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***These rules are specific to the mainstem John Day River Scenic Waterway. Other administrative rules apply to all state scenic waterways. For the complete set of regulations, please go to:  
<http://egov.oregon.gov/OPRD/RULES/waterways.shtml>***

### **Oregon Administrative Rule (OAR) 736-040-0065**

#### **John Day River Scenic Waterway**

##### (1) Natural River Area:

(a) That segment of the scenic waterway beginning at the intersection of the John Day River with the township line between Township 5 South and Township 6 South, Willamette Meridian, at about river mile 95, thence downstream approximately 51.7 miles to the intersection of the John Day River with the southern section line of Section 30, Township 1 South, Range 19 East, Willamette Meridian, (Section 30, T 1S, R 19E, W.M.) at about river mile 43.3, is classified as a Natural River Area;

(b) This Natural River Area shall be administered consistent with the standards set by OAR 736-040-0035 and OAR 736-040-0040(1)(a)(C). In addition to these standards, all new development in resource zones (i.e. farm-related dwellings) shall comply with Gilliam County or Sherman County land use regulations.

(c) New structures and associated improvements shall be totally screened from view from the river by topography and/or vegetation, except as provided under OAR 736-040-0030(5), and except those minimal facilities needed for public outdoor recreation or resource protection. If inadequate topographic or vegetative screening exists on the site, the structure or improvement may be permitted if native vegetation can be established to provide total screening of the proposed structure or improvement within a reasonable time (4–5 years). The condition of "total screening," as used in Section (1) of this rule, shall consist of adequate topography and/or density and mixture of native evergreen and deciduous vegetation to totally obscure (100%) the subject improvement.

(d) Commercial public service facilities, including resorts and motels, lodges and trailer parks which are visible from the river, shall not be permitted.

(e) New mining operations, except recreational placer mining and recreational prospecting, as those terms are defined and used in ORS 390.835, and similar improvements, shall be permitted only when they are totally screened from view from the river by topography and/or vegetation. If inadequate topographic or vegetative screening exists to totally screen the proposed mining site, the mining operation may be permitted if native vegetation can be established to provide total screening of the proposed mining site within a reasonable time (4–5 years).

(f) New roads may be permitted only when totally screened from view from the river by topography and/or vegetation. If inadequate topographic or vegetative screening exists to totally screen the proposed road, the road may be permitted if acceptable topography can be created or road design techniques used to totally screen the road at the time of construction or native vegetation can be established to provide total screening of the proposed road within a reasonable time (4–5 years).

(g) Where existing roads are visible from the river, major extensions, realignments, or upgrades to existing roads shall not be permitted. Necessary minor road improvements shall be substantially screened from view from the river. If inadequate topography or vegetation exists to substantially screen the road improvement, the road improvement may be permitted if acceptable topography can be created or road design techniques used to substantially screen the road at the time of construction or native vegetation can be established to provide substantial screening of the road improvement within a reasonable time (4–5 years). The condition of "substantial screening," as used in Section (1) of this rule, shall consist of adequate topography and/or density and mixture of native, evergreen and deciduous vegetation to substantially obscure (at least 75%) the subject improvement. When an existing road is regraded, no side cast into or visible from the river shall be permitted. Excess material shall be hauled to locations out of view from the river.

(h) Visible tree harvest or other vegetation management may be permitted provided that:

(A) The operation complies with the relevant Forest Practices Act rules;

(B) Harvest and management methods with low visual impact are used;

(C) The harvest or vegetation management does not degrade the riparian buffer of any waterway; and

(D) The harvest or vegetation management is designed to enhance the scenic view within a reasonable time (5–10 years). For the purposes of this paragraph, "enhance" means to benefit forest ecosystem function and vegetative health by optimizing forest stand densities and vegetative composition, fostering forest landscape diversity and promoting sustainable forest values.

(i) Improvements needed for public recreation use or resource protection may be visible from the river, but shall be primitive in character and designed to blend with the natural character of the landscape.

(j) Proposed utility facilities shall share existing utility corridors, minimize any ground and vegetation disturbance, and employ non-visible alternatives when reasonably possible.

(k) Whenever the standards of OAR 736-040-0035 and section (1), subsections (a) through (j) of this rule, are more restrictive than the Gilliam and Sherman County Land Use and Development Ordinances, the above Oregon Administrative Rules shall apply.

