

STATE OF NEW YORK

7176

2021-2022 Regular Sessions

IN SENATE

June 4, 2021

Introduced by Sen. PARKER -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the energy law, the executive law and the state finance law, in relation to establishing the "advanced building codes, appliance and equipment efficiency standards act of 2021"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "advanced
2 building codes, appliance and equipment efficiency standards act of
3 2021".

4 § 2. Subdivision 2 of section 3-101 of the energy law, as amended by
5 chapter 253 of the laws of 2013, is amended to read as follows:

6 2. to encourage conservation of energy and to promote the clean energy
7 and climate agenda, including but not limited to greenhouse gas
8 reduction, set forth within chapter one hundred six of the laws of two
9 thousand nineteen, also known as the New York state climate leadership
10 and community protection act, in the construction and operation of new
11 commercial, industrial, agricultural and residential buildings, and in
12 the rehabilitation of existing structures, through heating, cooling,
13 ventilation, lighting, insulation and design techniques and the use of
14 energy audits and life-cycle costing analysis;

15 § 3. Subdivisions 3 and 9 of section 11-102 of the energy law, as
16 added by chapter 560 of the laws of 2010, are amended, subdivisions 11,
17 12, 13, 14, and 15 are renumbered to be subdivisions 12, 13, 14, 15, and
18 16, and a new subdivision 11 is added to read as follows:

19 3. [~~"ASHRAE 90.1-2007."~~ ~~ANSI/ASHRAE/IESNA~~] "ASHRAE 90.1."
20 ANSI/ASHRAE/IES Standard [~~90.1-2007~~] 90.1, entitled "Energy [~~Standards~~]
21 Standard for Buildings Except Low-Rise Residential Buildings," published
22 by American Society of Heating, Refrigerating and Air-Conditioning Engi-
23 neers, Inc.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD12007-04-1

9. "Historic building." Any building or structure that is one or more of the following: (a) listed, or certified as eligible for listing, on the national register of historic places or on the state register of historic places, (b) ~~[determined by the commissioner of parks, recreation and historic preservation to be eligible for listing on the state register of historic places]~~ designated as historic under an applicable state or local law, or (c) ~~[determined by the commissioner of parks, recreation and historic preservation to be a contributing building to an historic district that is listed or eligible for listing on the state or national registers of historic places, or (d) otherwise defined as an historic building in regulations adopted by the state fire prevention and building code council]~~ certified as a contributing resource within a national register-listed, state register-listed, or locally designated an historic district.

11. "Life-cycle cost." An estimate of the total cost of acquisition, operation, maintenance, and construction of any energy system within or related to a structure over the design life of the structure. "Life-cycle cost" includes, but is not limited to, the cost of fuel, materials, machinery, ancillary devices, labor, service, replacement, and repairs.

§ 4. Paragraph (b) of subdivision 1 and subdivisions 2 and 3 of section 11-103 of the energy law, paragraph (b) of subdivision 1 as added and subdivision 2 as amended by chapter 560 of the laws of 2010 and subdivision 3 as amended by chapter 292 of the laws of 1998, are amended to read as follows:

(b) The code shall apply to the construction of any new building. The code shall also apply to an addition to, and alteration of, any existing building or building system; provided, however, that the code shall not be interpreted to require any unaltered portion of the existing building or building system to comply with the code. The code shall ~~[not apply to the following provided that the energy use of the building is not increased:~~

~~(1) storm windows installed over existing fenestration;~~
~~(2) glass only replacements in an existing sash and frame;~~
~~(3) existing ceiling, wall or floor cavities exposed during construction provided that these cavities are filled with insulation;~~
~~(4) construction where the existing roof, wall or floor cavity is not exposed;~~

~~(5) reroofing for roofs where neither the sheathing nor the insulation is exposed; roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing;~~

~~(6) replacement of existing doors that separate conditioned space from the exterior shall not require the installation of a vestibule or revolving door, provided, however, that an existing vestibule that separates such conditioned space from the exterior shall not be removed;~~

~~(7) alterations that replace less than fifty percent of the luminaires in a space, provided that such alterations do not increase the installed interior lighting power;~~

~~(8) alterations that replace only the bulb and ballast within the existing luminaires in a space provided that the alteration does not increase the installed interior lighting power; and~~

~~(9) any other exception]~~ be subject to such other exceptions as may be adopted by the state fire prevention and building code council provided that such ~~[exception will]~~ exceptions shall not prevent the attainment of the compliance goals set forth in section 410(2)(c) of the American Recovery and Reinvestment Act of 2009.

2. (a) The state fire prevention and building code council is authorized, from time to time as it deems appropriate and consistent with the purposes of this article, to review and amend the code, or adopt a new code, through rules and regulations provided that the code remains cost effective with respect to building construction in the state. In determining whether the code remains cost effective, the code council shall consider ~~[whether the cost of materials and their installation to meet its standards would be equal to or less than the present value of energy savings that could be expected over a ten year period in the building in which such materials are installed]~~ (i) whether the life-cycle costs for a building or structure will be recovered through savings in energy costs over the design life of the building or structure under a life-cycle cost analysis performed under methodology as established by the New York state energy research and development authority from time to time, and (ii) secondary or societal effects, such as reductions in greenhouse gas emissions. For residential buildings, the code shall meet or exceed the then most recently published International Energy Conservation Code, or achieve equivalent or greater energy savings; and for commercial buildings, the code shall meet or exceed the then most recently published ASHRAE ~~[90.1-2007]~~ 90.1, or achieve equivalent or greater energy savings.

(b) When adopting the first amended version of the code next following the effective date of the chapter of the laws of two thousand twenty-one that added this paragraph, the state fire prevention and building code council shall use its best efforts to adopt provisions for residential buildings that achieve energy savings greater than energy savings achieved by the then most recently published International Energy Conservation Code and to adopt provisions for commercial buildings that achieve energy savings greater than energy savings achieved by the then most recently published ASHRAE 90.1, both at levels recommended by the New York state energy research and development authority, provided that the state fire prevention and building code council determines that such advanced energy savings can be achieved while still meeting the cost effectiveness considerations contemplated by this subdivision.

3. Notwithstanding any other provision of law, the state fire prevention and building code council in accordance with the mandate under this article shall have exclusive authority among state agencies to promulgate a construction code incorporating energy conservation features and clean energy features, including but not limited to greenhouse gas reduction. Any other code, rule or regulation heretofore promulgated or enacted by any other state agency, incorporating specific energy conservation and clean energy requirements applicable to the construction of any building, shall be superseded by the code promulgated pursuant to this section.

§ 5. Subdivision 5 of section 11-104 of the energy law, as amended by chapter 560 of the laws of 2010, is amended and a new subdivision 6 is added to read as follows:

5. The ~~[code shall exempt from such uniform standards and requirements any historic building as defined in section 11-102 of this article]~~ state fire prevention and building code council is authorized to provide exemptions to such uniform standards and requirements for historic buildings as defined in section 11-102 of this article, to the extent that the uniform standards and requirements would threaten, degrade, or destroy the historic form, fabric, or function of such historic buildings.

6. To the fullest extent feasible, the code shall be designed to help achieve the state's clean energy and climate agenda, including but not limited to greenhouse gas reduction, set forth within chapter one hundred six of the laws of two thousand nineteen, also known as the New York state climate leadership and community protection act, and as further identified by the New York state climate action council established pursuant to section 75-0103 of the environmental conservation law.

§ 6. The article heading of article 16 of the energy law, as added by chapter 431 of the laws of 2005, is amended to read as follows:

APPLIANCE AND EQUIPMENT [~~ENERGY~~] EFFICIENCY STANDARDS

§ 7. Subdivision 4-a of section 16-102 of the energy law, as added by chapter 222 of the laws of 2010, is amended to read as follows:

4-a. [~~"Bottle-type water dispenser" means a water dispenser that uses a bottle or reservoir as the source of potable water.~~] The following definitions refer to water coolers:

(a) "Bottle-type" means a water dispenser that uses a bottle or reservoir as the source of potable water.

(b) "Water cooler" means a freestanding device that consumes energy to cool and/or heat potable water.

(c) "Cold only units" means units that dispense cold water only.

(d) "Hot and cold units" means units that dispense both hot and cold water. Some units may also offer room-temperature water.

(e) "Cook and cold units" means units that dispense both cold and room-temperature water.

(f) "Point of use (POU)" means the water cooler is connected to a pressurized water source.

(g) "Conversion-type" means a unit that ships as either bottle-type or POU and includes a conversion kit intended to convert the water cooler from a bottle-type unit to a POU unit or to convert a POU unit to a bottle-type unit.

(h) "Storage-type" means thermally conditioned water is stored in a tank in the water cooler and is available instantaneously.

(i) "On demand" means the water cooler heats water as it is requested, which typically takes a few minutes to deliver.

§ 8. Subdivision 11 of section 16-102 of the energy law, as added by chapter 431 of the laws of 2005, is amended to read as follows:

11. "Consumer audio and video product" means a mains-connected product that amplifies audio, offers optical, offers disc player functionality, and/or receives and plays audio and/or video content. Examples of consumer audio and video products include televisions, compact audio products, digital versatile disc players, digital versatile disc recorders, [and] digital television adapters and streaming media players.

