 through 350-90-340 shall apply to those areas designated GMA-Open Space and SMA-Open Space on the Scenic Area Land Use Designation Map.

350-90-340. Review Uses — Open Space.

(1) The following uses may be allowed on all lands designated GMA-Open Space subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620):

(a) Low intensity recreation, subject to Commission Rule 350-90-610(2).

(b) Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources.

(c) Repair, maintenance, operation and improvement of existing structures, trails, roads, railroads, utility facilities and hydroelectric facilities.

(d) Removal of timber, rocks or other materials for purposes of public safety and placement of structures for public safety.

(2) The following uses may be allowed on land designated GMA-Open Space in the Gorge Walls, Canyonlands and Wildlands landscape setting:

(a) All uses listed in Commission Rule 350-90-340(1).

(b) Livestock grazing.

(c) Fish and wildlife management uses conducted by federal, state or tribal resource agencies.

(d) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a county conservation district.

(e) Harvesting of wild crops.

(f) Educational or scientific research.

(g) Continued operation of existing quarries if they are determined to be consistent with guidelines to protect scenic, cultural, natural and recreation resources (Commission Rule 350-90-520 through 350-90-620).

(5) The following uses may be allowed on land designated GMA-Open Space within the Mosley Lakes Natural Area:

(a) All those uses allowed in Commission Rule 350-90-340(1).

(b) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

(c) Educational or scientific research, after consultation with the Washington Natural Heritage Program.

(d) Commercial trapping.

(4) The following uses may be allowed on land designated GMA-Open Space within the Chenoweth Table Natural Area:

(a) All those uses allowed in Commission Rule 350-90-340(1).

(b) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-90-610(2), after consultation with the Oregon Natural Heritage Program.

(c) Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Oregon Natural Heritage Program.

(d) Educational or scientific research, after consultation with the Oregon Natural Heritage Program.

(5) The following uses may be allowed on land designated GMA-Open Space within the Squally Point Natural Area:

(a) Except as limited by guideline (6)(b) below, all those uses allowed in Commission Rule 350-90-340(1).

(b) Except in the upland dunes south of the railroad tracks, low-intensity recreation, subject to the guidelines for recreation intensity classes 350-90-610(2), after consultation with the Oregon Natural Heritage Program.

(c) Repair and maintenance of railroads, except measures to stabilize dunes, after consultation with the Oregon Natural Heritage Program.

(6) The following uses may be allowed on land designated GMA-Open Space within the Klickitat River Wildlife and Natural Area:

(a) All those uses allowed in Commission Rule 350-90-340(1).

(b) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-90-610(2), after consultation with the Washington Natural Heritage Program and Washington Department of Wildlife.

(c) Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

(d) Educational or scientific research, after consultation with the Washington Natural Heritage Program.

(7) The following uses are allowed on land designated GMA-Open Space within the Balch Lake Wetland Area:

(a) All those uses allowed in Commission Rule 350-90-340(1).

(b) Livestock grazing, subject to a range conservation plan, after consultation with the Washington Department of Wildlife.

(c) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(d) Educational and scientific research, after consultation with the Washington Department of Wildlife.

(e) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-90-610(2), after consultation with the Washington Department of Wildlife.

(8) The following uses may be allowed on lands designated GMA-Open Space within the mouth of the Wind River Wildlife Area:

(a) All those uses allowed in Commission Rule 350-90-340(1).

(b) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(c) Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

(d) Harvesting of wild crops.

(e) Educational or scientific research, after consultation with the Washington Department of Wildlife or Fisheries.

(f) Commercial fishing and trapping.

(g) Low-intensity recreation, subject to the guidelines for recreation intensity classes 350-90-610(2), after consultation with the Washington Department of Wildlife.

(9) The following uses may be allowed on lands designated GMA-Open Space within state parks:

(a) All uses listed in Commission Rule 350-90-340(1).

(b) Fish and wildlife management uses conducted by federal, state or tribal resource agencies.

(c) Soil, water or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

(d) Harvesting of wild crops.

(e) Educational or scientific research.

(10) On land designated SMA-Open Space, the maintenance, repair, and operation of existing dwellings, structures, trails, roads, railroads, and utility facilities may occur without review.

(11) The following uses may be allowed on lands designated SMA-Open Space, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-650) and when consistent with an open space plan approved by the U.S. Forest Service pursuant to guideline (12) below:

(a) Changes in existing uses including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices.

(b) Structures or vegetation management activities, including scientific research, related to scenic, cultural, recreational, and natural resource enhancement projects.

(c) Low intensity recreation uses, including educational and interpretive facilities, consistent with Commission Rule 350-90-620.

(d) Utility facilities for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Open Space land.

(B) The size is the minimum necessary to provide the service.

(e) New signs, pursuant to Commission Rule 350-90-160.

(12) An Open Space plan shall be completed by the primary managing agency or landowner prior to any new land uses or development, and shall be reviewed by the Forest Service. The Open Space plan shall include the following:

(a) Direction for resource protection, enhancement, and management.

(b) Review of existing uses to determine compatibility with Open Space values.

(c) Consultation with members of the public and with agency and resource specialists.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-350. Residential Land Designations.

Commission Rule 350-90-350 through 350-90-390 shall apply to those areas designated Residential on the Scenic Area Land Use Designation Map.

350-90-360. Uses Allowed Outright — Residential Land.

(1) The following uses are allowed on lands in the General Management Area designated Residential without review:

- (a) Agricultural use, except new cultivation.
- (b) Forest practices that do not violate conditions of approval for other approved uses.
- (c) Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.
- (d) Buildings less than 60 square feet in area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

(2) The following uses are allowed on land in the Special Management Area designated Residential without review:

- (a) Agricultural uses except where there would be potential impact to cultural or natural resources.
- (b) Maintenance, repair, and operation of dwellings, signs, structures, existing trails, roads, railroads, and utility facilities.
- (c) Accessory structures of less than 60 square feet in area and 18 feet in height measured at the roof peak.

350-90-370. Review Uses — Residential Land.

(1) The following uses may be allowed on lands in the General Management Area designated Residential, subject to compliance with the scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620):

(a) One single-family dwelling per legally created parcel.

(A) If the subject parcel is located adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland, the use shall comply with the buffer and notification requirements of Commission Rule 350-90-150(2), 350-90-310(1), and the notification requirements of Commission Rules 350-90-190(1)(n)(E) and 350-90-290(1); and

(B) If the subject parcel is located adjacent to lands designated Commercial Forest Land or Large or Small Woodland, the placement of a dwelling shall also comply with the fire protection guidelines of Commission Rule 350-90-300.

(b) Buildings exceeding 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.

(c) The temporary use of a mobile home in the case of a family hardship, subject to Commission Rule 350-90-150(3).

(d) Construction or reconstruction of roads.

(e) On parcels 10 acres or larger designated Residential-5, or 20 acres or larger designated Residential-10, a land division creating new parcels smaller than the designated minimum parcel size, subject to the provisions of Commission Rule 350-90-150(1).

(f) New cultivation, subject to compliance with Commission Rule 350-90-540 through 350-90-590.

(g) Land divisions, subject to the minimum lot size as indicated on the Land Use Designation Map.

(2) The following uses may be allowed on lands in the Special Management Area designated Residential subject to compliance with the scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620):

(a) One single-family dwelling per legally created lot or consolidated parcel, subject to the guidelines of Commission Rule 350-90-270 (2)(j)(E).

(b) Accessory structures over 60 square feet.

(c) New utility facilities.

(d) Fire stations.

(e) Home occupations and cottage industries pursuant to Commission Rule 350-90-150(4).

(f) Bed and breakfast inns in structures that are included in, or eligible for inclusion in, the National Register of Historic Places, pursuant to 350-90-150(5).

(g) Community parks and playgrounds.

(h) Road and railroad construction and reconstruction.

(i) Forest practices, pursuant to the provisions of Commission Rule 350-90-270(2).

(j) Signs, as specified in Commission Rule 350-90-160.

350-90-380. Review Uses with Additional Approval Criteria — Residential Land.

The following uses may be allowed on lands in the General Management Area designated Residential subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620), and Commission Rule 350-90-390:

(1) Accredited child care centers on land designated 1-acre Residential or 2-acre Residential. A child care center may be allowed in other Residential designations within an existing church or community building.

(2) Schools within an existing church or community building.

(3) Utility facilities and railroads.

(4) Home occupations and cottage industries pursuant to Commission Rule 350-90-150(4).

(5) Fire stations.

(6) Recreation development, subject to compliance with Commission Rule 350-90-610.

(7) Community parks and playgrounds, consistent with the guidelines of the National Park and Recreation Society regarding the need for such facilities.

(8) Bed and breakfast inns in single-family dwellings located on lands designated Residential-5 or Residential-10, pursuant to 350-90-150(5).

350-90-390. Approval Criteria for Specified Review Uses on Lands Designated Residential.

The uses identified in Commission Rule 350-90-390 may be allowed only if they meet all of the following:

(1) The proposed use will be compatible with the surrounding area. Review of compatibility shall include impacts associated with the visual character of the area, traffic generation, and noise, dust and odors.

(2) The proposed use will not require public services other than those existing or approved for the area.

(3) If the subject parcel is located within 500 feet of lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, new buildings associated with the proposed use shall comply with Commission Rule 350-90-080(6).

(4) If the subject parcel is located within 500 feet of lands designated Commercial Forest Land or Large or Small Woodland, new buildings associated with the proposed use shall comply with Commission Rule 350-90-300.

350-90-400. Rural Center.

Commission Rule 350-90-400 through 350-90-420 shall apply to those areas designated Rural Center on the Scenic Area Land Use Designation Map.

350-90-410. Uses Allowed Outright — Rural Center.

The following uses are allowed on lands designated Rural Center without review:

- (1) Agricultural use, except new cultivation.
- (2) Forest practices that do not violate conditions of approval for other approved uses.
- (3) Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.
- (4) Buildings less than 60 square feet in area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

350-90-420. Review Uses — Rural Center.

The following uses may be allowed on lands designated Rural Center subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620):

- (1) One single-family dwelling per legally created parcel.
- (2) Buildings greater than 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.
- (3) The temporary use of a mobile home in the case of a family hardship, pursuant to Commission Rule 350-90-150(3).
- (4) Duplexes.
- (5) Fire stations.
- (6) Libraries.
- (7) Government buildings.
- (8) Community centers and meeting halls.
- (9) Schools.
- (10) Accredited child care centers.
- (18) Rural service commercial and tourist commercial uses limited to 5,000 square feet of floor area per building or use.
 - (a) Grocery stores.
 - (b) Variety and hardware stores.
 - (c) Shops, offices and repair shops.
 - (d) Personal services such as barber and beauty shops.
 - (e) Travelers accommodations, bed and breakfast inns.

- (f) Restaurants.
- (g) Taverns and bars.
- (h) Gas stations.
- (i) Gift shops.

(15) Home occupations or cottage industries in an existing residence or accessory structure, pursuant to Commission Rule 350-90-150(4).

(11) Utility facilities and railroads.

(12) Recreation development, subject to Commission Rule 350-90-610.

(13) Places of worship.

(16) New cultivation, subject to compliance with Commission Rule 350-90-540, 350-90-560, 350-90-570, 350-90-580 and 350-90-590.

(17) Land divisions subject to Commission rule 350-90-150(1).

(14) Planned developments incorporating features such as consolidated access and commonly shared open areas.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-90-430. Commercial Land.

Commission Rule 350-90-430 through 350-90-360 shall apply to those areas designated Commercial on the Scenic Area Land Use Designation Map.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-440. Uses Allowed Outright — Commercial Land.

The following uses are allowed on lands designated Commercial without review:

- (1) Agricultural use, except new cultivation.
- (2) Forest practices that do not violate conditions of approval for other approved uses.
- (3) Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.
- (4) Buildings less than 60 square feet in area and not exceeding 18 feet in height measured at the roof peak, which are accessory to a dwelling.

350-90-450. Review Uses with Additional Approval Criteria — Commercial Land.

The following uses may be allowed on lands designated Commercial, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620), and Commission Rule 350-90-460:

- (1) Travelers accommodations, bed and breakfast inns subject to Commission Rule 350-90-150(5).
- (2) Restaurants.
- (3) Gift shops.

(4) Home occupations or cottage industries in an existing residence or accessory structure, pursuant to Commission Rule 350-90-150(4).

(5) One single-family dwelling per legally created parcel.

(6) Utility facilities and railroads.

350-90-460. Approval Criteria for Review Uses on Lands Designated Commercial.

The uses identified in Commission Rule 350-90-450 may be allowed only if they meet both of the following criteria:

(1) The proposal is limited to 5,000 square feet of floor area per building or use.

(2) The proposed use would be compatible with the surrounding areas, including review for impacts associated with the visual character of the area, traffic generation and noise, dust and odors.

350-90-470. Recreation.

Commission Rule 350-90-470 through 350-90-510 shall apply to those areas designated Public Recreation and Commercial Recreation on the Scenic Area Land Use Designation Map.

350-90-480. Uses Allowed Outright — Public Recreation and Commercial Recreation.

(1) The following uses are allowed on lands in the General Management Area designated Public Recreation and Commercial Recreation without review:

(a) Forest practices that do not violate conditions of approval for other approved development.

(b) Repair, maintenance and operation of existing structures, trails, roads, railroads, and utility facilities.

(c) Agricultural uses, except for new cultivation.

(2) The following uses are allowed on lands in the Special Management Area designated Public Recreation without review:

(a) Agricultural use, except where there would be potential impact to cultural or natural resources.

(b) Maintenance, repair, and operation of existing dwellings, structures, trails, roads, railroads, utility facilities, and public recreation facilities.

(c) Accessory structures less than 60 square feet in area and 18 feet in height measured at the roof peak.

490-80-490. Review Uses — Public Recreation and Commercial Recreation.

(1) The following uses are allowed on all lands in the General Management Area designated Public Recreation:

(a) The following uses may be allowed on lands in the General Management Area designated Public Recreation, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620), and where applicable Commission Rule 350-90-610 (5)(a) and (c) through (g):

(A) Publicly-owned, resource-based recreation uses consistent with Commission Rule 350-90-610.

(B) Commercial uses and non-resource based recreation uses that are part of an existing or approved, resource-based public recreation use consistent with guidelines contained in this section.

(C) New cultivation, subject to compliance with Commission Rule 350-90-540 through 350-90-590.

(b) The following uses may be allowed on lands in the General Management Area designated Public Recreation, subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620), and Commission Rule 350-90-500:

(A) Residences and accessory structures, limited to one single-family dwelling for each parcel legally created prior to adoption of the Management Plan. Exceptions may be considered only upon demonstration that more than one residence is necessary for management of a public park.

(B) Agricultural buildings.

(C) Utility transmission, transportation, communication and public works facilities.

(c) Land divisions, subject to compliance with Commission Rule 350-90-500(3).

(2) The following uses are allowed on all lands in the General Management Area designated Commercial Recreation:

(a) The following uses may be allowed on lands in the General Management Area designated Commercial Recreation, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620), and where applicable Commission Rule 350-90-610 (5)(a) and (c) through (g):

(A) Commercially-owned, resource-based recreation uses consistent with Commission Rule 350-90-610.

(B) Overnight accommodations that are part of a commercially-owned resource-based recreation use, where such resource-based recreation use occurs on the subject site or is accessed through the site on adjacent lands, and which meet the following guidelines:

(i) Buildings containing individual units are no larger than 1,500 square feet in total floor area and no higher than two and one-half stories.

(ii) Buildings containing more than one unit are no larger than 5,000 square feet in total floor area and no higher than two and one-half stories.

(iii) The total number of individual units shall not exceed 25, unless the proposed development complies with guidelines for clustered accommodations in subsection (iv) below

(iv) Clustered overnight travelers accommodations meeting the following guidelines may include up to 35 individual units:

(I) Average total floor area of all units is 1,000 square feet or less per unit;

(II) A minimum of 50 percent of the project site is dedicated to undeveloped, open areas (not including roads or parking areas);

(III) The facility is in an area classified for high intensity recreation (Recreation Intensity Class 4).

(C) Commercial uses, including restaurants sized to accommodate overnight visitors and their guests, and nonresource-based recreation uses which are part of an existing or approved resource-based commercial recreation use consistent with the guidelines contained in this section.

(D) New cultivation, subject to compliance with Commission Rule 350-90-540 through 350-90-590.

(b) The following uses may be allowed, subject to compliance with the appropriate scenic, cultural, natural, and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620), and Commission Rule 350-90-510:

(A) Residences and accessory structures limited to one single-family dwelling for each lot or parcel legally created prior to adoption of the Management Plan.

(B) Agricultural buildings.

(C) Utility transmission, transportation and communication facilities.

(c) Land divisions, subject to compliance with Commission Rule 350-90-510(3).

(3) The following uses are allowed on lands in the Special Management Area designated Public Recreation subject to compliance with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620):

(a) Forest uses and practices as allowed in Commission Rule 350-90-270(2).

(b) Public trails, consistent with Commission Rule 350-90-620.

(c) Public recreational facilities, consistent with Commission Rule 350-90-620.

(d) Public non-profit group camps, retreats, conference or educational centers, and interpretive facilities.

(e) All dwellings and accessory structures larger than 60 square feet.

(f) Home occupations and cottage industries, pursuant to Commission Rule 350-90-150(4).

(g) Road and railroad construction and reconstruction.

(h) Utility facilities for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Public Recreation land.

(B) The size is the minimum necessary to provide the service.

(i) New signs pursuant to 350-90-160(2).

(j) Structures or vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects.

(k) Agricultural uses as allowed in Commission Rule 350-90-190(2).

(4) New commercial recreation facilities shall be allowed in Forest Land and Agricultural Land use designations, consistent with the guidelines established for the recreation intensity classes Commission Rule 350-90-620.

Reviser's note: The above new section was filed by the agency as 490-80-490. This section is placed among sections forming new chapter 350-90, and therefore should be numbered 350-90-490. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

350-90-500. Approval Criteria for Non-Recreation Uses in Public Recreation Designations.

