STATE OF NEW YORK

10439

IN ASSEMBLY

May 22, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Fahy) -- read once and referred to the Committee on Ways and Means

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 2022"

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

Section 1. This act shall be known and may be cited as the "advanced building codes, appliance and equipment efficiency standards act of 2022".

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

2. to encourage conservation of energy **and to promote the 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,** in the construction and operation of new commercial, industrial, agricultural and residential buildings, and in the rehabilitation of existing structures, through heating, cooling, ventilation, lighting, insulation and design techniques and the use of energy audits and life-cycle costing analysis;

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

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

9. "Historic building." Any building 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~~

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

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~~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 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 building over the design life of the building. "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 will be recovered through savings in energy costs over the design life of the building under a life-cycle cost analysis performed under methodology as established by the New York state energy research and development authority in regulations which may be updated from time to time, and (ii) secondary or societal effects, such as reductions in greenhouse gas emissions, as defined in regulations. Before publication of a notice of proposed rule making establishing the methodology or defining secondary or societal effects, the president of the authority shall conduct public meetings to provide meaningful opportunities for public comment from all segments of the population that would be impacted by the regulations, including persons living in disadvantaged communities as identified by the climate justice working group established under section 75-0111 of the environmental conservation law. 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-two that added this paragraph and any subsequent codes, 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 applicable to the construction of any building, 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. Notwithstanding the foregoing, nothing in this section shall be deemed to expand the powers of the council to include matters that are exclusively within the statutory jurisdiction of the public service commission, the department of environmental conservation, the office of renewable energy siting or another state entity.

§ 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, in consultation with the commissioner of the department of parks, recreation and historic preservation, is authorized to adopt 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 standards for construction of buildings in 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

§ 6-a. Section 16-102 of the energy law is amended by adding a new subdivision 1-a to read as follows:

1-a. "Product" means any appliance or equipment, other than a motor vehicle, which in operation consumes or is designed to consume energy or to result in the consumption of energy, including any water-related appliance, equipment or fixture that is designed to consume or result in the consumption of energy in its operation or use.

§ 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 [~~televisions,~~] 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 compact audio products, digital versatile disc players, digital versatile disc recorders, [~~and~~] digital television adapters and streaming media players. Televisions are specifically excluded from consumer audio and video products.

§ 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 associated with the regulated category of product in order to reduce energy consumption, reduce water consumption, and reduce greenhouse gas emissions associated with energy consumption and/or increase demand flexibility.

§ 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-eight new subdivisions 18-a, 18-b, 21-c, 21-d, 38, 39, 40, 41, 41-a, 42, 42-a, 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:

18-a. "Greenhouse gas" means "greenhouse gas" as defined in subdivision seven of section 75-0101 of the environmental conservation law.

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

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

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

38. The following definitions refer to air compressors:

(a) "Air compressor" means a compressor designed to compress air that has an inlet open to the atmosphere or other source of air, and is made up of a compression element (bare compressor), driver or drivers mechanical equipment to drive the compressor element, and any ancillary equipment.

(b) "Compressor" means a machine or apparatus that converts different types of energy into the potential energy of gas pressure for displacement and compression of gaseous media to any higher-pressure values above atmospheric pressure and has a pressure ratio at full-load operating pressure greater than 1.3.

39. The following definitions refer to air purifiers:

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

(b) "Industrial air purifier" means an indoor air cleaning device manufactured, advertised, marketed, labeled, and used solely for industrial use that are marketed solely through industrial supply outlets or businesses and prominently labeled as "Solely for industrial use. Potential health hazard: emits ozone."

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

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

41-a. "Commercial oven" means a chamber designed for heating, roasting, or baking food by conduction, convection, radiation, and/or electromagnetic energy.

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

42-a. "Commercial hot food holding cabinet" means a heated, fully enclosed compartment, with one or more solid or partial glass doors, that is designed to maintain the temperature of hot food that has been cooked in a separate appliance. "Commercial hot food holding cabinet" does not include heated glass merchandising cabinets, drawer warmers or cook-and-hold appliances.

