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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

SPACE AGE FUEL, INC., an Oregon corporation; A&M TRANSPORT, LLC, an Oregon limited liability company; OTLEY LAND AND CATTLE, LLC; an Oregon limited liability company; OREGON BUSINESS & INDUSTRY, an Oregon nonprofit corporation; OREGON MANUFACTURERS AND COMMERCE, an Oregon nonprofit corporation; OREGON FOREST & INDUSTRIES COUNCIL, an Oregon nonprofit corporation; OREGON FARM BUREAU FEDERATION; an Oregon nonprofit corporation; and OREGON TRUCKING ASSOCIATION, an Oregon nonprofit corporation,

Plaintiffs,

v.

KATE BROWN, in her official capacity as Governor of Oregon,

Defendant.

No. _____

COMPLAINT

(Declaratory Judgment)

(Not Subject to Mandatory Arbitration)

Fee Authority: ORS 21.135(2)(f)

Plaintiffs Space Age Fuel, Inc.; A&M Transport, LLC; Otley Land and Cattle, LLC; Oregon Business & Industry; Oregon Manufacturers and Commerce; Oregon Forest & Industries Council; Oregon Farm Bureau Federation; and Oregon Trucking Association (collectively, “Plaintiffs”) allege for their complaint against Governor Kate Brown, in her official capacity as the Governor of Oregon (the “Governor”), as follows:

INTRODUCTION

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1.

On March 10, 2020, the Governor issued Executive Order No. 20-04 (“EO 20-04”). Through EO 20-04, the Governor unilaterally set a minimum 80 percent reduction in greenhouse gas (“GHG”) emissions for the State of Oregon, and doubled the carbon intensity reduction standard previously established by the Legislative Assembly. EO 20-04 mandates that 16 separate state agencies and commissions, including the Oregon Department of Environmental Quality (“DEQ”) and the Oregon Environmental Quality Commission (“EQC”), adopt rules to achieve those standards. The Governor issued EO 20-04 after the Legislative Assembly, the department of state government charged with making laws, failed in successive legislative sessions to adopt nearly identical efforts to amend the existing statutory GHG goals and low carbon fuel standards found in ORS 468A.205 and ORS 468A.266.

2.

The issue presented by this complaint is straightforward: Does the Governor have the power under Article III, Section 1 of the Oregon Constitution to mandate action to achieve GHG emission and low carbon fuel standards that contravene those adopted by the Legislative Assembly and enacted into law. The issue is ripe for adjudication: The Governor has directed state agencies to comply with the mandates of the order, and has rejected requests for delay during the pandemic.

3.

In accordance with the Governor’s schedule for agency action set by EO 20-04, on May 15, 2020 and June 30, 2020, DEQ issued reports on proposed actions to achieve GHG reductions to achieve the standard fixed in EO 20-04, including the adoption of stricter emission standards for medium and heavy-duty trucks and a process to implement three cap and reduce programs for large stationary sources, transportation fuels, and other fuels, including natural

1 gas, as well as rulemaking to carry out the Governor’s unilateral doubling of the carbon intensity
2 standard previously established by the Legislative Assembly for the Clean Fuels Program. DEQ
3 anticipates an expansive and complex program of permits, emission caps, compliance instruments,
4 enforcement mechanisms, trading, and alternative compliance pathways.¹

5 4.

6 Plaintiffs bring this action because EO 20-04 is an unconstitutional exercise of power by
7 the Governor. Under the Oregon Constitution, the Governor is not vested with the power to make
8 law, regardless of the policy objective. Rather, as Oregon’s Attorney General has argued in
9 challenging the actions of the current federal administration, “the executive branch’s exertion of
10 general statutory authority where Congress has spoken specifically on a subject would * * * do
11 violence to the Constitution’s separation of powers.”² The concept of separation of powers is even
12 more fundamental to Oregon’s form of government. Oregon’s Attorney General recognized in
13 1983 that Article III, section 1, of the Oregon Constitution “mandates a strictly
14 compartmentalized tripartite system of government. * * * Underlying the principle of
15 separation of powers is the recognition that the consolidation of power permits despotism and
16 the division of power prevents it.”³ EO 20-04 violates the separation of powers required by
17 Article III, section 1 because it purports to make law, a function committed by the Oregon
18 Constitution to the Legislative Assembly and the People. Pursuant to ORS chapter 28,
19 Plaintiffs seek a judgment declaring Sections 2, 3.A, 4.A, and 4.C of EO 20-04, the parts of
20 EO 20-04 that purport to make new law, unconstitutional. A true and correct copy of EO 20-
21 04 is appended to this Complaint as Exhibit 1.

22

23 _____
24 ¹ See Oregon Department of Environmental Quality, Program Options to Cap and Reduce Greenhouse
Gas Emissions Final Report (June 2020), <https://www.oregon.gov/deq/ghgp/Documents/ghgCapRedf.pdf>.

25 ² *Sierra Club v. Trump*, Amicus Brief of the States of California, et al. at 10, Ninth Circuit Case No. 19-16102,
filed June 11, 2019.

26 ³ *Mr. C. Gregory McMurdo*, 43 Op Atty Gen 205 (No 8143 June 16, 1983).