The uses identified in Commission Rule 350-90-490 (1)(b) may be allowed only if they meet the following criteria:

(1) The proposed use will not interfere with existing or approved public recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include onsite buffers, seasonal or temporary closures during peak recreation use periods, etc.

(2) The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.

(3) Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

350-90-510. Approval Criteria for Non-Recreation Uses in Commercial Recreation Designations.

The uses identified in Commission Rule 350-90-490 (2)(b) may be allowed only if they meet the following criteria:

(1) The proposed use will not interfere with existing or approved commercial recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include onsite buffers, seasonal or temporary closures during peak recreation use periods, etc.

(2) The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.

(3) Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

350-90-520. General Management Area Scenic Review Criteria.

The following scenic review guidelines shall apply to all Review Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

(1) All Review Uses:

(a) New buildings and roads shall be sited and designed to retain the existing topography and reduce necessary grading to the maximum extent practicable.

(b) New buildings shall be generally consistent with the height and size of existing nearby development.

(c) Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in Commission Rule 350-90-520.

(d) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

(e) For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable.

Such a plan shall be approved by the appropriate state agency for uses under their jurisdiction, or approved by the Development Review Officer with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At a minimum, such reclamation plans shall include:

(A) A map of the site, at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail, with 10 foot contour intervals or less, showing pre-mining existing grades and post-mining final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch-basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing and equipment areas employed for the duration of the use.

(B) Cross-sectional drawings of the site showing pre-mining and post-mining grades.

(C) Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

(D) Description of drainage/erosion control features to be employed for the duration of the use.

(E) A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

(2) All Review Uses Visible From Key Viewing Areas shall comply with the following applicable guidelines:

(a) Size, height, shape, color, reflectivity, landscaping, siting or other aspects of proposed development shall be evaluated to ensure that such development is visually subordinate to its setting as seen from Key Viewing Areas.

(b) The extent and type of conditions applied to a proposed development to achieve visual subordination should be proportionate to its potential visual impacts as seen from Key Viewing Areas. Primary factors influencing the degree of potential visual impact include: the amount of area of the building site exposed to Key Viewing Areas, the degree of existing vegetation providing screening, the distance from the building site to the Key Viewing Areas from which it is visible, the number of Key Viewing Areas from which it is visible, and the linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads). Written reports on determination of visual subordination and final conditions of approval shall include findings addressing each of these factors.

(c) Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

(d) For all buildings, roads or mining and associated activities proposed on lands visible from Key Viewing Areas, the following supplemental site plan information shall be submitted in addition to the site plan requirements in Commission Rule 350-90-080 and 350-90-520 (1)(e) for mining and associated activities:

(A) For buildings, a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used, number, size, locations of plantings, and any irrigation

provisions or other measures to ensure the survival of landscaping planted for screening purposes).

(B) Elevation drawings showing the appearance of proposed building(s) when built and surrounding final ground grades, for all buildings over 400 square feet in area.

(e) For proposed mining and associated activities on lands visible from Key Viewing Areas, in addition to submittal of plans and information pursuant to Commission Rule 350-90-520 (1)(e) and subsection (d) above, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable Key Viewing Areas.

(f) New buildings or roads shall be sited on portions of the subject property which minimize visibility from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, sensitive wildlife sites or conflict with the protection of cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

(g) In siting new buildings and roads, use of existing topography and vegetation to screen such development from Key Viewing Areas shall be give priority over other means of achieving visual subordination, such as planting of new vegetation or use of artificial berms to screen the development from Key Viewing Areas.

(h) Driveways and buildings shall be designed and sited to minimize grading activities and visibility of cut banks and fill slopes from Key Viewing Areas.

(i) The exterior of buildings on lands seen from Key Viewing Areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all Key Viewing Areas by existing topographic features.

(j) Exterior lighting shall be directed downward and sited, hooded and shielded such that it is not highly visible from Key Viewing Areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

(k) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of colors specified in the design guidelines for the subject property's landscape setting.

(l) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination requirements for lands seen from Key Viewing Areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park Service regulations for such structures.

(m) The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use, and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.

(n) An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline of a bluff, cliff or ridge as seen from a Key Viewing Area, may itself protrude above the skyline if:

(A) The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and

(B) There is no practicable alternative means of altering the building without increasing the protrusion.

(o) New main lines on lands visible from Key Viewing Areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

(p) New communication facilities (antennae, dishes, etc.) on lands visible from Key Viewing Areas, which require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.

(q) New communications facilities may protrude above a skyline visible from a Key Viewing Area only upon demonstration that:

(A) The facility is necessary for public service;

(B) The break in the skyline is seen only in the background; and

(C) The break in the skyline is the minimum necessary to provide the service.

(r) Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a Key Viewing Area only upon a demonstration that:

(A) The facility is necessary for public service; and

(B) The break in the skyline is the minimum necessary to provide the service.

(s) Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to the setback may be authorized.

(t) New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. A variance may be authorized if the property would be rendered unbuildable through the application of this guideline. In determining the slope, the average percent slope of the proposed building site shall be used.

(u) All proposed structural development involving more than 100 cubic yards of grading on sites visible from Key Viewing Areas and which slope between 10 and 30 percent shall include submittal of a grading plan. This plan shall be reviewed by the Development Review Officer for compliance with Key Viewing Area policies. The grading plan shall include the following:

(A) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail, with contour intervals of at least 5 feet, including:

(i) Existing and proposed final grades;

(ii) Location of all areas to be graded, with cut banks and fill slopes delineated; and

(iii) Estimated dimensions of graded areas.

(B) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:

(i) Its purpose;

(ii) An estimate of the total volume of material to be moved;

(iii) The height of all cut banks and fill slopes;

(iv) Provisions to be used for compaction, drainage, and stabilization of graded areas (preparation of this information by a licensed engineer or engineering geologist is recommended);

(v) A description of all plant materials used to revegetate exposed slopes and banks, including type of species, number of, size and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings; and

(vi) A description of any other interim or permanent erosion control measures to be utilized.

(v) Expansion of existing quarries and new production and/or development of mineral resources proposed on sites more than 3 miles from the nearest Key Viewing Areas from which it is visible may be allowed upon a demonstration that:

(A) The site plan requirements for such proposals pursuant to this chapter have been met.

(B) The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc. associated with the use would be visually subordinate as seen from any Key Viewing Areas.

(C) A reclamation plan to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved. The plan shall be approved by the applicable state agency with jurisdiction, or approved by the Development Review Officer with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At minimum, a reclamation plans shall comply with Commission Rule 350-90-520 (1)(e).

(D) A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed mining activities from Key Viewing Areas, including:

(i) A list of Key Viewing Areas from which exposed mining surfaces (and associated facilities/activities) would be visible;

(ii) An estimate of the surface area of exposed mining surfaces which would be visible from those Key Viewing Areas;

(iii) The distance from those Key Viewing Areas and the linear distance along those Key Viewing Areas from which proposed mining surfaces are visible;

(iv) The slope and aspect of mining surfaces relative to those portions of Key Viewing Areas from which they are visible;

(v) The degree to which potentially visible mining surfaces are screened from Key Viewing Areas by existing vegetation, including winter screening considerations.

(vi) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc.

and appropriate time frames to achieve such results, including winter screening considerations.

(w) Unless addressed by guideline (v) above, new production and/or development of mineral resources may be allowed upon a demonstration that:

(A) The site plan requirements for such proposals pursuant to this chapter have been met;

(B) The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc. associated with the use would be fully screened from any Key Viewing Area; and

(C) A reclamation plan to restore the area to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved by the applicable state agency with jurisdiction, or approved by the Development Review Officer with technical assistance from applicable state agencies for uses not under state agency jurisdiction. At minimum, the reclamation plan shall comply with Commission Rule 350-90-520 (1)(e).

(x) An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than 3 miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.

(y) An interim time period to achieve compliance with full screening requirements for new quarries located less than 3 miles from the nearest visible Key Viewing Area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring prior to achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

(z) Compliance with specific approval conditions to achieve visual subordination (such as landscaped screening), shall occur within a period not to exceed 2 years after the date of development approval. This guideline shall apply to all development regulated by this section except mining and associated uses.

(3) All Review Uses within the following landscape settings shall comply with the following applicable guidelines:

(a) Pastoral

(A) New development shall be compatible with the general scale (height, dimensions, overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.

(iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).

(iv) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.

(v) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-90-520 (2)(k) or (l).

(D) Compatible recreation uses include resource-based recreation uses of a very low or low-intensity nature (as defined by Commission Rule 350-90-610), occurring infrequently in the landscape.

(b) Coniferous Woodland

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Structure height shall remain below the forest canopy level.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the setting. Such species include: Douglas fir, grand fir, western red cedar, western hemlock, big leaf maple, red alder, ponderosa pine and Oregon white oak, and various native willows (for riparian areas).

(iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(iv) The exteriors of structures shall be either natural or earth-tone colors unless specifically exempted by Commission Rule 350-90-520 (2)(k) or (l).

(D) Compatible recreation uses include resource-based recreation uses of varying intensities. Typically, outdoor recreation uses should be low-intensity, and include trails, small picnic areas and scenic viewpoints. Some more intensive recreation uses, such as campgrounds, may occur. They should be scattered, interspersed with large areas of undeveloped land and low-intensity uses.

(c) Oak-Pine Woodland

(A) New development shall be compatible with the general scale (height, dimensions, and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Structure height shall remain below the tree canopy level in wooded portions of this setting.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve

visual subordination for new development and expansion of existing development.

(i) At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir.

(ii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

For substantially wooded portions:

(iii) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from Key Viewing Areas shall be retained.

(iv) The exteriors of structures shall be either natural or earth-tone colors, unless specifically exempted pursuant to Commission Rule 350-90-520 (2)(k) or (l).

For treeless portions or portions with scattered tree cover:

(v) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.

(vi) Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.

(vii) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.

(viii) The exteriors of structures shall be dark and either natural or earth-tone colors, unless specifically exempted pursuant to Commission Rule 350-90-520 (2)(k) or (l).

(D) Resource-based recreation uses of varying intensities may be compatible with this setting, although most are of low-intensity nature (such as trails or small scenic outlooks). More intensive recreation uses may be compatible where allowed pursuant to Commission Rule 350-90-610, although they are generally rare in this setting. As with Woodland settings, intensive recreation uses in Oak-Pine Woodlands may be compatible if widely scattered and not in large concentrations.

(d) Grassland

(A) New development shall be compatible with the general scale (height, dimensions, and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible. Exceptions to this guideline are permitted where necessary for farming operations.

(C) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Structures shall be sited on portions of the property that provide maximum screening from Key Viewing Areas, using existing topographic features.

(ii) Lower structures that emphasize horizontal lines and blend with this sweeping landscape should be encouraged rather than very tall structures.

(iii) Planting of trees for screening shall not be extensive, in character with the openness of this setting. Where

used, screening vegetation shall either tie in with nearby riparian vegetation in seasonal drainages or emulate wind-rows. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include Oregon white oak, Lombardy poplar, black locust, black cottonwood (wet locations), Russian olive and ponderosa pine.

(iv) The exteriors of structures shall be dark and either natural or earth-tone colors, unless specifically exempted pursuant to Commission Rule 350-90-520 (2)(k) or (l).

(D) Resource-based recreation uses of a very low-intensity or low-intensity nature that occur infrequently are compatible with this setting, and include hiking, hunting and wildlife viewing.

(e) Rural Residential

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.

(C) In portions of this setting visible from Key Viewing Areas, and not exempt from visual subordination guidelines (pursuant to the "Developed Settings and Visual Subordination Policies" Section in Part I, Chapter 1 of the Management Plan) the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

(iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(iv) Structures' exteriors shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-90-520 (2)(k) or (l).

(D) Compatible recreation uses should be limited to small community park facilities, but occasional low-intensity resource-based recreation uses (such as small scenic overlooks).

(f) Rural Residential/Pastoral, Rural Residential/Coniferous Woodland, and Rural Residential/Oak-Pine Woodland

(A) New development in this setting shall meet the design guidelines for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral, Coniferous Woodland or Oak-Pine Woodland), unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In the event of a possible conflict between the guidelines, the guidelines for the more rural setting (Coniferous Woodland, Oak-Pine Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.

(C) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

(g) Residential

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In portions of this setting visible from Key Viewing Areas and not exempt from visual subordination guidelines (pursuant to the "Developed Settings and Visual Subordination Policies" section of Part I, Chapter 1 of the Management Plan), the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) Structures' exteriors shall be non-reflective unless fully screened from Key Viewing Areas with existing vegetation and/or topography.

(iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

(iv) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(v) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-90-520 (2)(k) or (l).

(C) Compatible recreation uses are limited to community park facilities.

(h) Village

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) New commercial buildings shall be limited in size to a total floor area of 5,000 square feet or less, and shall be limited in height to 2 and 1/2 stories or less.

(C) For new commercial, institutional (churches, schools, government buildings) or multi-family residential uses on parcels fronting a Scenic Travel Corridor (Washington State Route 14 or the Historic Columbia River Highway) and expansion of existing development for such uses, parking shall be limited to rear or side yards of buildings to the maximum extent practicable.

(D) New vehicular access points to the Scenic Travel Corridors shall be limited to the maximum extent practicable, and access consolidation shall be required where feasible.

(E) New development proposals and expansion of existing development shall be encouraged to follow planned unit development approaches, featuring consolidated access, commonly-shared landscaped open areas, etc.

(F) New commercial, institutional or multi-family residential uses fronting a Scenic Travel Corridor shall comply with the following landscape requirements:

(i) Parking or loading areas for 10 or more spaces shall include a landscaped strip at least 5 feet in width between the new use and the Scenic Travel Corridor roadway.

(ii) The landscape strip required in guideline (F)(i) above shall include shrubs, vegetative ground cover and, at minimum, one tree spaced as appropriate to the species and not to exceed 25 feet apart on the average.

(G) The use of building materials that reinforce the Village Setting's character, such as wood, logs or stone, and that reflect community desires, should be encouraged.

(H) Architectural styles characteristic of the area (such as 1 and 1/2 story dormer roof styles in Corbett), and that reflect community desires, should be encouraged. Entry signs should be consistent with such architectural styles.

(I) Design features which create a "pedestrian friendly" atmosphere, such as large shop windows on the ground floor of commercial buildings, porches along ground floors with street frontage, etc. should be encouraged.

(J) Pedestrian walkways and bicycle paths should be encouraged and integrated into new developments wherever feasible.

(K) Where feasible, existing tree cover of species native to the region or commonly found in the area shall be retained when designing new development or expanding existing development.

(L) Compatible recreation uses may include community parks serving the recreation needs of local residents, and varying intensities of other recreation uses.

(i) River Bottomlands

(A) New development shall be compatible with the general scale (height, dimensions and overall mass) of development in the vicinity. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In portions of this setting visible from Key Viewing Areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, existing tree cover screening the development from Key Viewing Areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments are encouraged to maximize the percentage of planted screening vegetation native to this setting. Such species include: black cottonwood, big leaf maple, red alder, Oregon white ash, Douglas fir, western red cedar and western hemlock (west Gorge) and various native willow species.

(iii) At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening.

(iv) The exteriors of structures shall be dark and either natural or earth-tone colors unless specifically exempted by Commission Rule 350-90-520 (2)(k) or (l).

(C) Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands or special habitat requirements may be compatible.

In other River Bottomland areas, nodes of moderate-intensity and/or high-intensity recreation uses may be compatible, provided that:

(i) their designs emphasize retention and/or enhancement of native riparian communities,

(ii) structures and parking areas are visually subordinate, and

(iii) they are separated from other areas of concentrated recreation usage by stretches of natural-appearing shoreline and adjacent uplands.

(j) Gorge Walls, Canyons and Wildlands

(A) New development and expansion of existing development shall be screened so it is not seen from Key Viewing Areas, to the maximum extent practicable.

(B) All trees planted to screen permitted development and uses from Key Viewing Areas shall be native to the area.

(C) Existing tree cover shall be retained to the maximum extent practicable, except for the minimum removal necessary to accommodate facilities otherwise permitted in the underlying land use designation or for safety purposes.

(D) All structures shall be limited in height to a maximum of 1 and 1/2 stories.

(E) All structures' exteriors shall be non-reflective.

(F) Signage shall be limited to natural materials such as wood or stone, with natural or earth-tone colors, unless public safety concerns or federal or state highway guidelines require otherwise.

(G) Compatible recreation uses are limited to very low or low-intensity, resource-based activities which focus on enjoyment and appreciation of sensitive resources. Such compatible uses (such as trails) are generally associated with minimal facility development, if any.

(4) All Review Uses with Scenic Travel Corridors shall comply with the following applicable guidelines:

(a) For the purposes of implementing this section, the foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the scenic travel corridor roadway.

(b) All new buildings and alterations to existing buildings, except in a Rural Center designation (village landscape setting), shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway. A variance to this setback requirement may be granted pursuant to Commission Rule 350-90-150(7). All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway, to the maximum extent practicable.

(c) Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a Scenic Travel Corridor roadway except in a Rural Center designation (village landscape setting), shall comply with guideline (4)(b) above to the maximum extent practicable.

(d) All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:

(A) An evaluation of potential visual impacts of the proposed project as seen from any Key Viewing Area;

(B) An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable guidelines to protect the resources.

(e) When evaluating possible locations for undergrounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for

undergrounding in the Columbia River Gorge National Scenic Area Corridor Visual Inventory prepared in April, 1990.

(f) New production and/or development of mineral resources proposed within one-quarter mile of the edge of pavement of a Scenic Travel Corridor may be allowed upon a demonstration that full visual screening of the site from the Scenic Travel Corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a Scenic Travel Corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in Commission Rule 350-90-520 (2)(y).

(g) Expansion of existing quarries may be allowed pursuant to Commission Rule 350-90-520 (2)(v). Compliance with visual subordination requirements shall be achieved within time frames specified in Commission Rule 350-90-520 (2)(x).

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-90-530. Special Management Area Scenic Review Criteria.