§ 9. Subdivision 18 of section 16-102 of the energy law, as added by chapter 431 of the laws of 2005, is amended to read as follows:

18. [~~"Energy efficiency performance standards" "Efficiency standard" means [performance standards which prescribe a minimum level of energy efficiency determined in accordance with test procedures prescribed by the secretary in consultation with the president]~~ a standard that defines performance metrics and/or defines prescriptive design requirements in order to reduce energy consumption, reduce water consumption, reduce greenhouse gas emissions, and/or increase demand flexibility associated with the regulated product category.

§ 10. Subdivisions 27-a and 27-b of section 16-102 of the energy law, as added by chapter 222 of the laws of 2010, are amended to read as follows:

27-a. "Portable electric spa" means a factory-built electric spa or hot tub, ~~[supplied with equipment for heating and circulating water which may or may not include any combination of integral controls, water heating or water circulating equipment.]~~

27-b. "Portable light fixture" means a light fixture which has a flexible cord and an attachment plug for connection to a nominal one hundred twenty-volt, fifteen- or twenty-ampere branch circuit; which can be relocated by the user without any rewiring; ~~[and]~~ which is typically controlled with a switch located on the light fixture itself or on the power cord; and which are intended for use in accordance with the national electrical code, ANSI/NFPA 70-2002. "Portable light fixture" does not include direct plug-in nightlights; sun and heat lamps; aquarium lamps; medical and dental lights; portable electric hand lamps; signs and commercial advertising displays; photographic lamps; germicidal lamps; ~~[metal halide lamp fixtures; torchiere lighting fixtures]~~ illuminated vanity mirrors; lava lamps not providing general or task illumination; industrial work lights rated for use with a lamp providing greater than seven thousand lumens; portable lamp fixtures for marine use or for use in hazardous locations as defined in the national electrical code, ANSI/NFPA 70; or decorative lighting outfits or electric candles and candelabras without lampshades that are covered by the standard for safety of seasonal and holiday decorative products, UL 588.

§ 11. Subdivision 29-a of section 16-102 of the energy law, as added by chapter 222 of the laws of 2010, is amended to read as follows:

29-a. ~~"[Residential] Replacement dedicated-purpose pool pump motor" means [a product which is designed or used to circulate and filter residential swimming pool water in order to maintain clarity and sanitation and which consists in part of a motor and an impeller]~~ an electric motor that:

- (a) is single-phase or polyphase;
- (b) has a dedicated purpose pool pump motor total horsepower of less than or equal to five horsepower;
- (c) is marketed for use as a replacement motor in self-priming pool filter pump, non-self-priming pool filter pump or pressure cleaner booster pump applications; and
- (d) excludes polyphase replacement dedicated-purpose pool pump motors capable of operating without a drive, and is sold or offered for sale without a drive that converts single-phase power to polyphase power.

§ 12. Subdivision 33 of section 16-102 of the energy law, as added by chapter 431 of the laws of 2005, is amended to read as follows:

33. "Television (TV)" means ~~[a commercially available electronic product consisting of a tuner/receiver and a monitor encased in a single housing, which is]~~ an analog or digital device primarily designed to receive and display [an analog or digital video television signal broadcast by an antenna, satellite, cable, or broadband source] terrestrial, satellite, cable, Internet Protocol TV (IPTV), or other broadcast or recorded transmissions of analog or digital video and audio signals. TVs include combination TVs, television monitors, component TVs, and any unit that is marketed to the consumer as a TV. "Television" does not include ~~[multifunction TVs which have VCR, DVD, DVR, or EPG functions]~~ computer monitors.

§ 13. Section 16-102 of the energy law is amended by adding thirty-seven new subdivisions 18-a, 18-b, 21-c, 21-d, 38, 39, 40, 41, 41-a, 42, 43, 43-a, 44, 45, 46, 46-a, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66 and 67 to read as follows:

1 18-a. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide,
2 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other
3 substance emitted into the air that may be reasonably anticipated to
4 cause or contribute to anthropogenic climate change.

5 18-b. "Demand flexibility" means the capability to schedule, shift, or
6 curtail the electrical demand of a load-serving entity's customer
7 through direct action by the customer or through action by a third
8 party, the load-serving entity, or a grid balancing authority, with the
9 customer's consent.

10 21-c. "Duv" means a metric that quantifies the distance between the
11 chromaticity of a given light source and a blackbody radiator of equal
12 correlated color temperature (CCT) on a CIE 1976 (u, v) chromatic
13 diagram demonstrating how different two light sources of the same color
14 temperature appear.

15 21-d. "Light Emitting Diode (LED) lamp" means a lamp capable of
16 producing light with Duv between -0.012 and 0.012, and that has an E12,
17 E17, E26, or GU-24 base, including LED lamps that are designed for
18 retrofit within existing recessed can housings that contain one of the
19 preceding bases. LED lamp does not include a lamp with a brightness of
20 more than two thousand six hundred lumens or a lamp that cannot produce
21 light with a correlated color temperature between two thousand two
22 hundred Kelvin and seven thousand Kelvin.

23 38. The following definitions refer to air compressors:

24 (a) "Air compressor" means a compressor designed to compress air that
25 has an inlet open to the atmosphere or other source of air, and is made
26 up of a compression element (bare compressor), driver or drivers mechan-
27 ical equipment to drive the compressor element, and any ancillary equip-
28 ment.

29 (b) "Compressor" means a machine or apparatus that converts different
30 types of energy into the potential energy of gas pressure for displace-
31 ment and compression of gaseous media to any higher-pressure values
32 above atmospheric pressure and has a pressure ratio at full-load operat-
33 ing pressure greater than 1.3.

34 39. The following definitions refer to air purifiers:

35 (a) "Air purifier", also known as "room air cleaner", means an elec-
36 tric, cord-connected, portable appliance with the primary function of
37 removing particulate matter from the air and which can be moved from
38 room to room.

39 (b) "Industrial air purifier" means an indoor air cleaning device
40 manufactured, advertised, marketed, labeled, and used solely for indus-
41 trial use that are marketed solely through industrial supply outlets or
42 businesses and prominently labeled as "Solely for industrial use. Poten-
43 tial health hazard: emits ozone."

44 40. "Commercial dishwasher" means a machine designed to clean and
45 sanitize plates, pots, pans, glasses, cups, bowls, utensils, and trays
46 by applying sprays of detergent solution (with or without blasting media
47 granules) and a sanitizing rinse and is not a "compact dishwasher" or
48 "standard dishwasher" (capacity less than eight place settings plus six
49 serving pieces as specified in ANSI/AHAM DW-1 using the test load speci-
50 fied in section 2.7 of appendix C in subpart B of 10 CFR 430.2).

51 41. "Commercial fryer" means an appliance for non-residential use,
52 including a cooking vessel, in which oil is placed to such a depth that
53 the cooking food is essentially supported by displacement of the cooking
54 fluid rather than by the bottom of the vessel. Heat is delivered to the
55 cooking fluid by means of an immersed electric element of band-wrapped
56 vessel (electric fryers) or by heat transfer from gas burners through

1 either the walls of the fryer or through tubes passing through the cook-
2 ing fluid (gas fryers).

3 41-a. "Commercial oven" means a chamber designed for heating, roast-
4 ing, or baking food by conduction, convection, radiation, and/or elec-
5 tromagnetic energy.

6 42. "Commercial steam cooker" also known as "compartment steamer",
7 means a device for non-residential use with one or more food-steaming
8 compartments in which the energy in the steam is transferred to the food
9 by direct contact. Models may include countertop models, wall-mounted
10 models, and floor models mounted on a stand, pedestal, or cabinet-style
11 base.

12 43. "Computer" means a device that performs logical operations and
13 processes data. A computer includes both stationary and portable units
14 and includes a desktop computer, a portable all-in-one, a notebook
15 computer, a mobile gaming system, a high-expandability computer, a
16 small-scale server, a thin client, and a workstation. Although a comput-
17 er is capable of using input devices and displays, such devices are not
18 required to be included with the computer when the computer is shipped.
19 A computer is composed of, at a minimum, (a) a central processing unit
20 (CPU) to perform operations or, if no CPU is present, then the device
21 must function as a client gateway to a server, and the server acts as a
22 computational CPU; (b) the ability to support user input devices such as
23 a keyboard, mouse, or touch pad; and (c) an integrated display screen or
24 the ability to support an external display screen to output information.
25 The term "computer" does not include a tablet, a game console, a tele-
26 vision, a device with an integrated and primary display that has a
27 screen size of twenty square inches or less, a server other than a
28 small-scale server, or an industrial computer.

29 43-a. "Computer monitor" means an analog or digital device of size
30 greater than or equal to seventeen inches and less than or equal to
31 sixty-one inches, that has a pixel density of greater than five thousand
32 pixels per square inch, and that is designed primarily for the display
33 of computer-generated signals for viewing by one person in a desk-based
34 environment. A computer monitor is composed of a display screen and
35 associated electronics. A computer monitor does not include, (a)
36 displays with integrated or replaceable batteries designed to support
37 primary operation without AC mains or external DC power (e.g. electronic
38 readers, mobile phones, portable tablets, battery-powered digital
39 picture frames); or (b) a television or signage display.

