



MEMORANDUM

July 14, 2026

TO: Gorge Commissioners

FROM: Jeff Litwak, Counsel

SUBJECT: Staff Report for Rulemaking Hearing on Proposed Rule Updates to Open Meetings, Public Records, Conflicts of Interest, and Administrative Procedure Rules

Action Requested

Hold a public hearing on proposed rules and vote to adopt the proposed rules. A simple majority of a quorum of commissioners is needed to adopt the proposed rules, so any seven affirmative votes are needed. A recommended motion to adopt the proposed rules is below:

"I move to adopt the proposed rules to divisions 11, 12, 14, and 16 of the Gorge Commission's rules as printed in the Oregon Bulletin and Washington State Register."

This is one of two staff reports for your rulemaking hearing. You need two motions to adopt all the proposed rules: the motion in this staff report (above) and the motion in the other staff report. All the proposed rules (accompanying this staff report and the other) are in one filing. The rules accompanying this staff report are all the rules, except those appearing in division 82 of the Gorge Commission's rules (350-082), which are the last several pages of the attachment.

Attachments to this staff report

There are two attachments to this staff report:

Notice of Proposed Rulemaking. I have attached just the Oregon notice. The Washington notice has the same information, but it appears in a different form. The proposed rules are attached to the notice.

Report in Support of Divisions 11, 12, 13, 14, 15, 16. 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.

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 recommended that the drafts were ready for staff to file the rulemaking notices necessary to begin the rulemaking process. At your March 2026 Commission meeting, you directed staff 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.

Explanations of where each rule section came from and adaptations of the states' laws are contained in the report supporting the rules.

Staff filed the proposed rule with the states. The proposed rules appear in the May 2026 Oregon Bulletin and in the Washington State Register at WSR 26-10-027. The rulemaking activity has been posted on the Gorge Commission's website since the beginning of June.

Next Steps

If the Gorge Commission adopts the proposed rules, staff will file the notices of adoption of the rules with the states, and the rules will become effective after those filings.

The Secretary of Agriculture does not need to concur with these rules, and these rule updates do 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 July 14 Gorge Commission meeting.