

February 14, 2022

House Committee on Energy and Technology

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Statehouse, Montpelier, VT 05633-5301

via email

RE: **Why we cannot support the Clean Heat Standard Bill** (DR 22-0398, Draft 9.2, 2-10-2022)

Dear Chairman Briglin, Vice Chair Sibilia, and members of the Committee:

Thank you for all of your work on this important issue.

We the undersigned residents of Vermont are aware of (and some have been closely following) the discussions of the Clean Heat Standard (“CHS”), beginning with the deliberations of the Vermont Climate Council leading to the Initial Vermont Climate Action Plan (“CAP”), through and including the hearings of the House Committee on Energy and Technology (“HET”) leading to the draft [CHS Bill](#) that is now being considered by HET (the “Bill”). We have grave concerns regarding the underpinnings of the Bill, the process by which it has developed, and the substance of the Bill itself.

We cannot support the Bill as drafted, for the reasons listed below. Included with each reason is an ask which, if answered, would allow us to consider supporting the Bill. Discussion of each reason is included below the list of reasons/asks.

Most importantly, we implore you not to allow greenwashing to become enshrined in law, and that in developing and approving the CHS you follow the [Guiding Principles for a Just Transition](#) (“Guiding Principles”). If not, Vermont will not succeed in meeting the goals of the CAP.

Reasons / Asks

- The number one priority of the CHS must be **weatherization at a massive scale, prioritizing low-income Vermonters as well as** a mechanism of incentives and/or mandates to ensure that **renters** are covered.

ASK: Include in the Bill a system promoting weatherization for all housing stock that is practical for low-income Vermonters. This system should include financial incentives for landlords to weatherize their properties, which is an action that renters have no control over.

- While we support the use of heat pumps, these make sense **only if the electric sector in Vermont is actually and honestly cleaned up**. We must face the fact that the assertion in the CAP that the electric sector is “already low carbon and will be nearly carbon free and largely renewable by 2030” is not true. In point of fact, the Renewable Energy Standard (“RES”) implemented in 2017 has resulted in fraudulent accounting of greenhouse gas emissions (“GHG”) by Vermont’s electric sector.
ASK: Overhaul the RES to ensure that Vermont’s electric supply eliminates greenhouse gas emissions in fact, not just on paper.
- There is no mention in the Bill of **solar energy**, even though this is Vermont’s most important “no carbon” renewable energy resource and should be essential to the efforts to effectively lower carbon emissions. Recent policy and rules changes have made it much more difficult and costly for individuals and communities to establish solar arrays.
ASK: Reinstate and improve on prior policies and incentives that promoted solar energy production. These should especially include promoting community solar that will benefit low-income Vermonters and renters.
- Clean heat credits for **biofuels must be deleted from the Bill**. While credits for “renewable natural gas” (“RNG”) could be acceptable if it were produced and burned within the State, as a practical matter the potential for in state production is tiny compared to demand. We cannot support biofuel crops displacing in state food crops, particularly when Vermont farms currently produce only a small fraction of the State’s food.
ASK: Get rid of clean heat credits for biofuels, RNG and “advanced gases” from the clean heat trading system. In the coming biennium, explore alternatives that will actually drive emissions down without deforestation, disruption of the food system, or driving people off of their land, either within Vermont or elsewhere.
- The Bill relies on an opaque “**credit**” **system structure** that potentially (a) allows for ongoing burning of fossil fuels, and (b) ignores harms caused by so-called “renewables,” including their significant contribution of GHG, in defiance of the GHG reduction goals that have already been enacted by law.
ASK: However the “credit” system is structured, fossil fuels MUST be phased out on an aggressive timeline. No credit system can permit – whether through purchased credits or detachment of RECs from the actual fuel or otherwise – the indefinite use of fossil fuels for heating.
- **The process of developing a CHS is being rushed**, has not welcomed input from citizens, and is ignoring the requirements of the Guiding Principles.
ASK: Slow down the process, diligently invite input from ALL Vermonters, and make the process of developing the Bill accountable and transparent. Provide clear and understandable explanations of how the Bill will achieve its goals.

- **Implementation of the CHS is being delegated to the PUC**, whose responsibility is to develop rules, not to establish policy.
ASK: Provide policy direction to the PUC addressing the points set forth in this letter. Require that the “technical advisory group” to the PUC include a truly independent public advocate, who does not report to political appointees and can be removed only for cause.