The following scenic review guidelines shall apply to all Review Uses in the Special Management Area of the Columbia River Gorge National Scenic Area with the exception of rehabilitation or modification of historic structures eligible or on the National Register of Historic Places when such modification is in compliance with the national register of historic places guidelines:

(1) All Review Uses in the Special Management Area regardless of location or landscape setting shall comply with the following applicable guidelines:

(a) Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from Key Viewing Areas.

(b) Size, scale, shape, color, texture, siting, height, building materials, lighting, or other features of a proposed structure shall be visually subordinate in the landscape and have low contrast in the landscape.

(c) Colors shall be used in a manner so that developments are visually subordinate to the natural and cultural patterns in the landscape setting. Colors for structures and signs should be slightly darker than the surrounding background.

(d) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.

(e) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.

(f) Any exterior lighting shall be sited, limited in intensity, shielded or hooded in a manner that prevents lights from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting except for road lighting necessary for safety purposes.

(h) Seasonal lighting displays shall be permitted on a temporary basis, not to exceed three months duration.

(i) Reflectivity of structures and site improvements shall be minimized.

(j) Right-of-way vegetation shall be managed to minimize visual impact of clearing and other vegetation removal as seen from Key Viewing Areas. Roadside vegetation management (vista clearing, planting, etc.) should enhance views from the highway.

(k) Encourage existing and require new road maintenance warehouse and stockpile areas to be screened from view from Key Viewing Areas.

(2) New developments and land uses shall be evaluated to ensure that scenic resources are not adversely affected, including cumulative effects, based on visibility from Key Viewing Areas.

(3) All new developments and land uses immediately adjacent to scenic routes shall be in conformance with state or county scenic route guidelines.

(4) New land uses or developments shall comply with the following applicable design guidelines:

(a) Pastoral: Pastoral areas shall retain the overall appearance of an agricultural landscape.

(A) New developments and forest practices shall meet the Visual Quality Objective of partial retention.

(B) The use of plant species common to the landscape setting shall be encouraged. The use of plant species in rows as commonly found in the landscape setting is encouraged.

(C) Exterior colors of structures shall be earth-tone colors which will result in low contrast with the surrounding landscape.

(D) Exterior colors of structures may be white, except for the roof, only in the Mt. Pleasant and Dodson-Warrendale areas where other white structures are evident in the setting.

(b) Coniferous Woodlands and Oak-Pine Woodland: Woodland areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous and Oak/Pine Woodland landscape.

(A) New developments and land uses in lands designated Federal Forest or Open Space shall meet the Visual Quality Objective of retention; all other land use designations shall meet the Visual Quality Objective of partial retention as seen from Key Viewing Areas.

(B) Forest practices on National Forest lands included in the Mt. Hood National Forest Plans shall meet the Visual Quality Objective identified for those lands in those plans.

(C) Buildings in the Coniferous Woodland landscape setting shall be encouraged to have a vertical overall

appearance and a horizontal overall appearance in the Oak-Pine Woodland landscape setting.

(D) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(E) The exteriors of structures in the Coniferous Woodland landscape setting shall be dark earth-tone colors which will result in low contrast with the surrounding landscape as seen from the Key Viewing Areas.

(F) Exterior colors of structures in Oak-Pine Woodland landscape setting shall be earth-tone colors which will result in low contrast with the surrounding landscape as seen from the Key Viewing Areas.

(c) Residential: The Residential setting is characterized by concentrations of dwellings.

(A) New developments and land uses shall meet the Visual Quality Objective of partial retention.

(B) At Rowena Dell, new buildings shall have a rustic appearance and use natural materials and earth-tone colors.

(C) At Latourell Falls, new buildings shall have an appearance consistent with the predominant historical architectural style.

(D) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native appearing characteristics.

(d) River Bottomlands: River bottomland shall retain the overall visual character of a floodplain and associated islands.

(A) New developments and land uses shall meet the Visual Quality Objective of partial retention, except in areas designated Open Space which shall meet the Visual Quality Objective of retention.

(B) Buildings shall have an overall horizontal appearance in areas with little tree cover.

(C) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(D) Exterior colors of structures shall be earth-tone or water-tone colors which will result in low contrast with surrounding landscape.

(e) Gorge Walls, and Canyonlands and Wildlands: New developments and land uses shall retain the overall visual character of the natural appearing landscape.

(A) New developments and land uses shall meet the Visual Quality Objective of retention as seen from Key Viewing Areas.

(B) Structures, including signs, shall have a rustic appearance, use non-reflective materials, and have low contrast with the surrounding landscape and be of a Cascadian architectural style.

(C) Temporary roads shall be promptly closed and revegetated.

(D) New utilities shall be below ground surface, where feasible.

(E) Use of plant species non-native to the Columbia River Gorge shall not be allowed.

(F) Exterior colors of structures shall be dark earth tones that will result in the structure having low contrast with the surrounding landscape.

(5) For forest practices the following guidelines shall apply:

(a) Forest practices must meet the design guidelines and Visual Quality Objective for the landscape setting designated for the management area.

(b) Not more than 16 percent of each total ownership within a viewshed shall be in created openings at any one time. The viewshed boundaries shall be delineated by the Forest Service.

(c) Size, shape, and dispersal of created openings shall maintain the natural patterns in the landscape.

(d) The maximum size of any created opening is 15 acres. In the foreground of Key Viewing Areas, the maximum size of created openings shall be five acres.

(e) Clearcutting shall not be used as a harvest practice to land designated Federal Forest Lands.

(f) Created openings shall not create a break or opening in the vegetation in the skyline as viewed from a Key Viewing Area.

(g) Created openings shall be dispersed to maintain at least 400 feet of closed canopy between openings. Closed canopy shall be at least 20 feet tall.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-540. General Management Area Cultural Resource Review Criteria.

(1) General Provisions for Implementing the Cultural Resources Protection Process.

(a) All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).

(b) Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any person who submits written comments on a proposed use (interested person). Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.

(c) Reconnaissance and Historic Surveys and Survey Reports.

(A) Reconnaissance survey requirements and exceptions.

(i) A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those uses listed as exceptions in Commission Rule 350-90-504 (1)(c)(A)(ii) below.

(ii) A reconnaissance survey shall be required for all proposed uses, except:

(I) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

(II) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recre-

ation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.

(III) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved.

The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

(IV) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.

(V) Proposed uses that would occur on sites that have been adequately surveyed in the past.

The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.

(VI) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

- Residential development that involves two or more new dwellings for the same project applicant.

- Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.

- Public transportation facilities that are outside improved rights-of-way.

- Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater.

- Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Areas that have a low probability of containing cultural resources shall be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.

The Gorge Commission, after consulting Indian tribal governments and state historic preservation officers, shall prepare and adopt a map showing areas that have a low probability of containing cultural resources. This map shall be adopted within 200 days after the Secretary of Agriculture concurs with the Management Plan. It shall be refined and revised as additional reconnaissance surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

(B) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.

(C) The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the GMA. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.

For Commission Rule 350-90-540, large-scale uses include residential development involving two or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

(D) Reconnaissance Surveys for Small-Scale Uses.

Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:

(i) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.

(ii) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.

(E) Reconnaissance Survey Reports for Small-Scale Uses

The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:

(i) A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.

(ii) A description of any cultural resources that were discovered in the project area, including a written description and photographs.

(iii) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

(F) Reconnaissance Surveys for Large-Scale Uses

(i) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.

(ii) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:

(I) Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state,

and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.

(II) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.

(III) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.

(IV) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.

(G) Reconnaissance Survey Reports for Large-Scale Uses

The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

(i) A description of the proposed use, including drawings and maps.

(ii) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.

(iii) A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.

(iv) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(v) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(vi) A summary of all written comments submitted by Indian tribal governments and other interested persons.

(vii) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.

(H) Historic Surveys and Reports

(i) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.

(ii) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.

(iii) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.

(d) The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant, except for resources discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.

(e) Cultural resources are significant if one of the following criteria is satisfied:

(A) The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4).

(B) The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.

(f) The Gorge Commission shall establish a Cultural Advisory Committee (CAC). The CAC shall comprise cultural resource professionals, interested individuals, and at least one representative from each of the four Indian tribes. If a project applicant's and Indian tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and Indian tribal government's substantiated concerns. The CAC will submit a recommendation to the Development Review Officer as to whether affected cultural resources are significant.

(2) Cultural Resource Reconnaissance and Historic Surveys

(a) Consultation and Ethnographic Research

(A) When written comments are submitted to the Development Review Officer within the comment period provided in Commission Rule 350-90-120, the project applicant shall offer to meet with the interested persons within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the interested persons.

Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed.

All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

(B) A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate.

All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

(b) Notice of Survey Results

(A) The Development Review Officer shall submit a copy of all cultural resource survey reports to the State Historic Preservation Officer and the Indian tribal governments. Survey reports may include measures to avoid

affected cultural resources, such as a map that shows a reasonable buffer zone.

(B) The State Historic Preservation Office and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the proposed use would be consistent with Commission Rule 350-90-540. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Development Review Officer shall justify how it reached an opposing conclusion.

(B) The cultural resource protection process may conclude when one of the following conditions exists:

(i) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 20 calendar days of the date that a notice was mailed.

(ii) A reconnaissance survey demonstrates that cultural resources do not exist in the project area and no substantiated concerns were voiced by interested persons within 20 calendar days of the date that a notice was mailed.

(iii) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground-disturbing activities shall be prohibited within the buffer zone.

Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.

An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

(C) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:

(i) The State Historic Preservation Officer concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or

(ii) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for*

Historic Preservation Projects (U.S. Department of the Interior 1983).

The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission.

The historic survey and report must demonstrate that these guidelines have been clearly and absolutely satisfied. If the State Historic Preservation Officer or the Development Review Officer question whether these guidelines have been satisfied, the project applicant shall conduct an evaluation of significance.

(3) Evaluation of Significance

(a) Evaluation Criteria and Information Needs

If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:

(A) Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior, no date) and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.

(B) To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.

(C) The project applicant shall contact Indian tribal governments and interested persons, as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.

(D) The evaluation of significance shall follow the principles, guidelines, and report format recommended by the Oregon State Historic Preservation Office (Oregon SHPO 1990) or Washington Office of Archaeology and Historic Preservation (Washington SHPO, no date). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.

(E) All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with Indian tribal governments and other interested persons shall be presented. All comments, recommendations, and correspondence from Indian tribal governments and interested persons shall be appended to the evaluation of significance.

(b) Notice of Evaluation Results

(A) If the evaluation of significance demonstrates that the cultural resources are not significant, the Development Review Officer shall submit a copy of the evaluation of significance to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed

to submit written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(C) Cultural Resources are Culturally Significant

(i) If an Indian tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make an independent review of the applicant's evaluation and the Indian tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.

(ii) The Indian tribal government shall substantiate its concerns in a written report. The report shall be submitted to the Development Review Officer, CAC, and the project applicant within 15 calendar days from the date the evaluation of significance is mailed. The CAC must submit its recommendation to the Development Review Officer within 30 calendar days from the date the evaluation of significance is mailed.

(d) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Officer or CAC, the Development Review Officer shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the affected cultural resources are not significant.

(C) If the project applicant or the Development Review Officer determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

(4) Assessment of Effect

(a) Assessment Criteria and Information Needs

If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect. The assessment shall meet the following guidelines:

(A) The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.9) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.8.

(i) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR 800.9(a)].

(ii) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association [36 CFR 800.9(b)]. Adverse effects on cultural resources include, but are not limited to:

(I) Physical destruction, damage, or alteration of all or part of the cultural resource.

(II) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.

(III) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.

(IV) Neglect of a significant cultural resource resulting in its deterioration or destruction.

(B) The assessment of effect shall be prepared in consultation with Indian tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by Indian tribal governments and interested persons shall be recorded and addressed in the assessment.

(C) The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:

(i) The cultural resources are of value only for their potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines.

(ii) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

(b) Notice of Assessment Results

(A) If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the Development Review Officer shall submit a copy of the assessment to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the assessment of effect is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Development Review Officer shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

(C) A mitigation plan shall be prepared if a project applicant or the Development Review Officer determines that the proposed use would have an adverse effect on significant cultural resources.

(5) Mitigation Plans

(b) Mitigation Plan Criteria and Information Needs

Mitigation plans shall be prepared when proposed uses would have an adverse effect on significant cultural resources. The plans shall reduce an adverse effect to no effect or

no adverse effect. Mitigation plans shall meet the following guidelines:

(A) Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including Indian tribal governments, Native Americans, local governments whose jurisdiction encompasses the project area, and the State Historic Preservation Officer.

(B) Avoidance of cultural resources through project design and modification is preferred. Avoidance may be effected by reducing the size, scope, configuration, and density of the proposed use.

Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative measures include, but are not limited to, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism shall be developed and recorded in county deeds and records.

(C) Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR 800.8(d), including, but not limited to:

(i) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use.

(ii) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection.

(iii) Documentation of consultation with the State Historic Preservation Officer regarding any alternatives or mitigation measures.

(iv) A description of the project applicant's efforts to obtain and consider the views of Indian tribal governments, interested persons, and Development Review Officer.

(v) Copies of any written recommendations submitted to the Development Review Officer or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.

(b) Notice of Mitigation Plan Results

(A) If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the Development Review Officer shall submit a copy of the mitigation plan to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the mitigation plan is mailed to submit written comments to the Development Review Officer. The Development Review Officer shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Development Review Officer shall make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Development Review Officer shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.

(C) The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

(6) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Development Review Officer and the State Historic Preservation Officer. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

(a) Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

(b) Notification. The project applicant shall notify the Development Review Officer and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.

(c) Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Officer. (See Oregon Revised Statute [ORS] 273.705, ORS 358.905 to 358.955, and Revised Code of Washington [RCW] 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in "Reconnaissance Survey Reports for Large-Scale Uses" [Commission Rule 350-90-540 (1)(c)(F)] and "Evaluation of Significance: Evaluation Criteria and Information Needs" [Commission Rule 350-90-540 (3)(a)].

Based on the survey and evaluation report and any written comments, the Development Review Officer shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant.

A mitigation plan shall be prepared if the affected cultural resources are significant.

(d) Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in the "Mitigation Plans: Mitigation Plan Criteria and Information Needs" section of this chapter. Construction activities may recommence when the conditions in the mitigation plan have been executed.

(7) Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

(a) Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.

(b) Notification. Local law enforcement officials, the Development Review Officer, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.

(c) Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.

(d) Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.

(e) Treatment. In Oregon, prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760. In Washington, the procedures set forth in RCW 27.44 and 68.05 shall generally be implemented if the remains are prehistoric/historic.

If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in "Mitigation Plans: Mitigation Plan Criteria and Information Needs" [Commission Rule 350-90-540 (5)(a)].

The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in "Mitigation Plans: Conclusion of the Cultural Resource Protection Process" [Commission Rule 350-90-540 (5)(c)] are met and the mitigation plan is executed.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-550. Special Management Area Cultural Resource Review Criteria.

(1) General Guidelines for Implementing the Cultural Resources Protection Process

(a) All cultural resource information shall remain confidential, according to Section 6 (a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470 hh and 36 CFR 296.18.

(b) Principal investigators shall meet the professional standards published in 36 CFR part 61.

(c) The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in Commission Rule 350-90-550(4) for forest practices and National Forest System lands.

(d) New developments or land uses shall not adversely affect significant cultural resources.

(2) The procedures and guidelines in Commission Rule 350-90-540 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.

(3) The cultural resource review criteria shall be deemed satisfied if the Forest Service or the Development Review Officer does not require a cultural resource survey and no comment is received during the comment period provided in Commission Rule 350-90-120.

(4) If the Forest Service or Development Review Officer determines that a cultural resource survey is required for a new development or land use on all Federal lands, federally assisted projects and forest practices, it shall consist of the following:

(a) Literature Review and Consultation

(A) An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.

(B) A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be allowed for 30 days.

(C) Consultation with cultural resource professionals knowledgeable about the area.

(D) The cultural resources review shall be complete if the Forest Service or Development Review Officer determines that no recorded or known cultural resources exist on or within the immediate vicinity of a new development or land use after consultation with the Tribal governments.

(E) A field inventory by a cultural resource professional shall be required if the Forest Service or the Development Review Officer determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the Tribal governments.

(b) Field Inventory

(A) Tribal representatives shall be invited to participate in the field inventory.

(B) The field inventory shall consist of one or the other of the following guidelines, as determined by the cultural resource professional:

(i) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects. A complete survey may also require techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the presence of buried cultural resources.

(ii) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally accomplished by a stratified random or non-stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

(C) A field inventory report shall be prepared, and shall include the following:

(i) A narrative integrating the literature review of section (4)(a) above with the field inventory of section (4)(b) above.

(ii) A description of the field inventory methodology used, including the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.

(iii) A statement of the presence or absence of cultural resources within the area of the new development or land use.

(iv) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.

(D) The report shall follow the format specified by the Washington Office of Archaeology and Historic Preservation for inventories conducted in the State of Washington. Reports for inventories conducted in the State of Oregon shall follow the format specified by the Oregon State Historic Preservation Office.

(E) The field inventory report shall be presented to the Forest Service or the Development Review Officer for review.

(F) The cultural resource review shall be complete if the Forest Service or the Development Review Officer determines that no cultural resources exist within the area of the new development or land use.

(c) Evaluations of Significance

(A) When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with the criteria of the National Register of Historic Places (36 CFR 60.4).

(B) Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.

(C) Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within local and regional contexts.

(D) Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service or the Development Review Officer shall review evaluations for adequacy.

(E) Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

(F) The cultural resource review shall be complete if the Forest Service or the Development Review Officer determines that the inventoried cultural resources are not significant.

(G) An assessment of effect shall be required if the Forest Service or the Development Review Officer determines that the inventoried cultural resources are significant.

(d) Assessment of Effect

(A) For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be

completed, using the criteria outlined in 36 CFR 800.9 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for sections (4)(d)(B) through (4)(d)(D) below. The Forest Service or Development Review Officer shall review each determination for adequacy.

(B) If the proposed development or change in use will have "No Adverse Effect," as defined by 36 CFR 800.8, to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Requirements" of 36 CFR 800.8(a).