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

43-a. "Computer monitor" means an analog or digital device of size greater than or equal to seventeen inches and less than or equal to sixty-one inches, that has a pixel density of greater than five thousand pixels per square inch, and that is designed primarily for the display

of computer-generated signals for viewing by one person in a desk-based environment. A computer monitor is composed of a display screen and associated electronics. A computer monitor does not include, (a) displays with integrated or replaceable batteries designed to support primary operation without AC mains or external DC power (e.g. electronic readers, mobile phones, portable tablets, battery-powered digital picture frames); or (b) a television or signage display.

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

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

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

(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;

(xiv) Mine service lamps;

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

(xvi) Other fluorescent lamps;

(xvii) Plant light lamps;

(xviii) R20 short lamps;

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

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

(xxi) Sign service lamps;

(xxii) Silver bowl lamps;

(xxiii) Showcase lamps;

(xxiv) Specialty MR lamps;

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

(xxvi) Traffic signal lamps.

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

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

(f) "Incandescent reflector lamp" or "reflector lamp" means any lamp in which light is produced by a filament heated to incandescence by an

electric current, which: contains an inner reflective coating on the outer bulb to direct the light; is not colored; is not designed for rough or vibration service applications; is not an R20 short lamp; has an R, PAR, ER, BR, BPAR, or similar bulb shapes with an E26 medium screw base; has a rated voltage or voltage range that lies at least partially in the range of one hundred fifteen and one hundred thirty volts; has a diameter that exceeds 2.25 inches; and has a rated wattage that is forty watts or higher.

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

46. The following definitions refer to portable air conditioners:

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

(b) "Single-duct portable air conditioner" means a portable air conditioner that draws all of the condenser inlet air from the conditioned space without the means of a duct and discharges the condenser outlet air outside the conditioned space through a single-duct attached to an adjustable window bracket.

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

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

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

48. The following definitions refer to faucets and showerheads:

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

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

(c) "Metering faucet" means a faucet that, when turned on, will gradually shut itself off over a period of several seconds.

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

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

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

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

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

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

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

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

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

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

50. The following definitions refer to spray sprinkler bodies:

(a) "Pressure regulator" means a device that maintains constant operating pressure immediately downstream from the device, given higher pressure upstream.

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

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

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

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

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

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

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

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

53. "Gas fireplace" means a decorative gas fireplace or a heating gas fireplace.

(a) "Decorative gas fireplace" means a vented fireplace, including appliances that are freestanding, recessed, zero clearance, or a gas fireplace insert, that is fueled by natural gas or propane, is marked for decorative use only, and is not equipped with a thermostat or intended for use as a heater.

(b) "Heating gas fireplace" means a vented fireplace, including appliances that are freestanding, recessed, zero clearance, or a gas fireplace insert, that is fueled by natural gas or propane and is not a decorative fireplace.

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

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

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

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

58. "Electric vehicle supply equipment (EVSE)" means equipment that supplies electricity in an appropriate form to storage devices, including batteries and super capacitors, that are part of electric vehicles. Such term shall include equipment that performs this function and equipment that is embedded in electric vehicles.

59. "Electric vehicle" means an on-road vehicle that draws electricity for propulsion from a traction battery with a least five kilowatt-hours (kWh) of capacity, and uses an external source of energy to recharge the battery. Such term shall include a plug-in hybrid electric vehicle (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 unless preempting federal appliance standards are in effect: (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) commercial hot food holding cabinets; (xx) gas fireplaces; (yy) 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 (zz) products that had been subject to any federal efficiency standard referred to in section 16-105 of this article that have been continued in this state pursuant to such section.

2. No person 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 (xx) 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) it 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**; or**

(e) urinals and water closets designed and marketed exclusively for use at prisons or mental health care facilities.

4. The adoption of efficiency standards for any water-related appliances, equipment or fixtures shall be subject to approval by the commissioner of environmental conservation. Any such standard which would conflict with the provisions of section 15-0314 of the environmental conservation law shall not take effect until and unless waived by the commissioner of environmental conservation.