1 **THE PARTIES**

2 5.

3 **Plaintiff Space Age Fuel, Inc. (“Space Age Fuel”).** Space Age Fuel is an Oregon
4 corporation with its principal place of business in Clackamas County, Oregon. Space Age
5 Fuel is a family-owned fuel distributor and marketer. Its business includes operation of 21
6 retail fueling stations and approximately 60 retail and wholesale fueling facilities across
7 Oregon. It also transports products for other fuel companies.

8 6.

9 **Plaintiff A&M Transport, LLC (“A&M Transport”).** A&M Transport is an
10 Oregon limited liability company with its principal place of business in Douglas County,
11 Oregon. This multigenerational, family-owned and managed company primarily engages in
12 hauling truckload shipments of general commodities throughout Oregon and other states.
13 The types of freight carried by A&M Transport include consumer products, retail
14 merchandise, food products, paper products, beverages, industrial products, steel products,
15 and lumber and building materials. A&M Transport relies on a fleet of vehicles that run on
16 gasoline and diesel fuel.

17 7.

18 **Plaintiff Otley Land and Cattle, LLC (“Otley Land and Cattle”).** Otley Land and
19 Cattle is an Oregon limited liability company with its principal place of business in Harney
20 County, Oregon. Otley Land and Cattle is a family-owned Oregon cattle ranch, alfalfa hay
21 farm, and custom haying business. Like many family-owned farms across Oregon, Otley
22 Land and Cattle’s business depends on a host of equipment powered by gasoline and diesel
23 (including tractors, trucks, and other equipment).

24 8.

25 **Plaintiff Oregon Business & Industry (“OBI”).** OBI is an Oregon domestic
26 nonprofit corporation. As the largest business association in Oregon, OBI advocates on

1 behalf of nearly 1,600 different businesses, including consumer products manufacturers and
2 food processors.

3 9.

4 **Plaintiff Oregon Manufacturers and Commerce (“OMC”).** OMC is an
5 association dedicated to promoting, protecting, and advancing Oregon manufacturers and
6 their allied partners in commerce. OMC’s members include producers of forest products,
7 fabricated metals, machinery, paper, rail cars, aerospace products, and food and beverage
8 products.

9 10.

10 **Plaintiff Oregon Forest & Industries Council (“OFIC”).** OFIC is an Oregon
11 domestic nonprofit corporation. OFIC represents more than 50 Oregon forest products
12 manufacturers and forestland owners who protect and manage more than five million acres of
13 Oregon forestland, and employ nearly 60,000 Oregonians. OFIC represents its members’
14 interests to advance the Oregon forest products and resources industry’s leading role in
15 delivering economic and environmental benefits.

16 11.

17 **Plaintiff Oregon Farm Bureau Federation (“OFBF”).** OFBF is an Oregon
18 domestic nonprofit organization. It is a grassroots organization that represents the interests
19 of the state’s farmers and ranchers in the public and policymaking arenas. As Oregon’s
20 largest general farm organization, OFBF represents more than 6,700 farm and ranching
21 families, and its goal is to ensure the survival of family-owned farms and ranches in Oregon.

22 12.

23 **Plaintiff Oregon Trucking Association (“OTA”).** OTA is an Oregon domestic
24 nonprofit corporation. As Oregon’s official trucking trade organization, OTA has been an
25 advocate for Oregon’s trucking industry for over 80 years. Its members consist of over 500
26 interstate and intrastate motor carriers as well as allied partners of those motor carriers. They

1 are responsible for transporting 88% of manufactured tonnage in Oregon as well as providing
2 96,000 jobs in the state. These motor carriers rely on gasoline and diesel fuel to power their
3 fleets.

4 13.

5 Each of the named plaintiffs are “persons” within the meaning of the Declaratory
6 Judgment Act whose rights, status, or legal relations are directly affected by EO 20-04’s
7 regulation of GHG and the state’s low carbon fuel standards.

8 14.

9 Defendant Kate Brown is the Governor of the State of Oregon who issued EO 20-04.
10 This action is brought against her in her official capacity as Governor of Oregon.

11
12 **JURISDICTION AND VENUE**

13 15.

14 This court has jurisdiction pursuant to ORS 28.010, ORS 28.020, and ORS 28.050 to
15 declare the rights, status, and other legal relations of the parties and to declare whether
16 further relief is available. It also has the authority pursuant to ORS 28.080 to grant any
17 further relief that is necessary or proper.

18 16.

19 By its own terms, EO 20-04 is effective as of its issuance and remains in effect
20 “unless and until it is superseded by statute or another Executive Order.” *See* EO 20-04,
21 § 13. The parties have an active and current dispute as to the constitutionality of EO 20-04.
22 Therefore, this facial challenge to the constitutionality of EO 20-04 is ripe for this Court’s
23 review.

24 17.

25 Venue is proper pursuant to ORS 14.050(2) or 14.060 because EO 20-04 was issued
26 in Marion County and, therefore, the declaratory cause of action arose there.

1 18.

2 Pursuant to ORS 28.110, the Oregon Attorney General is being served with a copy of
3 this complaint contemporaneous with its filing.

