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2 An act relating to affordably meeting the mandated greenhouse gas
3 reductions for the thermal sector through efficiency, weatherization
4 measures, electrification, and decarbonization

5 It is hereby enacted by the General Assembly of the State of Vermont:

6 Sec. 1. SHORT TITLE

7 This act shall be known and may be cited as the “Affordable Heat Act.”

8 Sec. 2. FINDINGS

9 The General Assembly finds:

10 (1) All of the legislative findings made in 2020 Acts and Resolves

11 No. 153, Sec. 2, the Vermont Global Warming Solutions Act of 2020

12 (GWSA), remain true and are incorporated by reference here.

13 (2) Under the GWSA and 10 V.S.A. § 578, Vermont has a legal
14 obligation to reduce greenhouse gas emissions to specific levels by 2025, 2030,
15 and 2050.

16 (3) The Vermont Climate Council was established under the GWSA and
17 was tasked with, among other things, recommending necessary legislation to
18 reduce greenhouse gas emissions. The Initial Vermont Climate Action Plan
19 calls for the General Assembly to adopt legislation authorizing the Public
20 Utility Commission to administer the Clean Heat Standard consistent with the
21 recommendations of the Energy Action Network’s Clean Heat Standard
22 Working Group.

1 (4) As required by the GWSA, the Vermont Climate Council published
2 the Initial Vermont Climate Action Plan on December 1, 2021. As noted in
3 that plan, over one-third of Vermont’s greenhouse gas emissions in 2018 came
4 from the thermal sector. In that year, approximately 72 percent of Vermont’s
5 thermal energy use was fossil based, including 29 percent from the burning of
6 heating oil, 24 percent from fossil gas, and 19 percent from propane.

7 (5) To meet the greenhouse gas emission reductions required by the
8 GWSA, Vermont needs to transition away from its current carbon-intensive
9 building heating practices to lower-carbon alternatives. It also needs to do this
10 equitably, recognizing economic effects on energy users, especially energy-
11 burdened users; on the workforce currently providing these services; and on
12 the overall economy.

13 (6) Vermonters have an unprecedented opportunity to invest in eligible
14 clean heat measures with funding from new federal laws including the
15 Infrastructure Investment and Jobs Act of 2021 and the Inflation Reduction Act
16 of 2022.

17 Sec. 3. 30 V.S.A. chapter 94 is added to read:

18 CHAPTER 94. CLEAN HEAT STANDARD

19 § 8121. INTENT

20 Pursuant to 2 V.S.A. § 205(a), it is the intent of the General Assembly that
21 the Clean Heat Standard be designed and implemented in a manner that

1 achieves Vermont's thermal sector greenhouse gas emissions reductions
2 necessary to meet the requirements of 10 V.S.A. § 578(a)(2) and (3),
3 minimizes costs to customers, protects public health, and recognizes that
4 affordable heating is essential for Vermonters. It shall enhance social equity
5 by prioritizing customers with low income and moderate income and those
6 households with the highest energy burdens. The Clean Heat Standard shall, to
7 the greatest extent possible, maximize the use of available federal funds to
8 deliver clean heat measures.

9 § 8122. CLEAN HEAT STANDARD

10 (a) The Clean Heat Standard is established. Under this program, obligated
11 parties shall reduce greenhouse gas emissions attributable to the Vermont
12 thermal sector by retiring required amounts of clean heat credits to meet the
13 thermal sector portion of the greenhouse gas emission reduction obligations of
14 the Global Warming Solutions Act.

15 (b) By rule or order, the Commission shall establish or adopt a system of
16 tradeable clean heat credits earned from the delivery of clean heat measures
17 that reduce greenhouse gas emissions.

18 (c) An obligated party shall obtain the required amount of clean heat credits
19 through delivery of eligible clean heat measures by a default delivery agent,
20 unless the obligated party receives prior approval from the Commission to use
21 another method as described in section 8125 of this title.

1 (d) The Commission shall adopt rules and may issue orders to implement
2 and enforce the Clean Heat Standard program.

3 § 8123. DEFINITIONS

4 As used in this chapter:

5 (1) “Carbon intensity value” means the amount of lifecycle greenhouse
6 gas emissions per unit of energy of fuel expressed in grams of carbon dioxide
7 equivalent per megajoule (gCO₂e/MJ).

8 (2) “Clean heat credit” means a tradeable, nontangible commodity that
9 represents the amount of greenhouse gas reduction attributable to a clean heat
10 measure. The Commission shall establish a system of management for clean
11 heat credits pursuant to this chapter.

12 (3) “Clean heat measure” means fuel delivered and technologies
13 installed to end-use customers in Vermont that reduce greenhouse gas
14 emissions from the thermal sector. Clean heat measures shall not include
15 switching from one fossil fuel use to another fossil fuel use. The Commission
16 may adopt a list of acceptable actions that qualify as clean heat measures.

17 (4) “Commission” means the Public Utility Commission.

18 (5) “Customer with low income” means a customer with a household
19 income of up to 60 percent of the area or statewide median income, whichever
20 is greater, as published annually by the U.S. Department of Housing and Urban

1 Development or a customer who qualifies for a government-sponsored, low-
2 income energy subsidy.

3 (6) “Customer with moderate income” means a customer with a
4 household income between 60 percent and 120 percent of the area or statewide
5 median income, whichever is greater, as published annually by the U.S.
6 Department of Housing and Urban Development.

7 (7) “Default delivery agent” means an entity designated by the
8 Commission to provide services that generate clean heat measures.

9 (8) “Energy burden” means the annual spending on thermal energy as a
10 percentage of household income.

11 (9) “Entity” means any individual, trustee, agency, partnership,
12 association, corporation, company, municipality, political subdivision, or any
13 other form of organization.

14 (10) “Fuel pathway” means a detailed description of all stages of fuel
15 production and use for any particular fuel, including feedstock generation or
16 extraction, production, transportation, distribution, and combustion of the fuel
17 by the consumer. The fuel pathway is used in the calculation of the carbon
18 intensity value and lifecycle greenhouse gas emissions of each fuel.

19 (11) “Heating fuel” means fossil-based heating fuel, including oil,
20 propane, natural gas, coal, and kerosene.

21 (12) “Obligated party” means:

1 (A) A regulated natural gas utility serving customers in Vermont.