5. In adopting the flexible demand appliance standards, the New York state energy research and development authority shall consider the National Institute of Standards and Technology reliability and cybersecurity protocols, relevant New York cybersecurity laws, regulations, and advisories, or other cybersecurity protocols that are equally or more protective, and shall adopt, at a minimum, the North American Electric Reliability Corporation's Critical Infrastructure Protection standards.

§ 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 in effect on January first, two thousand eighteen shall be applicable to products which are subject to such federal efficiency standards and which are sold, offered for sale, or installed in New York state. So long as such federal efficiency standards remain in effect as federal efficiency standards, they shall be enforced as provided by federal law. The president shall adopt by regulation all such federal efficiency standards and provided that, if any such federal efficiency standard is

withdrawn, repealed, voided, or otherwise ceases to remain in effect as a federal efficiency standard:

(a) such efficiency standard shall be continued in this state;

(b) until and unless amended or repealed pursuant to this article, the president shall be authorized to adopt regulations establishing procedures for testing the energy reduction, water conservation, greenhouse gas reduction, and/or increased demand flexibility associated with such product;

(c) the president shall be authorized to adopt regulations establishing procedures for manufacturers of such product to certify that such product meets such efficiency standard, if the president determines that such manufacturer's certifications should be required;

(d) the president shall be authorized to adopt regulations amending such efficiency standard from time to time, including regulations that repeal such efficiency standard, or increase the stringency of such efficiency standard; and

(e) if federal preemption has been waived for any particular federal efficiency standard or standards, the president may adopt such standard or may adopt a different standard.

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

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

§ 16-106. [~~Administration of article~~] Powers and duties of the president and the secretary. 1. The [~~secretary, in consultation with the~~] president[~~,~~] in consultation with the secretary shall have and be entitled to exercise the following powers and duties:

(a) To [~~establish energy~~] adopt regulations establishing efficiency [~~performance~~] standards for the products listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article, including but not limited to, establishing [~~energy~~] efficiency [~~performance~~] standards for power supplies in the active mode and no-load mode or other such products while in the active mode and in the standby-passive-mode[~~.~~

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

~~(c) To administer and enforce the provisions of this article and any rule or regulation promulgated thereunder or order issued pursuant thereto;~~

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

(b) To adopt regulations establishing efficiency standards for products not specifically listed in paragraphs (a) through (xx) of

subdivision one of section 16-104 of this article, provided that the president determines that establishing such efficiency standards would serve to promote energy reduction, water conservation, greenhouse gas reduction, and/or increased demand flexibility associated with the regulated product categories in this state. To the maximum extent feasible the president shall coordinate any such adoption with similar efforts by other states. Any regulation adopted pursuant to this paragraph may include provisions establishing procedures for testing the efficiency of the covered products and provisions establishing procedures for manufacturers of such product to certify that such products meet the efficiency standards, if the president determines that such manufacturer's certifications should be required;

(c) To review efficiency standards as adopted from time to time by other states for products not listed in paragraphs (a) through (xx) of subdivision one of section 16-104 of this article, and to adopt regulations establishing efficiency standards similar to those adopted by any other state for such products, provided that the president determines that establishing such efficiency standards would serve to promote energy reduction, water conservation, greenhouse gas reduction, and/or increased demand flexibility associated with the regulated product categories in this state. Any regulation adopted pursuant to this paragraph may include provisions establishing procedures for testing the efficiency of the covered products and provisions establishing procedures for manufacturers of such product to certify that such products meet the efficiency standards, if the president determines that such manufacturer's certifications should be required;

(d) To adopt regulations to achieve the purposes of this article. Such regulations shall ensure that compliance therewith will not result in a net increase in co-pollutant emissions or otherwise disproportionately burden disadvantaged communities as identified by the climate justice working group established under section 75-0111 of the environmental conservation law. In order to increase public participation and improve the efficacy of any efficiency standards adopted pursuant to subdivision (b) or (c) of this section, the president shall, before publication of a notice of proposed rule making, conduct public meetings to provide meaningful opportunities for public comment from all segments of the population that would be impacted by the standards or regulations, including persons living in disadvantaged communities as identified by the climate justice working group established under section 75-0111 of the environmental conservation law;

