

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 23-2220-RULE

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Proceeding to design the potential Clean Heat Standard	
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Order entered: 09/17/2024

**ORDER DESCRIBING THE PUBLIC UTILITY COMMISSION’S ENFORCEMENT AUTHORITY,  
SETTING DEADLINE FOR REGISTRATION COMPLIANCE, AND  
PROVIDING GUIDANCE FOR YEAR TWO REGISTRATION AND REPORTING**

**I. INTRODUCTION**

In Public Act 18 (2023 Vt., Bien. Sess.) (“Act 18”), the Vermont Legislature directed the Vermont Public Utility Commission (“Commission”) to develop a proposed Clean Heat Standard.<sup>1</sup> Pursuant to 30 V.S.A. § 8124(b), entities that sell heating fuel into or in Vermont (“fuel dealers”) were required to register for the first time with the Commission on or before January 31, 2024.<sup>2</sup> The Commission provided a grace period for registration through February 29, 2024.

After a comprehensive review of the dataset of registered fuel dealers, the Commission has determined that not all fuel dealers have registered.

Section 8124(f)(1) provides for Commission enforcement of nonregistration, including in year one: “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.” Additionally, “[f]ailure to register with the Commission . . . is a violation of the Consumer Protection Act.”<sup>3</sup> Therefore, the Attorney General’s Office has concurrent jurisdiction to enforce against nonregistration.

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<sup>1</sup> For an overview of the work done to date and other information on the proposed Clean Heat Standard, please see the Commission's clean heat website at <https://puc.vermont.gov/clean-heat-standard>.

<sup>2</sup> The Commission issued instructions for how to register in an order. *See* Case No. 23-2220-RULE, Order of 1/17/2024. There is an ongoing obligation to register for entities that were not selling heating fuel into or in Vermont on or before January 31, 2024, but began doing so after that date. For such entities, the deadline to register is within 30 days of the “first sale of heating fuel to a location in Vermont.” 30 V.S.A. § 8124(b)(5). Please notify the Clerk of the Commission by email at [PUC.Clerk@vermont.gov](mailto:PUC.Clerk@vermont.gov), if you need to register based on Section 8124(b)(5).

<sup>3</sup> 30 V.S.A. § 8124(f)(6).

As we explained in our earlier orders regarding registration and reporting, the Commission is interested in taking whatever steps it can within the confines of the legislation to facilitate registration and communicate the registration obligation to a new group of regulated entities that now fall under the Commission's jurisdiction.<sup>4</sup> We also recognized that the registration obligation fell within the fuel dealers' busy season.<sup>5</sup>

However, the year-one registration obligation is a foundational component of the work the Commission must do to carry out the requirements of Act 18, accurately and completely report to the Legislature by January 15, 2025, and analyze the economics of the potential Clean Heat Standard. The obligation for fuel dealers to register and report annually is statutorily established whether or not the Clean Heat Standard passes into law. Failure to register with the Commission harms the regulatory process — a process that cannot function when regulated entities ignore their obligations. A failure in the function of the regulatory process causes harm to the integrity and credibility of that process, and therefore to the interests of the public.

Several factors — the fact that the Clean Heat Standard has not been adopted by the Legislature, that fuel dealers are not entities that typically interact with or are regulated by the Commission, that the registration obligation came at a time when fuel dealers are busiest, and that there have been ongoing uncertainties regarding the registration process — counsel in favor of allowing unregistered fuel dealers a final opportunity to come into compliance for year one. As such, the Commission will not enforce against an unregistered fuel dealer if the fuel dealer submits a registration form by October 31, 2024.<sup>6</sup>

Failure to register by October 31, 2024, may lead to enforcement by the Commission, including the imposition of a fine. Noncompliance may also be referred to the Vermont Attorney General, pursuant to 30 V.S.A. § 8124(f)(6).

The Commission recognizes that fuel dealers want additional guidance about the registration and reporting process. At this time, the Commission can offer the following

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<sup>4</sup> Registration is when an entity informs the Commission of its operation in the marketplace as a fuel dealer. Reporting is the submission of the data required for the Commission to ascertain how much heating fuel has been sold in the previous year and by which entities. There is an annual reporting requirement due every June 30.

<sup>5</sup> Case No. 23-2220-RULE, Order of 1/26/24 at 1. The Legislature also recognized that registration and reporting should be moved outside the fuel dealers' busy season and moved the deadline to June 30. *See* Public Act 142 at 10 (2024 Vt., Bien. Sess.).