(C) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.9(b) to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented. This documentation shall follow the process outlined under 36 CFR 800.5(e).

(D) If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.8 ("Documentation Requirements").

(e) Mitigation

(A) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects. These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.

(B) Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.

(C) The Forest Service or the Development Review Officer shall review all mitigation proposals for adequacy.

(5) Discovery During Construction

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Forest Service or the Development Review Officer if cultural resources are discovered during construction or development.

(a) If cultural resources are discovered, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and/or recover the resources.

(b) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:

(A) The applicant shall stop all work in the vicinity of the discovery.

(B) The applicant shall immediately notify the Development Review Officer, the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.

(C) The Forest Service or the Development Review Officer shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.

(D) A cultural resource professional shall evaluate the potential significance of the resource pursuant to Commission Rule 350-90-550 (4)(c) and report the results to the Forest Service or the Development Review Officer.

(c) The cultural resource review process shall be complete and work may continue if the Forest Service or the Development Review Officer determines that the cultural resource is not significant.

(d) The cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to Commission Rule 350-90-550 (4)(e) if the Forest Service or the Development Review Officer determines that the cultural resource is significant.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

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350-90-560. General Management Area Wetland Review Criteria.

(1) Wetlands Boundaries and Site Plans for Review Uses in Wetlands

(a) If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for determining the exact location of the wetland boundary.

(A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands. Wetlands boundaries shall be delineated using the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (Federal Interagency Committee for Wetland Delineation, 1989), and any subsequent amendments.

(B) All wetlands delineations shall be conducted by a professional which has been trained to use the federal delineation process, such as a soil scientist, botanist, or wetlands ecologist.

(C) The Development Review Officer may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Development Review Officer shall, at the applicant's expense, obtain professional services to render a final delineation.

(b) In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include:

(A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;

(B) the exact boundary of the wetland and the wetlands buffer zone; and

(C) a description of actions that would alter or destroy the wetland.

(2) The following uses are allowed in wetlands and wetlands buffer zones without review, if they:

(a) Are conducted using best management practices;

(b) Do not require structures, grading, draining, flooding, ditching, vegetation removal, or dredging beyond the extent specified below; and

(c) Comply with all applicable federal, state, and county laws:

(A) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.

(B) Soil, water, and vegetation conservation uses that protect and enhance wetlands acreage and functions.

(C) Low-intensity recreation uses, including hunting, fishing, trapping, bird watching, hiking, boating, swimming, and canoeing.

(D) Non-commercial harvesting of wild crops, such as ferns, moss, berries, tubers, tree fruits, and seeds in a manner that does not injure natural plant reproduction or impact sensitive plant species.

(E) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation. For this guideline cultivation and vegetation removal may be allowed in conjunction with a home garden.

(F) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(G) Commercial fishing and trapping.

(H) Educational uses and scientific research.

(I) Navigation aids, including structures covered by Section 17 (a)(3) of the Scenic Area Act.

(J) Forest practices that do not violate conditions of approval for other approved uses.

(K) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(L) Proposed uses that would occur in the main stem of the Columbia River. The main stem of the Columbia River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 and dated September 1986. (This map is available at county planning departments and Commission and Forest Service offices.) The boundaries of the main stem appear as a heavy black line that generally follows the shoreline. For Commission Rule 350-90, backwaters and isolated water bodies created by roads and railroads are not part of the main stem of the Columbia River.

(3) The following uses may be allowed in wetlands and wetlands buffer zones when approved pursuant to the provisions in Commission Rule 350-90-560(5), and reviewed under the applicable provisions of Commission Rule 350-90-520 through 350-90-620:

(a) The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

(A) Increase the size of an existing structure by more than 100 percent,

(B) Result in a loss of wetlands acreage or functions, or

(C) Intrude further into a wetland or wetlands buffer zone. New structures shall be considered intruding further into a wetland or wetlands buffer zone if any portion of the

structure is located to the wetland or wetlands buffer zone than the existing structure.

(b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

(c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(4) Uses not listed in Commission Rule 350-90-560(3) may be allowed in wetlands and wetlands buffer zones, when approved pursuant to Commission Rule 350-90-560(6) and reviewed under the applicable provisions of Commission Rule 350-90-520 through 350-90-620.

(5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in wetlands shall demonstrate that:

(a) Practicable alternatives to locating the structure outside of the wetlands or wetland buffer zone and/or minimizing the impacts of the structure do not exist;

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of the wetlands, existing contour, functions, vegetation, fish and wildlife resources, and hydrology;

(c) The structure will be constructed using best management practices;

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

(e) The structure complies with all applicable federal, state, and county laws.

(6) Applications for all other Review Uses in wetlands shall demonstrate that:

(a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative considering all of the following:

(A) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands;

(B) The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands; and

(C) Reasonable attempts have been made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and zone designations. If a land designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be

undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

(b) The proposed use is in the public interest. The following factors shall be considered when determining if a proposed use is in the public interest:

(A) The extent of public need for the proposed use.

(B) The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.

(C) The functions and size of the wetland that may be affected.

(D) The economic value of the proposed use to the general area.

(E) The ecological value of the wetland and probable effect on public health and safety, fish, plants, and wildlife.

(c) Measures will be applied to ensure that the proposed use result in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.

(d) Groundwater and surface-water quality will not be degraded by the proposed use.

(e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlands buffer zones.

(f) The proposed use complies with all applicable federal, state, and county laws.

(g) Areas that are disturbed during construction will be rehabilitated to the maximum extent practicable.

(h) Unavoidable impacts to wetlands will be offset through restoration, creation, or enhancement of wetlands.

The following wetlands restoration, creation, and enhancement guidelines shall apply:

(A) Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.

(B) Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with a wetlands compensation plan.

(C) Wetlands restoration, creation, and enhancement projects shall use native vegetation.

(D) The size of replacement wetlands shall equal or exceed the following ratios (the first number specifies the required acreage of replacement wetlands and the second number specifies the acreage of wetlands altered or destroyed):

(i) Restoration: 2:1

(ii) Creation: 3:1

(iii) Enhancement: 4:1

(E) Replacement wetlands shall replicate the functions of the wetland that will be altered or destroyed such that no net loss of wetlands functions occurs.

(F) Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss of wetlands functions occurs.

(G) Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.

(H) Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is altered or destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.

(I) Five years after a wetland is restored, created, or enhanced at least 75 percent of the replacement vegetation must survive. The owner shall monitor the hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan and this guideline.

(7) Wetlands Buffer Zones

(a) The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.

(b) The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

(A) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent. A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(B) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(C) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines.

(c) Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required:

(A) Forest communities: 75 feet

(B) Shrub communities: 100 feet

(C) Herbaceous communities: 150 feet

(d) Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(8) Wetlands Compensation Plans

Wetlands compensation plans shall be prepared when a project applicant is required to restore, create or enhance wetlands. They shall satisfy the following guidelines:

(a) Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.

(b) Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered or destroyed and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.

(c) Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage

patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.

(d) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1 foot, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(A) Soil and substrata conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.

(B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(C) Water-quality parameters, water source, water depths, water-control structures, and water-level maintenance practices needed to achieve the necessary hydrologic conditions.

(e) A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.

(f) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-570. General Management Area Stream, Pond, Lake and Riparian Area Review Criteria.

(1) Stream, Pond, and Lake Boundaries and Site Plans for Review Uses in Aquatic and Riparian Areas

(a) If a proposed use would be in a stream, pond, lake or their buffer zones, the project applicant shall be responsible for determining the exact location of the ordinary high watermark or normal pool elevation.

(b) In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include:

(A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;

(B) the exact boundary of the ordinary high watermark or normal pool elevation and prescribed buffer zone; and

(C) a description of actions that would alter or destroy the stream, pond, lake, or riparian area.

(2) The following uses are allowed in streams, ponds, lakes, and their buffer zones without review, if they:

(a) Are conducted using best management practices;

(b) Do not require structures, grading, draining, flooding, ditching, vegetation removal, or dredging beyond the extent specified below; and

(c) Comply with all applicable federal, state, and county laws:

(A) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.

(B) Soil, water, and vegetation conservation uses that protect water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas.

(C) Low-intensity recreation uses, including hunting, fishing, trapping, bird watching, hiking, boating, swimming, and canoeing.

(D) Non-commercial harvesting of wild crops, such as ferns, moss, berries, tubers, tree fruits, and seeds in a manner that does not injure natural plant reproduction or impact sensitive plant species.

(E) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation and shall require a review use permit. For this guideline cultivation and vegetation removal may be allowed in conjunction with a home garden.

(F) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(G) Commercial fishing and trapping.

(H) Educational uses and scientific research.

(I) Navigation aids, including structures covered by Section 17 (a)(3) of the Scenic Area Act.

(J) Forest practices that do not violate conditions of approval for other approved uses.

(K) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(L) Proposed uses that would occur in those portions of the main stem of the Columbia River that adjoin the Urban Area.

(3) The following uses may be allowed in streams, ponds, lakes and riparian areas when approved pursuant Commission Rule 350-90-570(5), and reviewed under the applicable provisions of Commission Rule 350-90-520 through 350-90-620:

(a) The modification, expansion, replacement, or reconstruction of serviceable structures, provided that such actions would not:

(A) Increase the size of an existing structure by more than 100 percent,

(B) Result in a loss of water quality, natural drainage, and fish and wildlife habitat, or

(C) Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further

into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.

(b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

(c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(4) Uses not listed in Commission Rule 350-90-570 (2) and (3) may be allowed in streams, ponds, lakes, and riparian areas, when approved pursuant to Commission Rule 350-90-570(5) and reviewed under the applicable provisions of Commission Rule 350-90-520 through 350-90-620.

(5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in aquatic and riparian areas

(a) Practicable alternatives to locating the structure outside of the stream, pond, lake, or buffer zone and/or minimizing the impacts of the structure do not exist;

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas;

(c) The structure will be constructed using best management practices;

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

(e) The structure complies with all applicable federal, state, and local laws.

(6) Applications for all other Review Uses in wetlands shall demonstrate that:

(a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by Commission Rule 350-90-560 (6)(a), substituting the term stream, pond, lake, or riparian area as appropriate.

(b) The proposed use is in the public interest as determined by Commission Rule 350-90-560 (6)(b), substituting the term stream, pond, lake, or riparian area as appropriate.

(c) Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone.

At a minimum, the following mitigation measures shall be considered when new uses are proposed in streams, ponds, lakes, and buffer zones:

(A) Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. Work in streams, ponds, and lakes shall be conducted during the periods specified in "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife, 1986). In

Washington, the Washington Department of Wildlife and Washington Department of Fisheries shall evaluate specific proposals and specify periods for in-water work.

(B) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.

(C) Nonstructural controls and natural processes shall be used to the greatest extent practicable.

(D) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(E) Stream channels should not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used.

(F) Temporary and permanent control measures should be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(d) Groundwater and surface-water quality will not be degraded by the proposed use.

(e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

(f) The proposed use complies with all applicable federal, state, and county laws.

(g) Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement.

Rehabilitation and enhancement shall achieve no net loss of water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.

When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required.

The following rehabilitation and enhancement guidelines shall apply:

(A) Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation and enhancement plan.

(B) Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.

(C) Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient.

(D) The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.

(E) Riparian areas shall be rehabilitated to their original configuration, including slope and contour.

(F) Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structures. Structures include large woody debris and boulders.

(G) Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant species that replicate the original vegetation community.

(H) Rehabilitation and enhancement efforts shall be completed no later 90 days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(I) Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least 75 percent of the replacement vegetation must survive. The owner shall monitor the replacement vegetation and take corrective measures to satisfy this guideline.

(7) Stream, Pond, and Lake Buffer Zones

(a) Buffer zones shall generally be measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(A) Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet

(B) Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet

(C) Ponds and lakes: Buffer zone widths shall be based on dominant vegetative community as determined by Commission Rule 350-90-560 (7)(b), substituting the term pond or lake as appropriate.

(b) Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(c) Determining the exact location of the ordinary high watermark or normal pool elevation shall be the responsibility of the project applicant. The Development Review Officer may verify the accuracy of, and may render adjustments to, an ordinary high water-mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the applicant, the Development Review Officer shall, at the project applicant's expense, obtain professional services to render a final delineation.

(8) Rehabilitation and Enhancement Plans

Rehabilitation and enhancement plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake and/or buffer area. They shall satisfy the following guidelines:

(a) Rehabilitation and enhancement plans are the responsibility of the project applicant; they shall be prepared by qualified professionals, such as fish or wildlife biologists.

(b) All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, and/or buffer zone. The assessment shall include hydrology, flora, and fauna.

(c) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least 2 feet, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(A) Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to successfully rehabilitate and enhance the stream, pond, lake, and buffer zone.

(B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(C) Water-quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.

(d) A 3-year monitoring, maintenance, and replacement program shall be included in all rehabilitation and enhancement plans. At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.

(e) A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a rehabilitation and enhancement plan.

350-90-580. General Management Area Sensitive Wildlife Review Criteria.

(1) Sensitive Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife

(a) Proposed uses shall not adversely affect sensitive wildlife areas or sensitive wildlife sites:

(A) "Sensitive wildlife areas" in the Columbia Gorge means the following land and water areas that appear in the wildlife inventory map prepared and maintained by the Gorge Commission:

- Bald eagle habitat
- Deer and elk winter range
- Elk habitat
- Mountain goat habitat
- Peregrine falcon habitat
- Pika colony area
- Pileated woodpecker habitat
- Pine marten habitat
- Shallow water fish habitat (Columbia R.)
- Special streams
- Special habitat area
- Spotted owl habitat
- Sturgeon spawning area
- Tributary fish habitat
- Turkey habitat
- Waterfowl area
- Western pond turtle habitat

(B) "Sensitive wildlife sites" means sites that area used by animal species that are

(i) listed as endangered or threatened pursuant to federal or state endangered species acts,

(ii) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,

(iii) listed as sensitive by the Oregon Fish and Wildlife Commission, or

(iv) considered to be of special interest to the public (limited to great blue heron, osprey, golden eagle, and prairie falcon).

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive

wildlife area or site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) The following uses may be allowed within 1,000 feet of sensitive wildlife areas and sites without review, if they do not involve new structures, vegetation removal, or actions that disturb the ground, such as grading, or ditching beyond the extent specified below:

(a) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation.

(b) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(c) Forest practices that do not violate conditions of approval for other approved uses.

(d) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(e) Fish and wildlife management uses conducted by federal, state, or Indian tribal resource agencies.

(3) Field Survey

A field survey to identify sensitive wildlife areas or sites shall be required for:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a professional wildlife biologist hired by the project applicant. All sensitive wildlife areas and sites discovered in a project area shall be described and shown on the site plan map.

(4) Uses not listed in Commission Rule 350-90-580(2) may be allowed within 1,000 feet of a sensitive wildlife area or site, when approved pursuant to Commission Rule 350-90-580(5) and reviewed under the applicable provisions of Commission Rule 350-90-520 through 350-90-620.

(5) Uses that are proposed within 1,000 feet of a sensitive wildlife area or site shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon Department of Fish and Wildlife or the Washington Department of Wildlife by the Development Review Officer. State wildlife biologists will review the site plan and their field survey records and:

(A) Identify/verify the precise location of the wildlife area or site,

(B) Ascertain whether the wildlife area or site is active or abandoned, and

(C) Determine if the proposed use may compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify the wildlife inventory and assess the potential effects of a proposed use.

(b) The following factors may be considered when site plans are reviewed:

(A) Biology of the affected wildlife species.

(B) Published guidelines regarding the protection and management of the affected wildlife species. The Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron. The Washington Department of Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner, 1991).

(C) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(D) Historic, current, and proposed uses in the vicinity of the sensitive wildlife area or site.

(E) Existing condition of the wildlife area or site and the surrounding habitat and the useful life of the area or site.

(c) The wildlife protection process may terminate if the Development Review Officer, in consultation with the state wildlife agency, determines:

(A) The sensitive wildlife area or site is not active, or

(B) The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

(d) If the Development Review Officer, in consultation with the state wildlife agency, determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the applicant that describes the effects and measures needed to eliminate them. If the project applicant accepts these recommendations, the Development Review Officer will incorporate them into the land use review order and the wildlife protection process may conclude.

(e) The project applicant shall prepare a wildlife management plan if the Development Review Officer, in consultation with the state wildlife agency, determines that the proposed use would adversely affect a sensitive wildlife area or site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing.

(f) The Development Review Officer shall submit a copy of all field surveys and wildlife management plans to Oregon Department of Fish and Wildlife or Washington Department of Wildlife. The state wildlife agency will have 20 days from the date that a field survey or management plan is mailed to submit written comments to the Development Review Officer.

The Development Review Officer shall record and address any written comments submitted by the state wildlife agency in the land use review order.

Based on the comments from the state wildlife agency, the Development Review Officer will make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision

contradicts the comments submitted by the state wildlife agency, the Development Review Officer shall justify how the opposing conclusion was reached.

The Development Review Officer shall require the applicant to revise the wildlife management plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

(6) Wildlife Management Plans

Wildlife management plans shall be prepared when a proposed use is likely to adversely affect a sensitive wildlife area or site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his/her development options, and mitigates temporary impacts to the wildlife area or site and/or buffer zone.

Wildlife management plans shall meet the following guidelines:

(a) Wildlife management plans shall be prepared by a professional wildlife biologist hired by the project applicant.

(b) All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the wildlife area or site.

(c) The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components, that are essential to maintain the long-term use and integrity of the wildlife area or site.

(d) A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.

(e) The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect sensitive wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:

(A) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. Low intensity, non-destructive uses may be conditionally authorized in the core habitat.

(B) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.

(f) Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones. When a buffer zone has been altered or degraded in the past, it shall be rehabilitated to its natural condition to the

maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife area or site.

Rehabilitation and enhancement actions shall be documented in the wildlife management plan and shall include a map and text.

(g) The applicant shall prepare and implement a 3 year monitoring plan when the affected wildlife area or site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the wildlife area or site and the success of rehabilitation and/or enhancement actions.

At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the rehabilitation and enhancement guidelines.