2 (B) For other heating fuels, the entity that imports heating fuel for

3 ultimate consumption within the State, or the entity that produces, refines,

4 manufactures, or compounds heating fuel within the State for ultimate

5 consumption within the State. For the purpose of this section, the entity that

6 imports heating fuel is the entity that has ownership title to the heating fuel at

7 the time it is brought into Vermont.

8 (13) “Thermal sector” has the same meaning as the “Residential,

9 Commercial and Industrial Fuel Use” sector as used in the Vermont

10 Greenhouse Gas Emissions Inventory and Forecast and does not include

11 nonroad diesel or any other transportation or other fuel use categorized

12 elsewhere in the Vermont Greenhouse Gas Emissions Inventory and Forecast.

13 § 8124. CLEAN HEAT STANDARD COMPLIANCE

14 (a) Required amounts.

15 (1) The Commission shall establish the number of clean heat credits that

16 each obligated party is required to retire each calendar year. The size of the

17 annual requirement shall be set at a pace sufficient for Vermont’s thermal

18 sector to achieve lifecycle carbon dioxide equivalent (CO₂e) emission

19 reductions consistent with the requirements of 10 V.S.A. § 578(a)(2) and (3)

20 expressed as lifecycle greenhouse gas emissions pursuant to subsection

21 8127(g) of this title.

1 (2) Annual requirements shall be expressed as a percent of each
2 obligated party's contribution to the thermal sector's lifecycle CO2e emissions
3 in the previous year. The annual percentage reduction shall be the same for all
4 obligated parties. To ensure understanding among obligated parties, the
5 Commission shall publicly provide a description of the annual requirements in
6 plain terms.

7 (3) To support the ability of the obligated parties to plan for the future,
8 the Commission shall establish and update annual clean heat credit
9 requirements for the next 10 years. Every three years, the Commission shall
10 extend the requirements three years; shall assess emission reductions actually
11 achieved in the thermal sector; and, if necessary, revise the pace of clean heat
12 credit requirements for future years to ensure that the thermal sector portion of
13 the emission reduction requirements of 10 V.S.A. § 578(a)(2) and (3) for 2030
14 and 2050 will be achieved.

15 (4) The Commission may temporarily, for a period not to exceed 36
16 months, adjust the annual requirements for good cause after notice and
17 opportunity for public process. Good cause may include a shortage of clean
18 heat credits, market conditions as identified by the Department's potential
19 study conducted pursuant to section 8125 of this title, or undue adverse
20 financial impacts on particular customers or demographic segments. The
21 Commission shall ensure that any downward adjustment has the minimum

1 impact possible on the State's ability to comply with the thermal sector portion
2 of the requirements of 10 V.S.A. § 578(a)(2) and (3).

3 (b) Annual registration.

4 (1) Each entity that sells heating fuel into or in Vermont shall register
5 annually with the Commission by an annual deadline established by the
6 Commission. The first registration deadline is January 31, 2024, and the
7 annual deadline shall remain January 31 of each year unless a different
8 deadline is established by the Commission. The form and information required
9 in the registration shall be determined by the Commission and shall include all
10 data necessary to establish annual requirements under this chapter. The
11 Commission shall use the information provided in the registration to determine
12 whether the entity shall be considered an obligated party and the amount of its
13 annual requirement.

14 (2) At a minimum, the Commission shall require registration
15 information to include legal name; doing business as name, if applicable;
16 municipality; state; types of heating fuel sold; and the exact amount of gallons
17 of each type of heating fuels sold into or in the State for final sale or
18 consumption in the State in the calendar year immediately preceding the
19 calendar year in which the entity is registering with the Commission, separated
20 by type, that was purchased by the submitting entity and the name and location
21 of the entity from which it was purchased.

1 (3) Each year, and not later than 30 days following the annual
2 registration deadline established by the Commission, the Commission shall
3 share complete registration information of obligated parties with the Agency of
4 Natural Resources and the Department of Public Service for purposes of
5 updating the Vermont Greenhouse Gas Emissions Inventory and Forecast and
6 meeting the requirements of 10 V.S.A. § 591(b)(3).

7 (4) The Commission shall maintain, and update annually, a list of
8 registered entities on its website that contains the required registration
9 information.

10 (5) For any entity not registered on or before January 31, 2024, the first
11 registration form shall be due 30 days after the first sale of heating fuel to a
12 location in Vermont.

13 (6) Clean heat requirements shall transfer to entities that acquire an
14 obligated party.

15 (7) Entities that cease to operate shall retain their clean heat requirement
16 for their final year of operation.

17 (c) Early action credits. Beginning on January 1, 2023, clean heat
18 measures that are installed and provide emission reductions are creditable.
19 Upon the establishment of the clean heat credit system, entities may register
20 credits for actions taken starting in 2023.

21 (d) Equitable distribution of clean heat measures.

1 (1) The Clean Heat Standard shall be designed and implemented to
2 enhance social equity by prioritizing customers with low income, moderate
3 income, those households with the highest energy burdens, residents of
4 manufactured homes, and renter households with tenant-paid energy bills. The
5 design shall ensure all customers have an equitable opportunity to participate
6 in, and benefit from, clean heat measures regardless of heating fuel used,
7 income level, geographic location, residential building type, or homeownership
8 status.

9 (2) Of their annual requirement, each obligated party shall retire at least
10 16 percent from customers with low income and an additional 16 percent from
11 customers with low or moderate income. For each of these groups, at least
12 one-half of these credits shall be from installed clean heat measures that
13 require capital investments in homes, have measure lives of 10 years or more,
14 and are estimated by the Technical Advisory Group to lower annual energy
15 bills. Examples shall include weatherization improvements and installation of
16 heat pumps, heat pump water heaters, and advanced wood heating systems.
17 The Commission may identify additional measures that qualify as installed
18 measures.

19 (3) The Commission shall, to the extent reasonably possible, frontload
20 the credit requirements for customers with low income and moderate income

1 so that the greatest proportion of clean heat measures reach Vermonters with
2 low income and moderate income in the earlier years.

3 (4) With consideration to how to best serve customers with low income
4 and moderate income, the Commission shall have authority to change the
5 percentages established in subdivision (2) of this subsection for good cause
6 after notice and opportunity for public process. Good cause may include a
7 shortage of clean heat credits or undue adverse financial impacts on particular
8 customers or demographic segments.