4

5 **BACKGROUND**

6 ***The Oregon Constitution Mandates Separation of Powers.***

7 19.

8 The principle of separation of powers—*i.e.*, “that the legislative, executive, and
9 judiciary departments ought to be separate and distinct” has long been recognized as an
10 “essential precaution in favor of liberty” in American democracy. Federalist No. 47 (James
11 Madison).

12 20.

13 The Oregon Constitution expressly mandates separation of powers amongst the three
14 branches of government. Article III, Section 1 of the Oregon Constitution provides that

15 “The powers of the Government shall be divided into three
16 separate branches, the Legislative, the Executive, including the
17 administrative, and the Judicial; and *no person charged with*
18 *official duties under one of these branches, shall exercise any*
of the functions of another, except as in this Constitution
expressly provided.”

19 (Emphasis added.)

20 21.

21 Article IV, Section 1 of the Oregon Constitution sets out the official duties of the
22 legislative branch and provides that “[t]he legislative power of the state, except for the
23 initiative and referendum powers reserved to the people, is vested in a Legislative Assembly,
24 consisting of a Senate and a House of Representatives.”

25

26

1 22.

2 In turn, the executive branch executes the laws passed by the Legislative Assembly
3 (or by the People via initiative or referendum). Article V, Section 10 of the Oregon
4 Constitution provides that the Governor “shall take care that the Laws be faithfully
5 executed.”

6 ***The Statutory Framework Regarding Greenhouse Gas Emissions.***

7 23.

8 The Oregon Legislative Assembly has, by statute, addressed the reduction of
9 greenhouse gas emissions in Oregon. Specifically, in 2007, the Legislative Assembly
10 enacted ORS 468A.265, which “declares that it is the policy of this state to reduce
11 greenhouse gas emissions in Oregon pursuant to [a series of] greenhouse gas emissions
12 reduction goals.” Those goals include “[b]y 2020, achieve greenhouse gas levels that are 10
13 percent below 1990 levels,” and “[b]y 2050, [to] achieve greenhouse gas levels that are at
14 least 75 percent below 1990 levels.” ORS 468A.205(1)(a), (b). These “goals” amount to
15 policy pronouncements by the Legislative Assembly, not legally binding mandates.

16 24.

17 The Legislative Assembly has further, by statute, set a carbon intensity standard for
18 transportation fuels and delegated to the EQC the authority to “adopt low carbon fuel
19 standards for gasoline, diesel and fuels used as substitutes or alternatives for gasoline or
20 diesel[.]” ORS 468A.266(1)(a). Specifically, the EQC is delegated with the authority to
21 adopt “[a] schedule to phase in implementation of the standards in a manner that reduces the
22 average amount of greenhouse gas emissions per unit of fuel energy of the fuels by 10
23 percent below 2010 levels by the 2025 or by a later date if the commission determines that an
24 extension is appropriate to implement the low carbon fuel standards.” ORS 468A.266(2)(a).
25 Stated differently, ORS 468A.266(2)(a) establishes a maximum standard for the reduction of
26

1 carbon intensity for transportation fuels (10 percent) and authorizes the EQC to adopt rules to
2 achieve that maximum standard.

3 25.

4 House Bill 2020 was introduced during the 2019 legislative session. Section 1 of
5 House Bill 2020 (B-Engrossed) proposed to amend ORS 468A.265(1)(a), and (b) to set more
6 ambitious greenhouse gas reduction goals than currently enacted, including “a reduction of
7 greenhouse gas emissions “to at least 45 percent below 1990 emissions levels by 2035” and
8 “to at least 80 percent below 1990 emissions levels by 2050.” Section 16 would have
9 directed an Oregon agency to enact rules that would set a declining cap on GHG emissions
10 sufficient to achieve those specific goals. The bill would have established a complex program
11 of permits, emission caps, compliance instruments, enforcement mechanisms, trading and
12 alternative compliance pathways. The Legislative Assembly did not pass House Bill 2020
13 before the adjournment of the 2019 legislative session.

14 26.

15 Senate Bill 1530 was introduced during the 2020 legislative session. Section 5 of SB
16 1530 (2020) (B-Engrossed) proposed substantively identical greenhouse gas reduction goals
17 as were proposed by HB 2020 (2019). Senate Bill 1530 would have similarly established a
18 complex program of permits, emission caps, compliance instruments, enforcement mechanisms,
19 trading and alternative compliance pathways. The Legislative Assembly did not pass Senate
20 Bill 1530 before the adjournment of the 2020 legislative session on March 5, 2020.

21 ***The Governor Issues Executive Order 20-04.***

22 27.

23 On March 10, 2020, only five days after the adjournment of the 2020 legislative
24 session, the Governor issued EO 20-04.

25

26

1 28.

2 Section 2 of EO 20-04 purports to “establish” the same “[greenhouse gas] emissions
3 reduction goals” that were included within Section 1 of HB 2020 (2019) and SB 1530 (2020),
4 but which have not been enacted into current law. Specifically, Section 2 of EO 20-04 “calls
5 for the State of Oregon to reduce its GHG emissions (1) at least 45 percent below 1990
6 emissions levels by 2035; and (2) at least 80 percent below 1990 emissions levels by 2050.”

