

# D R A F T

## SUMMARY

Requires Environmental Quality Commission to adopt by rule certain statewide greenhouse gas emissions limits by no later than January 1, 2018.

Requires commission to adopt action plan for ensuring statewide greenhouse gas emissions do not exceed limits adopted by commission.

Requires Department of Environmental Quality to periodically prepare reports to commission on best available climate science, to be used by commission in adopting and updating greenhouse gas emissions limits and related rules.

Repeals provision granting certain exemptions from air pollution laws. Repeals provision relating to greenhouse gas emissions goals. Makes repeals operative January 1, 2018.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to air pollution; creating new provisions; amending ORS 184.889,  
3 468A.235, 468A.240, 468A.250, 468A.260, 468A.305 and 468A.605 and section  
4 9, chapter 751, Oregon Laws 2009, and section 20, chapter 28, Oregon Laws  
5 2016; repealing ORS 468A.020 and 468A.205; and declaring an emergency.

6 **Be It Enacted by the People of the State of Oregon:**

7 **SECTION 1. Sections 2 and 3 of this 2017 Act are added to and made**  
8 **a part of ORS chapter 468A.**

9 **SECTION 2. (1) As used in this section and section 3 of this 2017**  
10 **Act, “statewide greenhouse gas emissions” means the total annual**  
11 **emissions of greenhouse gases in this state, expressed in tons of car-**  
12 **bon dioxide and carbon dioxide equivalents, and all emissions of**  
13 **greenhouse gases from the generation of electricity generated outside**  
14 **this state and delivered to and consumed in this state, accounting for**

1 **transmission and distribution line losses.**

2 **(2) No later than January 1, 2018, the Environmental Quality Com-**  
3 **mission shall adopt by rule:**

4 **(a) A statewide greenhouse gas emissions limit for the year 2020**  
5 **that is based on the best available science and that limits emissions**  
6 **to levels that are at least 10 percent below 1990 levels;**

7 **(b) A statewide greenhouse gas emissions limit for the year 2035**  
8 **that is based on the best available science and that limits emissions**  
9 **to levels that are at least 68 percent below 1990 levels; and**

10 **(c) A statewide greenhouse gas emissions limit for the year 2050**  
11 **that is based on the best available science and that limits emissions**  
12 **to levels that are at least 91 percent below 1990 levels.**

13 **(3) No later than January 1, 2018, the commission shall adopt tem-**  
14 **porary rules for reducing statewide greenhouse gas emissions by an**  
15 **annual rate of eight percent. Temporary rules adopted under this**  
16 **subsection shall be effective until the commission adopts rules pursu-**  
17 **ant to subsection (4) of this section and section 3 of this 2017 Act.**

18 **(4) Beginning no later than January 1, 2019, and once every five**  
19 **years after that date, the commission shall adopt an interim, five-year**  
20 **statewide greenhouse gas emissions limit consistent with the**  
21 **greenhouse gas emissions reductions necessary to meet the**  
22 **greenhouse gas emissions limit for the year 2050 adopted under this**  
23 **section.**

24 **(5) The commission may adjust greenhouse gas emissions limits**  
25 **adopted under this section as necessary to achieve goals consistent**  
26 **with the best available science.**

27 **SECTION 3. (1) The Environmental Quality Commission shall, no**  
28 **later than January 1, 2020, adopt by rule an action plan for preventing**  
29 **exceedance of the state greenhouse gas emissions limits set forth in**  
30 **section 2 of this 2017 Act. The commission shall consult with all re-**  
31 **sponsible state agencies in developing the action plan.**

1       **(2) The action plan must:**

2       **(a) Be based on the most comprehensive greenhouse gas emissions**  
3 **inventory available.**

4       **(b) Identify and make recommendations on emissions reduction**  
5 **measures, alternative compliance mechanisms and market-based**  
6 **compliance mechanisms that sources may use to maximize feasible**  
7 **and cost-effective reductions of greenhouse gas emissions.**

8       **(c) Encourage early greenhouse gas emissions reductions.**

9       **(d) Identify opportunities for greenhouse gas emissions reductions**  
10 **from all verifiable and enforceable voluntary actions, including but**  
11 **not limited to carbon sequestration and best management practices.**

