

Columbia River Gorge Commission

Chapter 350 Division 011

Open Meetings

As Amended through April 1, 2008 [DATE]

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350-011-0010. Definitions for Commission Rule 350-011

~~350-11-001. Definitions for 350-11-001 to 350-11-010.~~

- (1) “Action” means the transaction of the official business of the Gorge Commission including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, or decisions.
- (2) “Convening” means:
 - (a) Gathering in a physical location;
 - (b) Using electronic, video or telephonic technology to be able to communicate contemporaneously among participants;
 - (c) Using serial electronic written communication among participants; or
 - (d) Using an intermediary to communicate among participants.
- (3) ~~(1)~~—“Decision” means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance rule, or measure on which a vote of the Gorge eCommission is required at any meeting at which a quorum is present.
- (4) “Deliberation” means discussion or communication that is part of the decision-making process.
- (5) ~~(2)~~—“Executive session” means any meeting or part of a meeting of the Gorge eCommission whichthat is closed to certain persons for deliberation on certain matters.
- (6) ~~(3)~~—“Gorge Commission” means the Columbia River Gorge Commission or any Gorge Commission committee established and ratified in accordance with the Gorge Commission’s bylaws, whichthat consists of two or more members, with the authority to conduct hearings, take testimony, or make decisions for or recommendations to the Gorge-eCommission on policy or administration.
- (7) ~~(4)~~—“Meeting” or “meet” means the convening of the Gorge eCommission for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter take action. “Meeting” or meet does not include any onsite inspection of any project or program. “Meeting” or meet also does not include the following, provided the members of the Gorge Commission do not take action:
 - (a) attendance of members of the Gorge eCommission at any national, regional, or state association to which the Gorge-eCommission or members of the Gorge eCommission belong, or
 - (b) for a majority of the members of the Gorge Commission to travel together or gather for purposes other than a meeting.

350-011-0020. Policy

~~350-11-002. Policy.~~

- (1) The Columbia River Gorge National Scenic Area Act, 16 U.S.C. § 544c(b) and Columbia River Gorge Compact (ORS 196.150 and RCW 43.97.015) require the Gorge Commission adopt open meetings regulations consistent with the more restrictive statutory provisions of Oregon and Washington. This division is the Gorge Commission's open meetings regulations. The Oregon Public Meetings Laws (generally ORS 192.610 - 192.695) and the Washington Open Public Meetings Act (generally Chapter 42.30 RCW) do not directly apply to the Gorge Commission.
- (2) The Oregon and Washington forms of government Columbia River Gorge National Scenic Area Act and Columbia River Gorge Compact require an informed public aware of the deliberations and decisions of the Gorge eCommission and the information upon which such decisions were made. It is the intent of this division that decisions of the Gorge Commission be arrived at openly.

350-011-0030. Meetings of Gorge Commission to be Open to Public; Location of Meetings; Accommodation for Person with Disability; Interpreters

~~350-11-003. Meetings of commission to be open to public; location of meetings.~~

- (1) All meetings of the Gorge eCommission shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by ~~350-11-001 to 350-11-010~~ this division.
- (2) A member of the public shall not be required, as a condition of attending a meeting, to give his or her name, other information, complete a questionnaire, or fulfill any other condition precedent. This section does not prohibit any generally applicable conditions that the Gorge Commission determines to be reasonably necessary to protect the public health or safety, or to protect against interruption of the meeting, including a meeting held electronically.
- (3) ~~(2) — No quorum of t~~The Gorge eCommission shall not meet in private ~~for the purpose of deciding on or deliberating toward a decision on any matter~~ except as otherwise provided by ~~350-11-001 to 350-11-010~~ this division.
- (4) ~~(3) —~~The Gorge eCommission shall not hold a meeting at any place where discrimination on the basis of race, color, creed, ~~color~~, sex, age, sexual orientation, gender identity, ~~or~~ national origin, age, or disability is practiced. However, the fact that organizations with restricted membership hold meetings at the place shall not restrict its use by the Gorge eCommission if use of ~~a~~ the place by a restricted membership organization is not the primary purpose of the place or its predominate use.
- (5) ~~(4) —~~Location of meetings
 - (a) Meetings of the Gorge eCommission shall be held:
 - (A) within the geographic boundaries over which the Gorge eCommission has jurisdiction; ~~or~~