7 29.

8 In the prefatory wording of EO 20-04, the Governor recognizes that “the Legislature
9 previously established the goal of achieving GHG levels ‘at least 75 percent below 1990
10 levels’” but asserts that the “State has an urgent, moral obligation to set and achieve more
11 ambitious GHG reduction goals,” including because the “failure of the Oregon Legislature to
12 attain quorum has thwarted legislative action to achieve science-based GHG emissions
13 reduction goals.”

14 30.

15 In Section 3.A of EO 20-04, the Governor purports to require agencies to “exercise
16 any and all authority and discretion vested in them by law to help facilitate Oregon’s
17 achievement of the GHG emission reduction goals” set forth in paragraph 2. In Section 3.C
18 of EO 20-04, the Governor purports to mandate that the EQC and DEQ “shall take action
19 necessary to” cap and reduce greenhouse gas emissions from certain specified sources
20 “consistent with the science-based emissions reduction goals set forth in paragraph 2 of this
21 Executive Order.” Thus, the Governor, by executive fiat, has directed that Oregon agencies
22 adopt the same kind of “cap” on greenhouse gas emissions that did not pass in the 2019 and
23 2020 Oregon Legislative Assemblies.

24 31.

25 Separately, Section 4.A directs that the DEQ and the EQC “shall take actions
26 necessary to amend the low carbon fuel standards, and the schedule to phase in

1 implementation of those standards, with the goal of reducing the average amount of GHG
2 emissions per unit of fuel energy by 20 percent below 2015 levels by 2030, and 25 percent
3 below 2015 levels by 2035.” Thus, the Governor, by executive fiat, has doubled the
4 stringency of the low carbon fuel carbon intensity standard previously adopted by the 2007
5 Oregon Legislative Assembly (from 10 percent to 20 percent).

6

7

CLAIM FOR RELIEF

8

(Declaratory Judgment - ORS 28.010, 28.020, 28.050)

9

32.

10 Plaintiffs incorporate paragraphs 1 through 31 as though fully set forth herein.

11

33.

12 Plaintiffs request that the court declare the parties’ rights, status, and legal relations
13 pursuant to ORS 28.010, 28.020, and 28.050.

14

34.

15 The Legislative Assembly has already established, by statute, greenhouse gas
16 emission reduction goals and directed the EQC to adopt a schedule for low carbon fuel
17 standards. *See* ORS 468A.205(1), ORS 468A.266(2)(a). EO 20-04, (a) sets more ambitious
18 greenhouse gas emission reduction goals (Section 2), (b) directs agencies, including the EQC
19 and the DEQ to take necessary action to implement those targets (Section 3.A and 4.C), and
20 (c) mandates EQC to adopt a schedule to phase in implementation of more ambitious low
21 carbon fuel standards (Section 4.A) than those expressly chosen by the Oregon legislature.
22 By issuing and implementing EO 20-04, the Governor is performing a law-making function
23 committed by the Oregon Constitution specifically to the Oregon Legislative Assembly (or
24 the People), in violation of Article III, Section 1, and acting in excess of the authority
25 delegated to her under Article V.

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35.

Plaintiffs are entitled to a judgment pursuant to ORS 28.010, 28.020, and 28.050 declaring that:

- (a) Sections 2, 3.A, and 4.C of EO 20-04 are unconstitutional because they violate Article III, Section 1, of the Oregon Constitution and/or exceed the scope of authority delegated to the executive branch under Article V of the Oregon Constitution.
- (b) Section 4.A of EO 20-04 is unconstitutional because it violates Article III, Section 1, of the Oregon Constitution and/or exceeds the scope of authority delegated to the executive branch under Article V of the Oregon Constitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

- 1. Pursuant to ORS 28.010, 28.020, and 28.050, for a declaration consistent with paragraph 35 *supra*;
- 2. Awarding Plaintiffs’ costs and disbursements therein; and
- 4. For all other relief as the Court deems just and equitable.

DATED: July 31, 2020.

STOEL RIVES LLP

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Attorneys for Plaintiffs



EXECUTIVE ORDER NO. 20-04

**DIRECTING STATE AGENCIES TO TAKE ACTIONS TO REDUCE AND
REGULATE GREENHOUSE GAS EMISSIONS**

WHEREAS, climate change and ocean acidification caused by greenhouse gas (GHG) emissions are having significant detrimental effects on public health and on Oregon's economic vitality, natural resources, and environment; and

WHEREAS, climate change has a disproportionate effect on the physical, mental, financial, and cultural wellbeing of impacted communities, such as Native American tribes, communities of color, rural communities, coastal communities, lower-income households, and other communities traditionally underrepresented in public processes, who typically have fewer resources for adapting to climate change and are therefore the most vulnerable to displacement, adverse health effects, job loss, property damage, and other effects of climate change; and

WHEREAS, climate change is contributing to an increase in the frequency and severity of wildfires in Oregon, endangering public health and safety and damaging rural economies; and

WHEREAS, the world's leading climate scientists, including those in the Oregon Climate Change Research Institute, predict that these serious impacts of climate change will worsen if prompt action is not taken to curb emissions; and