40 44. "General service lamp" shall include the following definitions:

41 (a) "Compact fluorescent lamp (CFL)" means an integrated or non-inte-
42 grated single-base, low-pressure mercury, electric-discharge source in
43 which a fluorescing coating transforms some of the ultraviolet energy
44 generated by the mercury discharge into light; this term shall not
45 include circline or U-shaped lamps.

46 (b) "General service incandescent lamp" means a standard incandescent
47 or halogen type lamp that is intended for general service applications,
48 has a medium screw base, has a lumen range of not less than three
49 hundred ten lumens and not more than two thousand six hundred lumens, or
50 in the case of a modified spectrum lamp, not less than two hundred thir-
51 ty-two lumens and not more than one thousand nine hundred fifty lumens,
52 and is capable of being operated at a voltage range at least partially
53 within one hundred ten and one hundred thirty volts; provided, however,
54 that this definition shall not apply to the following incandescent
55 lamps:

56 (i) Appliance lamps;

(ii) Black light lamps;
(iii) Bug lamps;
(iv) Colored lamps;
(v) G shape lamps (as defined in ANSI C78.20 and C79.1-2002) with a diameter of five inches or more;
(vi) Infrared lamps;
(vii) Left-hand thread lamps;
(viii) Marine lamps;
(ix) Marine signal service lamps;
(x) Mine service lamps;
(xi) Plant light lamps;
(xii) Reflector lamps;
(xiii) Sign service lamps;
(xiv) Silver bowl lamps;
(xv) Showcase lamps;
(xvi) Rough service lamps;
(xvii) Shatter-resistant lamps (including shatter-proof lamps and shatter-protected lamps);
(xviii) 3-way incandescent lamps;
(xix) Vibration service lamps;
(xx) AB, BA, CA, F, G16-1/2, G-25, G30, S, or M-14 lamps (as defined in ANSI C79.1-2002 and ANSI C78.20) of forty watts or less;
(xxi) T shape lamps (as defined in ANSI C78.20 and ANSI C79.1-2002) and that uses not more than forty watts or has a length of more than ten inches; and
(xxii) Traffic signal lamps.
(c) "General service lamp" means a lamp that has an ANSI base, is able to operate at a voltage of twelve volts or twenty-four volts, at or between one hundred to one hundred thirty volts, at or between two hundred twenty to two hundred forty volts, or of two hundred seventy-seven volts for integrated lamps, or is able to operate at any voltage for non-integrated lamps, has an initial lumen output of greater than or equal to three hundred ten lumens (or two hundred thirty-two lumens for modified spectrum general service incandescent lamps) and less than or equal to three thousand three hundred lumens, is not a light fixture, is not an LED downlight retrofit kit, and is used in general lighting applications. General service lamps shall include, but not be limited to, general service incandescent lamps, incandescent reflector lamps, compact fluorescent lamps, general service light emitting diode lamps, and general service organic light emitting diode lamps. General service lamps shall not include:
(i) Appliance lamps;
(ii) Black light lamps;
(iii) Bug lamps;
(iv) Colored lamps;
(v) G shape lamps with a diameter of five inches or more as defined in ANSI C79.1-2002;
(vi) General service fluorescent lamps;
(vii) High intensity discharge lamps;
(viii) Infrared lamps;
(ix) J, JC, JCD, JCS, JCV, JCX, JD, JS, and JT shape lamps that do not have Edison screw bases;
(x) Lamps that have a wedge base or prefocus base;
(xi) Left-hand thread lamps;
(xii) Marine lamps;
(xiii) Marine signal service lamps;

1 (xiv) Mine service lamps;

2 (xv) MR shape lamps that have a first number symbol equal to sixteen
3 (diameter equal to two inches) as defined in ANSI C79.1-2002, operate at
4 twelve volts and have a lumen output greater than or equal to 800;

5 (xvi) Other fluorescent lamps;

6 (xvii) Plant light lamps;

7 (xviii) R20 short lamps;

8 (xix) Reflector lamps that have a first number symbol less than
9 sixteen (diameter less than two inches) as defined in ANSI C79.1-2002
10 and that do not have E26/E24, E26d, E26/50x39, E26/53x39, E29/28,
11 E29/53x39, E39, E39d, EP39, or EX39 bases;

12 (xx) S shape or G shape lamps that have a first number symbol less
13 than or equal to 12.5 (diameter less than or equal to 1.5625 inches) as
14 defined in ANSI C79.1-2002;

15 (xxi) Sign service lamps;

16 (xxii) Silver bowl lamps;

17 (xxiii) Showcase lamps;

18 (xxiv) Specialty MR lamps;

19 (xxv) T shape lamps that have a first number symbol less than or equal
20 to 8 (diameter less than or equal to one inch) as defined in ANSI
21 C79.1-2002, nominal overall length less than twelve inches, and that are
22 not compact fluorescent lamps; and

23 (xxvi) Traffic signal lamps.

24 (d) "General service light-emitting diode (LED) lamp" means an inte-
25 grated or non-integrated LED lamp designed for use in general lighting
26 applications and that uses light-emitting diodes as the primary source
27 of light.

28 (e) "General service organic light-emitting diode (OLED) lamp" means a
29 thin-film light-emitting device that typically consists of a series of
30 organic layers between two electrical contacts (electrodes).

31 (f) "Incandescent reflector lamp" or "reflector lamp" means any lamp
32 in which light is produced by a filament heated to incandescence by an
33 electric current, which: contains an inner reflective coating on the
34 outer bulb to direct the light; is not colored; is not designed for
35 rough or vibration service applications; is not an R20 short lamp; has
36 an R, PAR, ER, BR, BPAR, or similar bulb shapes with an E26 medium screw
37 base; has a rated voltage or voltage range that lies at least partially
38 in the range of one hundred fifteen and one hundred thirty volts; has a
39 diameter that exceeds 2.25 inches; and has a rated wattage that is forty
40 watts or higher.

41 45. "Federally exempt fluorescent lamp" means any linear lamps
42 excluded from the definition of general service fluorescent lamps in 10
43 CFR 430.32(n). Federally exempt fluorescent lamps include high-CRI line-
44 ar fluorescent lamps, impact-resistant linear fluorescent lamps, cold-
45 temperature linear fluorescent lamps, and less than four-foot linear
46 fluorescent lamps.

47 46. The following definitions refer to portable air conditioners:

48 (a) "Portable air conditioner" means a portable encased assembly,
49 other than a packaged terminal air conditioner, room air conditioner, or
50 dehumidifier, that delivers cooled, conditioned air to an enclosed
51 space, and is powered by single-phase electric current. Such portable
52 air conditioner includes a source of refrigeration and may include addi-
53 tional means for air circulation and heating and may be a single-duct or
54 a dual-duct portable air conditioner.

55 (b) "Single-duct portable air conditioner" means a portable air condi-
56 tioner that draws all of the condenser inlet air from the conditioned

1 space without the means of a duct and discharges the condenser outlet
2 air outside the conditioned space through a single-duct attached to an
3 adjustable window bracket.

4 (c) "Dual-duct portable air conditioner" means a portable air condi-
5 tioner that draws some or all of the condenser inlet air from outside
6 the conditioned space through a duct attached to an adjustable window
7 bracket, may draw additional condenser inlet air from the conditioned
8 space, and discharges the condenser outlet air outside the conditioned
9 space by means of a separate duct attached to an adjustable window
10 bracket.

11 46-a. "Residential ventilating fan" means a fan with the purpose to
12 actively supply air to or remove air from the inside of a residence.
13 This includes ceiling and wall-mounted fans or remotely mounted in-line
14 fans designed to be used in a bathroom or utility room, supply fans
15 designed to provide air to indoor space and kitchen range hoods. Supply
16 fans may also be designed to filter incoming air.

17 47. "Telephone" means an electronic product whose primary purpose is
18 to transmit and receive sound over a distance using a voice or data
19 network.

20 48. The following definitions refer to faucets and showerheads:

21 (a) "Faucet" means a lavatory faucet, kitchen faucet, metering faucet,
22 public lavatory faucet, or replacement aerator for a lavatory, public
23 lavatory or kitchen faucet.

24 (b) "Public lavatory faucet" means a fitting intended to be installed
25 in nonresidential bathrooms that are exposed to walk-in traffic.

26 (c) "Metering faucet" means a faucet that, when turned on, will gradu-
27 ally shut itself off over a period of several seconds.

28 (d) "Replacement aerator" means an aerator sold as a replacement,
29 separate from the faucet to which it is intended to be attached.

30 (e) "Showerhead" means a device through which water is discharged for
31 a shower bath and includes a hand-held showerhead but does not include a
32 safety shower showerhead.

33 (f) "Hand-held showerhead" means a showerhead that can be held or
34 fixed in place for the purpose of spraying water onto a bather and that
35 is connected to a flexible hose.

36 49. The following definitions refer to urinals and water closets:

37 (a) "Plumbing fixture" means an exchangeable device, which connects to
38 a plumbing system to deliver and drain away water and waste.