<sup>6</sup> Fuel dealers should use the same form that was used by other registrants earlier this year.

information: (1) The Commission will continue to maintain a website or online platform for registration and reporting that does not require fuel dealers to submit information, pursuant to Section 8124, in the Commission’s electronic filing system, ePUC. (2) Fuel dealers were required to register by January 31, 2024.<sup>7</sup> If an entity has begun or begins selling heating fuel into or in Vermont after January 31, 2024, that fuel dealer must register within “30 days after the first sale of heating fuel to a location in Vermont.”<sup>8</sup> (3) Registrants are now required to report heating fuel sales via the Commission’s registration website by June 30 every year. The next reporting deadline is June 30, 2025. The Commission will provide any updates to the registration and reporting process after it submits its final proposed rule to the Legislature on January 15, 2025.

Finally, the definition of “heating fuel” in Act 18 is broad and ambiguous. Heating fuel is defined as “fossil-based heating fuel, including oil, propane, natural gas, coal, and kerosene.”<sup>9</sup> The stated purpose of the Clean Heat Standard is to “reduce greenhouse gas emissions attributable to the Vermont thermal sector.”<sup>10</sup> The statute further defines “thermal sector” as “ha[ving] the same meaning as the ‘Residential, Commercial and Industrial Fuel Use’ sector as used in the Vermont Greenhouse Gas Emissions Inventory and Forecast” but excludes “nonroad diesel or any other transportation or other fuel use categorized elsewhere in the Vermont Greenhouse Gas Emissions Inventory and Forecast.”<sup>11</sup> The Vermont Greenhouse Gas Inventory includes “. . . greenhouse gas emissions from the Residential/Commercial and Industrial Fuel Use sector . . . related to the use of fossil fuels for space heating, water heating, and cooking, in residential, commercial, and industrial buildings.”<sup>12</sup> Based on the statutory definitions and the thermal sector definition from the Vermont Greenhouse Gas Emission Inventory and Forecast, the Legislature has defined “heating fuels” to be fossil-based heating fuels without regard to end use.

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<sup>7</sup> 30 V.S.A. § 8124(b). This is a fuel dealer’s initial registration.

<sup>8</sup> 30 V.S.A. § 8124(b)(5).

<sup>9</sup> 30 V.S.A. § 8123(11).

<sup>10</sup> 30 V.S.A. § 8122(a).

<sup>11</sup> 30 V.S.A. § 8123(13).


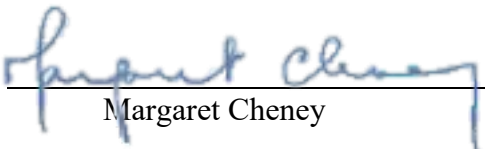
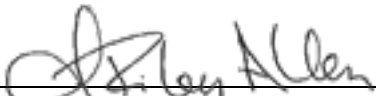
<sup>12</sup> Vermont Agency of Natural Resources Climate Action Office, “Vermont Greenhouse Gas Emissions Inventory and Forecast: 1990-2020,” April 2023 at 13, available at [https://outside.vermont.gov/agency/anr/climatecouncil/Shared%20Documents/\\_Vermont\\_Greenhouse\\_Gas\\_Emissions\\_Inventory\\_Update\\_1990-2020\\_Final.pdf](https://outside.vermont.gov/agency/anr/climatecouncil/Shared%20Documents/_Vermont_Greenhouse_Gas_Emissions_Inventory_Update_1990-2020_Final.pdf).

Entities selling certain fuels in Vermont — for example, someone who sells propane canisters for camping — may have believed that they did not have an obligation to register with the Commission. Because the definitions in Act 18 cannot be rectified without a legislative change, the Commission plans to report on this problem to the Legislature. For the time being, the statutory definition of “heating fuel” means fossil-based heating fuel, including oil, propane, natural gas, coal, and kerosene, regardless of end use. Thus, fuel dealers are obligated to register if they sell heating fuel into or in Vermont for all end uses.

If an entity qualifies as a fuel dealer because of this interpretation of “heating fuel” and has not yet registered with the Commission, then that entity is required to register for the first time as described above. On the other hand, if a fuel dealer has already registered and this definition of “heating fuel” would only affect the fuel dealer’s reporting, the fuel dealer does not need to re-register or amend its registration.

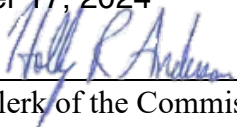
**SO ORDERED.**

Dated at Montpelier, Vermont, this 17th day of September, 2024.

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Edward McNamara	)	PUBLIC UTILITY
	)	
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Margaret Cheney	)	COMMISSION
	)	
	)	
J. Riley Allen	)	OF VERMONT

OFFICE OF THE CLERK

Filed: September 17, 2024

Attest:   
Clerk of the Commission

*Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: [puc.clerk@vermont.gov](mailto:puc.clerk@vermont.gov))*