

The Clean Heat Standard (aka the Affordable Heat Act)

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Act 18 of 2023 The Affordable Heat Act

- **Sec. 1 Short Title- Affordable Heat Act**
- **Sec. 2 Findings**
 - Referenced GWSA Findings; referenced GWSA GHG reduction requirements; Climate Council and Climate Action Plan, specifically that the Plan called for the PUC to administer a Clean Heat Standard in order to reduce emissions from the building heating sector; opportunity to use IIJA funds
- **Sec. 3 Created 30 VSA chapter 94**

§ 8121. Intent

- Pursuant to 2 V.S.A. § 205(a), it is the intent of the General Assembly that the Clean Heat Standard be designed and implemented in a manner that achieves Vermont's thermal sector GHG emissions reductions necessary to meet the requirements of the GWSA; minimizes costs to customers, protects public health, and recognizes that affordable heating is essential for Vermonters.
- It shall enhance social equity by prioritizing customers with low income and moderate income and those households with the highest energy burdens.
- The Clean Heat Standard shall, to the greatest extent possible, maximize the use of available federal funds to deliver clean heat measures.

§ 8122. Clean Heat Standard

- (a) The Clean Heat Standard is established. Under this program, obligated parties shall reduce GHG emissions attributable to the Vermont thermal sector by retiring required amounts of clean heat credits to meet the thermal sector portion of the GHG emission reduction obligations of the GWSA.
- (b) By rule or order, the PUC shall establish or adopt a system of tradeable clean heat credits earned from the delivery of clean heat measures that reduce GHG emissions.
- (c) An obligated party shall obtain the required amount of clean heat credits through delivery of eligible clean heat measures by a default delivery agent, unless the obligated party receives prior approval from the PUC to use another method.
- (d) The Commission shall adopt rules and may issue orders to implement and enforce the Clean Heat Standard program.

§ 8123. Definitions

- (12) “Obligated party” means:
 - (A) A regulated natural gas utility serving customers in Vermont.
 - (B) For other heating fuels, the entity that imports heating fuel for ultimate consumption within the State, or the entity that produces, refines, manufactures, or compounds heating fuel within the State for ultimate consumption within the State. For the purpose of this section, the entity that imports heating fuel is the entity that has ownership title to the heating fuel at the time it is brought into Vermont.
- (13) “Thermal sector” has the same meaning as the “Residential, Commercial and Industrial Fuel Use” sector as used in the Vermont Greenhouse Gas Emissions Inventory and Forecast and does not include nonroad diesel or any other transportation or other fuel use categorized elsewhere in the Vermont Greenhouse Gas Emissions Inventory and Forecast.

§ 8124. Clean Heat Standard Compliance

(a) **Required amounts.**

(1) The PUC shall establish the number of clean heat credits that each obligated party is required to retire each year. The size of the annual requirement shall be set at a pace sufficient for Vermont's thermal sector to achieve lifecycle carbon dioxide equivalent (CO₂e) emission reductions consistent with the requirements of the GWSA expressed as lifecycle greenhouse gas emissions.

(2) Annual requirements shall be expressed as a percent of each obligated party's contribution to the thermal sector's lifecycle CO₂e emissions in the previous year. The annual percentage reduction shall be the same for all obligated parties. PUC shall publicly provide a description of the annual requirements in plain terms.

(3) PUC shall establish and update annual clean heat credit requirements for the next 10 years. Every three years, the Commission shall extend the requirements three years; shall assess emission reductions actually achieved in the thermal sector; and, if necessary, revise the pace of clean heat credit requirements for future years to ensure that the thermal sector portion of the emission reduction requirements for 2030 and 2050 will be achieved.

(4) The PUC may temporarily, for a period not to exceed 36 months, adjust the annual requirements for good cause after notice and opportunity for public process. Good cause may include a shortage of clean heat credits, market conditions as identified by the Department's potential study, or undue adverse financial impacts on particular customers or demographic segments. The Commission shall ensure that any downward adjustment has the minimum impact possible on the State's ability to comply with the thermal sector portion of the requirements.

§ 8124. Clean Heat Standard Compliance

(b) Annual registration.

(1) Each entity that sells heating fuel into or in Vermont shall register annually with the Commission. The first deadline was January 31, 2024, and the annual deadline shall be June 30 of each year after. The form and information required in the registration shall be determined by the Commission and shall include all data necessary to establish annual requirements. The PUC shall use the information provided in the registration to determine whether the entity shall be considered an obligated party and the amount of its annual requirement.