9 (5) In determining whether to exceed the minimum percentages of clean
10 heat measures that must be delivered to customers with low income and
11 moderate income, the Commission shall take into account participation in other
12 government-sponsored low-income and moderate-income weatherization
13 programs. Participation in other government-sponsored low-income and
14 moderate-income weatherization programs shall not limit the ability of those
15 households to participate in programs under this chapter.

16 (6) A clean heat measure delivered to a customer qualifying for a
17 government-sponsored, low-income energy subsidy shall qualify for clean heat
18 credits required by subdivision (2) of this subsection.

19 (7) Customer income data collected shall be kept confidential by the
20 Commission, the Department of Public Service, the obligated parties, and any
21 entity that delivers clean heat measures.

1 (e) Credit banking. The Commission shall allow an obligated party that
2 has met its annual requirement in a given year to retain clean heat credits in
3 excess of that amount for future sale or application to the obligated party's
4 annual requirements in future compliance periods, as determined by the
5 Commission.

6 (f) Enforcement.

7 (1) The Commission shall have the authority to enforce the requirements
8 of this chapter and any rules or orders adopted to implement the provisions of
9 this chapter. The Commission may use its existing authority under this title.
10 As part of an enforcement order, the Commission may order penalties and
11 injunctive relief.

12 (2) The Commission shall order an obligated party that fails to retire the
13 number of clean heat credits required in a given year, including the required
14 amounts from customers with low income and moderate income, to make a
15 noncompliance payment to the default delivery agent for the number of credits
16 deficient. The per-credit amount of the noncompliance payment shall be two
17 times the amount established by the Commission for timely per-credit
18 payments to the default delivery agent.

19 (3) However, the Commission may waive the noncompliance payment
20 required by subdivision (2) of this subsection for an obligated party if the
21 Commission:

1 (A) finds that the obligated party made a good faith effort to acquire
2 the required amount and its failure resulted from market factors beyond its
3 control; and

4 (B) directs the obligated party to add the number of credits deficient
5 to one or more future years.

6 (4) False or misleading statements or other representations made to the
7 Commission by obligated parties related to compliance with the Clean Heat
8 Standard are subject to the Commission's enforcement authority, including the
9 power to investigate and assess penalties, under this title.

10 (5) The Commission's enforcement authority does not in any way
11 impede the enforcement authority of other entities such as the Attorney
12 General's office.

13 (6) Failure to register with the Commission as required by this section is
14 a violation of the Consumer Protection Act in 9 V.S.A. chapter 63.

15 (g) Records. The Commission shall establish requirements for the types of
16 records to be submitted by obligated parties, a record retention schedule for
17 required records, and a process for verification of records and data submitted in
18 compliance with the requirements of this chapter.

19 (h) Reports.

1 (1) As used in this subsection, “standing committees” means the House
2 Committee on Environment and Energy and the Senate Committees on
3 Finance and on Natural Resources and Energy.

4 (2) After the adoption of the rules implementing this chapter, the
5 Commission shall submit a written report to the standing committees detailing
6 the efforts undertaken to establish the Clean Heat Standard pursuant to this
7 chapter.

8 (3) On or before January 15 of each year following the year in which the
9 rules are first adopted under this chapter, the Commission shall submit to the
10 standing committees a written report detailing the implementation and
11 operation of the Clean Heat Standard. This report shall include an assessment
12 on the equitable adoption of clean heat measures required by subsection (d) of
13 this section, along with recommendations to increase participation for the
14 households with the highest energy burdens. The provisions of 2 V.S.A.
15 § 20(d) (expiration of required reports) shall not apply to the report to be made
16 under this subsection.

17 (i) LIHEAP pricing. The Margin Over Rack pricing program for fuel
18 assistance shall reflect the default delivery agent credit cost established by the
19 Commission.

1 § 8125. DEFAULT DELIVERY AGENT

2 (a) Default delivery agent designated. In place of obligated-party specific
3 programs, the Commission shall provide for the development and
4 implementation of statewide clean heat programs and measures by one or more
5 default delivery agents appointed by the Commission for these purposes. The
6 Commission may specify that appointment of a default delivery agent to
7 deliver clean heat services, on behalf of obligated entities who pay the per-
8 credit fee to the default delivery agent, satisfies those entities' corresponding
9 obligations under this chapter.

10 (b) Appointment. The default delivery agent shall be one or more
11 statewide entities capable of providing a variety of clean heat measures. The
12 Commission shall designate the first default delivery agent on or before June 1,
13 2024. The designation of an entity under this subsection may be by order of
14 appointment or contract. A designation, whether by order of appointment or
15 by contract, may only be issued after notice and opportunity for hearing. An
16 existing order of appointment issued by the Commission under section 209 of
17 this title may be amended to include the responsibilities of the default delivery
18 agent. An order of appointment shall be for a limited duration not to exceed
19 12 years, although an entity may be reappointed by order or contract. An order
20 of appointment may include any conditions and requirements that the
21 Commission deems appropriate to promote the public good. For good cause,

1 after notice and opportunity for hearing, the Commission may amend or revoke
2 an order of appointment.

3 (c) Supervision. Any entity appointed by order of appointment under this
4 section that is not an electric or gas utility already regulated under this title
5 shall not be considered to be a company as defined under section 201 of this
6 title but shall be subject to the provisions of sections 18–21, 30–32, 205–208;
7 subsection 209(a); sections 219 and 221; and subsection 231(b) of this title, to
8 the same extent as a company as defined under section 201 of this title. The
9 Commission and the Department of Public Service shall have jurisdiction
10 under those sections over the entity, its directors, receivers, trustees, lessees, or
11 other persons or companies owning or operating the entity and of all plants,
12 equipment, and property of that entity used in or about the business carried on
13 by it in this State as covered and included in this section. This jurisdiction
14 shall be exercised by the Commission and the Department so far as may be
15 necessary to enable them to perform the duties and exercise the powers
16 conferred upon them by law. The Commission and the Department each may,
17 when they deem the public good requires, examine the plants, equipment, and
18 property of any entity appointed by order of appointment to serve as a default
19 delivery agent.

20 (d) Use of default delivery agent.