12       **(e) Identify all state laws and programs related to greenhouse gas**  
13 **emissions regulation that will require adjustments in order to function**  
14 **in a coordinated manner to meet the goals of the action plan.**

15       **(f) Ensure that greenhouse gas emissions reduction regulations and**  
16 **programs are administered in a manner that, to the greatest extent**  
17 **feasible, ensures that disadvantaged communities, rural communities,**  
18 **children and the elderly:**

19       **(A) Are protected from experiencing disproportionate levels of the**  
20 **harms attributable to greenhouse gas emissions;**

21       **(B) Benefit from public and private investments related to reducing**  
22 **greenhouse gas emissions; and**

23       **(C) Have the opportunity to serve in advisory roles and to otherwise**  
24 **participate in the development and implementation of the action plan.**

25       **(g) Prioritize the implementation of greenhouse gas emissions re-**  
26 **duction regulations and programs that achieve the associated goal of**  
27 **reducing instances of air pollution conditions in this state that dis-**  
28 **proportionately impact disadvantaged communities, rural communi-**  
29 **ties, children and the elderly.**

30       **(3) The commission may adopt rules necessary to administer and**  
31 **implement the action plan required by this section.**

1       **(4)(a) The Department of Environmental Quality shall periodically**  
2 **prepare and submit to the commission reports that update and de-**  
3 **scribe the best available climate change science, including biological,**  
4 **physical and social science, as it relates both to Oregon-specific and**  
5 **global concerns.**

6       **(b) The department shall coordinate reporting under this section**  
7 **as necessary to ensure that the reports incorporate the most recent**  
8 **findings of the International Panel on Climate Change, the National**  
9 **Climate Assessment issued by the United States Global Change Re-**  
10 **search Program, and other leading climate science analysis.**

11       **(c) The commission shall utilize the reports prepared under this**  
12 **subsection in adopting and periodically amending any rules adopted**  
13 **pursuant to this section and section 2 of this 2017 Act.**

14       **SECTION 4. ORS 468A.020 and 468A.205 are repealed.**

15       **SECTION 5.** ORS 184.889 is amended to read:

16       184.889. (1) The Oregon Transportation Commission, after consultation  
17 with and in cooperation with metropolitan planning organizations, other  
18 state agencies, local governments and stakeholders, as a part of the state  
19 transportation policy developed and maintained under ORS 184.618, shall  
20 adopt a statewide transportation strategy on greenhouse gas emissions to aid  
21 in achieving [*the*] greenhouse gas emissions [*reduction goals set forth in ORS*  
22 *468A.205*] **consistent with the limits adopted under section 2 of this 2017**  
23 **Act.** The commission shall focus on reducing greenhouse gas emissions re-  
24 sulting from transportation. In developing the strategy, the commission  
25 shall take into account state and federal programs, policies and incentives  
26 related to reducing greenhouse gas emissions.

27       (2) The commission shall actively solicit public review and comment in  
28 the development of the strategy.

29       **SECTION 6.** ORS 468A.235 is amended to read:

30       468A.235. The Oregon Global Warming Commission shall recommend ways  
31 to coordinate state and local efforts to reduce greenhouse gas emissions in

1 Oregon consistent with the **limits on** greenhouse gas emissions [*reduction*  
2 *goals established by ORS 468A.205*] **adopted under section 2 of this 2017**  
3 **Act** and shall recommend efforts to help Oregon prepare for the effects of  
4 global warming. The Office of the Governor and state agencies working on  
5 multistate and regional efforts to reduce greenhouse gas emissions shall in-  
6 form the commission about these efforts and shall consider input from the  
7 commission for such efforts.

8 **SECTION 7.** ORS 468A.240 is amended to read:

9 468A.240. (1) In furtherance of the **limits on** greenhouse gas emissions  
10 [*reduction goals established by ORS 468A.205*] **adopted under section 2 of**  
11 **this 2017 Act**, the Oregon Global Warming Commission may recommend  
12 statutory and administrative changes, policy measures and other recommen-  
13 dations to be carried out by state and local governments, businesses,  
14 nonprofit organizations or residents. In developing its recommendations, the  
15 commission shall consider economic, environmental, health and social costs,  
16 and the risks and benefits of alternative strategies, including least-cost  
17 options. The commission shall solicit and consider public comment relating  
18 to statutory, administrative or policy recommendations.