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

(3) Each year, and not later than 30 days following the annual registration deadline established by the Commission, the Commission shall share complete registration information of obligated parties with the ANR and the DPS for purposes of updating the Vermont Greenhouse Gas Emissions Inventory and Forecast and meeting the requirements of 10 V.S.A. § 591(b)(3).

(4) The Commission shall maintain a list of registered entities on its website.

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

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

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

§ 8124. Clean Heat Standard Compliance

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

(d) **Equitable distribution of clean heat measures.**

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

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

(3) The Commission shall, to the extent reasonably possible, frontload the credit requirements for customers with low income and moderate income so that the greatest proportion of clean heat measures reach Vermonters with low income and moderate income in the earlier years.

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

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

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

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

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

§ 8124. Clean Heat Standard Compliance

(f) **Enforcement.**

- (1) The Commission shall have the authority to enforce the requirements of this chapter and any rules or orders adopted to implement the provisions of this chapter. The Commission may use its existing authority under this title. As part of an enforcement order, the Commission may order penalties and injunctive relief.
- (2) The Commission shall order an obligated party that fails to retire the number of clean heat credits required in a given year, including the required amounts from customers with low income and moderate income, to make a noncompliance payment to the default delivery agent for the number of credits deficient. The per-credit amount of the noncompliance payment shall be 2x the amount established by the Commission for timely per-credit payments to the default delivery agent.
- (3) However, the Commission may waive the noncompliance payment required by subdivision (2) of this subsection for an obligated party if the Commission:
 - (A) finds that the obligated party made a good faith effort to acquire the required amount and its failure resulted from market factors beyond its control; and
 - (B) directs the obligated party to add the number of credits deficient to one or more future years.
- (4) False or misleading statements or other representations made to the Commission by obligated parties related to compliance with the Clean Heat Standard are subject to the Commission's enforcement authority, including the power to investigate and assess penalties, under this title.
- (5) The Commission's enforcement authority does not in any way impede the enforcement authority of other entities such as the Attorney General's office.
- (6) Failure to register with the Commission as required by this section is a violation of the Consumer Protection Act in 9 V.S.A. chapter 63.

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

(h) **Reports.** On or before January 15 of each year following the year in which the rules are first adopted under this chapter, the Commission shall submit to the standing committees a written report detailing the implementation and operation of the Clean Heat Standard. This report shall include an assessment on the equitable adoption of clean heat measures required by subsection (d) of this section, along with recommendations to increase participation for the households with the highest energy burdens.

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

§ 8125. Default Delivery Agent

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

(b) **Appointment.** The default delivery agent shall be one or more statewide entities capable of providing a variety of clean heat measures. The designation of an entity under this subsection may be by order of appointment or contract. A designation, whether by order of appointment or by contract, may only be issued after notice and opportunity for hearing. An existing order of appointment issued by the Commission under section 209 of this title may be amended to include the responsibilities of the default delivery agent. An order of appointment shall be for a limited duration not to exceed 12 years, although an entity may be reappointed by order or contract. An order of appointment may include any conditions and requirements that the Commission deems appropriate to promote the public good. For good cause, after notice and opportunity for hearing, the Commission may amend or revoke an order of appointment.

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

§ 8125. Default Delivery Agent

(d) Use of default delivery agent.

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

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

(3) The Commission shall by rule or order establish a standard timeline under which the default delivery agent credit cost or costs are established and by which an obligated party must file its form. The DDA's schedule of costs shall include sufficient costs to deliver installed measures and shall specify separately the costs to deliver measures to customers with low income and customers with moderate income as required by subsection 8124(d) of this title. The Commission shall provide not less than 90 days' notice of DDA credit cost or costs prior to the deadline for an obligated party to file its election form so an obligated party can assess options and inform the Commission of its intent to procure credits in whole or in part as fulfillment of its requirement.

(4) The DDA shall deliver creditable clean heat measures either directly or indirectly to end-use customer locations in Vermont sufficient to meet the total aggregated annual requirement assigned to it, along with any additional amount achievable through noncompliance payments. Clean heat credits generated through installed measures delivered by the DDA on behalf of an obligated party are creditable in future years. Those credits not required to meet the obligated party's existing obligations shall be owned by the obligated party.

§ 8125. Default Delivery Agent

(e) **Budget.**

(1) The Commission shall open a proceeding on or before July 1, 2023 and at least every three years thereafter to establish the DDA credit cost or costs and the quantity of credits to be generated for the subsequent three-year period.

