§ 76-0101. Definitions.

For the purposes of this article the following terms shall have the following meanings:

1. "Affiliate" means, with respect to any specified entity, an entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the entity specified.

2. "Applicable payment date" means December thirty-first of the fourth calendar year following the year in which this article is enacted into law.

3. "Climate change adaptive infrastructure project" means an infrastructure project for purposes of climate change adaptation that:

a. includes but is not limited to projects designed to avoid, moderate, repair, or adapt to negative impacts caused by climate change, and to assist communities, households, and businesses in preparing for future climate change-driven disruptions. Such project types include but are not limited to restoring coastal wetlands and developing other nature-based solutions and coastal protections; upgrading storm water drainage systems; making defensive upgrades to roads, bridges, subways, and transit systems; preparing for and recovering from hurricanes and other extreme weather events; undertaking preventive health care programs and providing medical care to treat illness or injury caused by the effects of climate change; relocating, elevating, or retrofitting wastewater treatment plants vulnerable to flooding; installing energy efficient cooling systems and other weatherization and energy efficiency upgrades and retrofits in public and private buildings, including schools and public housing; upgrading parts of the electrical grid to increase stability and resilience, including supporting the creation of self-sufficient clean energy microgrids; addressing urban heat island effects through green spaces, urban forestry, and other interventions; and responding to harmful algal blooms, loss of agricultural topsoil, and other climate-driven ecosystem threats to forests, farms, fisheries,

and food systems; and

b. is guided by the project criteria identified in the statewide climate change adaptation and resilience plan adopted pursuant to subdivision six of section 76-0103 of this article.

4. "Control" (including the terms controlling, controlled by and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise.

5. "Controlled group" means two or more entities that are affiliates of each other.

6. "Cost recovery amount" means seventy-five billion dollars.

7. "Cost recovery demand" means the portion of the cost recovery amount determined by the department pursuant to the program to be owed by a responsible party for payment to the fund.

8. "Covered greenhouse gas emissions" means, with respect to any entity, the total quantity of greenhouse gas emissions, expressed in metric tons of carbon dioxide equivalent, as defined in section 75-0101 of this chapter, attributable to the total amount of fossil fuels extracted by that entity during the covered period, as well as the total amount of crude oil refined by that entity during the covered period. For the purposes of this article, covered greenhouse gas emissions include those emissions attributable to all fossil fuel extraction and refining worldwide by such entity and are not limited to such emissions within the state.

9. "Covered period" means the period that began January first, two thousand and ended on December thirty-first, two thousand twenty-four.

10. "Crude oil" means oil or petroleum of any kind and in any form, including bitumen, oil sands, heavy oil, conventional and unconventional

oil, shale oil, natural gas liquids, condensates, and related fossil fuels.

11. "Entity" means any individual, trustee, agent, partnership, association, corporation, company, municipality, political subdivision, or other legal organization, that holds or held an ownership interest in a fossil fuel business during the covered period. For purposes of this article, entities in a controlled group are treated as a single entity for the purposes of meeting the definition of responsible party and shall be jointly and severally liable for payment of any cost recovery demand owed by any entity in the controlled group.

12. "Fossil fuel" shall have the same definition as in section 1-103 of the energy law.

13. "Fossil fuel business" means a business engaging in the extraction of fossil fuels or the refining of petroleum products.

14. "Fund" means the climate change adaptation fund established pursuant to section ninety-seven-m of the state finance law.

15. "Greenhouse gas" shall have the same definition as in section 75-0101 of this chapter.

16. "Nature-based solutions" shall mean projects that utilize or mimic nature or natural processes and functions and that may also offer environmental, economic, and social benefits, while increasing resilience. Nature-based solutions include both green and natural infrastructure.

17. "Notice of cost recovery demand" means the written communication informing an entity that they are a responsible party and of the amount of the cost recovery demand payable to the fund.

18. "Petroleum products" shall have the same definition as in section 1-103 of the energy law.

19. "Program" means the climate change adaptation cost recovery program established under section 76-0103 of this article.

20. "Qualifying expenditure" means a payment from the fund in support of a climate change adaptive infrastructure project, including its operation and maintenance, as defined by the department.

21. "Responsible party" means any entity (or a successor in interest to such entity described herein), which, during any part of the covered period, was engaged in the trade or business of extracting fossil fuel or refining crude oil and is determined by the department to be responsible for more than one billion tons of covered greenhouse gas emissions. The term responsible party shall not include any person who lacks sufficient contacts with the state to satisfy the due process clause of the United States Constitution.