39 (b) "Urinal" means a plumbing fixture that receives only liquid body
40 waste and, conveys the waste through a trap into a drainage system.

41 (c) "Water closet" means a plumbing fixture having a water-containing
42 receptor that receives liquid and solid body waste through an exposed
43 integral trap into a drainage system.

44 (d) "Dual-flush effective flush volume" means the average flush volume
45 of two reduced flushes and one full flush.

46 (e) "Dual-flush water closet" means a water closet incorporating a
47 feature that allows the user to flush the water closet with either a
48 reduced or a full volume of water.

49 (f) "Trough-type urinal" means a urinal designed for simultaneous use
50 by two or more persons.

51 50. The following definitions refer to spray sprinkler bodies:

52 (a) "Pressure regulator" means a device that maintains constant oper-
53 ating pressure immediately downstream from the device, given higher
54 pressure upstream.

1 (b) "Spray sprinkler body" means the exterior case or shell of a
2 sprinkler incorporating a means of connection to the piping system
3 designed to convey water to a nozzle or orifice.

4 51. "Uninterruptable power supply" means a battery charger consisting
5 of a combination of convertors, switches and energy storage devices
6 (such as batteries), constituting a power system for maintaining conti-
7 nuity of load power in case of input power failure.

8 52. "Commercial battery charger system (BCS)" or "state-regulated BCS"
9 means a battery charger coupled with its batteries or battery chargers
10 coupled with their batteries, which together are referred to as state-
11 regulated battery charger systems. This term covers all rechargeable
12 batteries or devices incorporating a rechargeable battery and the char-
13 gers used with them. Battery charger systems include, but are not
14 limited to:

15 (a) electronic devices with a battery that are normally charged from
16 AC line voltage or DC input voltage through an internal or external
17 power supply and a dedicated battery charger;

18 (b) the battery and battery charger components of devices that are
19 designed to run on battery power during part or all of their operations;

20 (c) dedicated battery systems primarily designed for electrical or
21 emergency backup; and

22 (d) devices whose primary function is to charge batteries, along with
23 the batteries they are designed to charge. These units include chargers
24 for power tool batteries and chargers for automotive, AA, AAA, C, D, or
25 9V rechargeable batteries, as well as chargers for batteries used in
26 larger industrial motive equipment and a la carte chargers.

27 The charging circuitry of battery charger systems may or may not be
28 located within the housing of the end-use device itself. In many cases,
29 the battery may be charged with a dedicated external charger and power
30 supply combination that is separate from the device that runs on power
31 from the battery. State-regulated battery charger systems do not include
32 federally regulated battery chargers that are covered under standards in
33 10 C.F.R. section 430.32(z).

34 53. "Business entity" means any corporation, association, limited
35 liability company, partnership, limited partnership, limited liability
36 partnership, or other legal entity of any kind or description.

37 54. "Manufactured home" has the meaning ascribed to that term by
38 subdivision seven of section six hundred one of the executive law.

39 55. "Recreational vehicle" means a van or utility vehicle used for
40 recreational purposes.

41 56. "Uniform code" means the New York state uniform fire prevention
42 and building code adopted pursuant to article eighteen of the executive
43 law.

44 57. "Energy code" means the New York state energy conservation
45 construction code adopted pursuant to article eleven of this chapter.

46 58. "Electric vehicle supply equipment (EVSE)" means equipment that
47 supplies electricity in an appropriate form to storage devices, includ-
48 ing batteries and super capacitors, that are part of electric vehi-
49 cles. Such term shall include equipment that performs this function and
50 equipment that is embedded in electric vehicles.

51 59. "Electric vehicle" means an on-road vehicle that draws electricity
52 for propulsion from a traction battery with a least five kilowatt-hours
53 (kWh) of capacity, and uses an external source of energy to recharge the
54 battery. Such term shall include a plug-in hybrid electric vehicle
55 (PHEV) with a second source of energy for propulsion, and a battery

electric vehicle (BEV), which is powered solely by externally supplied electricity stored on-board such electric vehicle.

60. "Commercial clothes dryer" means a clothes dryer designed to dry fabrics in a tumble-type drum with forced air circulation and is designed for use in:

(a) Applications in which the occupants of more than one household will be using the clothes dryer, including multi-family housing common areas and coin laundries; or

(b) Other commercial applications.

61. "Commercial and industrial fans and blowers" means a rotary-bladed machine used to convert power to air power, with a brake horsepower greater than or equal to either one kilowatt or one horsepower, and an air horsepower less than or equal to one hundred fifty, and used for commercial and industrial purposes.

62. "Imaging equipment" means copiers, printers, scanners, fax machines, and multifunction devices used both in homes and businesses.

63. "Landscape irrigation controller" means a device intended to remotely control valves to operate an irrigation system for landscapes, which may consist of grass, shrubs, trees and/or other vegetation. This term shall not include devices that are typically sold separately and used primarily for other purposes, such as a network router, and may be used incidentally for a landscape irrigation controller. This term shall not include battery powered hose-end timers or devices used primarily in agricultural applications.

64. "Outdoor lighting" means electrical lighting used to illuminate outdoor areas, including parking lots, streetlights, highways and area luminaires.

65. "Plug-in luminous signs" means a self-contained, luminous sign unit that plugs into 120V AC building mains power and is intended for indoor use only. Signs may be intended for use in commercial outlets in business establishments or in residences.

66. "Small network equipment" means a device whose primary function is to pass internet protocol (IP) traffic among various network interfaces or ports intended for use in residential and small business settings.

67. "Tub spout diverters" means the following definitions:

(a) A bath and shower diverter whose diverter mechanism is located in the tub spout; and/or

(b) Bath and shower diverter means a device used to direct the flow of water either toward a tub spout or toward a secondary outlet intended for showering purposes, including a showerhead or body spray.

§ 14. Section 16-104 of the energy law, as added by chapter 431 of the laws of 2005, subdivision 1 as amended by chapter 222 of the laws of 2010, is amended to read as follows:

§ 16-104. Applicability, conduct prohibited. 1. The provisions of this article apply to the establishment of, testing for compliance with, certification of compliance with, and enforcement of efficiency standards for the following new products which are sold, or offered for sale, leased or offered for lease, rented or offered for rent or installed or offered to install in New York state: (a) automatic commercial ice cube machines; (b) ceiling fan light kits; (c) commercial pre-rinse spray valves; (d) commercial refrigerators, freezers and refrigerator-freezers; (e) consumer audio and video products; (f) illuminated exit signs; (g) incandescent reflector lamps; (h) very large commercial packaged air-conditioning and heating equipment; (i) metal halide lamp fixtures; (j) pedestrian traffic signal modules; (k) power supplies; (l) torchiere lighting fixtures; (m) unit heaters; (n) vehicular traffic signal

modules; (o) portable light fixtures; (p) bottle-type water dispensers; (q) commercial hot food holding cabinets; (r) portable electric spas; ~~[and]~~ (s) ~~[residential]~~ replacement dedicated-purpose pool ~~[pumps]~~ pump motors; (t) air compressors; (u) air purifiers; (v) commercial dishwashers; (w) commercial fryers; (x) commercial steam cookers; (y) computers and computer monitors; (z) general service lamps; (aa) federally exempt fluorescent lamps; (bb) portable air conditioners; (cc) residential ventilating fans; (dd) telephones; (ee) faucets; (ff) showerheads; (gg) urinals; (hh) water closets; (ii) sprinkler bodies; (jj) uninterruptable power supplies; (kk) light emitting diode lamps; (ll) electric vehicle supply equipment; (mm) commercial battery charger systems; (nn) commercial ovens; (oo) commercial clothes dryers; (pp) commercial and industrial fans and blowers; (qq) imaging equipment; (rr) landscape irrigation controllers; (ss) outdoor lighting; (tt) plug-in luminous signs; (uu) small network equipment; (vv) tub spout diverters; (ww) products for which efficiency standards shall have been established pursuant to paragraph (b) or (c) of subdivision one of section 16-106 of this article; and (xx) products that are subject to any federal efficiency standard referred to in section 16-105 of this article that shall have been continued in this state pursuant to such section 16-105.

2. No person or business entity shall sell~~[,]~~ or offer for sale, lease or offer to lease, or rent or offer to rent, or install or offer to install in New York state any new product of the types enumerated in paragraphs (a) through (vv) of subdivision one of this section, or any ~~[of the]~~ new ~~[products identified]~~ product for which efficiency standards shall have been established pursuant to paragraph (b) or (c) of subdivision ~~[four]~~ one of section 16-106 of this article, ~~[unless: (a) the product meets minimum energy performance standards adopted pursuant to this article upon the effective date of such standards; and, if required by regulations promulgated]~~ or any new product that is subject to any federal efficiency standard that shall have been continued in this state pursuant to [this] section[, (b) the manufacturer of such product certifies that the product meets said minimum energy performance standards.] 16-105 of this article, unless:

(a) the product meets the efficiency standards applicable to such product as of the date of manufacture of such product or as of such other date as may be determined in accordance with the regulation establishing the standard for such product; and

(b) if required by regulations adopted pursuant to this article, the manufacturer of such product certifies that the product meets said efficiency standards. As used within this subdivision, reference to any new product means any individual product subject to the requirements of this article.

