



MEMORANDUM

March 10, 2026

TO: Gorge Commissioners

FROM: Jeff Litwak, Counsel

SUBJECT: Staff Report for Rules Committee Recommendation to Begin Rulemaking to Update Commission Rules for Open Meetings, Public Records, Conflicts of Interest, and Administrative Procedure

Staff will orient commissioners on draft rules that staff worked on with the Rules Committee through 2025. The Rules Committee completed its review of the rules and recommends the Gorge Commission authorize staff to begin the rulemaking process on the draft rules.

Action Requested

Direct staff to begin the rulemaking process using the draft rules attached to this staff report.

Important: This orientation is not a public hearing on proposed rules. Staff has not filed any rulemaking notices or text with the Oregon Secretary of State or the Washington Code Reviser. The draft rules attached to this staff report continue to be works in progress. The Gorge Commission will hold a public hearing on the rules after staff files notices of proposed rulemaking with the states.

Attachments to this staff report

There are six attachments to this staff report. Please **read** the first 10 pages of the report in support of the rules. Please **skim** the explanations of the rules in the rules report and the draft rules. The attachments are separate documents so you can easily view the rules and explanations at the same time on your screen.

Report in Support of Divisions 11, 12, 13, 14, 15, 16 (for 20260310 GC Mtg). This attachment is a report that explains the Gorge Commission's rules and has sections for each rule division with explanations of each rule section. Each division is bookmarked. You may open the navigation pane on your .pdf reader to quickly scroll between the divisions.

Four Draft Rules (one for each division 11, 12, 14, 16). These are the draft rules that the Rules Committee reviewed and that staff has adjusted to address comments from the Rules Committee. Staff is not updating divisions 13 and 15 (financial disclosure and public contracts) and will explain why during the orientation.

Organizing Discussion of Draft Rules (Final). This is a document that the Rules Committee used to review the draft rules. Staff made four tables to assist the Rules Committee: (1) high-level principles guiding staff's work; (2) The most significant (and relevant) differences between Oregon and Washington laws; (3) Categories of rule changes and significant examples for those categories; and (4) discussion of issues raised by the Rules Committee that required staff to do extra research and report back.

Background

The National Scenic Area Act requires the Gorge Commission to adopt rules for several subjects that are consistent with the more restrictive of Washington or Oregon statutory law on those subjects. With a lull in current litigation, in 2024, staff began work on a major overhaul of the Commission's rules. This major overhaul was needed because staff had been unable to maintain the Commission's rules for many years due to other work.

At the Gorge Commission's February 2024 meeting, staff stated that it was beginning a comprehensive review and overhaul of the Gorge Commission's administrative rules. Commissioners did not have any questions or comments at that time. In October 2024, staff presented draft rules to the Gorge Commission. The Gorge Commission asked staff to pause its work while the Gorge Commission reestablished its Rules Committee and for the Rules Committee to review the draft rules. The Rules Committee reviewed the draft rules and comments from the Washington and Oregon attorneys general offices and recommends the drafts are ready for staff to file the rulemaking notices necessary to begin the rulemaking process. By tradition, the Gorge Commission gives staff direction to begin the rulemaking process.

The first ten pages of the report in support of the Gorge Commission's rules explains the legal requirements for the rules; court decisions relating to the Commission's rules; the states' attorneys general's letters and opinions relating to the Commission's rules; staff's recommended interpretation of the Gorge Commission's rulemaking authority and requirements; and more.

Next Steps

If the Gorge Commission directs staff to proceed with rulemaking, staff will file the required notices of proposed rulemaking with the states, put the proposed rules on the Gorge Commission's website, and schedule a public hearing on the proposed rules at one of your regular meetings, most likely in the summer.

This rules update project does not require the counties to take any action to amend their National Scenic Area ordinances.

Staff will be ready to answer your questions at the March 10 Gorge Commission meeting.