WHEREAS, the Intergovernmental Panel on Climate Change has identified limiting global warming to 2 degrees Celsius or less as necessary to avoid potentially catastrophic climate change impacts, and remaining below this threshold requires accelerated reductions in GHG emissions to levels at least 80 percent below 1990 levels by 2050; and

WHEREAS, Oregon, as a member of the U.S. Climate Alliance, has committed to implementing policies to advance the emissions reduction goals of the international Paris Agreement; and

WHEREAS, GHG emissions present a significant threat to Oregon's public health, economy, safety, and environment; and





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WHEREAS, the transition from fossil fuels to cleaner energy resources can significantly reduce emissions and increase energy security and the resilience of Oregon communities in the face of climate change; and

WHEREAS, emissions from the transportation sector are the single largest source of GHG emissions in Oregon; and

WHEREAS, actions to reduce GHG emissions in Oregon's transportation sector will provide substantial public health co-benefits by reducing air pollutants from the combustion of gasoline and diesel fuel that are harmful to human health; and

WHEREAS, the rapid transition from internal combustion engines to zero-emission vehicles will play a key role in reducing emissions from the transportation sector and advancing the state's GHG emissions reduction goals; and

WHEREAS, zero-emission vehicles provide multiple benefits to Oregonians, including lower operating, maintenance, and fuel costs, and lower emissions of GHGs and other pollutants; and

WHEREAS, the Legislature established ambitious goals for the adoption of zero-emission vehicles in Senate Bill 1044 (2019); and

WHEREAS, rapid actions and investments by Oregon's utility sector to reduce GHG emissions and improve the resilience of the energy system in the face of climate change and wildfire risk can reduce risks for utility customers; and

WHEREAS, transitioning the traditional natural gas supply to renewable natural gas can significantly reduce GHG emissions; and

WHEREAS, energy efficiency standards in the built environment can reduce operating costs, save renters and homeowners money on their utility bills, improve the comfort and habitability of dwellings, and reduce GHG emissions; and

WHEREAS, product energy efficiency standards reduce costs for consumers, save energy, and reduce GHG emissions; and





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WHEREAS, in the absence of effective federal engagement on these issues, it is the responsibility of individual states to take immediate actions to address climate change and ocean acidification; and

WHEREAS, after thorough hearings within the Oregon Legislature, a majority of both chambers support addressing climate change, and the failure of the Oregon Legislature to attain quorum has thwarted legislative action to achieve science-based GHG emissions reduction goals; and

WHEREAS, given the urgency and severity of the risks from climate change and ocean acidification, and the failure of the Legislature to address these immediate harms, the executive branch has a responsibility to the electorate, and a scientific, economic, and moral imperative to reduce GHG emissions and to reduce the worst risks of climate change and ocean acidification for future generations, to the greatest extent possible within existing laws; and

WHEREAS, existing laws grant authority to state agencies to take actions to regulate and encourage a reduction of GHG emissions in a variety of circumstances; and

WHEREAS, the Legislature through the Emergency Board took action on March 9, 2020, to provide permanent funding to the executive branch to pursue executive action on reducing GHG emissions; and

WHEREAS, considering climate change in agency planning and decision making will help inform decisions regarding climate change risks and avoid higher mitigation and adaptation costs in the future; and

WHEREAS, all agencies with jurisdiction over the sources of GHG emissions will need to continue to develop and implement programs that reduce emissions to reach the state's GHG goals; and

WHEREAS, all agencies with jurisdiction over natural and working landscapes in Oregon will need to prepare and plan for the impacts of climate change and take actions to encourage carbon sequestration and storage; and





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WHEREAS, the Legislature previously established the goal of achieving GHG levels “at least 75 percent below 1990 levels” by 2050, and our State has an urgent, moral obligation to set and achieve more ambitious GHG reduction goals.

NOW, THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. **State Agencies.** The following state commissions and state agencies are subject to the directives set forth in this Executive Order:
 - A. Business Oregon;
 - B. Department of Administrative Services (DAS);
 - C. Department of Consumer and Business Services Building Codes Division (BCD);
 - D. Department of Land Conservation and Development (DLCD) and Land Conservation and Development Commission (LCDC);
 - E. Environmental Justice Task Force;
 - F. Environmental Quality Commission (EQC) and Department of Environmental Quality (DEQ);
 - G. Oregon Department of Agriculture (ODA);
 - H. Oregon Department of Energy (ODOE);
 - I. Oregon Department of Fish and Wildlife (ODFW);
 - J. Oregon Department of Forestry (ODF);
 - K. Oregon Department of Transportation (ODOT) and Oregon Transportation Commission (OTC);
 - L. Oregon Global Warming Commission;
 - M. Oregon Health Authority (OHA);
 - N. Oregon Water Resources Department (OWRD);
 - O. Oregon Watershed Enhancement Board (OWEB); and
 - P. Public Utility Commission of Oregon (PUC).