1 (1) An obligated party shall meet its annual requirement through a
2 designated default delivery agent appointed by the Commission. However, the
3 obligated party may seek to meet its requirement, in whole or in part, through
4 one or more of the following ways: by delivering eligible clean heat measures,
5 by contracting for delivery of eligible clean heat measures, or through the
6 market purchase of clean heat credits. An obligated party shall be approved by
7 the Commission to meet its annual requirement using a method other than the
8 default delivery agent if it provides sufficient details on the party's capacity
9 and resources to achieve the emissions reductions. This approval shall not be
10 unreasonably withheld.

11 (2) The Commission shall provide a form for an obligated party to
12 indicate how it intends to meet its requirement. The form shall require
13 sufficient information to determine the nature of the credits that the default
14 delivery agent will be responsible to deliver on behalf of the obligated party. If
15 the Commission approves of a plan for an obligated party to meet its obligation
16 through a mechanism other than payment to a designated default delivery
17 agent, then the Commission shall make such approvals known to the default
18 delivery agent as soon as practicable.

19 (3) The Commission shall by rule or order establish a standard timeline
20 under which the default delivery agent credit cost or costs are established and
21 by which an obligated party must file its form. The default delivery agent's

1 schedule of costs shall include sufficient costs to deliver installed measures and
2 shall specify separately the costs to deliver measures to customers with low
3 income and customers with moderate income as required by subsection
4 8124(d) of this title. The Commission shall provide not less than 120 days'
5 notice of default delivery agent credit cost or costs prior to the deadline for an
6 obligated party to file its election form so an obligated party can assess options
7 and inform the Commission of its intent to procure credits in whole or in part
8 as fulfillment of its requirement.

9 (4) The default delivery agent shall deliver creditable clean heat
10 measures either directly or indirectly to end-use customer locations in Vermont
11 sufficient to meet the total aggregated annual requirement assigned to it, along
12 with any additional amount achievable through noncompliance payments as
13 described in subdivision 8124(f)(2) of this title. Clean heat credits generated
14 through installed measures delivered by the default delivery agent on behalf of
15 an obligated party are creditable in future years. Those credits not required to
16 meet the obligated party's existing obligations shall be owned by the obligated
17 party.

18 (e) Budget.

19 (1) The Commission shall open a proceeding on or before July 1, 2023
20 and at least every three years thereafter to establish the default delivery agent

1 credit cost or costs and the quantity of credits to be generated for the
2 subsequent three-year period. That proceeding shall include:

3 (A) a potential study conducted by the Department of Public Service,
4 the first of which shall be completed not later than September 1, 2024, to
5 include an assessment and quantification of technically available, maximum
6 achievable, and program achievable thermal resources. The results shall
7 include a comparison to the legal obligations of the thermal sector portion of
8 the requirements of 10 V.S.A. § 578(a)(2) and (3). The potential study shall
9 consider and evaluate market conditions for delivery of clean heat measures
10 within the State, including an assessment of workforce characteristics capable
11 of meeting consumer demand and meeting the obligations of 10 V.S.A.
12 § 578(a)(2) and (3);

13 (B) the development of a three-year plan and associated proposed
14 budget by the default delivery agent to be informed by the final results of the
15 Department's potential study. The default delivery agent may propose a
16 portion of its budget towards promotion and market uplift, workforce
17 development, and trainings for clean heat measures; and

18 (C) opportunity for public participation.

19 (2) Once the Commission provides the default delivery agent with the
20 obligated parties' plan to meet the requirements, the default delivery agent

1 shall be granted the opportunity to amend its plan and budget before the
2 Commission.

3 (f) Compliance funds. All funds received from noncompliance payments
4 pursuant to subdivision 8124(f)(2) of this title shall be used by the default
5 delivery agent to provide clean heat measures to customers with low income.

6 (g) Specific programs. The default delivery agent shall create specific
7 programs for multiunit dwellings, condominiums, rental properties,
8 commercial and industrial buildings, and manufactured homes.

9 § 8126. RULEMAKING

10 (a) The Commission shall adopt rules and may issue orders to implement
11 and enforce the Clean Heat Standard program.

12 (b) The requirements to adopt rules and any requirements regarding the
13 need for legislative approval before any part of the Clean Heat Standard goes
14 into effect do not in any way impair the Commission's authority to issue orders
15 or take any other actions, both before and after final rules take effect, to
16 implement and enforce the Clean Heat Standard.

17 (c) The Commission's rules may include a provision that allows the
18 Commission to revise its Clean Heat Standard rules by order of the
19 Commission without the revisions being subject to the rulemaking
20 requirements of the 3 V.S.A. chapter 25, provided the Commission:

21 (1) provides notice of any proposed changes;

1 (2) allows for a 30-day comment period;

2 (3) responds to all comments received on the proposed change;

3 (4) provides a notice of language assistance services on all public
4 outreach materials; and

5 (5) arranges for language assistance to be provided to members of the
6 public as requested using professional language services companies.

7 (d) Any order issued under this chapter shall be subject to appeal to the
8 Vermont Supreme Court under section 12 of this title, and the Commission
9 must immediately file any orders, a redline, and clean version of the revised
10 rules with the Secretary of State, with notice simultaneously provided to the
11 House Committee on Environment and Energy and the Senate Committees on
12 Finance and on Natural Resources and Energy.

13 § 8127. TRADEABLE CLEAN HEAT CREDITS

14 (a) Credits established. By rule or order, the Commission shall establish or
15 adopt a system of tradeable clean heat credits that are earned by reducing
16 greenhouse gas emissions through the delivery of clean heat measures. While
17 credit denominations may be in simple terms for public understanding and ease
18 of use, the underlying value shall be based on units of carbon dioxide
19 equivalent (CO₂e). The system shall provide a process for the recognition,
20 approval, and monitoring of the clean heat credits. The Department of Public

1 Service shall perform the verification of clean heat credit claims and submit
2 results of the verification and evaluation to the Commission annually.

3 (b) Credit ownership. The Commission, in consultation with the Technical
4 Advisory Group, shall establish a standard methodology for determining what
5 party or parties shall be the owner of a clean heat credit upon its creation. The
6 owner or owners may transfer those credits to a third party or to an obligated
7 party.

8 (c) Credit values. Clean heat credits shall be based on the accurate and
9 verifiable lifecycle CO₂e emission reductions in Vermont's thermal sector that
10 result from the delivery of eligible clean heat measures to existing or new end-
11 use customer locations into or in Vermont.