- (B) at the administrative headquarters of the Gorge eCommission; ~~or~~
 - (C) ~~at the other nearest~~ another practical location within one of the National Scenic Area counties;
 - (D) within Indian country (as that term is used in 18 U.S.C. § 1151) of one of the four Columbia River Treaty Tribes specified in 16 U.S.C. § 544(g); or
 - (E) by means of telephone, electronic, or internet communication, or other means of remote access as provided by this division.
- (b) Training sessions may be held outside the jurisdiction so long as no deliberations toward a decision are involved.
 - (c) ~~A joint meeting of two or more governing bodies between the Gorge Commission and another entity subject to an open public meeting law or one or more of the four Columbia River Treaty Tribes shall be held within the geographical boundaries over which one of the participating public bodies entities has jurisdiction, or within Indian country or at the nearest another practical location.~~
 - (d) Meetings may be held in locations other than those described in this subsection in the event of an actual emergency necessitating immediate action.
- ~~(5) — Notwithstanding the requirements of section (4) above, committee meetings may be held in any location where the committee deems it useful.~~
- ~~(6) — Meetings of the Gorge Commission shall be held in locations that are accessible to the disabled.~~
- ~~(7) — Upon request of a person who is deaf or hard of hearing, the Commission shall make a good faith effort to have an interpreter for persons who are deaf or heard of hearing provided at a regularly scheduled meeting. The person requesting the interpreter shall provide the Commission at least 48 hours' notice of the request, shall provide the name of the requester, sign language preference and any other relevant information the Commission may require. As used in this subsection, "good faith effort" includes, but is not limited to, contacting the Oregon Disabilities Commission, the Washington Aging and Adult Services Administration, or other state or local government or community service agency that maintains a list of qualified interpreters and arranging for the referral of one or more qualified interpreters to provide interpreter services.~~
- (6) ~~(8) — It shall be considered discrimination on the basis of disability for the Gorge eCommission to meet in a place inaccessible to persons with disabilities, or upon request of a person who is deaf or hard of hearing an individual with a disability or a non-English-speaking person, to fail to make a good faith effort to have an interpreter for persons the individual with a disability or a non-English-speaking person provided at a regularly scheduled meeting. The sole remedy for~~

~~discrimination on the basis of disability shall be as provided in Commission Rule 350-11-008.~~

- (a) The person requesting the interpreter shall provide the Gorge Commission at least 48 hours' notice of the request, shall provide the name of the requester, language or sign language preference and any other relevant information the Gorge eCommission may require.
 - (b) If a meeting is held upon less than 48 hours' notice, reasonable effort shall be made to have an interpreter present, but the requirement for an interpreter does not apply to emergency meetings.
 - (c) As used in this subsection, "good faith effort" includes, ~~but is not limited to,~~ contacting the Oregon Disabilities Commission, the Washington Aging and ~~Adult Services Long Term Support Administration,~~ state or federal court with jurisdiction in the National Scenic Area, or other state or local government or community service agency that maintains a list of qualified interpreters and arranging for the referral of one or more qualified interpreters to provide interpreter services.
- (7) ~~(9)~~—Voting by the Gorge eCommission shall take place in public and each member's vote shall be recorded as it is cast. The Gorge Commission shall not vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter.

350-011-0040. Public Notice Required; Special Notice for Executive Sessions

~~**350-11-004. Public notice required; special notice for executive sessions, special or emergency meetings.**~~

- (1) The Gorge eCommission shall provide the time for holding regular meetings by ~~ordinance, resolution, rule or bylaws, or by whatever other rule is required for the conduct of business by the Gorge Commission.~~
- (2) Notices in the Washington State Register and on Oregon's website for state agency meeting notices:
 - (a) The Gorge Commission shall file with ~~the Secretary of State in Oregon and the Code Reviser in Washington~~ a schedule of the time and place of ~~such~~ regular meetings as provided by rule or bylaw on or before January of each year for publication in the ~~states' registers~~ Washington State Register.
 - (b) The Gorge Commission shall post an annual notice of its regular meetings as provided by rule or bylaw on the Oregon website for state agency meetings notices, provided that the State of Oregon maintains such a website and authorizes the Gorge Commission to post an annual notice.
 - (c) The Gorge Commission's notices in this subsection shall direct persons to the Gorge Commission's website for changes to the date, starting time, and location of regular meetings, for agendas and meeting materials, and for notices of cancellation of regular meetings.