(2) Scenic River Areas: Two segments of the John Day River main stem are designated as Scenic River Areas:

(a) That segment of scenic waterway beginning at the confluence of Service Creek at about river mile 157.4 and extending downstream approximately 62.4 miles to the intersection of the John Day River with the township line between Township 5 South and Township 6 South, Willamette Meridian, at about river mile 95, is classified as a Scenic River Area;

(b) That segment of scenic waterway beginning at the intersection of the John Day River with the southern section line of Section 30, Township 1 South, Range 19 East, Willamette Meridian, (Section 30, T 1S, R 19E, W.M.) at about river mile 43.3 and extending approximately 33.3 miles downstream to Tumwater Falls, at about river mile 10, is classified as a Scenic River Area.

(c) These Scenic River Areas shall be administered consistent with the standards set by OAR 736-040-0035 and OAR 736-040-0040(1)(b)(B). In addition to these standards, all new development in resource zones (i.e. farm related dwellings) shall comply with Sherman County, Gilliam County, Wasco County, Wheeler County, or Jefferson County land use regulations, whichever applies.

(d) New structures and associated improvements shall be substantially screened by topography and/or native vegetation, except as provided under OAR 736-040-0030(5), and except for those minimal facilities needed for public outdoor recreation or resource protection. If inadequate topographic or vegetative screening exists on a site, the structure or improvement may be permitted if native vegetation can be established to provide substantial screening of the proposed structure or improvement within a reasonable time (4–5 years). The condition of "substantial screening," as used in Section (2) of this rule, shall consist of adequate topography and/or density and mixture of native, evergreen and deciduous vegetation to substantially obscure (at least 75%) the viewed structure or improvement.

(e) Commercial public service facilities, including resorts and motels, lodges and trailer parks which are visible from the river, shall not be permitted.

(f) New mining operations, except recreational placer mining and recreational prospecting, as those terms are defined and used in ORS 390.835, and similar improvements, shall be permitted only when they are totally screened from view from the river by topography and/or vegetation. If inadequate topographic or vegetative screening exists on a site, mining and similar forms of development may be permitted if native vegetation can be established to provide total screening of the affected area within a reasonable time (4–5 years). The condition of "total screening," as used in Section (2) of this rule, shall consist of adequate topography and/or density and mixture of native, evergreen and deciduous vegetation to totally obscure (100%) the subject improvement.

(g) New roads may be permitted only when totally screened from view from the river by topography and/or vegetation. If inadequate topographic or vegetative screening exists to totally screen the proposed road, the road may be permitted if acceptable topography can be created or road design techniques used to totally screen the road at the time of construction or native

vegetation can be established to provide total screening of the proposed road within a reasonable time (4–5 years).

(h) Where existing roads are visible from the river, extensions, realignments, upgrades, or other improvements, shall only be permitted when substantially screened from view from the river. If inadequate topography or vegetation exists to provide substantial screening, the road improvement may be permitted if acceptable topography can be created or road design techniques used to substantially screen the road at the time of construction or native vegetation can be established to provide substantial screening of the subject improvement within a reasonable time (4–5 years). When an existing road is improved or regraded, no side cast into or visible from the river shall be permitted. Excess material shall be hauled to locations out of view from the river.

(i) Visible tree harvest or other vegetation management may be allowed provided that:

(A) The operation complies with the relevant Forest Practices Act rules;

(B) Harvest and management methods with low visual impact are used;

(C) The harvest or vegetation management does not degrade the riparian buffer of any waterway; and

(D) The harvest or vegetation management is designed to enhance the scenic view within a reasonable time (5-10 years). For the purposes of this paragraph, "enhance" means to benefit forest ecosystem function and vegetative health by optimizing forest stand densities and vegetative composition, fostering forest landscape diversity and promoting sustainable forest values.

(j) Improvements needed for public recreation use or resource protection may be visible from the river, but shall be primitive in character and designed to blend with the natural character of the landscape.

(k) Proposed utility facilities shall share existing utility corridors, minimize any ground and vegetation disturbance, and employ non-visible alternatives when reasonably possible.