(e) To conduct investigations, test, and obtain data with respect to research experiments and demonstrations, and to collect and disseminate information regarding the purposes to be achieved pursuant to this article;

(f) To accept grants or funds for purposes of administration and enforcement of this article. Notwithstanding any other provision of law to the contrary, the president is hereby authorized to accept grants or funds, including funds directed through negotiated settlements or consent orders pursuant to this article. All funds accepted by the president for the purposes of this article shall be deposited in the efficiency standards administration account established by the New York state energy research and development authority and maintained in a segregated account in the custody of the commissioner of taxation and finance. All expenditures from the efficiency standards administration account pursuant to this article shall be made by the New York state energy research and development authority to carry out studies, investi-

gations, research, expenses to provide for expert witness, consultant, enforcement, administrative and legal fees, including disbursements to the department of state to support enforcement activities authorized by the secretary pursuant to this section, and other related expenses pursuant to this article. All deposits made to the efficiency standards administration account made by the New York state energy research and development authority, all funds maintained in the efficiency standards administration account, and disbursements therefrom, made pursuant to this article shall be subject to an annual independent audit as part of such authority's audited financial statements, and such authority shall prepare an annual report summarizing efficiency standards administration account balance and activities for each fiscal year ending March thirty-first. In addition to submitting such report as provided in section one thousand eight hundred sixty-seven of the public authorities law, the authority shall provide such report to the secretary no later than ninety days after commencement of such fiscal year;

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

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

(h) To conduct investigations, in consultation with the secretary, to determine if products covered by standards adopted pursuant to this article comply with such standards; to conduct tests to determine if products covered by standards adopted pursuant to this article comply with such standards; to prepare written reports of the results of such investigations and tests; to provide such reports to the secretary; in consultation with the secretary, to negotiate settlement agreements with any person that violates the provisions of subdivision two of section 16-104 of this article, or fails to perform any duty imposed by this article, or violates or fails to comply with any rule, regulation, determination, or order adopted, made, or issued by the president or the secretary pursuant to this article, pursuant to which such person shall agree to cease such violation and to pay such civil penalty as may be specified in such agreement, the terms of which will be incorporated into a consent order signed by such person, the president, and the secretary; to consult with the secretary in connection with determinations made by the secretary pursuant to paragraph (b) of subdivision five of this section; and to cooperate with the secretary in enforcement proceedings conducted by the secretary pursuant to this article.

1-a. Notwithstanding any other provision of this article, no efficiency standard adopted pursuant to paragraph (a) of subdivision one of this section shall become effective less than one hundred eighty days after publication of the notice of adoption of such standard in the state register; no efficiency standard adopted pursuant to paragraph (b) or (c) of subdivision one of this section shall become effective less than one year after publication of the notice of adoption of such efficiency standard in the state register; no amendment of any efficiency standard adopted pursuant to this article or of any efficiency standard continued in this state pursuant to section 16-105 of this article shall become effective less than one hundred eighty days after publication of the notice of adoption of such amendment in the state register; and no new

or amended efficiency standard adopted pursuant to this article shall go into effect if federal government efficiency standards regarding such product preempt state standards unless preemption has been waived pursuant to federal law.

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

(i) [~~energy~~] efficiency [~~performance~~] standards for new products of the types [~~set forth~~] referred to in paragraphs (a) through [~~(n)~~] (f), paragraphs (h) through (y), paragraphs (aa) through (jj) and paragraphs (mm) through (xx) of subdivision one of section 16-104 of this article[~~, with the exception of such paragraph (g) (incandescent reflector lamps)~~];

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

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

(iv) such further matters as are necessary to insure the proper implementation and enforcement of the provisions of this article.