3. The prohibitions contained in ~~[subdivisions one and]~~ subdivision two of this section shall not apply to:

- (a) products manufactured in the state and sold outside the state;
- (b) products manufactured outside the state and sold at wholesale inside the state for final retail sale outside the state;
- (c) products installed in ~~[mobile]~~ manufactured homes at the time of construction; or
- (d) products designed expressly for installation and use in recreational vehicles.

§ 15. The energy law is amended by adding a new section 16-105 to read as follows:

§ 16-105. Adoption of certain federal efficiency standards. 1. The federal efficiency standard established in 10CFR Parts 430 and 431, as

1 in effect on January first, two thousand eighteen shall be applicable to
2 products which are subject to such federal efficiency standards and
3 which are sold, offered for sale, or installed in New York state. So
4 long as such federal efficiency standards remain in effect as federal
5 efficiency standards, they shall be enforced as provided by federal law.

6 2. If any federal efficiency standard referred to in subdivision one
7 of this section is withdrawn, repealed, voided, or otherwise ceases to
8 remain in effect as a federal efficiency standard:

9 (a) such efficiency standard shall be deemed to be continued in this
10 state and shall be deemed to be an efficiency standard adopted pursuant
11 to this article;

12 (b) the president shall file with the secretary a written description
13 of such efficiency standard, the terms and conditions of such efficiency
14 standard, and the product or products that are subject to such efficien-
15 cy standard, such description to be in a format consistent with the
16 regulations adopted pursuant to this article and in form acceptable to
17 the secretary, together with a certificate, in form acceptable to the
18 secretary, signed and dated by the president and certifying that such
19 efficiency standard is no longer in effect as a federal efficiency stan-
20 dard, that such efficiency standard continues in effect in this state
21 pursuant to this section, and that such efficiency standard is adopted
22 pursuant to this section;

23 (c) the secretary shall cause such written description and certifi-
24 cation to be published in the state register, and shall cause the offi-
25 cial compilation of codes, rules and regulations of the state of New
26 York to include such written description;

27 (d) the president shall be authorized to adopt regulations establish-
28 ing procedures for testing the energy reduction, water conservation,
29 greenhouse gas reduction, and/or increased demand flexibility associated
30 with such product;

31 (e) the president shall be authorized to adopt regulations establish-
32 ing procedures for manufacturers of such product to certify that such
33 product meets such efficiency standard, if the president determines that
34 such manufacturer's certifications should be required; and

35 (f) the president shall be authorized to adopt regulations amending
36 such efficiency standard from time to time, including regulations that
37 repeal such efficiency standard, decrease the stringency of such effi-
38 ciency standard, or increase the stringency of such efficiency standard.

39 3. The actions to be taken pursuant to paragraphs (b) and (c) of
40 subdivision two of this section to confirm that a federal efficiency
41 standard that shall have been withdrawn, repealed, voided, or that
42 otherwise shall have ceased to remain in effect as a federal efficiency
43 standard, continues to be applicable in this state, and is adopted
44 pursuant to this section, shall be exempt from the provisions of the
45 state administrative procedure act, and the certification to be filed
46 pursuant to paragraph (c) of subdivision two of this section shall so
47 state.

48 4. This section shall not apply to any federal efficiency standard set
49 aside by a court upon the petition of a person who will be adversely
50 affected, as provided in 42 U.S.C. § 6306(b).

51 § 16. Section 16-106 of the energy law, as added by chapter 431 of the
52 laws of 2005, paragraph (c) of subdivision 2 as added by chapter 222 of
53 the laws of 2010 and subdivision 4 as amended by chapter 69 of the laws
54 of 2020, is amended to read as follows:

55 § 16-106. [~~Administration of article~~] Powers and duties of the presi-
56 dent and the secretary. 1. The [~~secretary, in consultation with the~~]

1 president[7] in consultation with the secretary shall have and be enti-
2 tled to exercise the following powers and duties:

3 (a) To ~~[establish energy]~~ adopt regulations establishing efficiency
4 ~~[performance]~~ standards for the products listed in paragraphs (a)
5 through (vv) of subdivision one of section 16-104 of this article,
6 including but not limited to, establishing ~~[energy]~~ efficiency ~~[perform-~~
7 ~~ance]~~ standards for power supplies in the active mode and no-load mode
8 or other such products while in the active mode and in the standby-pas-
9 sive-mode[7]

10 ~~(b) To promulgate regulations to achieve the purposes of this article~~
11 ~~provided however that no energy efficiency performance standard shall~~
12 ~~become effective for a product less than one hundred eighty days after~~
13 ~~it shall become final, provided, however, that no standard adopted~~
14 ~~pursuant to this article shall go into effect if federal government~~
15 ~~energy efficiency performance standards regarding such product preempt~~
16 ~~state standards unless preemption has been waived pursuant to federal~~
17 ~~law;~~

18 ~~(c) To administer and enforce the provisions of this article and any~~
19 ~~rule or regulation promulgated thereunder or order issued pursuant ther-~~
20 ~~eto;~~

21 ~~(d) To order, pursuant to section 16-104 of this article, the immedi-~~
22 ~~ate cessation of any distribution, sale or offer for sale, import or~~
23 ~~installation of any product for which the secretary, in consultation~~
24 ~~with the president, determines that the certification of such product~~
25 ~~listed in subdivision one of section 16-104 of this article was achieved~~
26 ~~in violation of section 16-108 of this article];~~

27 (b) To adopt regulations establishing efficiency standards for
28 products not specifically listed in paragraphs (a) through (vv) of
29 subdivision one of section 16-104 of this article, provided that the
30 president determines that establishing such efficiency standards would
31 serve to promote energy reduction, water conservation, greenhouse gas
32 reduction, and/or increased demand flexibility associated with the regu-
33 lated product categories in this state. Any regulation adopted pursuant
34 to this paragraph may include provisions establishing adopted procedures for
35 testing the efficiency of the covered products and provisions establish-
36 ing procedures for manufacturers of such product to certify that such
37 products meet the efficiency standards, if the president determines that
38 such manufacturer's certifications should be required;

39 (c) To review efficiency standards as adopted from time to time by
40 other states for products not listed in paragraphs (a) through (vv) of
41 subdivision one of section 16-104 of this article, and to adopt regu-
42 lations establishing efficiency standards similar to those adopted by
43 any other state for such products, provided that the president deter-
44 mines that establishing such efficiency standards would serve to promote
45 energy reduction, water conservation, greenhouse gas reduction, and/or
46 increased demand flexibility associated with the regulated product cate-
47 gories in this state. Any regulation adopted pursuant to this paragraph
48 may include provisions establishing procedures for testing the efficien-
49 cy of the covered products and provisions establishing procedures for
50 manufacturers of such product to certify that such products meet the
51 efficiency standards, if the president determines that such manufactur-
52 er's certifications should be required;

53 (d) To adopt regulations to achieve the purposes of this article;

54 (e) To conduct investigations, test, and obtain data with respect to
55 research experiments and demonstrations, and to collect and disseminate

1 information regarding the purposes to be achieved pursuant to this arti-
2 cle;

3 (f) To accept grants or funds for purposes of administration and
4 enforcement of this article. Notwithstanding any other provision of law
5 to the contrary, the president is hereby authorized to accept grants or
6 funds, including funds directed through negotiated settlements or
7 consent orders pursuant to this article, and is authorized to establish
8 the appliance standards administration account to be administered by the
9 New York state energy research and development authority, in consulta-
10 tion with the secretary, and maintained in a segregated account in the
11 custody of the commissioner of taxation and finance. All funds accepted
12 by the president for the purposes of this article shall be deposited in
13 the efficiency standards administration account established by the New
14 York state energy research and development authority and maintained in a
15 segregated account in the custody of the commissioner of taxation and
16 finance. All expenditures from the efficiency standards administration
17 account pursuant to this article shall be made by the New York state
18 energy research and development authority to carry out studies, investi-
19 gations, research, expenses to provide for expert witness, consultant,
20 enforcement, administrative and legal fees, including disbursements to
21 the department of state to support enforcement activities authorized by
22 the secretary pursuant to this section, and other related expenses
23 pursuant to this article. All deposits made to the efficiency standards
24 administration account made by the New York state energy research and
25 development authority, all funds maintained in the efficiency standards
26 administration account, and disbursements therefrom, made pursuant to
27 this article shall be subject to an annual independent audit as part of
28 such authority's audited financial statements, and such authority shall
29 prepare an annual report summarizing efficiency standards administration
30 account balance and activities for each fiscal year ending March thir-
31 ty-first and provide such report to the secretary no later than ninety
32 days after commencement of such fiscal year;

33 ~~(g) [To impose a fine and/or impose injunctive relief for any~~
34 ~~violation of this article after notice and an opportunity to be heard;~~

35 ~~(h) The secretary and the president shall consult with the appropriate~~
36 ~~federal agencies, including, but not limited to, the federal department~~
37 ~~of energy, industry and other potentially affected parties in carrying~~
38 ~~out the provisions of this article]~~ To consult with the appropriate
39 federal agencies, including, but not limited to, the federal department
40 of energy, the federal department of industry and other potentially
41 affected parties in carrying out the provisions of this article; and

42 (h) To conduct investigations, in consultation with the secretary, to
43 determine if products covered by standards adopted pursuant to this
44 article comply with such standards; to conduct tests to determine if
45 products covered by standards adopted pursuant to this article comply
46 with such standards; to prepare written reports of the results of such
47 investigations and tests; to provide such reports to the secretary; in
48 consultation with the secretary, to negotiate settlement agreements with
49 any person or business entity that violates the provisions of subdivi-
50 sion two of section 16-104 of this article, or fails to perform any duty
51 imposed by this article, or violates or fails to comply with any rule,
52 regulation, determination, or order adopted, made, or issued by the
53 president or the secretary pursuant to this article, pursuant to which
54 such person or business entity shall agree to cease such violation and
55 to pay such civil penalty as may be specified in such agreement, the
56 terms of which will be incorporated into a consent order signed by such

1 person or business entity, the president, and the secretary; to consult
2 with the secretary in connection with determinations made by the secre-
3 tary pursuant to paragraph (b) of subdivision five of this section; and
4 to cooperate with the secretary in enforcement proceedings conducted by
5 the secretary pursuant to this article.