12 (1) For clean heat measures that are installed, credits will be created for
13 each year of the expected life of the installed measure. The annual value of the
14 clean heat credits for installed measures in each year shall be equal to the
15 lifecycle CO₂e emissions of the fuel use that is avoided in a given year
16 because of the installation of the measure, minus the lifecycle emissions of the
17 fuel that is used instead in that year.

18 (2) For clean heat measures that are fuels, clean heat credits will be
19 created only for the year the fuel is delivered to the end-use customer. The
20 value of the clean heat credits for fuels shall be the lifecycle CO₂e emissions

1 of the fuel use that is avoided, minus the lifecycle CO₂e emissions of the fuel
2 that is used instead.

3 (d) List of eligible measures. Eligible clean heat measures delivered to or
4 installed in residential, commercial, and industrial buildings in Vermont shall
5 include:

6 (1) thermal energy efficiency improvements and weatherization;

7 (2) cold-climate air, ground source, and other heat pumps, including
8 district, network, grid, microgrid, and building geothermal systems;

9 (3) heat pump water heaters;

10 (4) utility-controlled electric water heaters;

11 (5) solar hot water systems;

12 (6) electric appliances providing thermal end uses;

13 (7) advanced wood heating;

14 (8) noncombustion or renewable energy-based district heating services;

15 (9) the supply of sustainably sourced biofuels;

16 (10) the supply of green hydrogen;

17 (11) the replacement of a manufactured home with a high efficiency
18 manufactured home and weatherization or other efficiency or electrification
19 measures in manufactured homes; and

20 (12) line extensions that connect facilities with thermal loads to the grid.

1 (e) Renewable natural gas. For pipeline renewable natural gas and other
2 renewably generated natural gas substitutes to be eligible, an obligated party
3 shall purchase renewable natural gas and its associated renewable attributes
4 and demonstrate that it has secured a contractual pathway for the physical
5 delivery of the gas from the point of injection into the pipeline to the obligated
6 party's delivery system.

7 (f) Carbon intensity of fuels.

8 (1) To be eligible as a clean heat measure, a liquid or gaseous clean heat
9 measure shall have a carbon intensity value as follows:

10 (A) below 80 in 2025;

11 (B) below 60 in 2030; and

12 (C) below 20 in 2050, provided the Commission may allow liquid
13 and gaseous clean heat measures with a carbon intensity value greater than 20
14 if excluding them would be impracticable based on the characteristics of
15 Vermont's buildings, the workforce available in Vermont to deliver lower
16 carbon intensity clean heat measures, cost, or the effective administration of
17 the Clean Heat Standard.

18 (2) The Commission shall establish and publish the rate at which carbon
19 intensity values shall decrease annually for liquid and gaseous clean heat
20 measures consistent with subdivision (1) of this subsection as follows:

21 (A) on or before January 1, 2025 for 2025 to 2030; and

1 (B) on or before January 1, 2030 for 2031 to 2050.

2 (3) For the purpose of this section, the carbon intensity values shall be
3 understood relative to No. 2 fuel oil delivered into or in Vermont in 2023
4 having a carbon intensity value of 100. Carbon intensity values shall be
5 measured based on fuel pathways.

6 (g) Emissions schedule.

7 (1) To promote certainty for obligated parties and clean heat providers,
8 the Commission shall, by rule or order, establish a schedule of lifecycle
9 emission rates for heating fuels and any fuel that is used in a clean heat
10 measure, including electricity, or is itself a clean heat measure, including
11 biofuels. The schedule shall be based on transparent, verifiable, and accurate
12 emissions accounting adapting the Argonne National Laboratory GREET
13 Model, Intergovernmental Panel on Climate Change (IPCC) modeling, or an
14 alternative of comparable analytical rigor to fit the Vermont thermal sector
15 context, and the requirements of 10 V.S.A. § 578(a)(2) and (3).

16 (2) For each fuel pathway, the schedule shall account for greenhouse gas
17 emissions from biogenic and geologic sources, including fugitive emissions
18 and loss of stored carbon. In determining the baseline emission rates for clean
19 heat measures that are fuels, emissions baselines shall fully account for
20 methane emissions reductions or captures already occurring, or expected to
21 occur, for each fuel pathway as a result of local, State, or federal legal

1 requirements that have been enacted or adopted that reduce greenhouse gas
2 emissions.

3 (3) The schedule may be amended based upon changes in technology or
4 evidence on emissions, but clean heat credits previously awarded or already
5 under contract to be produced shall not be adjusted retroactively.

6 (h) Review of consequences. The Commission shall biennially assess
7 harmful consequences that may arise in Vermont or elsewhere from the
8 implementation of specific types of clean heat measures and shall set standards
9 or limits to prevent those consequences. Such consequences shall include
10 environmental burdens as defined in 3 V.S.A. § 6002, public health,
11 deforestation or forest degradation, conversion of grasslands, increased
12 emissions of criteria pollutants, damage to watersheds, or the creation of new
13 methane to meet fuel demand.

14 (i) Time stamp. Clean heat credits shall be “time stamped” for the year in
15 which the clean heat measure delivered emission reductions. For each
16 subsequent year during which the measure produces emission reductions,
17 credits shall be generated for that year. Only clean heat credits that have not
18 been retired shall be eligible to satisfy the current year obligation.

19 (j) Delivery in Vermont. Clean heat credits shall be earned only in
20 proportion to the deemed or measured thermal sector greenhouse gas emission

1 reductions achieved by a clean heat measure delivered in Vermont. Other
2 emissions offsets, wherever located, shall not be eligible measures.

3 (k) Credit eligibility.

4 (1) All eligible clean heat measures that are delivered in Vermont
5 beginning on January 1, 2023 shall be eligible for clean heat credits and may
6 be retired and count towards an obligated party's emission reduction
7 obligations, regardless of who creates or delivers them and regardless of
8 whether their creation or delivery was required or funded in whole or in part by
9 other federal or State policies and programs. This includes individual
10 initiatives, emission reductions resulting from the State's energy efficiency
11 programs, the low-income weatherization program, and the Renewable Energy
12 Standard Tier 3 program. Clean heat measures delivered or installed pursuant
13 to any local, State, or federal program or policy may count both towards goals
14 or requirements of such programs and policies and be eligible clean heat
15 measures that count towards the emission reduction obligations of this chapter.

16 (2) The owner or owners of a clean heat credit are not required to sell
17 the credit.