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2. **GHG Emissions Reduction Goals.** Consistent with the minimum GHG reduction goals set forth in ORS 468A.205(1)(c), this Executive Order establishes science-based GHG emissions reduction goals, and calls for the State of Oregon to reduce its GHG emissions (1) at least 45 percent below 1990 emissions levels by 2035; and (2) at least 80 percent below 1990 emissions levels by 2050.

3. **General Directives to State Agencies.** From the date of this Executive Order, the state commissions and state agencies listed in paragraph 1 are directed to take the following actions:
 - A. **GHG Reduction Goals.** Agencies shall exercise any and all authority and discretion vested in them by law to help facilitate Oregon's achievement of the GHG emissions reduction goals set forth in paragraph 2 of this Executive Order.
 - B. **Expedited Agency Processes.** To the full extent allowed by law, agencies shall prioritize and expedite any processes and procedures, including but not limited to rulemaking processes and agency dockets, that could accelerate reductions in GHG emissions.
 - C. **Agency Decisions.** To the full extent allowed by law, agencies shall consider and integrate climate change, climate change impacts, and the state's GHG emissions reduction goals into their planning, budgets, investments, and policy making decisions. While carrying out that directive, agencies are directed to:
 - (1) Prioritize actions that reduce GHG emissions in a cost-effective manner;
 - (2) Prioritize actions that will help vulnerable populations and impacted communities adapt to climate change impacts; and
 - (3) Consult with the Environmental Justice Task Force when evaluating climate change mitigation and adaptation priorities and actions.
 - D. **Report on Proposed Actions.** The following agencies are directed to report to the Governor by May 15, 2020, on proposed actions within their statutory authority to reduce GHG emissions and mitigate climate change impacts: DEQ, DLCD, ODA, ODOE, ODFW, ODF, ODOT, OWRD, OWEB, and PUC.





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- E. Participation in Interagency Workgroup on Climate Impacts to Impacted Communities. The Governor's Office will convene an interagency workgroup on climate impacts to impacted communities to develop strategies to guide state climate actions, with participation by the following agencies and commissions: DEQ, DLCD, ODA, ODF, ODFW, ODOE, ODOT, OHA, OWEB, OWRD, PUC, Environmental Justice Task Force, Oregon Global Warming Commission, Oregon Parks and Recreation Department, and Oregon Sustainability Board.
4. Directives to the Environmental Quality Commission and the Department of Environmental Quality. In addition to the general directives set forth in paragraph 3, the EQC and DEQ are directed to take the following actions:
- A. Oregon's Clean Fuel Standards. Pursuant to its authority under ORS 468A.265 *et seq.* and other applicable laws, the EQC and DEQ shall take actions necessary to amend the low carbon fuel standards, and the schedule to phase in implementation of those standards, with the goal of reducing the average amount of GHG emissions per unit of fuel energy by 20 percent below 2015 levels by 2030, and 25 percent below 2015 levels by 2035.
- B. Clean Fuel Credits for Electrification. The EQC and DEQ are directed to advance methods accelerating the generation and aggregation of clean fuels credits by utilities that can advance the transportation electrification goals set forth in Senate Bill 1044 (2019).
- C. Sector-specific GHG Cap and Reduce Program. Pursuant to its authority under ORS 468A.005 *et seq.* and other applicable laws, the EQC and DEQ shall take actions necessary to:
- (1) Cap and reduce GHG emissions from large stationary sources of GHG emissions, consistent with the science-based emissions reduction goals set forth in paragraph 2 of this Executive Order;
 - (2) Cap and reduce GHG emissions from transportation fuels, including gasoline and diesel fuel, consistent with the science-based emissions reduction goals set forth in paragraph 2 of this Executive Order; and





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- (3) Cap and reduce GHG emissions from all other liquid and gaseous fuels, including natural gas, consistent with the science-based emissions reduction goals set forth in paragraph 2 of this Executive Order.
 - D. Regulation of Landfill Methane Emissions. The EQC and DEQ shall take actions necessary to reduce methane gas emissions from landfills, as defined in ORS 459.005(14), that are aligned with the most stringent standards and requirements for reducing methane gas emissions from landfills adopted among the states having a boundary with Oregon.
 - E. Reduction of Food Waste. The EQC and DEQ are directed to take actions necessary to prevent and recover food waste, with the goal of reducing food waste by 50 percent by 2030, to reduce GHG emissions resulting from such waste, including but not limited to engaging with states and other jurisdictions, industry, food retailers, and brand manufacturers to develop and implement strategies to prevent and recover food waste.
 - F. Timeline and Implementation.
 - (1) No later than May 15, 2020, DEQ shall submit a report to the Governor regarding an estimated timeline for rulemaking necessary for implementing the directives of paragraph 4(A)–(B) and paragraph 4(D)–(E), above.
 - (2) DEQ shall submit a preliminary report to the Governor by May 15, 2020, regarding program options to cap and reduce emissions from large stationary sources, transportation fuels, and other liquid and gaseous fuels that can commence no later than January 1, 2022. A final report shall be due by June 30, 2020.
 - (3) Reports submitted pursuant to paragraph 4 of this Executive Order also should detail DEQ’s plans to engage impacted communities during the rulemaking process, in a manner consistent with ORS chapter 183.
5. Directives to the Public Utility Commission of Oregon. In addition to the general directives set forth in paragraph 3, the PUC is directed to consider the following factors and values, consistent with state law:





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- A. Statement of Public Interest. It is in the interest of utility customers and the public generally for the utility sector to take actions that result in rapid reductions of GHG emissions, at reasonable costs, to levels consistent with the GHG emissions reduction goals set forth in paragraph 2 of this Executive Order, including transitioning to clean energy resources and expanding low carbon transportation choices for Oregonians.
- B. Regulatory Considerations. Executive Order 00-06, which ensures that the PUC maintains its independence in decision making, is reaffirmed. The directives in this Executive Order are consistent with Executive Order 00-06. When carrying out its regulatory functions, the PUC is directed to:
- (1) Determine whether utility portfolios and customer programs reduce risks and costs to utility customers by making rapid progress towards reducing GHG emissions consistent with Oregon's reduction goals;
 - (2) Encourage electric companies to support transportation electrification infrastructure that supports GHG reductions, helps achieve the transportation electrification goals set forth in Senate Bill 1044 (2019), and is reasonably expected to result in long-term benefit to customers;
 - (3) Prioritize proceedings and activities, to the extent consistent with other legal requirements, that advance decarbonization in the utility sector, and exercise its broad statutory authority to reduce GHG emissions, mitigate energy burden experienced by utility customers, and ensure system reliability and resource adequacy;
 - (4) Evaluate electric companies' risk-based wildfire protection plans and planned activities to protect public safety, reduce risks to utility customers, and promote energy system resilience in the face of increased wildfire frequency and severity, and in consideration of the recommendations made by the Governor's Council on Wildfire Response 2019 Report and Recommendations;





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- (5) Convening periodic workshops for purposes of assisting electric companies, consumer-owned utilities, and operators of electrical distribution systems to develop and share best practices for mitigating wildfire risk; and
- (6) In cooperation with Oregon Housing and Community Services, establish a public process to address and mitigate differential energy burdens and other inequities of affordability and environmental justice, including rate design and other programs to mitigate energy burden.

6. **Directives to the Department of Consumer and Business Services Building Codes Division.** In addition to the general directives set forth in paragraph 3, BCD is directed to take the following actions:

- A. **Energy Efficiency Goal for New Construction.** BCD, through its advisory boards and committees, and in cooperation with ODOE, is directed to adopt building energy efficiency goals for 2030 for new residential and commercial construction. That goal shall represent at least a 60 percent reduction in new building annual site consumption of energy, excluding electricity used for transportation or appliances, from the 2006 Oregon residential and commercial codes.
- B. **Code Progress and Updates.** BCD, through its advisory boards and committees, and in cooperation with ODOE, is directed to evaluate and report on Oregon's current progress toward achieving the goal for new residential and commercial buildings, pursuant to paragraph 6(A) of this Executive Order, and options for achieving steady progress toward the goal over the next three code cycles (2023, 2026, and 2029). Pursuant to its authority under ORS 455.500, BCD also is directed to update the Reach Code on the same timeline. No later than September 15, 2020, BCD should submit a report to the Governor on current progress and options for achieving the goals over the next three code cycles. The report should be updated every three years thereafter.
- C. **Baseline Metrics and Reductions.** BCD, in cooperation with ODOE, is directed to agree on metrics, based on best practice and academic research, to inform the baseline and reductions associated with the code updates set forth in paragraph 6(B).





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7. **Directives to the Oregon Department of Energy.** In addition to the general directives set forth in paragraph 3, ODOE is directed to take the following actions:
- A. **Energy Efficiency Standards.** ODOE is directed to pursue emissions reductions by establishing and updating energy efficiency standards for products at least to levels equivalent to the most stringent standards among West Coast jurisdictions, including grid-connected appliances that can be utilized to manage end-use flexible electrical loads. ODOE also is directed to periodically evaluate and update those standards, as practicable, to remain at least equivalent to the most stringent standards among West Coast jurisdictions.
 - B. **Rulemaking.** ODOE is directed to take actions necessary to establish and update energy efficiency standards for products sold or installed in Oregon that include but are not limited to the following:
 - (1) High CRI fluorescent lamps;
 - (2) Computers and computer monitors;
 - (3) Faucets;
 - (4) Shower heads;
 - (5) Commercial fryers;
 - (6) Commercial dishwashers;
 - (7) Commercial steam cookers;
 - (8) Residential ventilating fans;
 - (9) Electric storage water heaters; and
 - (10) Portable electric spas.
 - C. **Timeline.** Any rulemaking necessary to implement the directives set forth in paragraph 7(B) should be completed by September 1, 2020.
 - D. **Third-Party Validation for Cost Savings.** ODOE, in cooperation with BCD, is directed to contract with a third party consulting firm to assess cost implications, including long-term energy cost savings, of the energy efficiency and building code actions set forth in paragraph 6(A)–(B) of this Executive Order.