(7) New fences in deer and elk winter range

(a) New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

(b) New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson, et. al. 1990), as summarized below, unless the applicant demonstrates the need for an alternative design:

(A) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.

(B) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

(C) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.

(D) Stays, or braces placed between strands of wire, shall be positioned between fences posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.

(c) Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

350-90-590. General Management Areas Rare Plant Review Criteria.**(1) Sensitive Plants and Site Plans for Review Uses Near Sensitive Plants**

(a) Proposed uses shall not adversely affect sensitive plants. "Sensitive plants" means plant species that are

(A) endemic to the Columbia River Gorge and vicinity,

(B) listed as endangered or threatened pursuant to federal or state endangered species acts, or

(C) listed as endangered, threatened, or sensitive by the Oregon or Washington Natural Heritage program.

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive plant shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) The following uses may be allowed within 200 feet of a sensitive plant without review, if they do not involve new structures, vegetation removal, or actions that disturb the ground, such as grading or ditching beyond the extent specified below:

(a) Low-intensity recreation uses, including hunting, fishing, trapping, native plant study, bird watching, boating, swimming, and hiking. Regarding sensitive plants, horse-back riding is not considered a low-intensity use.

(b) Agriculture, except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation.

(c) Ditching, tilling, dredging, or grading conducted solely for the purpose of repairing and maintaining existing irrigation and drainage systems necessary for agriculture, provided that such uses are not undertaken to cultivate lands that have not been cultivated, or have lain idle, for more than 5 years.

(d) Forest practices that do not violate conditions of approval for other approved uses.

(e) Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads and utility facilities.

(3) Field Survey

A field survey to identify sensitive plants shall be required for:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. Field surveys shall identify the precise location of the sensitive plants and delineate a 200-foot buffer zone. The results of a field survey shall be shown on the site plan map.

(4) Uses not listed in Commission Rule 350-90-590(2) may be allowed within 1,000 feet of a sensitive plant, when approved pursuant to Commission Rule 350-90-590(5), and reviewed under the applicable provisions of Commission Rule 350-90-520 through 350-90-620.

(5) Uses that are proposed within 1,000 feet of a sensitive plant shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon or Washington Natural Heritage Program by the Development Review Officer. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer zone on the project applicant's site plan.

If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

(b) The rare plant protection process may conclude if the Development Review Officer, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a sensitive plant buffer zone.

(c) New uses shall be prohibited within sensitive plant species buffer zones, except those listed in Commission Rule 350-90-590(2).

(d) If a proposed use must be allowed within a sensitive plant buffer area in accordance with Commission Rule 350-90-150, the project applicant shall prepare a protection and rehabilitation plan pursuant to Commission Rule 350-90-590(6).

(e) The Development Review Officer shall submit a copy of all field surveys and protection and rehabilitation plans to the Oregon or Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that a field survey is mailed to submit written comments to the Development Review Officer.

The Development Review Officer shall record and address any written comments submitted by the Natural Heritage Program staff in the land use review order.

Based on the comments from the Natural Heritage Program staff, the Development Review Officer will make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Development Review Officer shall justify how the opposing conclusion was reached.

(6) Protection and Rehabilitation Plans

Protection and rehabilitation plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a sensitive plant buffer zone as the result of a variance.

Protection and rehabilitation plans shall meet the following guidelines:

(a) Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist hired by the project applicant.

(b) Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.

(c) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

(d) Sensitive plants and their surrounding habitat that will not be altered or destroyed shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation easements, livestock management, and noxious weed control.

(e) Habitat of a sensitive plant that will be affected by temporary uses shall be rehabilitated to a natural condition.

(f) Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.

(g) Protection and rehabilitation plans shall include maps, photographs, and text. The text shall:

(A) Describe the biology of sensitive plant species that will be affected by a proposed use.

(B) Explain the techniques that will be used to protect sensitive plants and their surrounding habitat that will not be altered or destroyed.

(C) Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will result from a proposed use.

(D) Include a 3-year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the Development Review Officer an annual report that documents milestones, successes, problems, and contingency actions.

(7) Sensitive Plant Buffer Zones

(a) A 200-foot buffer zone shall be maintained around sensitive plants. Buffer areas shall remain in an undisturbed, natural condition.

(b) Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, man-made features, or natural plant habitat boundaries negate the need for a 200 foot radius. Under no circumstances shall the buffer zone be less than 25 feet.

(c) Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the project applicant:

(A) Identifies the precise location of the sensitive plants,

(B) Describes the biology of the sensitive plants, and

(C) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.

All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.

(d) The Development Review Officer shall submit all requests to reduce sensitive plant species buffer areas to the Oregon or Washington Natural Heritage Program. The

Natural Heritage Program staff will have 20 days from the date that such a request is mailed to submit written comments to the Development Review Officer.

The Development Review Officer shall record and address any written comments submitted by the Oregon or Washington Natural Heritage Program in the land use review order.

Based on the comments from the Oregon or Washington Natural Heritage Program, the Development Review Officer will make a final decision on whether the reduced buffer area is justified. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Development Review Officer shall justify how the opposing conclusion was reached.

350-90-600. Special Management Areas Natural Resource Review Criteria.

All new developments and land uses shall be evaluated to ensure that the natural resources on a site, or natural resources in danger of degradation or destruction from individual or cumulative off-site impacts, are protected from adverse effects. The Forest Service will provide the natural resource site evaluation and project analysis and evaluation for new uses and developments, except those sponsored by non-Forest Service federal and state agencies.

(1) Buffer zones shall be undisturbed unless it has been shown that no practicable alternatives exist, pursuant to Commission Rule 350-90-560 (6(a)(A) through (C), substituting the name of the resource as appropriate. New developments and uses may only be allowed in the buffer zone upon demonstration in the natural resources mitigation plan that no adverse effects would result.

(2) The applicant's site plan shall include the following additional information to facilitate evaluation for compliance with minimum natural resource protection guidelines:

(a) Location of the following sites and areas. The Forest Service will provide this information to the applicant.

(A) Sites of sensitive wildlife and sensitive plant species.

(B) Location of riparian and wetland areas. The exact location of the wetlands boundaries shall be delineated using the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (Federal Inter-agency Committee for Wetland Delineation, 1989). Changes to this manual shall not apply to wetlands in the Special Management Area unless the Management Plan has been amended.

(b) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.

(3) Site plans shall be submitted to the Forest Service, and the Oregon Department of Fish and Wildlife or Washington Department of Wildlife. The site plan shall be reviewed by the Forest Service in consultation with the appropriate state or federal agency and reviewed and approved by the Development Review Officer.

(4) Review of the site plan shall consider the following:

(a) Biology and habitat requirements of the flora or fauna of concern.

(b) Historic, current, and proposed uses in the vicinity of sensitive species, including cumulative effects.

(c) Existing condition of the site and the surrounding habitat and the useful life of the site.

(d) Physical characteristics of the subject parcel and vicinity, including topography, vegetation, and soil and hydrological characteristics.

(e) Minimum natural resource protection guidelines including buffer zones.

(f) Closure of forest practice roads necessary to protect natural resources.

(g) Comments from state and federal agencies.

(5) Minimum natural resource protection guidelines include:

(a) Sites of sensitive wildlife and sensitive plant species.

(A) A 200-foot buffer zone shall be created for sensitive plant species.

(B) A buffer zone for sites of sensitive wildlife species, such as nesting, roosting and perching sites, as defined by species requirements shall be as determined by a Forest Service biologist in consultation with other state or federal agency biologists.

(b) Riparian areas, wetlands, parks, and lakes.

(A) Adding any fill or draining of wetlands is prohibited.

(B) A minimum 200-foot buffer zone shall be created on the landward side of each wetland, pond or lake; or a wider variance from this requirement shall be determined during the site plan analysis of the wetland or riparian area and those species inhabiting the area as determined by the Forest Service biologist in consultation with state and/or federal agencies;

(C) A 200 foot buffer zone shall be created along each fish-bearing and perennial stream.

(D) A 50-foot buffer zone shall be created along intermittent streams.

(E) Revegetation shall use only species native to the Columbia River Gorge, and shall provide and maintain habitat diversity beneficial to the fish, wildlife and native plants.

(F) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all the following:

(i) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way;

(ii) The wetland is not critical habitat; and

(iii) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.

(c) Fish and wildlife habitat:

(A) Structures such as bridges, culverts, and utility corridors shall be designed so as not to impede the passage of fish and wildlife.

(B) New developments and uses shall not interfere with fish passage.

(C) Filling of shallow-water fishery habitat shall be allowed only after an analysis shows that no other practicable sites exist. Filling shall only be considered for water-dependent uses, and mitigation shall be required.

(D) New developments and uses shall occur during periods when fish and wildlife are least sensitive to activities. This would include, among others, nesting and brooding periods (from nest building to fledgling of young), and those periods specified in "Oregon Guidelines for Timing of

In-Water Work to Protect Fish and Wildlife Resources" (Oregon Dept. of Fish and Wildlife 1986).

(E) In areas of big game winter range, adequate thermal cover shall be maintained as determined by the appropriate state wildlife agency.

(F) Forest practices shall maintain the following:

(i) Six live trees per acre, three of which shall be of the largest tree size available and three of which shall be of various sizes to provide replacements as snags and wildlife trees; and three dead trees per acre, of the largest tree size available; and three down trees per acre in the largest tree size available. All trees shall be unburned.

In areas with mixed oak and conifer stands, at least one of the three dead trees per acre shall be an oak snag of the largest tree size and one additional live conifer per acre of 16-inch diameter at breast height (dbh) or greater, preferably with limbs down to the ground, shall be maintained.

(ii) Snags and wildlife trees shall be maintained either as clumps or evenly distributed over the forest practice area.

(iii) Down logs shall be relatively solid and no area greater than two acres in size and capable of supporting forested conditions shall be without a minimum of two down logs.

(d) Bio-diversity.

(A) New uses shall avoid disturbance to old-growth forests.

(B) Forest practices shall maintain species composition at existing proportions in the activity area.

(C) Forest practices in areas with existing oak species, shall maintain a minimum of 25 square feet basal area per acre of oak in areas with predominantly oak trees of 1-foot dbh or more, or maintain a minimum forty percent oak canopy cover per 40 acres in which 10 trees per acre must be of the largest tree size, in areas with predominantly oak trees less than 1-foot dbh. No area greater than 10 acres in size and supporting existing oak species shall be devoid of oak trees.

(D) A mix in age and size of hardwoods shall be maintained to provide vertical diversity and replacement.

(E) For revegetation purposes, only plants species native to the Columbia River Gorge shall be encouraged.

(e) Soil productivity.

(A) New developments and land uses shall control all soil movement within the area shown or the site plan.

(B) The soil area disturbed by new development or land uses shall not exceed 15 percent of the project area.

(C) Within one year of project completion 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

(D) Forest practices shall maintain the following:

(i) Soil organic matter shall be provided at a minimum of 15 tons per acre and 25 tons per acre of dead and down woody material in the east and west side vegetation communities, respectively.

(ii) Potential ground disturbance activities shall be designed to minimize disturbance to the soil organic horizon.

(f) Air and water quality.

(A) Streambank and shoreline stability shall be maintained or restored with natural revegetation.

(B) All new developments shall be carried out to comply with state water quality requirements.

(C) County, state, and federal regulations for air and water quality and for pesticide use shall be followed.

(D) Existing levels of air visibility shall not be degraded.

(g) The applicant shall develop a natural resource mitigation plan for all new developments or uses proposed within a buffer zone. The applicant's mitigation plan shall:

(A) Include existing natural and cultural features.

(B) Include proposed actions within and adjacent to the buffer zone.

(C) Include mitigation measures as necessary to comply with the minimum natural resource protection guidelines and protect natural resources from adverse effects.

(D) Be prepared by a natural resource specialist as defined.

(E) Demonstrate mitigation measures that would offset the adverse effects of the proposed new use or developments and that would ensure protection, long-term viability, and function of the resource being protected by the buffer zone.

(F) Be reviewed to ensure the proposed mitigation measures are adequate and comply with minimum natural resource protection guidelines by the Forest Service in consultation with appropriate state or federal agencies and reviewed and approved by the Development Review Officer.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-90-610. General Management Areas Recreation Resource Review Criteria.

The following uses may be allowed, subject to compliance with Commission Rule 350-90-610 (5) and (6).

(1) Recreation Intensity Class 1 - Very Low Intensity

(a) Parking areas for a maximum of 10 cars for any allowed uses in Recreation Intensity Class 1.

(b) Trails for hiking, equestrian and mountain biking use.

(c) Pathways for pedestrian and bicycling use.

(d) Trailheads (with provisions for hitching rails and equestrian trailers at trailheads accommodating equestrian use).

(e) Scenic viewpoints and overlooks.

(f) Wildlife/botanical viewing and nature study areas.

(g) River access areas.

(h) Simple interpretive signs and/or displays, not to exceed a total of 50 square feet.

(i) Entry name signs not to exceed 10 square feet per sign.

(j) Boat docks, piers or wharfs.

(k) Picnic areas.

(l) Rest-rooms/comfort facilities.

(2) Recreation Intensity Class 2 - Low Intensity

(a) All uses permitted in Recreation Intensity Class 1.

(b) Parking areas for a maximum of 25 cars, including spaces for campground units, to serve any allowed uses in Recreation Intensity Class 2.

(c) Simple interpretive signs and displays, not to exceed a total of 100 square feet.

(d) Entry name signs not to exceed 20 square feet per sign.

(e) Boat ramps, not to exceed two lanes.

(f) Campgrounds for 20 units or less, tent sites only.

(3) Recreation Intensity Class 3 - Moderate Intensity

(a) All uses permitted in Recreation Intensity Classes 1 and 2.

(b) Parking areas for a maximum of 75 cars, including spaces for campground units, for any allowed uses in Recreation Intensity Class 3.

(c) Interpretive signs, displays and/or facilities.

(d) Visitor information and environmental education signs, displays or facilities.

(e) Entry name signs not to exceed 32 square feet per sign.

(f) Boat ramps, not to exceed three lanes.

(g) Concessions stands, pursuant to applicable policies in Chapter 4, Part I of the Management Plan.

(h) Campgrounds for 50 individual units or less for tents and/or recreational vehicles, with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 3 campgrounds may also include one group campsite area, in addition to the individual campground units or parking area maximums allowed as described herein.

(4) Recreation Intensity Class 4 - High Intensity

(a) All uses permitted in Recreation Intensity Classes 1, 2, and 3.

(b) Parking areas for a maximum of 250 cars, including spaces for campground units, for any allowed uses in Recreation Intensity Class 4.

(c) Horseback riding stables and associated facilities.

(d) Entry name signs, not to exceed 40 square feet per sign.

(e) Boat ramps.

(f) Campgrounds for 175 individual units or less for tents and/or recreation vehicles with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 4 campgrounds may also include up to 3 group campsite areas, in addition to individual campsite units or parking area maximums allowed as described herein.

(5) Approval Criteria for Recreation Uses

All proposed recreation projects outside of Public Recreation or Commercial Recreation land use designations shall comply with the appropriate scenic, cultural, natural and recreation resources guidelines (Commission Rule 350-90-520 through 350-90-620) and shall satisfy the following:

(a) Compliance with Commission Rule 350-90-520 through 610.

(b) Cumulative effects of proposed recreation projects on landscape settings shall be based on the "compatible recreation use" guideline for the landscape setting in which the use is located.

(c) For proposed recreation projects in or adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland:

(A) The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted to forest or farm uses. Provision of on-site buffers may be

used to partially or fully comply with this criterion, depending upon project design and/or site conditions.

(B) A declaration has been signed by the project applicant or owner and recorded with county deeds and records specifying that the applicant or owner is aware that operators are entitled to carry on accepted forest or farm practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland.

(d) For proposed projects including facilities for outdoor fires for cooking or other purposes or proposed campgrounds:

The project applicant shall demonstrate that a sufficient quantity of water necessary for fire suppression (as determined pursuant to applicable fire codes or the county fire marshal) is readily available to the proposed facility, either through connection to a community water system or on-site wells, storage tanks, sumps, ponds or similar storage devices. If connection to a community water system is proposed, the project applicant shall demonstrate that the water system has adequate capacity to meet the facility's emergency fire suppression needs without adversely affecting the remainder of the water system with respect to fire suppression capabilities. In addition, in order to provide access for fire-fighting equipment, access drives shall be constructed to a minimum of 12 feet in width and a maximum grade of 12 percent. Access drives shall be maintained to a level that is passable to fire-fighting equipment.

(e) Trail or trailhead projects shall comply with applicable trails policies in the Management Plan.

(f) For proposed projects providing boating or windsurfing access to the Columbia River or its tributaries: compliance with applicable "River Access and Protection of Treaty Rights" objectives in the Management Plan.

(g) For proposed projects on public lands or proposed projects providing access to the Columbia River or its tributaries: compliance with guidelines for protection of tribal treaty rights in Part IV, Chapter 3, Indian Tribal Treaty Rights and Consultation in the Management Plan.

(h) For proposed projects which include interpretation of natural or cultural resources:

A demonstration that the interpretive facilities will not adversely affect natural or cultural resources and that appropriate and necessary resource protection measures shall be employed.

(i) For proposed Recreation Intensity Class projects (except for projects predominantly devoted to boat access):

A demonstration that the project accommodates provision of mass transportation access to the site. The number and size of the mass transportation facilities shall reflect the physical capacity of the site. This requirement may be waived upon a demonstration that provision of such facilities would result in overuse of the site, either degrading the quality of the recreation experience or adversely affecting other resources at the site.

(6) Facility Design Guidelines for All Recreation Projects

(a) Recreation facilities which are not resource-based in nature may be included at sites providing resource-based recreation uses consistent with the guidelines contained herein, as long as such facilities comprise no more than one-third of the total land area dedicated to recreation uses

and/or facilities. Required landscaped buffers may be included in calculations of total land area dedicated to recreation uses and/or facilities.

(b) The facility design guidelines contained herein are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another.