~~Notice of any change from such meeting schedule shall be published in the states' registers for distribution at least twenty days prior to the rescheduled meeting date. For the purposes of this section "regular" meetings shall mean recurring meetings held in accordance with a periodic schedule declared by statute or rule.~~

- (3) The Gorge eCommission shall ~~provide for and~~ give public notice, reasonably calculated to give actual notice to interested persons, including news media which have requested notice, of the time and place for holding regular meetings. The notice shall also include an agenda containing a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of the Gorge eCommission to consider additional subjects or remove listed subjects from consideration.
 - (a) The Gorge Commission shall make the agenda of each regular meeting available on its website no later than 24 hours in advance of the published start time of the meeting.
 - (b) Nothing in this section modifies notice requirements or shall be construed as establishing that the Gorge Commission's posting of an agenda as required by this section is sufficient notice to satisfy public notice requirements established under other laws.
- (4) If an executive session only will be held, the notice shall be given to the members of the Gorge eCommission, the general public and to news media which have requested notice, stating the specific provision of law authorizing the executive session.

~~(5) — Special Meetings. No special meeting shall be held without at least 24 hours' notice to the members of the Gorge Commission, the news media which have requested notice and the general public. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24 hours' notice. The call and notice of the meeting shall specify the time and place of the meeting and the business to be transacted. Notice of a special meeting may be given by delivering written notice personally, by mail, by fax, or by electronic mail. Final disposition shall not be taken on any other matter at a special meeting of the Gorge Commission.~~
- (5) ~~(6) —~~ The Gorge eCommission shall not adopt any ordinance, resolution, rule, regulation, order, or directive except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter division. ~~Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.~~
- (6) ~~(7) —~~ The Gorge eCommission may adjourn or continue a meeting to a time and place specified in an order of adjournment or continuance. Written notice of the adjournment or continuance shall be provided in accordance with subsection (3) of this rule. ~~above. A copy of the order of adjournment or continuance shall be~~

conspicuously posted immediately after adjournment or continuance on the door where the meeting was held.

350-011-0050. Special and Emergency Meetings

- (1) A special meeting may be called at any time by the Chair of the Gorge Commission or by a majority of the members of the Gorge Commission by delivering written notice personally, by mail, or by electronic communication to each member of the Gorge Commission and to the Executive Director of the Gorge Commission. Written notice shall be deemed waived in the following circumstances:
 - (a) A member submits a written waiver of notice with the Executive Director of the Gorge Commission at or prior to the time the meeting convenes. A written waiver may be given by any means, including electronic communication; or
 - (b) A member is actually present at the time the meeting convenes.
- (2) Notice of a special meeting called under section (1) of this rule shall be:
 - (a) Delivered to each local newspaper of general circulation and local radio or television station that has on file with the Gorge Commission a written request to be notified of such special meeting or of all special meetings;
 - (b) Posted on the Gorge Commission's website;
 - (c) Prominently displayed at the main entrance of the Gorge Commission's office; and
 - (d) Delivered or posted, as applicable, at least 24 hours before the time of such meeting as specified in the notice.
- (3) The call and notices required under sections (1) and (2) of this rule shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at a special meeting of the Gorge Commission.
- (4) Emergency Meetings. The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage, or when the required notice cannot be posted or displayed with reasonable safety, including but not limited to declared emergencies in which travel to physically post notice is barred or advised against. The minutes for an emergency meetings shall describe the emergency justifying less than 24 hours notice.

350-011-0060. Written Minutes and Recording Required and Made Available; Content; Content of Minutes for Executive Sessions

~~350-11-005. Written minutes required; content; content of minutes for executive sessions.~~