Discussion

1. Weatherization at a massive scale, prioritizing low-income Vermonters as well as renters. Weatherization at scale must be the priority of the Clean Heat Standard. While the Bill appears to support weatherization, there is no apparent strategy for weatherization of rental properties (like the ordinance recently passed in Burlington) since there is no incentive in the Bill for landlords to undertake weatherization. In addition, while we support an immediate, fully funded commitment to a large-scale weatherization program that prioritizes the most vulnerable Vermonters, that funding must not be tied to an abstract and opaque credit trading system, the integrity and success of which is not guaranteed, and which may permit prolonged reliance on fossil fuels.
2. Promoting heat pumps does not make sense if the electricity sector is not cleaned up. The Bill is explicitly modeled on the Renewable Energy Standard (“RES”), the embarrassing failure that allows for deceptive reporting of GHG emissions in Vermont’s electric sector. For example, the RES, implemented in 2017, has resulted in fraudulent accounting of emissions and a decline in installations of in state renewable generation, such as solar. The State’s GHG emissions inventory showed a decline of 76% in emissions between 2016 and 2018, at a time when almost no additional non-emitting generation was added to the State’s electric portfolio. It was and remains a false conclusion based on deceptive accounting practices – practices that no other state allows. The Department of Public Service acknowledges that 74% of the claimed reductions was due to the purchase of environmental attributes from Hydro Quebec, separate from actual energy. GHG emissions from Hydro Quebec are falsely counted as zero by Vermont, which is the only state to treat large scale hydro as “renewable.”
3. Solar energy. It is discouraging that there is no mention in the Bill of increasing reliance on our most important “no carbon” renewable energy resource – solar power. We recognize that solar power generation is more the subject of the RES than the CHS; however solar is nevertheless cogent to the CHS since the proposed standard promotes increased reliance on electricity for heating (e.g., via heat pumps). Recent rules changes have resulted in disincentivizing solar, which is unacceptable – we must reverse these policies and instead increase incentives for solar production (especially small/decentralized and community-owned). No climate action plan will be successful without investments in this truly renewable resource.
4. Biofuels. As pointed out in a letter to HET dated January 24, 2022 (“1/24 Letter”) (which [letter is hereto linked](#) for reference), biofuels emit more carbon than fossil fuels when the full life cycle from production to combustion is considered. Because food crops are the raw

material for most biofuels, food cropland is being taken for fuel production, resulting in rising food prices and food shortages. Biomass and biofuels are extremely land-intensive energy sources, and taking food crop land for biofuel production has resulted in unprecedented deforestation and loss of critical carbon sinks, mostly outside of Vermont's borders. By creating incentives to import biofuels, we would be adding to the burden of communities elsewhere in the world. That would be a violation of the Guiding Principles. For more discussion of the problems associated with biofuels, see the 1/24 Letter.

5. Credit system. How, specifically, will the Clean Heat credit system be handled under the CHS? How will trading and purchase and sale of credits be limited and regulated? How will the system identify and eliminate fraudulent certifications of biofuels like those that have been reported in other jurisdictions, including the European Union? If this isn't explicit, detailed and clear in the legislation, we risk ending up with a system of standards, credits and offsets that results in emissions reductions that exist only on paper and not in the atmosphere. We can't afford a CHS that repeats the flaws and failings of Vermont's RES and the kind of REC trading and arbitrage that that system allows.

6. Process. The process for drafting such a complex set of rules should not be rushed. As a result of the rushed process, we question whether the full environmental impacts of the production and transport of biofuels have been considered. We note the lack of evidence from proponents of biofuels that these fuels are **in fact** clean and sustainable, as well as evidence that the credit system will not result in substitution of one GHG-emitting practice for another.

The architects of the Bill and those that authored the CHS white paper that was incorporated into the CAP appear to have leaned on business-as-usual thinking, and to not have been willing to face the hard realities noted in this letter. (We note past misjudgments about emergent technologies by authors of the CHS white paper such as the notion of "clean coal".) These voices have dominated the discussion to date, while the voices of ordinary Vermonters are not being heard.

7. Implementation. The Bill leaves all implementation details to the Public Utility Commission ("PUC"), along with a technical advisory group ("TAG") drawn from the same pool that designed the CHS. The public, including experts not heard by the legislature, will be required to wait another year to provide input on the accounting of life cycle emissions, until after the PUC has drafted rules and submitted them to public comment. By that point, we fear, the deal will be done and the public will have been shut out from start to finish.

We understand that the legislature cannot formulate all of the policy required for a program as complex as the CHS. However, leaving all of the detail to the PUC appears to be an abdication of the legislature's responsibility to the citizens. We would advocate that the legislature provide more policy direction to the PUC, reflecting the points highlighted in this letter.

The PUC has no experience designing, implementing and adjudicating a program that at its core must embody principles of equity. If, for example, the legislature does not address the question of environmental justice related to the use of biofuels in Vermont, including deforestation, disruption of food production, and dislocation of Indigenous communities outside of Vermont, then the issue will not be addressed at all.

We also fear that the greenwashing that has crept into the delivery of natural gas in Vermont will be further institutionalized by the CHS. For example, the PUC allows Vermont’s sole gas utility to legally sell out-of-state “renewable” natural gas for a premium to poorly informed “voluntary” customers, even though fracked gas from Canada is actually delivered. The draft CHS bill allows “clean heat credits” for out-of-state RNG, using language taken nearly verbatim from the CHS white paper, which drew upon the advice of a working group that included the current and former CEOs of Vermont Gas Systems (“VGS”). We assume the drafters of that text intend for the current VGS contracts to qualify for clean heat credits, since the white paper describes the proposal as “analogous to how VGS currently acquires both fossil and renewable gas.” For the legislature to allow that outcome would be unacceptable.

At the very least, the TAG should include a **truly independent public advocate** to represent the interests of the people in achieving actual and verifiable GHG reductions in the State. The tenure of this position should not be dependent on any political regime (i.e., the position should not report to political appointees), and the removal of the individual holding the position should be permitted only for cause.

Conclusion

By far most Vermonters are not informed and participating in the legislative process regarding the CHS so far. The timeline set by legislative leadership for passage of a CHS makes that impossible. The rushed process has ignored the requirements of the Guiding Principles. That process will not yield results that Vermonters can trust.

Vermont must develop a CHS that Vermonters can be proud of, and not an embarrassment to be mocked by the next generation. It is time for Vermont to step up and be a leader on these critical issues. If we can’t get this right in Vermont, who will? We have the expertise in the State to develop and implement a CHS that is honest, equitable, transparent and impactful. Let’s get it done.

Sincerely,

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