To be considered a separate facility from other developments or improvements within the same Recreation Intensity Class, recreation developments or improvements must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

(c) Parking areas, access roads, and campsites shall be sited and designed to fit into the existing natural contours as much as possible, both to minimize ground-disturbing grading activities and utilize topography to screen parking areas and associated structures. Parking areas, access roads, and campsites shall be sited and set back sufficiently from bluffs so as to be visually subordinate as seen from Key Viewing Areas.

(d) Existing vegetation, particularly mature trees, shall be maintained to the maximum extent practicable, and utilized to screen parking areas and campsites from Key Viewing Areas and satisfy requirements for perimeter and interior landscaped buffers.

(e) Parking areas providing over 50 spaces shall be divided into discrete "islands" separated by unpaved, landscaped buffer areas.

(f) Lineal frontage of parking areas and campsite loops to Scenic Travel Corridors shall be minimized to the greatest extent practicable.

(g) Ingress/egress points shall be consolidated to the maximum extent practicable, providing for adequate emergency access pursuant to applicable fire and safety codes.

(h) Signage shall be limited to that necessary to provide relevant recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes.

(i) Exterior lighting shall be shielded, designed and sited in a manner which prevents such lighting from projecting off-site or being highly visible from Key Viewing Areas.

(j) Innovative designs and materials which reduce visual impacts (such as "turf blocks" instead of conventional asphalt paving) shall be encouraged through incentives such as additional allowable parking spaces and reduce required minimum interior or perimeter landscaped buffers. Upon determination that potential visual impacts have been substantially reduced by use of such designs and materials, the Development Review Officer may allow either reductions in required minimum interior or perimeter landscape buffers up to 50 percent of what would otherwise be required, or additional parking spaces not to exceed 10 percent of what would otherwise be permitted.

(k) A majority of trees, shrubs and other plants in landscaped areas shall be species native or naturalized to the landscape setting in which they occur (landscape setting design guidelines specify lists of appropriate species).

(l) All structures shall be designed such that height, exterior colors, reflectivity, mass and siting result in the

structures blending with and not noticeably contrasting with their setting.

(m) Landscape buffers around the perimeter of parking areas accommodating more than 10 vehicles shall be provided. Minimum required widths are 5 feet for 20 vehicles or less, 20 feet for 50 vehicles or less, 30 feet for 100 vehicles or less, and 40 feet for 250 vehicles or less.

(n) Interior landscaped buffers breaking up continuous areas of parking shall be provided for any parking areas over 50 spaces in size. The minimum width of interior landscaped buffers between each parking lot of 50 spaces or less shall be 20 feet.

(o) Within required perimeter and interior landscaped buffer areas, a minimum of one tree of at least 6 feet in height shall be planted for every 10 lineal feet as averaged for the entire perimeter width. A minimum of 25 percent of planted species in perimeter buffers shall be coniferous to provide screening during the winter. Project applicants are encouraged to place such trees in random groupings approximating natural conditions. In addition to the required trees, landscaping shall include appropriate shrubs, groundcover and other plant materials.

(p) Minimum required perimeter landscape buffer widths for parking areas or campgrounds may be reduced by as much as 50 percent, at the discretion of the Development Review Officer, if existing vegetation stands and/or existing topography are utilized such that the development is not visible from any Key Viewing Area.

(q) Grading or soil compaction within the drip line of existing mature trees shall be avoided to the maximum extent practicable, to reduce risk of root damage and associated tree mortality.

(r) All parking areas and campsites shall be set back from Scenic Travel Corridors, and the Columbia River and its major tributaries at least 100 feet. Required perimeter landscaped buffers may be included when calculating such setbacks. Setbacks from rivers shall be measured from the ordinary high water mark. Setbacks from Scenic Travel Corridors shall be measured from the edge of road pavements.

(s) Project applicants shall utilize measures and equipment necessary for the proper maintenance and survival of all vegetation utilized to meet the landscape guidelines contained herein, and shall be responsible for such maintenance and survival.

(t) All parking areas shall be set back from property boundaries by at least 50 feet. All campsites and associated facilities shall be set back from property boundaries by at least 100 feet.

(u) All proposed projects at levels consistent with Recreation Intensity Class 4 on lands classified RIC 4 (except for proposals predominantly devoted to boat access) shall comply with Commission Rule 350-90-610 (5)(h) regarding provision of mass transportation access.

350-90-620. Special Management Area Recreation Resource Review Criteria.

(1) The following shall apply to all new recreation developments and land uses in the Special Management Area:

(a) New developments and land uses shall not displace existing recreational use.

(b) Recreation resources shall be protected from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both on and off site cumulative effects shall be required.

(c) New pedestrian or equestrian trails shall not have motorized uses, except for emergency services.

(d) Mitigation measures shall be provided to preclude adverse effects on the recreation resource.

(e) The facility guidelines contained in Commission Rule 350-90-620(1) are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another. Recreation developments or improvements to be considered a separate facility from other developments or improvements within the same Recreation Intensity Class must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

(f) New development and reconstruction of scenic routes (see Part III, Chapter 1 of the Management Plan) shall include provisions for bicycle lanes.

(g) The Development Review Officer may grant a variance of up to 10 percent to the guidelines of Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from National Scenic Area recreation demand studies shall be relied upon to meet the criterion in the absence of current applicable studies.

(B) The proposed use is dependent on resources present at the site.

(C) Reasonable alternative sites, including those in Urban Areas, offering similar opportunities have been evaluated and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

(D) The proposed use is consistent with the goals, objectives, and policies in Chapter 4, Part I of the Management Plan.

(E) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural or cultural resources, and adjacent land uses.

(F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

(2) Special Management Areas Recreation Intensity Class Guidelines

(a) Recreation Intensity Class 1 - Very Low Intensity
Emphasis is to provide opportunities for semi-primitive recreation opportunities.

(A) Permitted uses are those in which people participate in outdoor activities to realize experiences such as solitude, tension reduction, and nature appreciation.

(B) The maximum site design capacity shall not exceed 35 people at one time on the site. The maximum design capacity for parking areas shall be 10 vehicles.

(C) The following uses may be permitted:

- (i) Trails and trailheads.
- (ii) Parking areas.
- (iii) Dispersed campsites accessible only by a trail.
- (iv) Viewpoints and overlooks.
- (v) Picnic areas.
- (vi) Signs.
- (vii) Interpretive exhibits and displays.
- (viii) Rest-rooms.

(b) Recreation Intensity Class 2 - Low Intensity

Emphasis is to provide semi-primitive recreation opportunities.

(A) Permitted uses are those that provide settings where people can participate in activities such as physical fitness, outdoor learning, relaxation, and escape from noise and crowds.

(B) The maximum site design capacity shall not exceed 70 people at one time on the site. The maximum design capacity shall be 25 vehicles.

(C) All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class 2. The following uses may also be permitted:

(i) Campground with vehicle access.

(ii) Boat anchorages designed for no more than 10 boats at one time.

(iii) Swimming areas.

(c) Recreation Intensity Class 3 - Moderate Intensity

Emphasis is on facilities with design themes emphasizing the natural qualities of the area. Developments are complementary to the natural landscape, yet can accommodate moderate numbers of people.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as group socialization, nature appreciation, relaxation, cultural learning, and physical activity.

(B) Maximum site design capacity shall not exceed 250 people at one time on the site. The maximum design capacity shall be 50 vehicles. The General Management vehicle capacity level of 75 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 10% of the site.

(C) All uses permitted in Recreation Intensity Classes 1 and 2 are permitted in Recreation Intensity Class 3. The following uses may also be permitted:

(i) Campgrounds improvement may include water, power, sewer, and sewage dump stations.

(ii) Boat anchorages designed for not more than 15 boats.

(iii) Public visitor, interpretive, historic, and environmental education facilities.

(iv) Full service rest-rooms, may include showers.

(v) Boat ramps.

(vi) Riding stables.

(d) Recreation Intensity Class 4 - High Intensity

Emphasis is for providing road natural, rural, and suburban recreation opportunities with a high level of social interaction.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as socialization, cultural and natural history appreciation, and physical activity.

(B) The maximum design capacity shall not exceed 1000 people at one time on the site. The maximum design capacity for parking areas shall be 200 vehicles. The General Management Area vehicle capacity of 250 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 20 percent of the site.

(C) All uses permitted in Recreation Intensity Classes 1, 2, and 3 are permitted in Recreation Intensity Class 4.

NOTICE OF APPLICATION REQUIREMENTS

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
GENERAL MANAGEMENT AREA								
Residential LUD - Review uses except SFDs located adjacent to Agriculture & Forest LUDs, and those uses within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs except those within 1000' of sensitive wildlife area or site, or a rare plant	X	X	X	X		X		
Residential LUD - Review uses within 1000' of a sensitive wildlife area or site except SFDs located adjacent to Agriculture or Forest LUDs	X	X	X	X	X		X	
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs within 1000' of a sensitive wildlife area or site	X	X	X	X		X	X	
Residential LUD - Review uses within 1000' of a rare plan except SFDs located adjacent to Agriculture or Forest LUDs	X	X	X	X	X			X
Residential LUD - SFDs adjacent to Agriculture & Forest LUDs within 1000' of rare plant	X	X	X	X		X		X
Agriculture LUD - Review uses except non-farm SFD in Large-Scale Agriculture LUD and uses within 1000' of sensitive wildlife area or site, or rare plant	X	X	X	X	X			
Agriculture LUD - Review uses within 1000' of sensitive wildlife area or site except non-farm SFD in Large-Scale Agriculture LUD	X	X	X	X	X		X	
Agriculture LUD - Review uses within 1000' of a rare plant except non-farm SFD in Large-Scale Agriculture LUD	X	X	X	X	X			X

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
Agriculture LUD - Non-farm SFD in Large-Scale Agriculture LUD, except those within 1000' of sensitive wildlife area or site, or rare plant	X	X	X	X		X		
Agriculture LUD - Non-farm SFD in Large-Scale Agriculture within 1000' of sensitive wildlife area or site	X	X	X	X		X	X	
Agriculture LUD - Non-farm SFD in Large-Scale Agriculture within 1000' of rare plant	X	X	X	X		X		X
Forest LUD - Review uses except utility facilities, railroads, home occupations, cottage industries, wineries, ag. product process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities, and those review uses within 1000' feet of a sensitive wildlife area or site, or rare plant	X	X	X	X	X			
Forest LUD - Utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities, and not within 1000' feet of a sensitive wildlife area or site, or rare plant	X	X	X	X		X		

MISCELLANEOUS

MISCELLANEOUS

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
Forest LUD - Review uses within 1000' of a sensitive wildlife area or site, except utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities	X	X	X	X	X		X	
Forest LUD - Review uses within 1000' of a rare plant except utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities	X	X	X	X	X			X
Forest LUD - Utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities within 1000' of a sensitive wildlife area or site	X	X	X	X		X	X	
Forest LUD - Utility facilities, railroads, home occupations, wineries, ag. produce process. & pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities within 1000' of a rare plant	X	X	X	X		X		X
Commercial LUD - Review uses except those within 1000' of a sensitive wildlife area or site, or rare plant	X	X	X	X	X			

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
Commercial LUD - Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	
Commercial LUD - Review uses within 1000' of a rare plant	X	X	X	X	X			X
Recreation LUD - Review uses except those within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Recreation LUD - Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	
Recreation LUD - Review uses within 1000' of a rare plant	X	X	X	X	X			X
Open Space LUD - Review uses except those within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X			
Open Space LUD - Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	
Open Space LUD - Review uses within 1000' of a rare plant	X	X	X	X	X			X
Agriculture-Special LUD - Review uses	X	X	X	X	X			X
SPECIAL MANAGEMENT AREAS								
Review Uses - All LUDs	X	X	X	X	X		X	

WSR 93-06-003
NOTICE OF PUBLIC MEETINGS
LEGAL FOUNDATION
OF WASHINGTON
 [Memorandum—February 17, 1993]

The following are meeting dates scheduled for 1993 by the board of trustees of the Legal Foundation of Washington for publication by the code reviser as required by the Washington Supreme Court.

- | | |
|--|--|
| Friday, April 30, 1993
9 a.m. - 2:00 p.m. | Bogle & Gates
Two Union Square
601 Union Street
Seattle, WA |
| Thursday, May 13, 1993
10 a.m. - 3:00 p.m. | Connolly Holm Tacon & Meserve
201 West Fifth
Olympia, WA |
| Thursday, September 9, 1993
9 a.m. - 2:00 p.m. | Washington State Bar Association
Washington Room, Fourth Floor
2001 Sixth Avenue, Suite 500
Seattle, WA |
| Friday, November 19, 1993
8:30 a.m. - 5:00 p.m. | Conference Room
Logan Building
500 Union Street
Seattle, WA |

WSR 93-06-004
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER
 [Memorandum—February 17, 1993]

A regular meeting of the board of directors of the Washington State Convention and Trade Center will be held on Wednesday, February 24, 1993, at 2:00 p.m. in Room 203 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call 447-5000.

WSR 93-06-024
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION COMMISSION
 [Memorandum—February 19, 1993]

The March 1993 Washington State Transportation Commission meeting will be held at 1:00 p.m. on Tuesday, March 16, and 9:00 a.m. on Wednesday, March 17, 1993, in the Transportation Commission Room (1D2), Transportation Building, Olympia, Washington. There will be subcommittee meetings at 9:00 a.m., Tuesday, March 16, in the Transportation Building, Rooms 1D2 and 1D22, Olympia, Washington.

The April 1993 Washington State Transportation Commission meeting will be held at 1:00 p.m. on Wednesday, April 14, and 9:00 a.m. on Thursday, April 15, 1993, in the Transportation Commission Room (1D2), Transportation Building, Olympia, Washington. There will be subcommittee meetings at 9:00 a.m., Wednesday, April 14, in the Transportation Building, Rooms 1D2 and 1D22, Olympia, Washington.

WSR 93-06-025
NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION
 [Memorandum—February 17, 1993]

By notice previously published, WSR 93-01-058, the Interagency Committee for Outdoor Recreation announced Olympia as the location for its regularly-scheduled March 25-26, 1993, meeting. The exact location of the meeting, in the Olympia area, is now established as The Evergreen State College, Library Room 1612.

WSR 93-06-026
NOTICE OF PUBLIC MEETINGS
PIERCE COLLEGE
 [Memorandum—February 19, 1993]

The board of trustees of Community College District Number Eleven (Pierce College) would like to make the following change to an upcoming regular board meeting:

Meeting Date/Location	Time	Change To:
March 10, 1993 Ft. Steilacoom Campus	12:30	Change the meeting date to March 17, 1993 (Same time and location)

WSR 93-06-027
NOTICE OF PUBLIC MEETINGS
OLYMPIC COLLEGE
 [Memorandum—February 17, 1993]

The board of trustees has changed the date of the regular board meeting that was scheduled to be held on March 23, 1993, at 7:30 p.m. in the board room at Olympic College, District No. 3, Bremerton, Washington to March 30, 1993.

WSR 93-06-028
NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE
 [Memorandum—February 22, 1993]

In accordance with the requirements of RCW 42.30.075, listed below is the regular meeting schedule of the board of trustees of Shoreline Community College, District Number Seven for 1993.

All regular meetings of the board are held on the third Friday of the month and commence at 8:00 a.m. in the board room of the Administration Building on the college campus, 16101 Greenwood Avenue North.

- Friday, January 15, 1993
- Friday, February 19, 1993
- Friday, March 19, 1993
- Friday, April 16, 1993
- Friday, May 21, 1993
- Friday, June 18, 1993
- Friday, September 17, 1993
- Friday, October 15, 1993

MISCELLANEOUS

Friday, November 19, 1993
 Friday, December 17, 1993

WSR 93-06-029
NOTICE OF PUBLIC MEETINGS
FOREST PRACTICES BOARD
 [Memorandum—February 28, 1993]

WILDLIFE COMMITTEE MEETINGS

The Forest Practices Board Wildlife Committee meetings are open to the public. These are working committee meetings in which proposed forest practices rules relating to wildlife protection are being developed. The committee is scheduled to meet on the first and third Thursday of each month during 1993 (see exception for March 31).

FOREST PRACTICES BOARD
WILDLIFE COMMITTEE MEETINGS

- March 4, 1993
- March 18, 1993
- March 31, 1993
- April 15, 1993
- May 6, 1993
- May 20, 1993

All of the above meetings are from 9:00 a.m. - 4:00 p.m. and are held at the Attorney General's Office, Suite 2400, Bank of California Building, 900 Fourth Avenue, Seattle, WA 98154.

Exception: The March 31, 1993, meeting will be held at the Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA 98504 from 2:00 p.m. - 7:00 p.m.

Additional information may be obtained from: Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (206) 902-1412.

WSR 93-06-030
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES
 (Board of Natural Resources)
 [Memorandum—February 23, 1993]

Reviser's note: This filing is being withdrawn by the Department of Natural Resources.

WSR 93-06-031
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES
 (Board of Natural Resources)
 [Memorandum—February 23, 1993]

Reviser's note: This filing is being withdrawn by the Department of Natural Resources.

WSR 93-06-034
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
 (Barley Commission)
 [Memorandum—February 22, 1993]

The Washington Barley Commission hereby complies with regulations as stated in RCW 42.30.075 and provides pertinent scheduled meeting information of the board of directors for publication in the state register for the period of March 93 through June 94 as follows:

Regular-Meeting	March 3, 1993	10:00 a.m.
	March 4, 1993	8:30 a.m.
Annual-Meeting	June 10, 1993	9:00 a.m.
Regular-Meeting	September 28, 1993	10:00 a.m.
	September 29, 1993	8:30 a.m.
Regular-Meeting	December 8, 1993	9:00 a.m.
Regular-Meeting	March 2, 1994	10:00 a.m.
	March 3, 1994	8:30 a.m.
Annual-Meeting	June 9, 1994	9:00 a.m.

All meetings to be held at: West 905 Riverside Avenue, Suite 401, Spokane, WA.

WSR 93-06-035
NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY COLLEGES
 [Memorandum—February 22, 1993]

The Seattle Community College District board of trustees will hold a reception for newly tenured faculty, beginning at 5:30 p.m., prior to their regularly scheduled meeting on Tuesday, March 2, 1993, in Room BA-306 of the Broadway Performance Hall, 1701 Broadway, Seattle, WA 98122.