- (1) The Gorge Commission shall provide for the taking of written minutes of all its meetings. ~~Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law, but t~~The written minutes must give a true reflection of the ~~mattes~~ matters discussed at the meeting and the views of the participants. All minutes shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:
 - (a) All members of the Gorge Commission present;
 - (b) All motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;
 - (c) The results of all votes and, ~~except for public bodies consisting of more than 25 members unless requested by a member of the body,~~ the vote of each member by name;
 - (d) The substance of any discussion on any matter; ~~and~~
 - (e) Subject to Commission Rule chapter 350, division 12-001 to 350-12-006 relating to public records, a reference to any document discussed at the meeting but such reference shall not affect the status of the document under Commission Rule chapter 350, division 12-001 to 350-12-006; ~~and~~
 - (f) The announced purpose(s) and authorization(s) for any executive session.
- (2) The Gorge Commission shall provide for a sound, video, or digital recording of all its meetings.
 - (a) The Gorge Commission shall promptly make the recordings available online on a publicly accessible website or hosting service for a minimum of six months so that members of the public may without charge:
 - (A) Observe a recording of the meeting if the meeting was conducted through videoconferencing technology; or
 - (B) Listen to a recording of the meeting if the meeting was conducted through teleconferencing technology that did not include video capabilities.
 - (b) The requirement that a meeting be published under this section does not apply to that portion of a Gorge Commission meeting that was lawfully held in executive session under 350-011-0070.
- (3) ~~(2)~~—Minutes of executive sessions shall be kept in accordance with ~~subsection (1) of this section~~ rule. Instead of written minutes, a record of any executive sessions may be kept in the form of a sound, video, ~~tape or digital~~ recording, which need not be transcribed unless otherwise provided by law. However, excluded materials are authorized to be examined by a court in any legal action and the court shall determine their admissibility.

350-011-0070. Executive Sessions Permitted on Certain Matters; Procedures; News Media Representatives' Attendance; Limits

~~350-11-006. Executive sessions permitted on certain matters; procedures; news media representatives' attendance; limits.~~

- (1) The Gorge Commission can hold executive session during a regular, special, or emergency meeting, after the presiding officer has identified announcing the authorization for the holding of such executive session. Executive session may be held:
- (a) To evaluate the qualifications of an applicant for ~~consider the employment of~~ as an public officer, employee, staff member or individual agent. The exception contained in this ~~paragraph~~ subsection does not apply to:
 - ~~(A) The filing filling of a vacancy in an elective office;~~
 - ~~(B) The filling of a vacancy on any public committee, commission or other advisory group;~~
 - (A) ~~(C) The consideration of general employment policies, including salaries, wages, and other conditions of employment to be generally applied within the Gorge Commission;~~
 - (B) ~~(D) The employment of the chief executive officer, other public officers, executive director, employees and staff members of any public body unless the vacancy in that office has been advertised, regularized procedures for hiring have been adopted by the public body and there has been opportunity for public input into the employment of such an officer. However, the standards, criteria and policy directives to be used in hiring chief executive officers shall be adopted by the Gorge Commission in meetings open to the public in which there has been opportunity for public comment.~~
 - (i) the Gorge Commission has advertised the vacancy;
 - (ii) the Gorge Commission has adopted regular hiring procedures;
 - (iii) in the case of the executive director, the public has had the opportunity to comment on the employment of the officer; and
 - (iv) in the case of the executive director, the Gorge Commission has adopted hiring standards, criteria, and policy directives in meetings open to the public in which the public has had the opportunity to comment on the standards, criteria, and policy directives;
 - (C) The final action of the Gorge Commission hiring an individual employee.
 - (b) To review the performance of an employee, staff member or individual agent or to consider the dismissal or disciplining of, or to hear complaints or

charges brought against, ~~an employee, public officer,~~ employee, staff member, or individual agent, ~~unless such public officer, employee, staff member or individual agent who does not~~ requests an open hearing. The Gorge Commission shall not use an executive session for purposes of evaluating the executive director, employee or staff member to conduct a general evaluation of any agency goal, objective, or operation or any directive to personnel concerning agency goals, objectives, operations, or programs. When the Gorge Commission elects to take final action hiring or setting the salary of an individual employee or class of employees, that action shall be taken in a meeting open to the public. When the Gorge Commission elects to take final action discharging or disciplining an employee, that action shall be taken in a meeting open to the public.

- (c) To conduct deliberations with persons designated by the Gorge Commission to carry on labor negotiations;
- (d) To conduct deliberations with persons designated by the Gorge Commission to negotiate real property transactions or to consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;
- (e) To consider information or records that are exempt by law from public inspection. The Gorge Commission may consider whether to consider such information or records in open meeting on a case-by-case basis.
- (f) ~~To consider preliminary negotiations involving matters of trade or commerce in which the Gorge Commission is in competition with governing bodies in other states or nations;~~ Consultation with legal counsel:
 - (A) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the Gorge Commission, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency;
 - (B) This subsection does not permit the Gorge Commission to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection, "potential litigation" means matters protected by Oregon or Washington's rules and laws governing an attorney's duty of confidentiality concerning:
 - (i) Litigation that has been specifically threatened to which the Gorge Commission or a member of the Gorge Commission or staff acting in an official capacity is, or is likely to become, a party;