(l) Whenever the standards of OAR 736-040-0035 and section (2), subsections (a) through (k) of this rule are more restrictive than the applicable County Land Use Development Ordinances, the above Oregon Administrative rules shall apply.

(3) Recreational River Area:

(a) That segment of scenic waterway beginning at the confluence of Parrish Creek, at about river mile 168.7, about one mile west of Spray and extending downstream approximately 11.3 miles to the confluence of Service Creek, at about river mile 157.4, is classified as a Recreational River Area.

(b) This Recreational River Area shall be administered consistent with the standards set by OAR 736-040-0035 and OAR 736-040-0040(1)(c)(B). In addition to these standards, all new development in resource zones (i.e. farm and forest related dwellings) shall comply with Wheeler County land use regulations.

(c) New structures and associated improvements shall be moderately screened from view from the river by topography and/or vegetation, except as provided by OAR 736-040-0030(5) and except those minimal facilities needed for public outdoor recreation or resource protection. If inadequate topographic or vegetative screening exists on a site, the structure or improvement may be permitted if native vegetation can be established to provide moderate screening of the proposed structure or improvement within a reasonable time (4–5 years). The condition of "moderate screening," as used in Section (3) of this rule, shall consist of adequate topography and/or density and mixture of native, evergreen and deciduous vegetation to moderately obscure (at least 50%) the viewed improvement or structure.

(d) Commercial public service facilities, including resorts and motels, lodges and trailer parks which are visible from the river, shall not be permitted.

(e) New mining operations, except recreational placer mining and recreational prospecting, as those terms are defined and used in ORS 390.835, and similar improvements, shall be permitted only when they are totally screened from view from the river by topography and/or vegetation. If inadequate topographic or vegetative screening exists on a site, mining and similar forms of development may be permitted if native vegetation can be established to provide total screening of the affected area within a reasonable time (4–5 years). The condition of "total screening," as used in Section (3) of this rule, shall consist of adequate topography and/or density and mixture of native, evergreen and deciduous vegetation to totally obscure (100%) the altered improvement site.

(f) New roads constructed for agricultural use, mining or residential use shall be moderately screened with vegetation and/or topography. If inadequate topographic or vegetative screening exists, the road may be permitted if acceptable topography can be created or road design techniques used to moderately screen the road at the time of construction or native vegetation can be established to provide moderate screening of the road within a reasonable time (4–5 years).

(g) Where existing roads are visible from the river, extensions, realignments, upgrades, or other improvements, shall only be permitted when partially screened from view from the river. If inadequate topography or vegetation exists to provide partial screening, the road improvement may be permitted if acceptable topography can be created or road design techniques used to partially screen the road at the time of construction or native vegetation can be established to provide partial screening of the subject improvement within a reasonable time (4–5 years). The condition of "partial screening," as used in Section (3) of this rule shall consist of adequate topography and/or density and mixture of native, evergreen and deciduous vegetation to partially obscure (at least 30%) views of the road improvement. When an existing road is improved or regraded, no side cast into or visible from the river shall be permitted. Excess material shall be hauled to locations out of view from the river.

(h) Visible tree harvest or other vegetation management may be allowed provided that:

(A) The operation complies with the relevant Forest Practices Act rules;

(B) Harvest and management methods with low visual impact are used;

(C) The harvest or vegetation management does not degrade the riparian buffer of any waterway;  
and

(D) The harvest or vegetative management is designed to enhance the scenic view within a reasonable time (5-10 years). For the purposes of this paragraph, "enhance" means to benefit forest ecosystem function and vegetative health by optimizing forest stand densities and vegetative composition, fostering forest landscape diversity and promoting sustainable forest values.

(i) Improvements needed for public recreation use or resource protection may be visible from the river, but shall be primitive in character and designed to blend with the natural character of the landscape.

(j) Proposed utility facilities shall share existing utility corridors, minimize any ground and vegetation disturbance, and employ non-visible alternatives when reasonably possible.

(k) Whenever the standards of OAR 736-040-0035 and section (3), subsections (c) through (j) of this rule are more restrictive than Wheeler County Land Use and Development Ordinances, the above Oregon Administrative Rules shall apply.

Stat. Auth.: ORS 390.845

Stats. Implemented: ORS 390.845(2)

Hist.: HC 1285, f. 6-27-72; PRD 10-2000, f. & cert. ef. 9-1-00