WSR 93-06-043
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES
 (Electrical Board)
 [Memorandum—February 22, 1993]

In accordance with RCW 42.30.075, Open Public Meeting Act, the place of regular meetings for the Electrical Board for 1993 has been changed for the remaining three meetings. The meetings are still scheduled to begin at 9:00 a.m. on the last Thursday of April, July and October at the following

MISCELLANEOUS

location: Department of Labor and Industries, 7273
Linderson Way S.W., Tumwater, WA.

Dates and room numbers are as follows:

April 29	Room S 119
July 29	Room S 126
October 28	Room S 126

WSR 93-06-046
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION

[Memorandum—February 24, 1993]

The Washington State Human Rights Commission will hold its April regular commission meeting in Everett, Washington on April 21 and 22, 1993. The meeting on April 21, will be held at the Everett Pacific Hotel, Bainbridge/Vashon Island Room, 3105 Pine, Everett, and will be a planning and training session beginning at 7:00 p.m. The regular business meeting on April 22, will be held at the Snohomish County Courthouse, Fourth Floor Courthouse Conference Room, 3000 Rockefeller Avenue, Everett, beginning at 9:30 a.m.

WSR 93-06-047
NOTICE OF PUBLIC MEETINGS
BELLEVUE COMMUNITY COLLEGE

[Memorandum—February 23, 1993]

Meetings of the board of trustees of Community College District VIII for 1993 will be held on the following dates:

January 12
February 9
March 16
April 13
May 11
June 8
July 13
August 10
September 14
October 12
November 9
December 14

The meetings will begin at 12:30 p.m. in the board room, Bellevue Campus, Bellevue, Washington, with a study session and at 1:30 p.m. in the board room, for a business session. If the second Tuesday is a legal holiday, the meeting will be held if at all possible on the third Tuesday of the month, or soon thereafter or as otherwise announced. In the event the board of trustees is unable to meet on the scheduled meeting date, a meeting may be scheduled and held if at all possible on the third Tuesday of the month or soon thereafter or as otherwise announced. In the event the board of trustees is unable to meet, the chair of the board may order that no scheduled meeting of the board of trustees be held that month.

WSR 93-06-049
EXECUTIVE ORDER
OFFICE OF THE GOVERNOR
[EO 93-03]

IMPLEMENTING THE AMERICANS WITH
DISABILITIES ACT

WHEREAS, Washington has a strong history of protecting the rights of people with disabilities through such laws and regulations as the Washington State Law Against Discrimination and the Barrier Free Design Standards; and

WHEREAS, the Americans with Disabilities Act strengthens and clarifies the rights of the over half a million Washingtonians with disabilities by further opening the doors of opportunity and inclusion; and

WHEREAS, the Americans with Disabilities Act requires that all services, programs, and activities, when viewed in their entirety, be readily accessible to and usable by people with disabilities, whether such services and programs are directly provided by state agencies or through purchase agreements or other contracts; and

WHEREAS, Washington will not be meeting its most basic responsibility until all Washingtonians can equally participate in and enjoy the benefits of state services and programs.

NOW, THEREFORE, I, Mike Lowry, Governor of the State of Washington, do hereby order and direct as follows:

1. No state agency, board, or commission under the executive branch shall discriminate against an individual on the basis of disability. Individuals with disabilities, whether state employees, applicants, clients of state services, or members of the general public, shall be treated with respect and dignity and provided meaningful access to state services, programs, activities, and employment opportunities.
2. Each executive branch agency shall appoint an ADA coordinator to execute a self-evaluation and transition plan and oversee implementation of the ADA.
3. Executive branch agencies shall ensure that public meetings, hearings, and conferences are held in locations free of mobility barriers, and that sign language interpreters and information in alternate forms (Braille, large print, or audio tapes) shall be provided upon request.
4. In communicating with employees, applicants, clients of services, or the general public, all state agencies shall ensure that Telecommunication Devices for the Deaf (TDDs), sign language interpreters, and information in alternate formats shall be provided upon request.
5. The director of the Department of General Administration shall ensure that all newly-constructed buildings or those undergoing major renovation comply fully with the state barrier free code. The director shall submit the architectural design development plans for newly-constructed buildings and renovations in excess of \$5 million over which he has oversight authority to a panel for review prior to final approval. The panel shall also provide barrier-free access review for plans submitted by the Department of Transportation, natural resource

agencies, and institutions of higher education. The panel shall be comprised of representatives from the state Building Code Council, the Governor's Committee on Disability Issues and Employment, and the Office of Financial Management.

6. The Governor's ADA coordinator shall establish a task force to assist state agencies to meet the objectives of this executive order. The task force shall develop consistent policies on the provision of reasonable accommodation and sign language interpreters, the location of TDDs and Braille printers, and other policies that affect all state agencies. The task force shall be comprised of state employees and citizens with expertise in particular ADA issues and shall be convened by the Governor's ADA coordinator as needed.
7. This executive order supersedes Executive Order 79-03, which is hereby rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this 24th day of February, A.D., nineteen hundred and ninety-three.

Mike Lowry

Governor of Washington

BY THE GOVERNOR:

Donald F. Whiting

Assistant Secretary of State

WSR 93-06-084
RULES COORDINATOR
CENTRALIA COLLEGE
 [Filed March 3, 1993, 10:27 a.m.]

This letter is written to advise you that Jack R. Kalmbach, Dean of Administration, is the rules coordinator for Centralia College, District 12.

Henry P. Kirk
 President

WSR 93-06-085
NOTICE OF PUBLIC MEETINGS
PERSONNEL APPEALS BOARD
 [Memorandum—March 3, 1993]

A meeting will be held on Tuesday, April 13, 1993, at 9:00 a.m. in the Personnel Appeals Board Hearing Room at 2828 Capitol Boulevard, Olympia, WA 98501.

The Personnel Appeals Board proposes to elect a vice-chairman.

For further information, contact Victoria W. Sheldon, Executive Secretary, P.O. Box 40911, Olympia, WA 98504-0911, (206) 586-1481.

WSR 93-06-065
NOTICE OF PUBLIC MEETINGS
COMMISSION ON JUDICIAL CONDUCT
 [Memorandum—February 26, 1993]

NOTICE OF CHANGE OF PLACE
OF THE FRIDAY, MARCH 5, 1993, MEETING

Due to unanticipated use of its facilities, the SeaTac Holiday Inn has arranged for the Washington State Commission on Judicial Conduct to use the nearby Radisson Hotel.

The business meeting of the Washington State Commission on Judicial Conduct will be conducted commencing at 11:00 a.m., Friday, March 5, 1993, in the Chaps Room of the Radisson Hotel, 17001 Pacific Highway South, Seattle, WA 98188.

WSR 93-06-071
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
 [Memorandum—March 2, 1993]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, March 18, 1993, 9-11 a.m., in the Bellingham Technical College Building G Conference Center A.

Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- S = Supplemental notice
- W = Withdrawal of proposed action
- No suffix means permanent action

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
16-10-010	NEW-P	93-04-113	51-13-303	AMD	93-02-056	132G-116-220	REP	93-02-063
16-10-010	NEW-W	93-06-008	51-13-304	AMD	93-02-056	132G-116-225	NEW	93-02-063
16-10-010	NEW-P	93-06-076	51-13-401	AMD	93-02-056	132G-116-230	REP	93-02-063
16-10-020	NEW-P	93-04-113	51-13-402	AMD	93-02-056	132G-116-235	NEW	93-02-063
16-10-020	NEW-W	93-06-008	51-13-502	AMD	93-02-056	132G-116-240	REP	93-02-063
16-10-020	NEW-P	93-06-076	51-13-503	AMD	93-02-056	132G-116-245	NEW	93-02-063
16-10-030	NEW-P	93-04-113	67-35-040	AMD-P	93-06-048	132G-116-250	REP	93-02-063
16-10-030	NEW-W	93-06-008	67-35-055	REP-P	93-06-048	132G-116-255	NEW	93-02-063
16-10-030	NEW-P	93-06-076	67-35-056	REP-P	93-06-048	132G-116-260	REP	93-02-063
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16-228-900	REP-W	93-06-007	98-60-020	NEW-P	93-03-063	132G-116-270	AMD	93-02-063
16-228-900	REP-P	93-06-075	98-60-030	NEW-P	93-03-063	132G-116-275	NEW	93-02-063
16-228-905	NEW-P	93-04-114	98-60-040	NEW-P	93-03-063	132G-116-280	REP	93-02-063
16-228-905	NEW-W	93-06-007	98-60-050	NEW-P	93-03-063	132G-116-285	NEW	93-02-063
16-228-905	NEW-P	93-06-075	98-70-010	AMD-P	93-03-062	132G-116-290	REP	93-02-063
16-228-910	NEW-P	93-04-114	132G-116-010	REP	93-02-063	132G-116-295	NEW	93-02-063
16-228-910	NEW-W	93-06-007	132G-116-020	AMD	93-02-063	132G-116-300	REP	93-02-063
16-228-910	NEW-P	93-06-075	132G-116-025	NEW	93-02-063	132G-116-305	NEW	93-02-063
16-228-915	NEW-P	93-04-114	132G-116-030	AMD	93-02-063	132G-116-310	REP	93-02-063
16-228-915	NEW-W	93-06-007	132G-116-035	NEW	93-02-063	132G-116-315	NEW	93-02-063
16-228-915	NEW-P	93-06-075	132G-116-040	REP	93-02-063	132G-116-320	REP	93-02-063
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16-228-920	NEW-W	93-06-007	132G-116-050	REP	93-02-063	132G-116-340	AMD	93-02-063
16-228-920	NEW-P	93-06-075	132G-116-055	NEW	93-02-063	132G-116-350	REP	93-02-063
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16-228-925	NEW-W	93-06-007	132G-116-080	AMD	93-02-063	132J-108-050	AMD	93-04-022
16-228-925	NEW-P	93-06-075	132G-116-090	AMD	93-02-063	132J-120-010	REP	93-04-022
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16-228-930	NEW-W	93-06-007	132G-116-100	REP	93-02-063	132J-120-030	REP	93-04-022
16-228-930	NEW-P	93-06-075	132G-116-105	NEW	93-02-063	132J-120-040	REP	93-04-022
16-400-210	AMD-E	93-04-078	132G-116-110	REP	93-02-063	132J-120-050	REP	93-04-022
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16-555-020	AMD-P	93-04-094	132G-116-145	NEW	93-02-063	132J-120-120	REP	93-04-022
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16-674-080	NEW	93-03-079	132G-116-180	REP	93-02-063	132J-125-060	NEW	93-04-022
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50-48-100	AMD-P	93-05-052	132G-116-195	NEW	93-02-063	132J-125-075	NEW	93-04-022
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132J-125-110	NEW	93-04-022	173-220-070	AMD-P	93-03-066	173-400-107	NEW-S	93-05-048
132J-125-115	NEW	93-04-022	173-220-070	AMD-E	93-03-067	173-400-110	AMD-S	93-05-048
132J-125-120	NEW	93-04-022	173-220-090	AMD-P	93-03-066	173-400-112	NEW-S	93-05-048
132J-125-125	NEW	93-04-022	173-220-090	AMD-E	93-03-067	173-400-113	NEW-S	93-05-048
132J-125-130	NEW	93-04-022	173-220-100	AMD-P	93-03-066	173-400-114	NEW-S	93-05-048
132J-125-135	NEW	93-04-022	173-220-100	AMD-E	93-03-067	173-400-115	AMD	93-05-044
132J-125-140	NEW	93-04-022	173-220-110	AMD-P	93-03-066	173-400-120	AMD-S	93-05-048
132J-125-145	NEW	93-04-022	173-220-110	AMD-E	93-03-067	173-400-131	AMD-S	93-05-048
132J-125-150	NEW	93-04-022	173-220-225	AMD-P	93-03-066	173-400-136	AMD-S	93-05-048
132J-125-155	NEW	93-04-022	173-220-225	AMD-E	93-03-067	173-400-141	AMD-S	93-05-048
132J-125-160	NEW	93-04-022	173-226-010	NEW-P	93-03-066	173-400-171	AMD-S	93-05-048
132J-125-165	NEW	93-04-022	173-226-010	NEW-E	93-03-067	173-400-180	AMD-S	93-05-048
132J-125-170	NEW	93-04-022	173-226-020	NEW-P	93-03-066	173-400-230	AMD	93-05-044
132J-125-180	NEW	93-04-022	173-226-020	NEW-E	93-03-067	173-400-250	AMD-S	93-05-048
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132J-125-200	NEW	93-04-022	173-226-030	NEW-E	93-03-067	173-420-020	NEW	93-04-006
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132J-125-280	NEW	93-04-022	173-226-070	NEW-E	93-03-067	173-420-100	NEW	93-04-006
132J-125-290	NEW	93-04-022	173-226-080	NEW-P	93-03-066	173-420-110	NEW	93-04-006
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173-216-050	AMD-E	93-03-067	173-226-220	NEW-P	93-03-066	173-430-020	AMD-E	93-04-002
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173-220-020	AMD-P	93-03-066	173-303-070	AMD	93-02-050	173-430-070	AMD-P	93-03-090
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173-220-030	AMD-P	93-03-066	173-303-120	AMD	93-02-050	173-430-080	AMD-P	93-03-090
173-220-030	AMD-E	93-03-067	173-303-506	NEW-E	93-02-049	173-430-080	AMD-E	93-04-002
173-220-040	AMD-P	93-03-066	173-303-506	NEW	93-02-050	173-433-100	AMD	93-04-105
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173-220-045	REP-E	93-03-067	173-400-040	AMD-S	93-05-048	173-491-020	AMD-P	93-04-108
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180-20-031	NEW-P	93-04-117	212-12-015	NEW	93-05-032	212-26-030	REP-E	93-04-061
180-20-034	NEW-P	93-04-117	212-12-020	NEW-E	93-04-061	212-26-030	REP	93-05-032
180-20-035	NEW-P	93-04-117	212-12-020	NEW	93-05-032	212-26-035	REP-E	93-04-061
180-20-040	NEW-P	93-04-117	212-12-025	NEW-E	93-04-061	212-26-035	REP	93-05-032
180-20-045	NEW-P	93-04-117	212-12-025	NEW	93-05-032	212-26-040	REP-E	93-04-061
180-20-050	NEW-P	93-04-117	212-12-030	NEW-E	93-04-061	212-26-040	REP	93-05-032
180-20-055	NEW-P	93-04-117	212-12-030	NEW	93-05-032	212-26-045	REP-E	93-04-061
180-20-060	NEW-P	93-04-117	212-12-035	NEW-E	93-04-061	212-26-045	REP	93-05-032
180-20-065	NEW-P	93-04-117	212-12-035	NEW	93-05-032	212-26-050	REP-E	93-04-061
180-20-070	NEW-P	93-04-117	212-12-040	NEW-E	93-04-061	212-26-050	REP	93-05-032
180-20-075	NEW-P	93-04-117	212-12-040	NEW	93-05-032	212-26-055	REP-E	93-04-061
180-20-080	NEW-P	93-04-117	212-12-044	NEW-E	93-04-061	212-26-055	REP	93-05-032
180-20-090	NEW-P	93-04-117	212-12-044	NEW	93-05-032	212-26-060	REP-E	93-04-061
180-20-095	NEW-P	93-04-117	212-14-001	REP-E	93-04-061	212-26-060	REP	93-05-032
180-20-100	REP-P	93-04-117	212-14-001	REP	93-05-032	212-26-065	REP-E	93-04-061
180-20-101	NEW-P	93-04-117	212-14-005	REP-E	93-04-061	212-26-065	REP	93-05-032
180-20-105	REP-P	93-04-117	212-14-005	REP	93-05-032	212-26-070	REP-E	93-04-061
180-20-106	REP-P	93-04-117	212-14-010	REP-E	93-04-061	212-26-070	REP	93-05-032
180-20-111	NEW-P	93-04-117	212-14-010	REP	93-05-032	212-26-075	REP-E	93-04-061
180-20-115	NEW-P	93-04-117	212-14-015	REP-E	93-04-061	212-26-075	REP	93-05-032
180-20-120	NEW-P	93-04-117	212-14-015	REP	93-05-032	212-26-080	REP-E	93-04-061
180-20-123	NEW-P	93-04-117	212-14-020	REP-E	93-04-061	212-26-080	REP	93-05-032
180-20-125	NEW-P	93-04-117	212-14-020	REP	93-05-032	212-26-085	REP-E	93-04-061
180-20-130	NEW-P	93-04-117	212-14-025	REP-E	93-04-061	212-26-085	REP	93-05-032
180-20-135	NEW-P	93-04-117	212-14-025	REP	93-05-032	212-26-090	REP-E	93-04-061
180-20-140	NEW-P	93-04-117	212-14-030	REP-E	93-04-061	212-26-090	REP	93-05-032
180-20-145	NEW-P	93-04-117	212-14-030	REP	93-05-032	212-26-095	REP-E	93-04-061
180-20-150	NEW-P	93-04-117	212-14-035	REP-E	93-04-061	212-26-095	REP	93-05-032
180-20-155	NEW-P	93-04-117	212-14-035	REP	93-05-032	212-26-100	REP-E	93-04-061
180-20-160	NEW-P	93-04-117	212-14-040	REP-E	93-04-061	212-26-100	REP	93-05-032
180-20-200	REP-P	93-04-117	212-14-040	REP	93-05-032	212-26-105	REP-E	93-04-061
180-20-205	REP-P	93-04-117	212-14-045	REP-E	93-04-061	212-26-105	REP	93-05-032
180-20-210	REP-P	93-04-117	212-14-045	REP	93-05-032	212-28-001	REP-E	93-04-061
180-20-215	REP-P	93-04-117	212-14-050	REP-E	93-04-061	212-28-001	REP	93-05-032
180-20-220	REP-P	93-04-117	212-14-050	REP	93-05-032	212-28-010	REP-E	93-04-061
180-20-225	REP-P	93-04-117	212-14-055	REP-E	93-04-061	212-28-010	REP	93-05-032
180-20-230	REP-P	93-04-117	212-14-055	REP	93-05-032	212-28-015	REP-E	93-04-061
180-26-020	AMD-P	93-04-118	212-14-060	REP-E	93-04-061	212-28-015	REP	93-05-032
180-26-025	AMD-P	93-04-119	212-14-060	REP	93-05-032	212-28-020	REP-E	93-04-061
180-27-505	AMD	93-04-019	212-14-070	REP-E	93-04-061	212-28-020	REP	93-05-032
180-51-005	AMD	93-04-115	212-14-070	REP	93-05-032	212-28-025	REP-E	93-04-061
180-51-025	AMD	93-04-115	212-14-080	REP-E	93-04-061	212-28-025	REP	93-05-032
180-51-030	AMD	93-04-115	212-14-080	REP	93-05-032	212-28-030	REP-E	93-04-061
180-51-055	AMD	93-04-115	212-14-090	REP-E	93-04-061	212-28-030	REP	93-05-032
180-51-100	AMD	93-04-115	212-14-090	REP	93-05-032	212-28-035	REP-E	93-04-061
180-78-010	AMD-P	93-04-120	212-14-100	REP-E	93-04-061	212-28-035	REP	93-05-032
180-79-010	AMD-P	93-04-120	212-14-100	REP	93-05-032	212-28-040	REP-E	93-04-061
180-79-236	AMD	93-05-007	212-14-105	REP-E	93-04-061	212-28-040	REP	93-05-032
194-10-030	AMD	93-02-033	212-14-105	REP	93-05-032	212-28-045	REP-E	93-04-061
194-10-100	AMD	93-02-033	212-14-110	REP-E	93-04-061	212-28-045	REP	93-05-032
194-10-110	AMD	93-02-033	212-14-110	REP	93-05-032	212-28-050	REP-E	93-04-061
194-10-130	AMD	93-02-033	212-14-115	REP-E	93-04-061	212-28-050	REP	93-05-032
194-10-140	AMD	93-02-033	212-14-115	REP	93-05-032	212-28-055	REP-E	93-04-061
204-10-120	AMD-P	93-05-029	212-14-120	REP-E	93-04-061	212-28-055	REP	93-05-032
204-44-040	NEW-P	93-05-028	212-14-120	REP	93-05-032	212-28-060	REP-E	93-04-061
204-84-010	REP-P	93-05-029	212-14-12001	REP-E	93-04-061	212-28-060	REP	93-05-032
204-84-020	REP-P	93-05-029	212-14-12001	REP	93-05-032	212-28-065	REP-E	93-04-061
204-84-030	REP-P	93-05-029	212-14-125	REP-E	93-04-061	212-28-065	REP	93-05-032
204-84-040	REP-P	93-05-029	212-14-125	REP	93-05-032	212-28-070	REP-E	93-04-061
204-84-050	REP-P	93-05-029	212-14-130	REP-E	93-04-061	212-28-070	REP	93-05-032
204-84-060	REP-P	93-05-029	212-14-130	REP	93-05-032	212-28-075	REP-E	93-04-061
204-84-070	REP-P	93-05-029	212-26-001	REP-E	93-04-061	212-28-075	REP	93-05-032
204-84-080	REP-P	93-05-029	212-26-001	REP	93-05-032	212-28-080	REP-E	93-04-061
204-84-090	REP-P	93-05-029	212-26-005	REP-E	93-04-061	212-28-080	REP	93-05-032
204-84-100	REP-P	93-05-029	212-26-005	REP	93-05-032	212-28-085	REP-E	93-04-061
212-12	NEW-C	93-04-060	212-26-010	REP-E	93-04-061	212-28-085	REP	93-05-032
212-12-001	NEW-E	93-04-061	212-26-010	REP	93-05-032	212-28-090	REP-E	93-04-061
212-12-001	NEW	93-05-032	212-26-015	REP-E	93-04-061	212-28-090	REP	93-05-032