- (ii) Litigation that the Gorge Commission reasonably believes may be commenced by or against the Gorge Commission or a member of the Gorge Commission or staff acting in an official capacity; or
 - (iii) Litigation or legal risks of a proposed action or current practice that the Gorge Commission has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the Gorge Commission.
- (g) ~~To consult with counsel concerning the legal rights and duties of the Gorge Commission with regard to current litigation or litigation likely to be filed; To consider matters relating to the safety of the governing body and of public body staff and volunteers and the security of public body facilities and meeting spaces.~~
- (h) ~~To review and evaluate, pursuant to standards, criteria and policy directives adopted by the Commission, the employment-related performance of the chief executive officer of the Commission, a public officer, employee or staff member unless the person whose performance is being reviewed and evaluated requests an open hearing. The standards, criteria and policy directives to be used in evaluating chief executive officers shall be adopted by the Commission in meetings open to comment. An executive session for purposes of evaluating a chief executive officer or other officer, employee or staff member shall not include a general evaluation of any agency goal, objective or operation or any directive to personnel concerning agency goals, objectives, operations or programs. For any other purpose authorized by either the laws of Oregon or the laws of Washington not listed above.~~
 - (i) ~~To carry on negotiations with private persons or business regarding proposed acquisition, exchange or liquidation of public investments.~~
 - (j) ~~To discuss information about the review or approval of programs relating to the security of any of the following:~~
 - (A) ~~A nuclear-powered thermal power plant or nuclear installation.~~
 - (B) ~~Transportation of radioactive material derived from or destined for a nuclear-fueled thermal power plant or nuclear installation.~~
 - (C) ~~Generation, storage or conveyance of:~~
 - (iv) ~~Electricity;~~
 - (v) ~~Gas in liquefied or gaseous form;~~
 - (vi) ~~Hazardous substances as defined by Oregon or Washington state law;~~
 - (vii) ~~Petroleum products;~~

(viii) Sewage; or

(ix) Water;

(D) Telecommunications systems, including cellular, wireless or radio systems.

(E) Data transmissions by whatever means provided.

~~(2) — Labor negotiations may be conducted in executive session if either side of the negotiators requests closed meetings. Subsequent sessions of the negotiations may continue without further public notice.~~

(2) ~~(3) —~~ Representatives of the news media shall be allowed to attend executive sessions other than those held under ~~paragraph (c) of subsection (1)(c)~~ of this ~~section~~ rule relating to labor negotiations but no information that is the subject of the executive session shall be disclosed. When the Gorge Commission convenes an executive session under subsection (1)(f) of this rule, the Gorge Commission shall bar any member of the news media from attending the executive session if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation.

(3) ~~(4) —~~ No executive session may be held for the purpose of taking any final action or making any final decision.

350-011-0080. Meetings by Means of Telephone, or Electronic, or Internet Communication, or Other Means of Remote Access

~~350-11-007. Meetings by means of telephonic or electronic communication.~~

(1) Any meetings, including an executive session, of the Gorge eCommission which is held through the use of telephone, ~~or other electronic, or internet~~ communication, or other means of remote access shall be conducted in accordance with ~~350-11-001 to 350-11-010~~ this division.

(2) When telephone, ~~or other electronic, or internet~~ means ~~of communication, or other~~ means of remote access is used and the meeting is not an executive session, the Gorge eCommission shall make available to the public at least one place where the public can listen to the communication at the time it occurs by means of speakers or other devices. The place provided may be a place where no member of the Gorge eCommission is present.

(3) All meetings held by the Gorge Commission, excluding executive sessions, must provide to members of the general public, to the extent reasonably possible, an opportunity to:

(a) Access and attend the meeting by telephone, video, or other electronic or virtual means;

(b) If in-person oral testimony is allowed, submit during the meeting oral testimony by telephone, video, or other electronic or virtual means; and

(c) If in-person written testimony is allowed, submit written testimony, including by electronic mail or other electronic means, so that the Gorge Commission is able to consider the submitted testimony in a timely manner.

(4) The provisions of section (3) of this rule apply to hearings under Commission Rule division 350, chapters 60 and 70.

350-11-008. Enforcement of 350-011-0001 to 350-001-0007; effect of violation on validity of decision of the Commission, liability of members.