6 1-a. Notwithstanding any other provision of this article, no efficien-
7 cy standard adopted pursuant to paragraph (a) of subdivision one of this
8 section shall become effective less than one hundred eighty days after
9 publication of the notice of adoption of such standard in the state
10 register; no efficiency standard adopted pursuant to paragraph (b) or
11 (c) of subdivision one of this section shall become effective less than
12 one year after publication of the notice of adoption of such efficiency
13 standard in the state register; no amendment of any efficiency standard
14 adopted pursuant to this article or of any efficiency standard continued
15 in this state pursuant to section 16-105 of this article shall become
16 effective less than one hundred eighty days after publication of the
17 notice of adoption of such amendment in the state register; and no new
18 or amended efficiency standard, or water conservation standard adopted
19 pursuant to this article shall go into effect if federal government
20 efficiency standards regarding such product preempt state standards
21 unless preemption has been waived pursuant to federal law.

22 2. (a) On or before [~~June thirtieth~~] January first, two thousand [~~six~~]
23 twenty-two, the [~~secretary, in consultation with the~~] president, shall
24 adopt regulations in accordance with the provisions of this article
25 establishing:

26 (i) [~~energy~~] efficiency [~~performance~~] standards for new products of
27 the types [~~set forth~~] referred to in paragraphs (a) through [(n)] (f)
28 and paragraphs (h) through (y), paragraphs (aa) through (jj) and para-
29 graphs (mm) through (vv) of subdivision one of section 16-104 of this
30 article[, with the exception of such paragraph (g) (incandescent reflec-
31 tor lamps)];

32 (ii) procedures for testing the [~~energy~~] efficiency of the new
33 products [~~covered by~~] of the types referred to in paragraphs (a) through
34 [(n)] (f) and paragraphs (h) through (vv) of subdivision one of section
35 16-104 of this article;

36 (iii) procedures for manufacturers to certify that new products
37 [~~covered under~~] of the types referred to in paragraphs (a) through (f)
38 and paragraphs (h) through (vv) of subdivision one of section 16-104 of
39 this article meet the [energy] efficiency standards to be [promulgated
40 under this article] adopted pursuant to this article, if the president
41 determines that such manufacturer's certifications should be required;
42 and

43 (iv) such further matters as are necessary to insure the proper imple-
44 mentation and enforcement of the provisions of this article.

45 (a-1) With respect to [~~incandescent reflector lamps, included~~] the
46 types of products referred to in [paragraph] paragraphs (g), (z) or (kk)
47 of subdivision one of section 16-104 of this article (incandescent
48 reflector lamps, general service lamps, and light emitting diode lamps),
49 the [~~secretary, in consultation with the~~] president[,] shall conduct a
50 study by December thirty-first, two thousand twenty-one to determine
51 whether an [~~energy~~] efficiency [~~performance~~] standard for such [~~product~~]
52 products should be established, taking into account factors including
53 the potential impact on electricity usage, product availability and
54 consumer and environmental benefits. If [~~it is determined~~] the president
55 determines based on this study that such a standard would reduce energy
56 use and would not be preempted by the federal law, the [~~secretary, in~~

~~consultation with the~~ president~~[,]~~ shall adopt regulations in accordance with the provisions of this article establishing ~~[energy performance]~~ efficiency standards for such ~~[product on or before January first, two thousand eight]~~ products.

(b) With respect to the types of products ~~[defined]~~ referred to in paragraphs (a), (d), (h) and (i) of subdivision ~~[seven]~~ one of section ~~[16-102]~~ 16-104 of this article (very large commercial package air conditioning and heating equipment~~[,]~~, ~~subdivision nine of section 16-102 of this article~~ ~~[,]~~, commercial refrigerators, freezers and refrigerator-freezers~~[,]~~, ~~subdivision twenty three of section 16-102 of this article~~ ~~[,]~~, metal halide lamp fixtures~~[,]~~ ~~and subdivision three of section 16-102 of this article~~ ~~[,]~~, and automatic commercial ice-cube makers), the ~~[secretary shall issue]~~ regulations adopted by the president pursuant to paragraph ~~[a]~~ (a) of this subdivision ~~[establishing energy]~~ shall establish the following efficiency ~~[performance]~~ standards ~~[for such products at the following levels]~~ and ~~[with]~~ the following compliance dates:

(i) ~~[very]~~ Very large commercial package air conditioning and heating equipment. Each very large commercial package air conditioning and heating equipment sold, offered for sale or installed in New York state on or after January first, two thousand ~~[ten]~~ twenty-two shall, when tested according to the test standard specified in Air-Conditioning and Refrigeration Institute standard 340/360-2004, meet the following standards:

(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above two hundred forty thousand BTU per hour (cooling capacity) and less than seven hundred sixty thousand BTU per hour (cooling capacity) shall be

(I) 10.0 for equipment with no heating or electric resistance heating;
and~~[,]~~

(II) 9.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of ninety-five degrees Fahrenheit dB).

(B) the minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above two hundred forty thousand BTU per hour (cooling capacity) and less than seven hundred sixty thousand BTU per hour (cooling capacity) shall be

(I) 9.5 for equipment with no heating or electric resistance heating;
and

(II) 9.3 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of ninety-five degrees Fahrenheit dB).

(C) the minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above two hundred forty thousand BTU per hour (cooling capacity) and less than seven hundred sixty thousand BTU per hour (cooling capacity) shall be 3.2 (at a high temperature rating of forty-seven degrees Fahrenheit dB)~~[,]~~.

(ii) ~~[commercial]~~ Commercial refrigerators, ~~[and]~~ freezers, and refrigerator-freezers. (A) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit designed for holding temperature applications sold, offered for sale or installed in New York state on or after January first, two thousand ~~[ten]~~ twenty-two shall have a daily energy consumption (in kilowatt hours per day) not to exceed:

(I) refrigerators with solid doors $0.10 V + 2.04$

(II) refrigerators with transparent doors $0.12 V + 3.34$

(III) freezers with solid doors $0.40 V + 1.38$

1 (IV) freezers with transparent doors $0.75 V + 4.10$
2 (V) refrigerators/freezers with solid doors the greater of:
3 $0.27AV - 0.71$ or 0.70 .
4 (B) Each commercial refrigerator with a self-contained condensing unit
5 designed for pull-down temperature applications sold, offered for sale
6 or installed in New York state on or after January first, two thousand
7 ~~ten~~ twenty-two shall have a daily energy consumption (in kilowatt
8 hours per day) not to exceed: refrigerators with transparent doors 0.126
9 $V + 3.51$.
10 (iii) ~~metal~~ Metal halide lamp fixtures. Each metal halide lamp
11 fixture that is sold, offered for sale or installed in New York state on
12 or after January first, two thousand ~~eight~~ twenty-two and that oper-
13 ates a lamp in a vertical position (including fixtures that operate
14 lamps rated for use within fifteen degrees of vertical) and that is
15 capable of operating lamps rated equal to or greater than one hundred
16 fifty Watts and less than or equal to five hundred Watts shall not
17 contain a probe start metal-halide ballast.
18 (iv) ~~automatic~~ Automatic commercial ice-cube maker. Each automatic
19 commercial ice-cube maker, that produces cube-type ice with capacities
20 between fifty and two thousand five hundred pounds per twenty-four hour
21 period sold, offered for sale or installed in New York state on or after
22 January first, two thousand ~~ten~~ twenty-two, when tested according to
23 the test standard specified in air-conditioning and refrigeration insti-
24 tute standard 810-2003, as in effect on January first, two thousand
25 five, shall meet the following standard levels:
26 (A) H means the harvest rate in pounds per twenty-four hours. For
27 water-cooled equipment, water use is for the condenser only and does not
28 include potable water used to make ice.
29 (B) For ice making head water-cooled equipment the maximum condenser
30 water use in gal/one hundred pounds of ice shall be $200 - 0.022H$ and the
31 maximum energy use with a harvest rate of:
32 (I) < 500 shall be $7.8 - 0.0055H$;
33 (II) 500 and $< 1,436$ shall be $5.58 - 0.0044H$
34 (III) $1,436$ and $< 2,500$ shall be 4.0
35 (C) For ice making head air-cooled equipment the maximum energy use
36 with a harvest rate of:
37 (I) < 450 shall be $10.26 - 0.0086H$;
38 (II) 450 and $< 2,500$ shall be $6.89 - 0.0011H$
39 (D) For remote condensing but not remote compressor air-cooled equip-
40 ment the maximum energy use with a harvest rate of:
41 (I) $< 1,000$ shall be $8.85 - 0.0038H$;
42 (II) $1,000$ and $< 2,500$ shall be 5.10
43 (E) For remote condensing and remote compressor air-cooled equipment
44 the maximum energy use with a harvest rate of:
45 (I) < 934 lbs shall be $8.85 - 0.0038H$;
46 (II) 934 and $< 2,500$ shall be 5.3
47 (F) For self-contained water-cooled equipment the maximum condenser
48 water use in gal/100 lbs of Ice shall be $191 - 0.0315H$ and the maximum
49 energy use with a harvest rate of:
50 (I) < 200 shall be $11.4 - 0.019H$;
51 (II) 200 and $< 2,500$ shall be 7.6
52 (G) For self-contained air-cooled equipment the maximum energy use
53 with a harvest rate of:
54 (I) < 175 shall be $18.0 - 0.0469H$
55 (II) 175 and $< 2,500$ shall be 9.8