That proceeding shall include:

(A) a potential study conducted by the Department the first of which shall be completed not later than September 1, 2024, to include an assessment and quantification of technically available, maximum achievable, and program achievable thermal resources. The results shall include a comparison to the legal obligations of the thermal sector portion of the requirements of GWSA. The potential study shall consider and evaluate market conditions for delivery of clean heat measures within the State, including an assessment of workforce characteristics capable of meeting consumer demand and meeting the obligations of GWSA;

(B) the development of a three-year plan and associated proposed budget by the DDA to be informed by the final results of the Department's potential study. The DDA may propose a portion of its budget towards promotion and market uplift, workforce development, and trainings for clean heat measures. The Commission shall approve the first three-year plan and associated budget by no later than September 1, 2025; and

(C) opportunity for public participation.

(2) Once the Commission provides the DDA with the obligated parties' plan to meet the requirements, the DDA shall be granted the opportunity to amend its plan and budget before the Commission.

(f) **Compliance funds.** All funds received from noncompliance payments shall be used by the DDA to provide clean heat measures to customers with low income.

(g) **Specific programs.** The DDA shall create specific programs for multiunit dwellings, condominiums, rental properties, commercial and industrial buildings, and manufactured homes.

§ 8126. Rulemaking

(a) PUC shall adopt rules and may issue orders to implement and enforce the Clean Heat Standard program.

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

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

- (1) provides notice of any proposed changes;
- (2) allows for a 30-day comment period;
- (3) responds to all comments received on the proposed change;
- (4) provides a notice of language assistance services on all public outreach materials; and
- (5) arranges for language assistance to be provided to members of the public as requested using professional language services companies.

(d) Any order issued under subsection (c) of this section shall be subject to appeal to the Vermont Supreme Court under section 12 of this title, and the PUC must immediately file any orders, a redline, and clean version of the revised rules with the Secretary of State, with notice simultaneously provided to the Legislative Committees.

§ 8127. Tradeable Clean Heat credits

(a) **Credits established.** By rule or order, the Commission shall establish or adopt a system of tradeable clean heat credits that are earned by reducing GHG emissions through the delivery of clean heat measures. While credit denominations may be in simple terms for public understanding and ease of use, the underlying value shall be based on units of carbon dioxide equivalent (CO₂e). The system shall provide a process for the recognition, approval, and monitoring of the clean heat credits. The Department shall perform the verification of clean heat credit claims and submit results of the verification and evaluation to the Commission annually.

(b) **Credit ownership.** The PUC, in consultation with the TAG, shall establish a standard methodology for determining what party or parties shall be the owner of a clean heat credit upon its creation. The owner or owners may transfer those credits to a third party or to an obligated party.

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

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

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

§ 8127. Tradeable Clean Heat credits

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

- (1) thermal energy efficiency improvements and weatherization;
- (2) cold-climate air, ground source, and other heat pumps, including district, network, grid, microgrid, and building geothermal systems;
- (3) heat pump water heaters;
- (4) utility-controlled electric water heaters;
- (5) solar hot water systems;
- (6) electric appliances providing thermal end uses;
- (7) advanced wood heating;
- (8) noncombustion or renewable energy-based district heating services;
- (9) the supply of sustainably sourced biofuels;
- (10) the supply of green hydrogen;
- (11) the replacement of a manufactured home with a high efficiency manufactured home and weatherization or other efficiency or electrification measures in manufactured homes; and
- (12) line extensions that connect facilities with thermal loads to the grid.

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

§ 8127. Tradeable Clean Heat credits

(f) **Carbon intensity of fuels.**

- (1) To be eligible as a clean heat measure, a liquid or gaseous clean heat measure shall have a carbon intensity value as follows:
 - (A) below 80 in 2025;
 - (B) below 60 in 2030; and
 - (C) below 20 in 2050, provided the Commission may allow liquid and gaseous clean heat measures with a carbon intensity value greater than 20 if excluding them would be impracticable based on the characteristics of Vermont's buildings, the workforce available in Vermont to deliver lower carbon intensity clean heat measures, cost, or the effective administration of the Clean Heat Standard.
- (2) The Commission shall establish and publish the rate at which carbon intensity values shall decrease annually for liquid and gaseous clean heat measures consistent with subdivision (1) of this subsection as follows:
 - (A) on or before January 1, 2025 for 2025 to 2030; and
 - (B) on or before January 1, 2030 for 2031 to 2050.
- (3) For the purpose of this section, the carbon intensity values shall be understood relative to No. 2 fuel oil delivered into or in Vermont in 2023 having a carbon intensity value of 100. Carbon intensity values shall be measured based on fuel pathways.