19 (2) The commission shall examine greenhouse gas cap-and-trade systems,  
20 including a statewide and multistate carbon cap-and-trade system and  
21 market-based mechanisms, as a means of achieving the **limits on** greenhouse  
22 gas emissions [*reduction goals established by ORS 468A.205*] **adopted under**  
23 **section 2 of this 2017 Act**.

24 (3) The commission shall examine possible funding mechanisms to obtain  
25 low-cost greenhouse gas emissions reductions and energy efficiency en-  
26 hancements, including but not limited to those in the natural gas industry.

27 **SECTION 8.** ORS 468A.250 is amended to read:

28 468A.250. (1) The Oregon Global Warming Commission shall track and  
29 evaluate:

30 (a) Economic, environmental, health and social assessments of global  
31 warming impacts on Oregon and the Pacific Northwest;

- 1 (b) Existing greenhouse gas emissions reduction policies and measures;
- 2 (c) Economic, environmental, health and social costs, and the risks and  
3 benefits of alternative strategies, including least-cost options;
- 4 (d) The physical science of global warming;
- 5 (e) Progress toward **preventing exceedance of** the greenhouse gas emis-  
6 sions [*reduction goals established by ORS 468A.205*] **limits adopted under**  
7 **section 2 of this 2017 Act**;
- 8 (f) Greenhouse gases emitted by various sectors of the state economy, in-  
9 cluding but not limited to industrial, transportation and utility sectors;
- 10 (g) Technological progress on sources of energy the use of which gener-  
11 ates no or low greenhouse gas emissions and methods for carbon  
12 sequestration;
- 13 (h) Efforts to identify the greenhouse gas emissions attributable to the  
14 residential and commercial building sectors;
- 15 (i) The carbon sequestration potential of Oregon's forests, alternative  
16 methods of forest management that can increase carbon sequestration and  
17 reduce the loss of carbon sequestration to wildfire, changes in the mortality  
18 and distribution of tree and other plant species and the extent to which  
19 carbon is stored in tree-based building materials;
- 20 (j) The advancement of regional, national and international policies to  
21 reduce greenhouse gas emissions;
- 22 (k) Local and regional efforts to prepare for the effects of global warming;  
23 and
- 24 (L) Any other information, policies or analyses that the commission de-  
25 termines will aid in the achievement of the greenhouse gas emissions [*re-*  
26 *duction goals established by ORS 468A.205*] **limits adopted under section**  
27 **2 of this 2017 Act**.
- 28 (2) The commission shall:
- 29 (a) Work with the State Department of Energy and the Department of  
30 Environmental Quality to evaluate all gases with the potential to be  
31 greenhouse gases and to determine a carbon dioxide equivalency for those

1 gases; and

2 (b) Use regional and national baseline studies of building performance to  
3 identify incremental targets for the reduction of greenhouse gas emissions  
4 attributable to residential and commercial building construction and oper-  
5 ations.

6 **SECTION 9.** ORS 468A.260 is amended to read:

7 468A.260. The Oregon Global Warming Commission shall submit a report  
8 to the Legislative Assembly, in the manner provided by ORS 192.245, by  
9 March 31 of each odd-numbered year that describes Oregon's progress toward  
10 [*achievement*] **preventing exceedance** of the greenhouse gas emissions [*re-*  
11 *duction goals established by ORS 468A.205*] **limits adopted under section**  
12 **2 of this 2017 Act.** The report may include relevant issues and trends of  
13 significance, including trends of greenhouse gas emissions, emerging public  
14 policy and technological advances. The report also may discuss measures the  
15 state may adopt to mitigate the impacts of global warming on the environ-  
16 ment, the economy and the residents of Oregon and to prepare for those im-  
17 pacts.