~~1 [(c) On or before December thirty first, two thousand ten, the secre-~~
~~2 tary, in consultation with the president, shall adopt regulations in~~
~~3 accordance with the provisions of this article establishing: (i) energy~~
~~4 efficiency performance standards for new products of the types set forth~~
~~5 in paragraphs (o) through (s) of subdivision one of section 16-104 of~~
~~6 this article; (ii) procedures for testing the energy efficiency of the~~
~~7 products covered by paragraphs (o) through (s) of subdivision one of~~
~~8 section 16-104 of this article; (iii) procedures for manufacturers to~~
~~9 certify that products covered by paragraphs (o) through (s) of subdivi-~~
~~10 sion one of section 16-104 of this article meet the energy efficiency~~
~~11 standards promulgated under this article; and (iv) such further matters~~
~~12 as are necessary to insure the proper implementation and enforcement of~~
~~13 the provisions of this article with respect to the products covered by~~
~~14 paragraphs (o) through (s) of subdivision one of section 16-104 of this~~
~~15 article.]~~

16 3. Subsequent to adopting regulations pursuant to subdivisions one and
17 two of this section, the ~~[secretary, in consultation with the]~~ presi-
18 dent, in consultation with the secretary, may amend such regulations,
19 including increasing the stringency of the ~~[energy]~~ efficiency ~~[perform-~~
20 ~~ance]~~ standards~~[, provided however that no energy efficiency performance~~
21 ~~standard shall become effective for a product less than one hundred~~
22 ~~eighty days after it shall become final].~~

23 4. By March fifteenth of two thousand twenty-one, the secretary and
24 the president shall produce a report to the governor, the speaker of the
25 assembly, the temporary president of the senate, the chair of the assem-
26 bly committee on energy and the chair of the senate committee on energy
27 and telecommunications on the status of regulations establishing ~~[ener-~~
28 ~~gy]~~ efficiency ~~[performance]~~ standards pursuant to this article, which
29 shall indicate for each product enumerated in subdivision one of section
30 16-104 of this article the status of the implementation of ~~[performance]~~
31 efficiency standards. The report shall also set forth the estimated
32 potential annual reductions in energy use and potential utility bill
33 savings resulting from adopted ~~[performance]~~ efficiency standards for
34 the years two thousand twenty-five and two thousand thirty-five and the
35 potential cumulative reductions in energy use through the year two thou-
36 sand thirty-five. Such report shall be updated by March fifteenth, two
37 thousand thirty and a copy shall be posted by March fifteenth, two thou-
38 sand thirty on the websites of the authority and the department of
39 state.

40 5. (a) In addition to all other powers and authority given to the
41 secretary by this article, the secretary shall have and be entitled to
42 exercise the following powers and duties:

43 (i) To request the president to conduct investigations to determine if
44 products covered by efficiency standards adopted pursuant to this arti-
45 cle comply with such efficiency standards; to consult with the president
46 in connection with the president's performance of such investigations;
47 to request the president to conduct tests to determine if products
48 covered by efficiency standards adopted pursuant to this article comply
49 with such efficiency standards; and to request the president's cooper-
50 ation in connection with enforcement proceedings conducted by the secre-
51 tary pursuant to this article;

52 (ii) To order the immediate cessation of any distribution, sale or
53 offer for sale, lease or offer to lease, rent or offer to rent, import,
54 or offer to import, or installation or offer of installation of any
55 product listed in paragraphs (a) through (vv) of subdivision one of
56 section 16-104 of this article, or of any product for which efficiency

standards shall have been established pursuant to paragraph (b) or (c) of subdivision one of this section, or any product that is subject to a federal efficiency standard that shall have been continued in this state pursuant to section 16-105 of this article, if the secretary, in consultation with the president, determines that such product does not meet the applicable efficiency standard or if such product does not satisfy the testing procedures or manufacturer's certification procedures adopted pursuant to the regulations authorized by this article;

(iii) To accept grants or funds for purposes of administration and enforcement of this article;

(iv) To impose, after notice and an opportunity to be heard, civil penalties and/or injunctive relief for any violation of this article or any regulation adopted pursuant to this article. Any penalties collected by the secretary under this section shall be placed in the account established under section ninety-seven-ww of the state finance law, relating to the consumer protection account; and

(v) To adopt such rules and regulations as the secretary may deem necessary or appropriate for the purpose of carrying out the powers and duties granted to the secretary by this article.

(b) The secretary may exercise the powers and authority granted to the secretary by this subdivision, or by any other provision of this article, through the consumer protection division established by the secretary pursuant to section ninety-four-a of the executive law or through such other divisions, officers, or employees of the department of state as the secretary may designate from time to time.

§ 17. The energy law is amended by adding a new section 16-107 to read as follows:

§ 16-107. Subpoenas, information and document production, enforcement procedures, referrals. 1. (a) In addition to all other powers provided by this article, the secretary or his or her designee shall have the power and authority to subpoena any person or business entity doing business in this state and bring such person or business entity before such officer or person in the department of state as may be designated in such subpoena, and to administer an oath to and take testimony of any person or cause any person's deposition to be taken.

(b) In addition to all other powers provided by this article, the president or his or her designee shall have the power and authority to subpoena any person or business entity in this state to compel testimony, the protection of documents, or both, and bring such person before such officer or person in the authority as may be designated in such subpoena, and to administer an oath to and take testimony of any person or cause any person's deposition to be taken.

(c) A subpoena issued under this subdivision shall be regulated by the civil practice law and rules, and is in addition to and not in limitation of the power to make information and document requests under subdivision two of this section.

2. Any person or business entity that sells or offers for sale, leases or offers for lease, rents or offers for rent, or installs or offers to install, manufactures or tests in New York state any new product of a type listed in paragraphs (a) through (vv) of subdivision one of section 16-104 of this article, or any new product for which efficiency standards shall have been established pursuant to paragraph (b) or (c) of subdivision one of section 16-106 of this article, or any product that is subject to federal efficiency standards that shall have been continued in this state pursuant to section 16-105 of this article, shall be obliged, on the request of the secretary or his or her designee, or the

1 request of the president or his or her designee, to supply the secretary
2 and/or the president with such information and documentation as may be
3 required concerning such person's or such business entity's business,
4 business practices, or business methods, or proposed business practices
5 or methods. The obligations contained in this subdivision shall not
6 apply to any person or business entity that sells or offers for sale,
7 leases or offers for lease, rents or offers for rent, or installs or
8 offers to install only products described in subdivision three of
9 section 16-104 of this article. The power to make information and docu-
10 ment requests is in addition to and not in limitation of the power to
11 issue subpoenas.

12 3. A subpoena may be issued pursuant to subdivision one of this
13 section, and a request for information and documentation may be made
14 pursuant to subdivision two of this section, at any time and in any
15 situation, without regard to whether such subpoena or request is or is
16 not issued or made in connection with an investigation conducted by the
17 president or an enforcement proceeding conducted by the secretary.

18 4. The secretary shall, before ordering the immediate cessation of any
19 distribution, sale or offer for sale, lease or offer to lease, rent or
20 offer to rent, import or offer to import, or installation or offer of
21 installation of any product, or imposing any civil penalty, injunctive
22 relief, or other relief pursuant to this article upon any person or
23 business entity who is alleged to be in violation of any provision of
24 this article or of any regulation adopted pursuant to this article, and
25 at least ten days prior to the date set for the hearing, notify in writ-
26 ing and shall afford such person or business entity an opportunity to be
27 heard in person or by counsel in reference thereto. Such written notice
28 may be served by delivery of same personally, or by mailing same by
29 certified mail to the last known business address of such person or
30 business entity, or by any method authorized by the civil practice law
31 and rules. The hearing on such charges shall be at such time and place
32 as the department of state shall prescribe. A hearing held by this
33 subdivision shall be held pursuant to the state administrative procedure
34 act, and any applicable regulations adopted by the secretary.