(g) **Emissions schedule.**

- (1) the PUC shall, by rule or order, establish a schedule of lifecycle emission rates for heating fuels and any fuel that is used in a clean heat measure, including electricity, or is itself a clean heat measure, including biofuels. The schedule shall be based on transparent, verifiable, and accurate emissions accounting adapting the Argonne National Laboratory GREET Model, Intergovernmental Panel on Climate Change (IPCC) modeling, or an alternative of comparable analytical rigor to fit the Vermont thermal sector context, and the requirements of the GWSA.
- (2) For each fuel pathway, the schedule shall account for GHG emissions from biogenic and geologic sources, including fugitive emissions and loss of stored carbon. In determining the baseline emission rates for clean heat measures that are fuels, emissions baselines shall fully account for methane emissions reductions or captures already occurring, or expected to occur, for each fuel pathway as a result of local, State, or federal legal requirements that have been enacted or adopted that reduce greenhouse gas emissions.
- (3) The schedule may be amended based upon changes in technology or evidence on emissions, but clean heat credits previously awarded or already under contract to be produced shall not be adjusted retroactively.

(h) **Review of consequences.** The PUC shall biennially assess harmful consequences that may arise in Vermont or elsewhere from the implementation of specific types of clean heat measures and shall set standards or limits to prevent those consequences. Such consequences shall include environmental burdens, public health, deforestation or forest degradation, conversion of grasslands, increased emissions of criteria pollutants, damage to watersheds, or the creation of new methane to meet fuel demand.

§ 8127. Tradeable Clean Heat credits

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

(j) **Delivery in Vermont.** Clean heat credits shall be earned only in proportion to the deemed or measured thermal sector greenhouse gas emission reductions achieved by a clean heat measure delivered in Vermont. Other emissions offsets, wherever located, shall not be eligible measures.

(k) **Credit eligibility.**

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

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

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

(l) **Credit registration.**

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

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

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

§ 8128. Clean Heat Standard Technical Advisory Group (The TAG)

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

- (1) establishing and revising the lifecycle carbon dioxide equivalent (CO₂e) emissions accounting methodology to be used to determine each obligated party's annual requirement pursuant to subdivision 8124(a)(2) of this chapter;
- (2) establishing and revising the clean heat credit value for different clean heat measures;
- (3) periodically assessing and reporting to the Commission on the sustainability of the production of clean heat measures by considering factors including greenhouse gas emissions; carbon sequestration and storage; human health impacts; land use changes; ecological and biodiversity impacts; groundwater and surface water impacts; air, water, and soil pollution; and impacts on food costs;
- (4) setting the expected life length of clean heat measures for the purpose of calculating credit amounts;
- (5) establishing credit values for each year over a clean heat measure's expected life, including adjustments to account for increasing interactions between clean heat measures over time so as to not double-count emission reductions;
- (6) facilitating the program's coordination with other energy programs;
- (7) calculating the impact of the cost of clean heat credits and the cost savings associated with delivered clean heat measures on per-unit heating fuel prices;
- (8) calculating the savings associated with public health benefits due to clean heat measures;
- (9) coordinating with the Agency of Natural Resources to ensure that greenhouse gas emissions reductions achieved in another sector through the implementation of the Clean Heat Standard are not double-counted in the Vermont Greenhouse Gas Emissions Inventory and Forecast;
- (10) advising the Commission on the periodic assessment and revision requirement established in subdivision 8124(a)(3) of this chapter; and
- (11) any other matters referred to the TAG by the Commission.

§ 8128. Clean Heat Standard Technical Advisory Group (The TAG)

(b) The TAG shall consist of up to 15 members appointed by the Commission. The Commission shall establish the procedure for the TAG, including member term lengths and meeting procedures. Members of the TAG shall be appointed by the Commission and shall include the Department of Public Service, the Agency of Natural Resources, the Department of Health, and parties who have, or whose representatives have, expertise in one or more of the following areas: technical and analytical expertise in measuring lifecycle greenhouse gas emissions, energy modeling and data analysis, clean heat measures and energy technologies, sustainability and non-greenhouse gas emissions strategies designed to reduce and avoid impacts to the environment, mitigating environmental burdens as defined in 3 V.S.A. § 6002, public health impacts of air quality and climate change, delivery of heating fuels, land use changes, deforestation and forest degradation, and climate change mitigation policy and law. The Commission shall accept and review motions to join the TAG from interested parties who have, or whose representatives have, expertise in one or more of the areas listed in this subsection. Members who are not otherwise compensated by their employer shall be entitled to per diem compensation and reimbursement for expenses under 32 V.S.A. § 1010.