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
212-43-015	REP	93-05-032	212-45-060	REP-E	93-04-061	212-52-105	REP	93-05-032
212-43-020	REP-E	93-04-061	212-45-060	REP	93-05-032	212-52-110	REP-E	93-04-061
212-43-020	REP	93-05-032	212-45-065	REP-E	93-04-061	212-52-110	REP	93-05-032
212-43-025	REP-E	93-04-061	212-45-065	REP	93-05-032	212-52-112	REP-E	93-04-061
212-43-025	REP	93-05-032	212-45-070	REP-E	93-04-061	212-52-112	REP	93-05-032
212-43-030	REP-E	93-04-061	212-45-070	REP	93-05-032	212-52-115	REP-E	93-04-061
212-43-030	REP	93-05-032	212-45-075	REP-E	93-04-061	212-52-115	REP	93-05-032
212-43-035	REP-E	93-04-061	212-45-075	REP	93-05-032	212-52-120	REP-E	93-04-061
212-43-035	REP	93-05-032	212-45-080	REP-E	93-04-061	212-52-120	REP	93-05-032
212-43-040	REP-E	93-04-061	212-45-080	REP	93-05-032	212-52-125	REP-E	93-04-061
212-43-040	REP	93-05-032	212-45-085	REP-E	93-04-061	212-52-125	REP	93-05-032
212-43-045	REP-E	93-04-061	212-45-085	REP	93-05-032	212-52-99001	REP-E	93-04-061
212-43-045	REP	93-05-032	212-45-090	REP-E	93-04-061	212-52-99001	REP	93-05-032
212-43-050	REP-E	93-04-061	212-45-090	REP	93-05-032	212-52-99002	REP-E	93-04-061
212-43-050	REP	93-05-032	212-45-095	REP-E	93-04-061	212-52-99002	REP	93-05-032
212-43-055	REP-E	93-04-061	212-45-095	REP	93-05-032	212-56A-001	REP-E	93-04-061
212-43-055	REP	93-05-032	212-45-100	REP-E	93-04-061	212-56A-001	REP	93-05-032
212-43-060	REP-E	93-04-061	212-45-100	REP	93-05-032	212-56A-005	REP-E	93-04-061
212-43-060	REP	93-05-032	212-45-105	REP-E	93-04-061	212-56A-005	REP	93-05-032
212-43-065	REP-E	93-04-061	212-45-105	REP	93-05-032	212-56A-010	REP-E	93-04-061
212-43-065	REP	93-05-032	212-45-110	REP-E	93-04-061	212-56A-010	REP	93-05-032
212-43-070	REP-E	93-04-061	212-45-110	REP	93-05-032	212-56A-015	REP-E	93-04-061
212-43-070	REP	93-05-032	212-45-115	REP-E	93-04-061	212-56A-015	REP	93-05-032
212-43-075	REP-E	93-04-061	212-45-115	REP	93-05-032	212-56A-020	REP-E	93-04-061
212-43-075	REP	93-05-032	212-52-001	REP-E	93-04-061	212-56A-020	REP	93-05-032
212-43-080	REP-E	93-04-061	212-52-001	REP	93-05-032	212-56A-030	REP-E	93-04-061
212-43-080	REP	93-05-032	212-52-002	REP-E	93-04-061	212-56A-030	REP	93-05-032
212-43-085	REP-E	93-04-061	212-52-002	REP	93-05-032	212-56A-035	REP-E	93-04-061
212-43-085	REP	93-05-032	212-52-005	REP-E	93-04-061	212-56A-035	REP	93-05-032
212-43-090	REP-E	93-04-061	212-52-005	REP	93-05-032	212-56A-040	REP-E	93-04-061
212-43-090	REP	93-05-032	212-52-012	REP-E	93-04-061	212-56A-040	REP	93-05-032
212-43-095	REP-E	93-04-061	212-52-012	REP	93-05-032	212-56A-045	REP-E	93-04-061
212-43-095	REP	93-05-032	212-52-016	REP-E	93-04-061	212-56A-045	REP	93-05-032
212-43-100	REP-E	93-04-061	212-52-016	REP	93-05-032	212-56A-050	REP-E	93-04-061
212-43-100	REP	93-05-032	212-52-018	REP-E	93-04-061	212-56A-050	REP	93-05-032
212-43-105	REP-E	93-04-061	212-52-018	REP	93-05-032	212-56A-055	REP-E	93-04-061
212-43-105	REP	93-05-032	212-52-020	REP-E	93-04-061	212-56A-055	REP	93-05-032
212-43-110	REP-E	93-04-061	212-52-020	REP	93-05-032	212-56A-060	REP-E	93-04-061
212-43-110	REP	93-05-032	212-52-025	REP-E	93-04-061	212-56A-060	REP	93-05-032
212-43-115	REP-E	93-04-061	212-52-025	REP	93-05-032	212-56A-065	REP-E	93-04-061
212-43-115	REP	93-05-032	212-52-027	REP-E	93-04-061	212-56A-065	REP	93-05-032
212-43-120	REP-E	93-04-061	212-52-027	REP	93-05-032	212-56A-070	REP-E	93-04-061
212-43-120	REP	93-05-032	212-52-028	REP-E	93-04-061	212-56A-070	REP	93-05-032
212-43-125	REP-E	93-04-061	212-52-028	REP	93-05-032	212-56A-075	REP-E	93-04-061
212-43-125	REP	93-05-032	212-52-030	REP-E	93-04-061	212-56A-075	REP	93-05-032
212-43-130	REP-E	93-04-061	212-52-030	REP	93-05-032	212-56A-080	REP-E	93-04-061
212-43-130	REP	93-05-032	212-52-037	REP-E	93-04-061	212-56A-080	REP	93-05-032
212-43-135	REP-E	93-04-061	212-52-037	REP	93-05-032	212-56A-085	REP-E	93-04-061
212-43-135	REP	93-05-032	212-52-041	REP-E	93-04-061	212-56A-085	REP	93-05-032
212-45-001	REP	93-05-032	212-52-041	REP	93-05-032	212-56A-090	REP-E	93-04-061
212-45-005	REP-E	93-04-061	212-52-045	REP-E	93-04-061	212-56A-090	REP	93-05-032
212-45-005	REP	93-05-032	212-52-045	REP	93-05-032	212-56A-095	REP-E	93-04-061
212-45-010	REP-E	93-04-061	212-52-050	REP-E	93-04-061	212-56A-095	REP	93-05-032
212-45-010	REP	93-05-032	212-52-055	REP-E	93-04-061	212-56A-100	REP-E	93-04-061
212-45-015	REP-E	93-04-061	212-52-055	REP	93-05-032	212-56A-100	REP	93-05-032
212-45-015	REP	93-05-032	212-52-060	REP-E	93-04-061	212-56A-105	REP-E	93-04-061
212-45-020	REP-E	93-04-061	212-52-060	REP	93-05-032	212-56A-105	REP	93-05-032
212-45-020	REP	93-05-032	212-52-070	REP-E	93-04-061	212-56A-110	REP-E	93-04-061
212-45-025	REP-E	93-04-061	212-52-070	REP	93-05-032	212-56A-110	REP	93-05-032
212-45-025	REP	93-05-032	212-52-075	REP-E	93-04-061	212-56A-115	REP-E	93-04-061
212-45-030	REP-E	93-04-061	212-52-075	REP	93-05-032	212-56A-115	REP	93-05-032
212-45-030	REP	93-05-032	212-52-080	REP-E	93-04-061	212-56A-120	REP-E	93-04-061
212-45-035	REP-E	93-04-061	212-52-080	REP	93-05-032	212-56A-120	REP	93-05-032
212-45-035	REP	93-05-032	212-52-085	REP-E	93-04-061	212-56A-125	REP-E	93-04-061
212-45-040	REP-E	93-04-061	212-52-085	REP	93-05-032	212-56A-125	REP	93-05-032
212-45-040	REP	93-05-032	212-52-090	REP-E	93-04-061	212-56A-130	REP-E	93-04-061
212-45-045	REP-E	93-04-061	212-52-090	REP	93-05-032	212-56A-130	REP	93-05-032
212-45-045	REP	93-05-032	212-52-095	REP-E	93-04-061	212-56A-135	REP-E	93-04-061
212-45-050	REP-E	93-04-061	212-52-095	REP	93-05-032	212-56A-135	REP	93-05-032
212-45-050	REP	93-05-032	212-52-100	REP-E	93-04-061	212-56A-140	REP-E	93-04-061
212-45-055	REP-E	93-04-061	212-52-100	REP	93-05-032	212-56A-140	REP	93-05-032
212-45-055	REP	93-05-032	212-52-105	REP-E	93-04-061	212-64-001	REP-E	93-04-061
						212-64-001	REP	93-05-032

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
212-64-005	REP-E	93-04-061	212-65-080	REP	93-05-032	220-49-02000E	NEW-E	93-06-044
212-64-005	REP	93-05-032	212-65-085	REP-E	93-04-061	220-52-07300M	REP-E	93-05-006
212-64-015	REP-E	93-04-061	212-65-085	REP	93-05-032	220-52-07300N	NEW-E	93-05-006
212-64-015	REP	93-05-032	212-65-090	REP-E	93-04-061	220-55-010	AMD-P	93-04-096
212-64-020	REP-E	93-04-061	212-65-090	REP	93-05-032	220-56-100	AMD-P	93-04-096
212-64-020	REP	93-05-032	212-65-095	REP-E	93-04-061	220-56-105	AMD-P	93-04-096
212-64-025	REP-E	93-04-061	212-65-095	REP	93-05-032	220-56-116	AMD-P	93-04-096
212-64-025	REP	93-05-032	212-65-100	REP-E	93-04-061	220-56-124	NEW-P	93-04-096
212-64-030	REP-E	93-04-061	212-65-100	REP	93-05-032	220-56-126	AMD-P	93-04-096
212-64-030	REP	93-05-032	212-70-010	REP-E	93-04-061	220-56-128	AMD-P	93-04-096
212-64-033	REP-E	93-04-061	212-70-010	REP	93-05-032	220-56-131	AMD-P	93-04-096
212-64-033	REP	93-05-032	212-70-020	REP-E	93-04-061	220-56-132	AMD-P	93-04-096
212-64-035	REP-E	93-04-061	212-70-020	REP	93-05-032	220-56-180	AMD-P	93-04-096
212-64-035	REP	93-05-032	212-70-030	REP-E	93-04-061	220-56-190	AMD-P	93-04-096
212-64-037	REP-E	93-04-061	212-70-030	REP	93-05-032	220-56-191	NEW-P	93-04-096
212-64-037	REP	93-05-032	212-70-040	REP-E	93-04-061	220-56-195	AMD-P	93-04-096
212-64-039	REP-E	93-04-061	212-70-040	REP	93-05-032	220-56-220	AMD-P	93-04-096
212-64-039	REP	93-05-032	212-70-050	REP-E	93-04-061	220-56-235	AMD-P	93-04-096
212-64-040	REP-E	93-04-061	212-70-050	REP	93-05-032	220-56-240	AMD-P	93-04-096
212-64-040	REP	93-05-032	212-70-060	REP-E	93-04-061	220-56-245	AMD-P	93-04-096
212-64-043	REP-E	93-04-061	212-70-060	REP	93-05-032	220-56-255	AMD-P	93-04-096
212-64-043	REP	93-05-032	212-70-070	REP-E	93-04-061	220-56-270	AMD-P	93-04-096
212-64-045	REP-E	93-04-061	212-70-070	REP	93-05-032	220-56-285	AMD-P	93-04-096
212-64-045	REP	93-05-032	212-70-080	REP-E	93-04-061	220-56-307	AMD-P	93-04-096
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	MISC	93-06-004		Clark County	PERM	93-01-108
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				Mountlake Terrace, city of	PROP	93-06-051
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				fees	EMER	93-01-137
					PERM	93-04-105

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Waste discharge general permit program	PROP	93-03-066	<u>Commercial</u>		
national pollutant discharge elimination system permit program	EMER	93-03-067	baitfish		EMER 93-06-044
state waste discharge permit program	PROP	93-03-066	seasons		
	EMER	93-03-067	bottomfish		EMER 93-01-140
			coastal bottomfish		EMER 93-04-095
			catch limits		
			salmon		
	PROP	93-03-066	Columbia River above Bonneville,		EMER 93-04-073
	EMER	93-03-067	seasons		EMER 93-06-015
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Snake River main stem	PERM	93-01-010	Columbia River below Bonneville,		
Water rights			seasons		EMER 93-05-017
Columbia River water withdrawal	PERM	93-01-009			EMER 93-06-014
Snake River water withdrawal	PERM	93-01-010			EMER 93-06-070
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emission performance standards	PERM	93-04-105	areas and seasons		EMER 93-05-006
fees	PERM	93-04-105	smelt		
			areas and seasons		EMER 93-01-008
EDMONDS COMMUNITY COLLEGE			sturgeon		
Meetings	MISC	93-01-079	Columbia River		
	MISC	93-02-013	above Bonneville, seasons		EMER 93-02-008
	MISC	93-05-049			
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Corporal punishment reporting requirement	PERM	93-01-077	clams		
High school graduation requirements	PERM	93-04-115	areas and seasons		EMER 93-01-017
Instructional specialist certificate	PERM	93-05-007	razor		EMER 93-01-104
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acceptance criteria	PROP	93-04-119	rules and definitions, amendments		PROP 93-04-096
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standards and qualifications	PROP	93-04-117	Columbia River		EMER 93-04-043
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			Chemicals		PROP 93-05-010
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			Practices and procedure		PROP 93-05-010
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			Stream shade cover		EMER 93-02-009
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Examinations	PERM	93-01-081	authorized		PERM 93-01-013
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			daily records		PROP 93-06-036
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			flares, standards		PROP 93-06-036
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			recall of defective devices		PROP 93-06-036
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interstate acquisition reciprocity	PROP	93-05-041	adjudicative proceedings, rules	PROP	93-04-102
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Higher education coordinating board designated as review entity for Program	MISC	93-03-023	definitions	PERM	93-01-148
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Abortion facilities			Medical examiners, board of licenses	PERM	93-01-078
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			ticket validation	PERM	93-03-008
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			definitions	PROP	93-03-094
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