35 5. A final action of the secretary in imposing a civil penalty, or
36 other order, may be subject to review by a proceeding instituted under
37 article seventy-eight of the civil practice law and rules at the
38 instance of the person or business entity aggrieved. Final actions that
39 may be subject to judicial review under article seventy-eight of the
40 civil practice law and rules include:

41 (a) a determination that a person or business entity is in violation
42 of any provision of this article or of any regulation adopted under this
43 article;

44 (b) an order directing the immediate cessation of the sale or offer
45 for sale, installation or offer to install, lease or offer to lease,
46 rent or offer to rent, or import any product in violation of any
47 provision of this article or of any regulation adopted under this arti-
48 cle;

49 (c) an order granting or imposing any other type of injunctive relief;
50 and

51 (d) the imposition of a civil penalty, excluding any consent order,
52 any determination made in a consent order and any civil penalty and/or
53 injunctive relief imposed by a consent order.

54 6. In addition to all other powers provided by this article, the
55 secretary and the president, are authorized, individually or jointly, to
56 refer the results of any investigation conducted by the president pursu-

1 ant to this article to the attorney general and to request the attorney
2 general to institute, in the name of the secretary and/or the president,
3 an action or proceeding to enforce the provisions of this article. The
4 attorney general shall, at the request of the secretary or president, or
5 may, on his or her own initiative, institute proceedings to enforce the
6 provisions of this article including the imposition of civil penalties
7 or injunctive relief. Nothing in this subdivision shall limit or impair
8 the power and authority of the secretary to conduct enforcement
9 proceedings, to issue orders pursuant to paragraph (b) of subdivision
10 five of section 16-106 of this article, and to impose penalties pursuant
11 to section 16-108 of this article.

12 § 18. Section 16-108 of the energy law, as added by chapter 431 of the
13 laws of 2005, is amended to read as follows:

14 § 16-108. Violations, civil liability. 1. Any person who or business
15 entity that issues:

16 (a) a certification that a product listed in paragraphs (a) through
17 (vv) of subdivision one of section 16-104 of this article complies with
18 the [energy] efficiency standards for such product established by or
19 pursuant to this article[7];

20 (b) a certification that a product not listed in paragraphs (a)
21 through (vv) of subdivision one of section 16-104 of this article
22 complies with efficiency standards for such product established pursuant
23 to paragraph (b) or (c) of subdivision one of section 16-104 of this
24 article; or

25 (c) a certification that a product that is subject to federal effi-
26 ciency standards that shall have been continued in this state pursuant
27 to section 16-105 of this article complies with such efficiency stand-
28 ards, knowing that such product does not comply with [those] such effi-
29 ciency standards, shall be liable for a civil penalty of not more than
30 ten thousand dollars for each such product certified and an additional
31 penalty of not more than ten thousand dollars for each day during which
32 such violation continues.

33 2. Any person who or business entity that violates the provisions of
34 subdivision two of section 16-104 of this article, or [who] fails to
35 perform any duty imposed by this article, or [who] violates or fails to
36 comply with any rule, regulation, determination, or order [of] adopted,
37 made, or issued by the president or the secretary [of state promulgated]
38 pursuant to this article, shall be liable for a civil penalty of not
39 more than five hundred dollars for each such violation and an additional
40 civil penalty of not more than one hundred dollars for each day during
41 which such violation continues, and, in addition thereto, such person or
42 business entity may be enjoined from continuing such violation.

43 3. ~~[The secretary may cause an investigation to be made of complaints~~
44 ~~received concerning violations of this article and may refer the results~~
45 ~~of such investigations to the attorney general. The attorney general~~
46 ~~shall, at the request of the secretary, or may, on his own initiative,~~
47 ~~institute proceedings to enforce the provisions of this article.~~

48 4.] An action or cause of action for the recovery of a penalty under
49 this section may be settled or compromised in an amount to be approved
50 by the secretary either before or after proceedings are brought to
51 recover such penalties and prior to the entry for judgment therefor.

52 § 19. The energy law is amended by adding a new section 16-109 to read
53 as follows:

54 § 16-109. Conflicts with other laws. Nothing in this article or in
55 any regulation adopted pursuant to this article shall limit, impair, or
56 supersede the provisions of subdivision one of section three hundred

eighty-three of the executive law or the provisions of subdivision three of section 11-103 of this chapter.

§ 20. Subparagraphs 14 and 15 of paragraph (a) of subdivision 3 of section 94-a of the executive law, as added by section 21 of part A of chapter 62 of the laws of 2011, are amended and a new subparagraph 16 is added to read as follows:

(14) cooperate with and assist consumers in class actions in proper cases; ~~[and]~~

(15) create an internet website or webpage pursuant to section three hundred ninety-c of the general business law~~[-]~~, as added by chapter five hundred nine of the laws of two thousand seven; and

(16) exercise such powers and duties granted to the secretary by article sixteen of the energy law as the secretary may direct, including, but not limited to: consult with such president of the New York state energy research and development authority in connection with investigations conducted by such president pursuant to article sixteen of the energy law; make determinations relating to compliance by products with the standards adopted pursuant to article sixteen of the energy law; order the immediate cessation of any distribution, sale or offer for sale, import, or installation of any product that does not meet such standards; and impose civil penalties as contemplated by article sixteen of the energy law.

§ 21. The opening paragraph and paragraphs a and c of subdivision 1 and subdivision 3 of section 374 of the executive law, the opening paragraph of subdivision 1 as amended by chapter 309 of the laws of 1996, paragraph a of subdivision 1 as amended by section 96 of subpart B of part C of chapter 62 of the laws of 2011 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, paragraph c of subdivision 1 as amended by chapter 920 of the laws of 1985, and subdivision 3 as added by chapter 707 of the laws of 1981, are amended to read as follows:

There is hereby created and established in the department of state a council, to be known as the state fire prevention and building code council. Such council shall consist of the secretary of state, as chairman, the state fire administrator, the president of the New York state energy research and development authority, and ~~[fifteen]~~ sixteen other members to be appointed as follows:

a. ~~[Two]~~ Three members, to be appointed by the governor, from among the commissioners of ~~[the departments of economic development, corrections and community supervision, education, health, labor, mental health and social services, office of general services, division of housing and community renewal,]~~ economic development; corrections and community supervision; education; health; labor; mental health; general services; housing and community renewal; environmental conservation; parks, recreation and historic preservation; and temporary and disability assistance; and the superintendent of financial services.

c. Seven members, to be appointed by the governor with the advice and consent of the senate, one of whom shall be a fire service official, one of whom shall be a registered architect, one of whom shall be a professional engineer, one of whom shall be a code enforcement official, one of whom shall represent builders, one of whom shall represent trade unions, and one of whom shall be a person with a disability as defined in section two hundred ninety-two of this chapter who would directly benefit from the provisions of ~~[article thirteen of]~~ the state uniform fire prevention and building code relating to accessibility. The registered architect and professional engineer shall be duly licensed to

1 practice their respective professions in the state of New York. After
2 the certification of code enforcement personnel pursuant to this chapter
3 shall have begun said code enforcement official shall be so certified.

4 3. (a) The council shall meet at least quarterly at the call of the
5 chairman. Additional meetings may be called upon at least five [days]
6 days' notice by the chairman or by petition of five members of the coun-
7 cil.

8 (b) Notwithstanding the provisions of any other law to the contrary, a
9 majority, but no fewer than seven, of the members of the council then in
10 office, gathered together in the presence of each other or through the
11 use of videoconferencing, at a meeting duly held at a time fixed by law
12 or by any by-law duly adopted by the council, or at any meeting duly
13 held upon reasonable notice to all members of the council then in
14 office, or at any duly adjourned meeting of such meeting, shall consti-
15 tute a quorum, and a majority, but no fewer than seven, of the members
16 of the council then in office may perform and exercise any power,
17 authority, or duty of the council at any such meeting or adjourned meet-
18 ing.

19 § 22. Subdivision 2 of section 97-www of the state finance law, as
20 amended by section 53 of part A of chapter 62 of the laws of 2011, is
21 amended to read as follows:

22 2. Such account shall consist of all penalties received by the depart-
23 ment of state pursuant to section three hundred ninety-nine-z of the
24 general business law, section 16-106 of the energy law and any addi-
25 tional monies appropriated, credited or transferred to such account by
26 the Legislature. Any interest earned by the investment of monies in such
27 account shall be added to such account, become part of such account, and
28 be used for the purposes of such account.

29 § 23. This act shall take effect immediately; provided, however, that
30 sections six through twenty and section twenty-two of this act shall
31 take effect on the one hundred eightieth day after it shall have become
32 a law; provided, however, that the amendments to subdivision 4 of
33 section 16-106 of the energy law made by section sixteen of this act
34 shall not affect the repeal of such subdivision and shall be deemed
35 repealed therewith. Effective immediately, the addition, amendment,
36 and/or repeal of any rule or regulation necessary for the timely imple-
37 mentation of this act on or before its effective date are hereby author-
38 ized to be made and completed on or before such effective date.