18 (3) Regardless of the programs or pathways contributing to clean heat
19 credits being earned, an individual credit may be counted only once towards
20 satisfying an obligated party's emission reduction obligation.

21 (l) Credit registration.

1 (1) The Commission shall create an administrative system to register,
2 sell, transfer, and trade credits to obligated parties. The Commission may hire
3 a third-party consultant to evaluate, develop, implement, maintain, and support
4 a database or other means for tracking clean heat credits and compliance with
5 the annual requirements of obligated parties.

6 (2) The system shall require entities to submit the following information
7 to receive the credit: the location of the clean heat measure, whether the
8 customer or tenant has a low or moderate income, the type of property where
9 the clean heat measure was installed or sold, the type of clean heat measure,
10 and any other information as required by the Commission. Customer income
11 data collected shall be kept confidential by the Commission, the Department of
12 Public Service, the obligated parties, and any entity that delivers clean heat
13 measures.

14 (m) Greenhouse Gas Emissions Inventory and Forecast. Nothing in this
15 chapter shall limit the authority of the Secretary of Natural Resources to
16 compile and publish the Vermont Greenhouse Gas Emissions Inventory and
17 Forecast in accordance with 10 V.S.A. § 582.

18 § 8128. CLEAN HEAT STANDARD TECHNICAL ADVISORY GROUP

19 (a) The Commission shall establish the Clean Heat Standard Technical
20 Advisory Group (TAG) to assist the Commission in the ongoing management
21 of the Clean Heat Standard. Its duties shall include:

1 (1) establishing and revising the lifecycle carbon dioxide equivalent
2 (CO₂e) emissions accounting methodology to be used to determine each
3 obligated party's annual requirement pursuant to subdivision 8124(a)(2) of this
4 chapter;

5 (2) establishing and revising the clean heat credit value for different
6 clean heat measures;

7 (3) periodically assessing and reporting to the Commission on the
8 sustainability of the production of clean heat measures by considering factors
9 including greenhouse gas emissions; carbon sequestration and storage; human
10 health impacts; land use changes; ecological and biodiversity impacts;
11 groundwater and surface water impacts; air, water, and soil pollution; and
12 impacts on food costs;

13 (4) setting the expected life length of clean heat measures for the
14 purpose of calculating credit amounts;

15 (5) establishing credit values for each year over a clean heat measure's
16 expected life, including adjustments to account for increasing interactions
17 between clean heat measures over time so as to not double-count emission
18 reductions;

19 (6) facilitating the program's coordination with other energy programs;

1 (7) calculating the impact of the cost of clean heat credits and the cost
2 savings associated with delivered clean heat measures on per-unit heating fuel
3 prices;

4 (8) calculating the savings associated with public health benefits due to
5 clean heat measures;

6 (9) coordinating with the Agency of Natural Resources to ensure that
7 greenhouse gas emissions reductions achieved in another sector through the
8 implementation of the Clean Heat Standard are not double-counted in the
9 Vermont Greenhouse Gas Emissions Inventory and Forecast;

10 (10) advising the Commission on the periodic assessment and revision
11 requirement established in subdivision 8124(a)(3) of this chapter; and

12 (11) any other matters referred to the TAG by the Commission.

13 (b) The Clean Heat Standard Technical Advisory Group shall consist of up
14 to 15 members appointed by the Commission. The Commission shall establish
15 the procedure for the TAG, including member term lengths and meeting
16 procedures. Members of the TAG shall be appointed by the Commission and
17 shall include the Department of Public Service, the Agency of Natural
18 Resources, the Department of Health, and parties who have, or whose
19 representatives have, expertise in one or more of the following areas: technical
20 and analytical expertise in measuring lifecycle greenhouse gas emissions,
21 energy modeling and data analysis, clean heat measures and energy

1 technologies, sustainability and non-greenhouse gas emissions strategies
2 designed to reduce and avoid impacts to the environment, mitigating
3 environmental burdens as defined in 3 V.S.A. § 6002, public health impacts of
4 air quality and climate change, delivery of heating fuels, land use changes,
5 deforestation and forest degradation, and climate change mitigation policy and
6 law. The Commission shall accept and review motions to join the TAG from
7 interested parties who have, or whose representatives have, expertise in one or
8 more of the areas listed in this subsection. Members who are not otherwise
9 compensated by their employer shall be entitled to per diem compensation and
10 reimbursement for expenses under 32 V.S.A. § 1010.

11 (c) The Commission shall hire a third-party consultant responsible for
12 developing clean heat measure characterizations and relevant assumptions,
13 including CO₂e lifecycle emissions analyses. The TAG shall provide input
14 and feedback on the consultant's work. The Commission may use
15 appropriated funds to hire the consultant.

16 (d) Emission analyses and associated assumptions developed by the
17 consultant shall be reviewed and approved annually by the Commission. In
18 reviewing the consultant's work, the Commission shall provide a public
19 comment period on the work. The Commission may approve or adjust the
20 consultant's work as it deems necessary based on its review and the public
21 comments received.

1 § 8129. CLEAN HEAT STANDARD EQUITY ADVISORY GROUP

2 (a) The Commission shall establish the Clean Heat Standard Equity
3 Advisory Group to assist the Commission in developing and implementing the
4 Clean Heat Standard in a manner that ensures an equitable share of clean heat
5 measures are delivered to Vermonters with low income and moderate income
6 and that Vermonters with low income and moderate income who are not early
7 participants in clean heat measures are not negatively impacted in their ability
8 to afford heating fuel. Its duties shall include:

9 (1) providing feedback to the Commission on strategies for engaging
10 Vermonters with low income and moderate income in the public process for
11 developing the Clean Heat Standard program;

12 (2) supporting the Commission in assessing whether customers are
13 equitably served by clean heat measures and how to increase equity;

14 (3) identifying actions needed to provide customers with low income
15 and moderate income with better service and to mitigate the fuel price impacts
16 calculated in section 8128 of this title;

17 (4) recommending any additional programs, incentives, or funding
18 needed to support customers with low income and moderate income and
19 organizations that provide social services to Vermonters in affording heating
20 fuel and other heating expenses;

1 (5) providing feedback to the Commission on the impact of the Clean
2 Heat Standard on the experience of Vermonters with low income and moderate
3 income; and

4 (6) providing information to the Commission on the challenges renters
5 and residents of manufactured homes face in equitably accessing clean heat
6 measures and recommendations to ensure that renters and residents of
7 manufactured homes have equitable access to clean heat measures.