(1) ~~Any person affected by a decision of the commission may commence a suit in the circuit court or superior court of the county in which the commission ordinarily meets, for the purpose of requiring compliance with, or the prevention of violations of 350-11-001 to 350-11-007, by members of the commission, or to determine the applicability of 350-11-001 to 350-11-007 to matters or decisions of the Commission. The court may order such equitable relief as it deems appropriate in the circumstances. A decision made in violation of 350-11-001 to 350-11-007 is voidable.~~

(2) ~~If the court makes a finding that a violation of 350-11-001 to 350-11-007 has occurred under subsection (1) of this section and that the violation is the result of wilful misconduct by any member or members of the commission, that member or members shall be jointly and severally liable to the commission for the amount paid by the commission under subsection (1) of this section.~~

(3) ~~Each member of the commission who attends a meeting of the commission where action is taken in violation of any provision of this division, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars. The civil penalty shall be assessed by a judge of the circuit court or superior court and an action to enforce this penalty may be brought by any person. A violation of this chapter does not constitute a crime and assessment of the civil penalty by a judge shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.~~

(4) ~~Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. If the commission prevails in an action in the courts for a violation of this chapter, it may be awarded reasonable expenses and attorney fees upon final judgment and written findings by the trial judge that the action was frivolous and advanced without reasonable cause.~~

(5) ~~The provisions of this section rule shall be the exclusive remedy for an alleged violation of 350-11-001 to 350-11-007.~~

350-11-009. Prima facie evidence of violation required of plaintiff.

In any suit commenced under 350-11-008(1), the plaintiff shall be required to present prima facie evidence of a violation of 350-011-0001 to 350-11-007 before the commission shall be required to prove that its acts in deliberating toward a decision complied with the law. When a plaintiff presents prima facie evidence of a violation of the open meeting law,

the burden to prove that the provisions of 350-11-001 to 350-11-007 were complied with shall be on the commission.

350-11-010. Smoking in public meetings prohibited.

(1) ~~No person shall smoke or carry any lighted smoking instrument in a room where a public meeting is being held or is to continue after a recess. For purposes of this subsection, a public meeting is being held from the time the agenda or meeting notice indicates the meeting is to commence regardless of the time it actually commences.~~

(2) ~~As used in this section, "smoking instrument" means any cigar, cigarette, pipe or other smoking equipment.~~

350-011-0090. Interruptions

In the event that any meeting is interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are interrupting the meeting, the members of the Gorge Commission may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the members. In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section prohibits the Gorge Commission from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting. Nothing in this section prohibits the Gorge Commission from stopping people from speaking to the Gorge Commission when not recognized by the Gorge Commission to speak.

350-011-0100. Regular Meeting to Include Time for Public Comment

350-11-011. Regular meetings to include time for public comment.

(1) At all regular meetings of the Gorge Commission, the Gorge Commission shall provide time for oral public comment for issues not on the Gorge Commission's agenda, and an opportunity for Tribal Nations to address the Gorge Commission.

(2) At all regular meetings of the Gorge Commission, the Gorge Commission shall provide an opportunity for written public comment. Written comments shall be distributed to the members of the Gorge Commission. The Gorge Commission may set a reasonable deadline for the submission of written comment before the meeting.

(3) Upon the request of any individual who will have difficulty attending a meeting of the Gorge Commission by reason of disability, limited mobility, or for any other reason that makes physical attendance at a meeting difficult, the Gorge Commission shall, when feasible, provide an opportunity for that individual to provide oral comment at the meeting remotely if oral comment from other members of the public will be accepted at the meeting.

- (4) ~~(2)~~—The Gorge Commission may limit the number of speakers or the time for oral public comment and opportunity for Tribal Nations to address the Gorge Commission in a manner that limits time equally for each speaker, ~~or the number of speakers.~~
- (5) ~~(3)~~—The Gorge Commission may exclude oral or written comment that concerns matters currently before or likely to come before the Gorge Commission in a hearing where the Gorge Commission must disclose ex parte communications and comply with the Washington Appearance of Fairness doctrine. ~~The presiding officer may exclude other comment that is inappropriate.~~
- (6) Nothing in this section diminishes the authority of the Gorge Commission to deal with interruptions as provided in this division or requires the Gorge Commission to accept public comment that renders orderly conduct of the meeting unfeasible.

350-011-0110. Enforcement

Enforcement of this division is governed by the judicial review provisions of the Columbia River Gorge National Scenic Area Act, 16 U.S.C. § 544m, and applicable court rules.