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8. **Directives to the Department of Administrative Services.** In addition to the general directives set forth in paragraph 3, DAS is directed to take the following actions:
- A. **Procurement Model for Zero-Emission Vehicles.** DAS is directed to develop a statewide policy and plan for state agencies to follow for procuring zero-emission vehicles, which local governments and special government bodies may use as a model program for furthering adoption of zero-emission vehicles for their fleets. The model program shall provide for a rate of procurement of zero-emission vehicles consistent with the findings and goals set forth in ORS 283.398 and the provisions of ORS 283.327. The model program may provide for DAS to participate in, sponsor, conduct, or administer cooperative procurements in accordance with ORS 279A.200 to ORS 279A.225, under which DAS, local governments, and special government bodies may procure zero-emission vehicles.
 - B. **GHG Implications of Contracting.** DAS is directed to review existing state procurement laws and practices to identify potential improvements that can reduce GHG emissions, consistent with the GHG reduction goals set forth in paragraph 2 of this Executive Order. DAS shall provide a report to the Governor no later than September 15, 2020, detailing options.
 - C. **GHG Reduction Goals and Electrification Goals.** DAS is directed to support the state in meeting the GHG reduction goals set forth in paragraph 2 of this Executive Order, and the zero-emission vehicle adoption goals set forth in Senate Bill 1044 (2019), through the rapid conversion of state fleets to zero-emission vehicles, and the expansion of electric vehicle charging infrastructure for public buildings. DAS shall provide a report to the Governor no later than September 15, 2020, detailing its plan.
9. **Directives to the Oregon Transportation Commission, Oregon Department of Transportation, Land Conservation and Development Commission, Environmental Quality Commission, and Oregon Department of Energy.**





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- A. In a letter from the Governor, dated September 23, 2019, the OTC, LCDC, EQC, and ODOE were directed to prioritize implementation of the Statewide Transportation Strategy, adopted by the OTC. Those agencies are further directed to include the following elements in their implementation of the Statewide Transportation Strategy:
 - (1) Establishment of GHG emissions reduction performance metrics; and
 - (2) Amendments to the Transportation Planning Rule that direct changes to the transportation plans of metropolitan planning areas to meet GHG reduction goals.
 - B. ODOT and DLCD are directed to identify and implement means to provide financial and technical assistance to metropolitan planning areas for amendment to transportation and land use plans that meet the state GHG reduction goals, or more stringent goals adopted by a metropolitan planning area.
 - C. Implementation of the directives set forth in paragraph 9(A)–(B) shall be at the highest level within the agencies, with regular and direct reporting to the Governor. The first report shall be made to the Governor no later than June 30, 2020.
10. **Directives to the Oregon Department of Transportation**. In addition to the general directives set forth in paragraph 3, ODOT is directed to take the following actions:
- A. In consultation with DEQ, ODOE, other appropriate state agencies, and public utilities, ODOT is directed to conduct a statewide transportation electrification infrastructure needs analysis, with particular focus on rural areas of the state, across use types and vehicle classes, to facilitate the transportation electrification goals set forth in Senate Bill 1044 (2019). The study should be completed no later than June 30, 2021.
 - B. ODOT is directed to develop and apply a process for evaluating the GHG emissions implications of transportation projects as part of its regular capital planning and Statewide Transportation Improvement Program planning processes. ODOT shall provide a report on the process to the Governor no later than June 30, 2021.





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11. **Directives to Oregon Health Authority.** In addition to the general directives set forth in paragraph 3, OHA is directed to take the following actions:
 - A. OHA is directed to deliver a report to the Governor, the Oregon Global Warming Commission, and the Environmental Justice Task Force no later than September 1, 2020, on the public health impacts of climate change in Oregon, with particular emphasis on the risks faced by vulnerable communities, including Oregon's nine federally recognized Native American tribes, communities of color, low income communities, and rural communities. OHA is directed to update the report annually.
 - B. OHA is directed to study the impacts of climate change on youth depression and mental health in Oregon and deliver a report to the Governor no later than June 30, 2021.
 - C. OHA and the Oregon Occupational Safety and Health Administration (OSHA) are directed to jointly develop a proposal for standards to protect workplace employees from exposure to wildfire smoke and excessive heat. The proposal should be completed no later than June 30, 2021.

12. **Directives to Oregon Global Warming Commission.** In addition to the general directives set forth in paragraph 3, the Global Warming Commission is directed to take the following actions:
 - A. In coordination with ODA, ODF, and OWEB, the Oregon Global Warming Commission is directed to submit a proposal to the Governor for consideration of adoption of state goals for carbon sequestration and storage by Oregon's natural and working landscapes, including forests, wetlands, and agricultural lands, based on best available science. The proposal shall be submitted no later than June 30, 2021.
 - B. Consistent with its reporting requirements in House Bill 3543 (2007), the Oregon Global Warming Commission shall also include reporting on progress toward the GHG reduction goals set forth in paragraph 2 of this Executive Order, and the zero-emission vehicle adoption goals set forth in SB 1044 (2019).





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13. **Effectiveness.** This Executive Order will remain in effect unless and until it is superseded by statute or another Executive Order.

Done at Salem, Oregon, this 10th day of March, 2020.

Handwritten signature of Kate Brown in blue ink.

Kate Brown
GOVERNOR



ATTEST:

Handwritten signature of Bev Clarno in blue ink.

Bev Clarno
SECRETARY OF STATE