8 (b) The Clean Heat Standard Equity Advisory Group shall consist of up to
9 10 members appointed by the Commission and at a minimum shall include at
10 least one representative from each of the following groups: the Department of
11 Public Service; the Department for Children and Families' Office of Economic
12 Opportunity; a community action agency with expertise in low-income
13 weatherization; a community action agency with expertise in serving residents
14 of manufactured homes; Efficiency Vermont; the Vermont Association of Area
15 Agencies on Aging; individuals with socioeconomically, racially, and
16 geographically diverse backgrounds; renters; rental property owners; the
17 Vermont Housing Finance Agency; and a member of the Vermont Fuel
18 Dealers Association. Members who are not otherwise compensated by their
19 employer shall be entitled to per diem compensation and reimbursement for
20 expenses under 32 V.S.A. § 1010.

1 (c) The Equity Advisory Group shall cease to exist when the initial Clean
2 Heat Standard rules are adopted. Thereafter, the issues described in subsection
3 (a) of this section shall be reviewed by the Commission, in compliance with 3
4 V.S.A. chapter 72.

5 § 8130. SEVERABILITY

6 If any provision of this chapter or its application to any person or
7 circumstance is held invalid or in violation of the Constitution or laws of the
8 United States or in violation of the Constitution or laws of Vermont, the
9 invalidity or the violation shall not affect other provisions of this chapter that
10 can be given effect without the invalid provision or application, and to this end,
11 the provisions of this chapter are severable.

12 § 8131. RULEMAKING AUTHORITY

13 Notwithstanding any other provision of law to the contrary, the Commission
14 shall not file proposed rules with the Secretary of State implementing the
15 Clean Heat Standard without specific authorization enacted by the General
16 Assembly.

17 Sec. 4. 10 V.S.A. § 582 is amended to read:

18 § 582. GREENHOUSE GAS INVENTORIES; REGISTRY

19 (a) Inventory and forecasting. The Secretary shall work, in conjunction
20 with other states or a regional consortium, to establish a periodic and consistent
21 inventory of greenhouse gas emissions. The Secretary shall publish the

1 Vermont Greenhouse Gas Emission Inventory and Forecast by ~~no~~ not later
2 than June 1, 2010, and updates shall be published annually until 2028, until a
3 regional or national inventory and registry program is established in which
4 Vermont participates, or until the federal National Emissions Inventory
5 includes mandatory greenhouse gas reporting. The Secretary of Natural
6 Resources shall include a supplemental accounting in the Vermont Greenhouse
7 Gas Emissions Inventory and Forecast that measures the upstream and
8 lifecycle greenhouse gas emissions of liquid, gaseous, solid geologic and
9 biogenic fuels combusted in Vermont.

10 * * *

11 Sec. 5. CONFIDENTIALITY OF FUEL TAX RETURNS; 2024

12 (a) Notwithstanding 32 V.S.A. § 3102(a), from January 1, 2024 until
13 December 31, 2024, the Commissioner of Taxes shall disclose to the Public
14 Utility Commission and the Department of Public Service a return or return
15 information related to the fuel tax imposed under 33 V.S.A. § 2503, provided
16 the return or return information provided is necessary to verify the identity,
17 fuel tax liability, and registration status of an entity that sells heating fuel into
18 Vermont for purposes of administering the Clean Heat Standard established in
19 30 V.S.A. chapter 94.

20 (b) Pursuant to 32 V.S.A. § 3102(h), the person or persons receiving return
21 or return information under this section shall be subject to the penalty

1 provisions of 32 V.S.A. § 3102(a) for unauthorized disclosure of return or
2 return information as if such person were the agent of the Commissioner.
3 Pursuant to 32 V.S.A. § 3102(g), nothing in this section shall be construed to
4 prohibit the publication of statistical information, rulings, determinations,
5 reports, opinions, policies, or other information, provided the data is disclosed
6 in a form that cannot identify or be associated with a particular person.

7 (c) Pursuant to 1 V.S.A. § 317(c)(6), a fuel tax return and related
8 documents, correspondence, and certain types of substantiating forms that
9 include the same type of information as in the tax return itself filed with or
10 maintained by the Vermont Department of Taxes disclosed to the Public Utility
11 Commission and the Department of Public Service under this section shall be
12 exempt from public inspection and copying.

13 Sec. 6. PUBLIC UTILITY COMMISSION IMPLEMENTATION

14 (a) Commencement. On or before August 31, 2023, the Public Utility
15 Commission shall commence a proceeding to implement Sec. 3 (Clean Heat
16 Standard) of this act.

17 (b) Facilitator. The Commission shall hire a third-party consultant with
18 expertise in equity, justice, and diversity to design and conduct public
19 engagement. The Commission and the facilitator shall incorporate the Guiding
20 Principles for a Just Transition into the public engagement process. The
21 Commission may use funds appropriated under this act on hiring the

1 consultant. Public engagement shall be conducted by the facilitator for the
2 purposes of:

3 (1) supporting the Commission in assessing whether customers will be
4 equitably served by clean heat measures and how to increase equity in the
5 delivery of clean heat measures;

6 (2) identifying actions needed to provide customers with low income
7 and moderate income with better service and to mitigate the fuel price impacts
8 calculated in 30 V.S.A. § 8128;

9 (3) recommending any additional programs, incentives, or funding
10 needed to support customers with low income and moderate income and
11 organizations that provide social services to Vermonters in affording heating
12 fuel and other heating expenses; and

13 (4) providing information to the Commission on the challenges renters
14 face in equitably accessing clean heat measures and recommendations to
15 ensure that renters have equitable access to clean heat measures.

16 (c) Public engagement process. Before commencing rulemaking, the
17 Commission shall use the forms of public engagement described in this
18 subsection to inform the design and implementation of the Clean Heat
19 Standard. Any failure by the Commission to meet the specific procedural
20 requirements of this section shall not affect the validity of the Commission's
21 actions.

1 (1) The Commission shall allow any person to register at any time in the
2 Commission’s online case management system, ePUC, as a participant in the
3 Clean Heat Standard proceeding. All members of the Equity Advisory Group
4 shall be made automatic participants to that proceeding. All registered
5 participants in the proceeding, including all members of the Equity Advisory
6 Group, shall receive all notices of public meetings and all notices of
7 opportunities to comment in that proceeding.