18 **SECTION 10.** ORS 468A.305 is amended to read:

19 468A.305. The Legislative Assembly declares the purpose of ORS 184.730,  
20 184.733, 468.065, [*468A.020,*] 468A.040, 468A.045, 468A.155, 468A.300 to  
21 468A.330, 468A.415, 468A.420 and 468A.485 to 468A.515 is to:

22 (1) Insure that the state meets its minimum obligations under the Clean  
23 Air Act Amendments of 1990.

24 (2) Avoid direct regulation of industrial sources of air pollution through  
25 a federal government administered permit program.

26 (3) Prevent imposition of Clean Air Act sanctions which would impound  
27 federal highway funds appropriated for the state and increase emission offset  
28 requirements for new and expanding major industrial sources of air pol-  
29 lution.

30 (4) Provide adequate resources to fully cover the costs of the Department  
31 of Environmental Quality to develop and administer an approvable federal

1 operating permit program in accordance with the Clean Air Act, including  
2 costs of permitting, compliance, rule development, emission inventorying,  
3 monitoring and modeling and related activities.

4 **SECTION 11.** ORS 468A.605 is amended to read:

5 468A.605. The Department of Environmental Quality, in coordinating ef-  
6 forts under ORS 468.140, 468.150, [468A.020,] 468A.555 to 468A.620 and  
7 468A.992, shall:

8 (1) Enforce all field burning rules adopted by the Environmental Quality  
9 Commission and all related statutes; and

10 (2) Monitor and prevent unlawful field burning.

11 **SECTION 12.** Section 9, chapter 751, Oregon Laws 2009, is amended to  
12 read:

13 **Sec. 9.** (1) The Public Utility Commission shall develop estimates of the  
14 rate impacts for electric companies and natural gas companies to meet the  
15 following alternative greenhouse gas emission reduction goals for 2020:

16 (a) Ten percent below 1990 levels, as specified in [ORS 468A.205] **section**  
17 **2 of this 2017 Act;** and

18 (b) Fifteen percent below 2005 levels.

19 (2) The commission shall submit a report presenting the estimates and  
20 explaining the analysis used to develop the estimates to the appropriate in-  
21 terim committee of the Legislative Assembly prior to November 1 of each  
22 even-numbered year.

23 **SECTION 13.** Section 20, chapter 28, Oregon Laws 2016, is amended to  
24 read:

25 **Sec. 20.** (1) As used in this section:

26 (a) “Electric company” has the meaning given that term in ORS 757.600.

27 (b) “Transportation electrification” means:

28 (A) The use of electricity from external sources to provide power to all  
29 or part of a vehicle;

30 (B) Programs related to developing the use of electricity for the purpose  
31 described in subparagraph (A) of this paragraph; and



1 (C) Infrastructure investments related to developing the use of electricity  
2 for the purpose described in subparagraph (A) of this paragraph.

3 (c) “Vehicle” means a vehicle, vessel, train, boat or any other equipment  
4 that is mobile.

5 (2) The Legislative Assembly finds and declares that:

6 (a) Transportation electrification is necessary to reduce petroleum use,  
7 achieve optimum levels of energy efficiency and carbon reduction, meet fed-  
8 eral and state air quality standards, [*meet this state’s greenhouse gas emis-*  
9 *sions reduction goals described in ORS 468A.205*] **prevent exceedance of the**  
10 **greenhouse gas emissions levels adopted under section 2 of this 2017**  
11 **Act** and improve the public health and safety;

12 (b) Widespread transportation electrification requires that electric com-  
13 panies increase access to the use of electricity as a transportation fuel;

14 (c) Widespread transportation electrification requires that electric com-  
15 panies increase access to the use of electricity as a transportation fuel in low  
16 and moderate income communities;

17 (d) Widespread transportation electrification should stimulate innovation  
18 and competition, provide consumers with increased options in the use of  
19 charging equipment and in procuring services from suppliers of electricity,  
20 attract private capital investments and create high quality jobs in this state;

21 (e) Transportation electrification and the purchase and use of electric  
22 vehicles should assist in managing the electrical grid, integrating generation  
23 from renewable energy resources and improving electric system efficiency  
24 and operational flexibility, including the ability of an electric company to  
25 integrate variable generating resources;

26 (f) Deploying transportation electrification and electric vehicles creates  
27 the opportunity for an electric company to propose, to the Public Utility  
28 Commission, that a net benefit for the customers of the electric company is  
29 attainable; and

30 (g) Charging electric vehicles in a manner that provides benefits to elec-  
31 trical grid management affords fuel cost savings for vehicle drivers.

