



STAFF REPORT

TO: Columbia River Gorge Commission
FROM: Jeff Litwak, Legal Counsel
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DATE: November 12, 2019
SUBJECT: **Work Session*:** Gorge 2020 - Urban Area Boundary Revision Policy

Background

At the August 2019 Commission Meeting, staff presented an update on the Urban Area Boundary Revision Policy focus topic. The Commission heard public comment and had a discussion on next steps. The Commission instructed staff to pause public workshops on the focus topic, and to bring the topic back to the Commission in November for discussion on the definition of “minor revisions” in section 4(f) of the National Scenic Area Act.

Language in the National Scenic Area Act regarding revision of urban area boundaries

Section 4(f) of the National Scenic Area Act contains the requirements for the Commission to revise urban area boundaries. The text of the Act is:

(f) Revision of urban area boundaries

- (1) Upon application of a county and in consultation with the Secretary, the Commission may make minor revisions to the boundaries of any urban area identified in subsection (e) of this section. A majority vote of two-thirds of the members of the Commission, including a majority of the members appointed from each State, shall be required to approve any revision of urban area boundaries.
- (2) The Commission may revise the boundaries of an urban area only if it finds that—
 - (A) a demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the management plan;

- (B) revision of urban area boundaries would be consistent with the standards established in section 544d of this title and the purposes of sections 544 to 544p of this title;
- (C) revision of urban area boundaries would result in maximum efficiency of land uses within and on the fringe of existing urban areas; and
- (D) revision of urban area boundaries would not result in the significant reduction of agricultural lands, forest lands, or open spaces.

Section 544d of the Act, referenced above refers to the standards in the Management Plan. The purposes referenced above refer to the purposes of the Act.

Previous Attempts by the Commission to Define “Minor Revision”

In 1992, the Commission adopted a handbook as guidance for counties to use when applying for an urban area boundary revision—it was not intended as a regulatory document. The handbook defined “minor revisions” as

those boundary changes which do not have a significant effect on surrounding lands outside the Urban Area and beyond the immediate area subject to the boundary change or those boundary changes which do not result in a substantial expansion of an Urban Area.

The handbook has not been changed since it was initially adopted in 1992. The final handbook is on page 00097 of the Background Notebook that staff developed at the start of the Gorge 2020 review process for urban area boundary revision policy. The Background Notebook is available on the Commission’s website at <http://www.gorgecommission.org/management-plan/gorge2020/> (click on focus topics and scroll down to the urban areas topic).

In 2009, the Gorge Commission’s Rules Committee put considerable effort into attempting to define “minor revision,” but ultimately recommended only changing the word “or” to “and” in the Handbook definition. The Commission considered this recommendation and the Rules Committee’s other recommendations for revising the Commission’s guidance, but did not make any changes. The minutes from those meetings are available in the Background Notebook beginning on page 000310, which includes the list of potential definitions of “minor revision” that staff are requesting the Commission to review. The minutes and list of potential definitions are attached to this report.

As part of the Gorge 2020 plan review process, and with an understanding of the history of issues with defining the term, Commission staff constructed a revision process around other aspects of the 4(f) criteria before trying to define “minor revision.” Staff have not attempted to define the term as part of the Gorge 2020 review process.

Discussion Topic

In 2009 the Gorge Commission’s Rules Committee brainstormed a list of potential definitions to the term “minor revision.” The list is attached to this report. These definitions vary in many ways but may be broadly categorized as either objective or subjective definitions of the term. The Commission might start its discussion with whether the definition of “minor revisions” should be an objective standard like an acreage limitation, or a subjective standard like avoiding adverse effects to protected resources.

You should review the 2009 list for inspiration and be prepared for a discussion of specific language to consider as a definition of “minor revisions,” or a description of the objective or subjective factors that the Commission should consider when evaluating applications for minor revisions to urban area boundaries. Staff does not have recommendations for the Commission. This discussion will inform staff’s work in developing urban area boundary revision policy for your review in the future. You are not being asked to develop any policy language at this time.

As a reminder, the Commission is considering boundary revision policy only for areas where urban areas are adjacent to land in the General Management Area. Only the U.S. Forest Service has authority in the Act to revise Special Management Areas, so the Commission’s policy cannot apply to Special Management Areas unless the U.S. Forest Service joins in the Commission’s policy.

Attachments

Excerpts of 2009 Rules Committee meeting notes, June 2009 staff report and June 2009 Gorge Commission meeting minutes.