8 (2) The Commission shall hold at least six public hearings or workshops
9 that shall be recorded and publicly posted on the Commission’s website or on
10 ePUC. These meetings shall be open to everyone, including all stakeholders,
11 members of the public, and all other potentially affected parties, with
12 translation services available to those attending.

13 (3) The Commission also shall provide at least three opportunities for
14 the submission of written comments. Any person may submit written
15 comments to the Commission.

16 (d) Advertising. The Commission shall use funding appropriated in this act
17 on advertising the public meetings in order to provide notice to a wide variety
18 of segments of the public. All advertisements of public meetings shall include
19 a notice of language assistance services. The Commission shall arrange for
20 language assistance to be provided to members of the public as requested using
21 the services of professional language services companies.

1 (e) Draft proposed rules. The Commission shall publish draft proposed
2 rules publicly and provide notice of them through the Commission’s online
3 case management system, ePUC, to the stakeholders in this rulemaking who
4 registered their names and e-mail addresses with the Commission through
5 ePUC. The Commission shall provide a 30-day comment period on the draft
6 and accept written comments from the public and stakeholders. The
7 Commission shall consider changes in response to the public comments before
8 filing the proposed rules with the Secretary of State and the Legislative
9 Committee on Administrative Rules.

10 (f) Final rules.

11 (1) On or before January 15, 2025, the Commission shall submit to the
12 General Assembly final proposed rules to implement the Clean Heat Standard.
13 The Commission shall not file the final proposed rules with the Secretary of
14 State until specific authorization is enacted by the General Assembly to do so.

15 (2) Notwithstanding 3 V.S.A. §§ 820, 831, 836–840, and 841(a), upon
16 affirmative authorization enacted by the General Assembly authorizing the
17 adoption of rules implementing the Clean Heat Standard, the Commission shall
18 file, as the final proposed rule, the rules implementing the Clean Heat Standard
19 approved by the General Assembly with the Secretary of State and Legislative
20 Committee on Administrative Rules pursuant to 3 V.S.A. § 841. The filing

1 shall include everything that is required under 3 V.S.A. §§ 838(a)(1)–(5), (8)–
2 (13), (15), and (16), (b), (c), and 841(b)(1).

3 (3) The review, adoption, and effect of the rules implementing the Clean
4 Heat Standard shall be governed by 3 V.S.A. §§ 841(c); 842, exclusive of
5 subdivision (b)(4); 843; 845; and 846, exclusive of subdivision (a)(3).

6 (4) Once adopted and effective, any amendments to the rules
7 implementing the Clean Heat Standard shall be made in accordance with the
8 Administrative Procedure Act, 3 V.S.A. chapter 25, unless the adopted rules
9 allow for amendments through a different process in accordance with
10 30 V.S.A. § 8126(c) and (d).

11 (5) The final proposed rules shall contain the first set of annual required
12 amounts for obligated parties as described in 30 V.S.A. § 8124(a)(1). The first
13 set of annual required amounts shall only be adopted through the rulemaking
14 process established in this section, not through an order.

15 (g) Consultant. The Commission may contract with a consultant to assist
16 with implementation of 30 V.S.A. § 8127 (clean heat credits).

17 (h) Funding. On or before February 15, 2024, the Commission shall report
18 to the General Assembly on suggested revenue streams that may be used or
19 created to fund the Commission’s administration of the Clean Heat Standard
20 program and shall include programs to support market transformation such as

1 workforce development, market uplift, and training that may be administered
2 by a third party.

3 (i) Check-back reports. On or before February 15, 2024 and January 15,
4 2025, the Commission shall submit a written report to and be available to
5 provide oral testimony to the House Committee on Environment and Energy
6 and the Senate Committees on Finance and on Natural Resources and Energy
7 detailing the efforts undertaken to establish the Clean Heat Standard. The
8 reports shall include, to the extent available, estimates of the impact of the
9 Clean Heat Standard on customers, including impacts to customer rates and
10 fuel bills for participating and nonparticipating customers, net impacts on total
11 spending on energy for thermal sector end uses, fossil fuel reductions,
12 greenhouse gas emission reductions, and, if possible, impacts on economic
13 activity and employment. The modeled impacts shall estimate high-, medium-,
14 and low-price impacts. The reports shall recommend any legislative action
15 needed to address enforcement or other aspects of the Clean Heat Standard,
16 including how to ensure fuel use that occurs outside the thermal sector is not
17 impacted under the program.

18 (j) Assistance. The Agency of Commerce and Community Development,
19 the Department of Public Service, and other State agencies and departments
20 shall assist the Commission with economic modeling for the required reports
21 and rulemaking process.

1 (k) Report on equity issues. On or before January 15, 2025, the Equity
2 Advisory Group shall report to the General Assembly on the Group's findings
3 from the review of issues under 30 V.S.A. § 8129(a).

4 Sec. 7. PUBLIC UTILITY COMMISSION AND DEPARTMENT OF
5 PUBLIC SERVICE POSITIONS; APPROPRIATION

6 (a) The following new positions are created in the Public Utility
7 Commission for the purpose of carrying out this act:

8 (1) one permanent exempt Staff Attorney;

9 (2) one permanent exempt Analyst; and

10 (3) one limited-service exempt Analyst.

11 (b) The sum of \$825,000.00 is appropriated to the Public Utility
12 Commission from the General Fund in fiscal year 2024 for the positions
13 established in subsection (a) of this section; for all consultants required by this
14 act; and for additional operating costs required to implement the Clean Heat
15 Standard, including marketing and public outreach for Sec. 6 of this act.

16 (c) The following new positions are created in the Department of Public
17 Service for the purpose of carrying out this act:

18 (1) one permanent exempt Staff Attorney; and

19 (2) two permanent classified Program Analysts.

20 (d) The sum of \$900,000.00 is appropriated to the Department of Public
21 Service from the General Fund in fiscal year 2024 for the positions established

1 in subsection (c) of this section, to retain consultants that may be required to
2 support verification and evaluation required by 30 V.S.A. § 8127(a), for
3 conducting the potential study, and for associated operating costs related to the
4 implementation of the Clean Heat Standard.

5 Sec. 8. EFFECTIVE DATE

6 This act shall take effect on passage.