1 (3) The Public Utility Commission shall direct each electric company to  
2 file applications, in a form and manner prescribed by the commission, for  
3 programs to accelerate transportation electrification. A program proposed  
4 by an electric company may include prudent investments in or customer re-  
5 bates for electric vehicle charging and related infrastructure.

6 (4) When considering a transportation electrification program and deter-  
7 mining cost recovery for investments and other expenditures related to a  
8 program proposed by an electric company under subsection (3) of this sec-  
9 tion, the commission shall consider whether the investments and other ex-  
10 penditures:

11 (a) Are within the service territory of the electric company;

12 (b) Are prudent as determined by the commission;

13 (c) Are reasonably expected to be used and useful as determined by the  
14 commission;

15 (d) Are reasonably expected to enable the electric company to support the  
16 electric company's electrical system;

17 (e) Are reasonably expected to improve the electric company's electrical  
18 system efficiency and operational flexibility, including the ability of the  
19 electric company to integrate variable generating resources; and

20 (f) Are reasonably expected to stimulate innovation, competition and  
21 customer choice in electric vehicle charging and related infrastructure and  
22 services.

23 (5)(a) Tariff schedules and rates allowed pursuant to subsection (3) of this  
24 section:

25 (A) May allow a return of and a return on an investment made by an  
26 electric company under subsection (3) of this section; and

27 (B) Shall be recovered from all customers of an electric company in a  
28 manner that is similar to the recovery of distribution system investments.

29 (b) A return on investment allowed under this subsection may be earned  
30 for a period of time that does not exceed the depreciation schedule of the  
31 investment approved by the commission. When an electric company's invest-

1 ment is fully depreciated, the commission may authorize the electric company  
2 to donate the electric vehicle charging infrastructure to the owner of the  
3 property on which the infrastructure is located.

4 (6) For purposes of ORS 757.355, electric vehicle charging infrastructure  
5 provides utility service to the customers of an electric company.

6 (7) In authorizing programs described in subsection (3) of this section, the  
7 commission shall review data concerning current and future adoption of  
8 electric vehicles and utilization of electric vehicle charging infrastructure.  
9 If market barriers unrelated to the investment made by an electric company  
10 prevent electric vehicles from adequately utilizing available electric vehicle  
11 charging infrastructure, the commission may not permit additional invest-  
12 ments in transportation electrification without a reasonable showing that  
13 the investments would not result in long-term stranded costs recoverable  
14 from the customers of electric companies.

15 **SECTION 14. (1) The repeal of ORS 468A.020 and 468A.205 by section**  
16 **4 of this 2017 Act and the amendments to ORS 184.889, 468A.235,**  
17 **468A.240, 468A.250, 468A.260, 468A.305 and 468A.605 and section 9, chap-**  
18 **ter 751, Oregon Laws 2009, and section 20, chapter 28, Oregon Laws**  
19 **2016, by sections 5 to 13 of this 2017 Act become operative on January**  
20 **1, 2018.**

21 **(2) The Environmental Quality Commission may adopt rules and**  
22 **take any actions that are necessary to enable the commission and the**  
23 **Department of Environmental Quality to exercise, on and after the**  
24 **operative date specified in subsection (1) of this section, all of the du-**  
25 **ties, functions and powers conferred on the commission and the de-**  
26 **partment by the repeal of ORS 468A.020 and 468A.205 by section 4 of**  
27 **this 2017 Act and the amendments to ORS 184.889, 468A.235, 468A.240,**  
28 **468A.250, 468A.260, 468A.305 and 468A.605 and section 9, chapter 751,**  
29 **Oregon Laws 2009, and section 20, chapter 28, Oregon Laws 2016, by**  
30 **sections 5 to 13 of this 2017 Act.**

31 **SECTION 15. This 2017 Act being necessary for the immediate**

1 **preservation of the public peace, health and safety, an emergency is**  
2 **declared to exist, and this 2017 Act takes effect on its passage.**

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