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

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

§ 8129. Clean Heat Standard Equity Advisory Group

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

- (1) providing feedback to the PUC on strategies for engaging Vermonters with low income and moderate income in the public process for developing the CHS program;
- (2) supporting the PUC in assessing whether customers are equitably served by clean heat measures and how to increase equity;
- (3) identifying actions needed to provide customers with low income and moderate income with better service and to mitigate the fuel price impacts calculated;
- (4) recommending any additional programs, incentives, or funding needed to support customers with low income and moderate income and organizations that provide social services to Vermonters in affording heating fuel and other heating expenses;
- (5) providing feedback to the PUC on the impact of the CHS on the experience of Vermonters with low income and moderate income; and
- (6) providing information to the Commission on the challenges renters and residents of manufactured homes face in equitably accessing clean heat measures and recommendations to ensure that renters and residents of manufactured homes have equitable access to clean heat measures.

§ 8129. Clean Heat Standard Equity Advisory Group

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

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

§ 8130. Severability

§ 8131. Rulemaking authority

Notwithstanding any other provision of law to the contrary, the PUC shall not file proposed rules with the Secretary of State implementing the CHS without specific authorization **enacted** by the General Assembly.



Sec. 4- additional info in the Greenhouse Gas Inventory and Forecast

Sec. 5- info sharing agreement with the Dept of Tax now codified

Sec. 6 PUBLIC UTILITY COMMISSION IMPLEMENTATION

(a) Commencement. August 31, 2023, the PUC shall commence a proceeding to implement Clean Heat Standard

(b) Facilitator. The Commission shall hire a third-party consultant with expertise in equity, justice, and diversity to design and conduct public engagement. The Commission and the facilitator shall incorporate the Guiding Principles for a Just Transition into the public engagement process. The Commission may use funds appropriated under this act on hiring the consultant. Public engagement shall be conducted by the facilitator for the purposes of:

Sec. 6 PUBLIC UTILITY COMMISSION IMPLEMENTATION

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

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

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

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

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

Sec. 6 PUBLIC UTILITY COMMISSION IMPLEMENTATION

(e) Draft proposed rules. The Commission shall publish draft proposed rules publicly and provide notice of them through the Commission's online case management system, ePUC, to the stakeholders in this rulemaking who registered their names and e-mail addresses with the PUC through ePUC. The PUC shall provide a 30-day comment period on the draft and accept written comments from the public and stakeholders. The PUC shall consider changes in response to the public comments before filing the proposed rules with the Secretary of State and LCAR.

(g) Consultant. The Commission may contract with a consultant to assist with implementation of the clean heat credits.

(h) Funding. February 15, 2024, the Commission shall report to the General Assembly on suggested revenue streams that may be used or created to fund the Commission's administration of the Clean Heat Standard program and shall include programs to support market transformation such as workforce development, market uplift, and training that may be administered by a third party.

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(f) **Final rules.**

- (1) On or before January 15, 2025, the PUC shall submit to the General Assembly final proposed rules to implement the Clean Heat Standard. The Commission shall not file the final proposed rules with the Secretary of State until specific authorization is enacted by the General Assembly to do so.
- (2) Notwithstanding 3 V.S.A. §§ 820, 831, 836–840, and 841(a), upon affirmative authorization enacted by the General Assembly authorizing the adoption of rules implementing the Clean Heat Standard, the Commission shall file, as the final proposed rule, the rules implementing the CHS approved by the General Assembly with the Secretary of State and LCAR pursuant to 3 V.S.A. § 841. The filing shall include everything that is required under 3 V.S.A. §§ 838(a)(1)–(5), (8)–(13), (15), and (16), (b), (c), and 841(b)(1).
- (3) The review, adoption, and effect of the rules implementing the Clean Heat Standard shall be governed by 3 V.S.A. §§ 841(c); 842, exclusive of subdivision (b)(4); 843; 845; and 846, exclusive of subdivision (a)(3).
- (4) Once adopted and effective, any amendments to the rules implementing the Clean Heat Standard shall be made in accordance with the Administrative Procedure Act, 3 V.S.A. chapter 25, unless the adopted rules allow for amendments through a different process in accordance with 30 V.S.A. § 8126(c) and (d).
- (5) **The final proposed rules shall contain the first set of annual required amounts for obligated parties** as described in 30 V.S.A. § 8124(a)(1). The first set of annual required amounts shall only be adopted through the rulemaking process established in this section, **not through an order.**

Sec. 6 PUBLIC UTILITY COMMISSION IMPLEMENTATION

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

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

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