(b) With respect to [~~incandescent reflector lamps, included~~] the types of products referred to in [~~paragraph~~] paragraph (g), (z) or (kk) of subdivision one of section 16-104 of this article (incandescent reflector lamps, general service lamps, and light emitting diode lamps), the [~~secretary, in consultation with the~~] president[~~,~~] shall conduct a study by December thirty-first, two thousand twenty-three to determine whether an [~~energy~~] efficiency [~~performance~~] standard for such [~~product~~] products should be established, taking into account factors including the potential impact on electricity usage, product availability and consumer and environmental benefits. If [~~it is determined~~] the president determines based on this study that such a standard would reduce energy 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.

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

4. By March fifteenth of two thousand twenty-one, the secretary and the president shall produce a report to the governor, the speaker of the assembly, the temporary president of the senate, the chair of the assembly committee on energy and the chair of the senate committee on energy and telecommunications on the status of regulations establishing [~~energy~~] efficiency [~~performance~~] standards pursuant to this article, which

shall indicate for each product enumerated in subdivision one of section 16-104 of this article the status of the implementation of [~~performance~~] efficiency standards. The report shall also set forth the estimated potential annual reductions in energy use and potential utility bill savings resulting from adopted [~~performance~~] efficiency standards for the years two thousand twenty-five and two thousand thirty-five and the potential cumulative reductions in energy use through the year two thousand thirty-five. Such report shall be updated in the same manner by March fifteenth, two thousand twenty-six and two thousand thirty and [~~a copy~~] copies of such updates shall be posted by March fifteenth, two thousand twenty-seven and March fifteenth, two thousand thirty on the websites of the authority and the department of state.

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

(i) To request the president to conduct investigations to determine if products covered by efficiency standards adopted pursuant to this article comply with such efficiency standards; to consult with the president in connection with the president's performance of such investigations; to request the president to conduct tests to determine if products covered by efficiency standards adopted pursuant to this article comply with such efficiency standards; and to request the president's cooperation in connection with enforcement proceedings conducted by the secretary pursuant to this article;

(ii) To order the immediate cessation of any distribution, sale or offer for sale, lease or offer to lease, rent or offer to rent, import, or offer to import, or installation or offer of installation of any product listed in paragraphs (a) through (xx) of subdivision one of 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-www 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 and require the attendance of witnesses and the production of books, papers, contracts and any other documents pertaining to any investigation or hearing conducted pursuant to this article. The secretary may issue such subpoenas on his or her own initiative or at the request of the president.

(b) If any person refuses to comply with a subpoena issued under this section, the department may petition a court of competent jurisdiction to enforce the subpoena and such sanctions as the court may direct.

(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 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 (xx) 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 request of the president or his or her designee, to supply the secretary and/or the president with such information and documentation as may be required concerning such person's business, business practices, or business methods, or proposed business practices or methods. The obligations contained in this subdivision shall not apply to any person that sells or offers for sale, leases or offers for lease, rents or offers for rent, or installs or offers to install only products described in subdivision three of section 16-104 of this article. The power to make information and document requests is in addition to and not in limitation of the power to issue subpoenas.

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

4. A final action of the secretary in imposing a civil penalty, or other order, may be subject to review by a proceeding instituted under article seventy-eight of the civil practice law and rules.

5. In addition to all other powers provided by this article, the secretary and the president, are authorized, individually or jointly, to refer the results of any investigation conducted by the president pursuant to this article to the attorney general and to request the attorney general to institute, in the name of the secretary and/or the president, an action or proceeding to enforce the provisions of this article. The attorney general shall, at the request of the secretary or president, or may, on his or her own initiative, institute proceedings to enforce the provisions of this article including the imposition of civil penalties or injunctive relief. Nothing in this subdivision shall limit or impair the power and authority of the secretary to conduct enforcement proceedings, to issue orders pursuant to paragraph (b) of subdivision five of section 16-106 of this article, and to impose penalties pursuant to section 16-108 of this article.

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

§ 16-108. Violations, civil liability. 1. Any person who issues:

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

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

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

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

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

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

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

§ 16-109. Conflicts with other laws. Nothing in this article or in any regulation adopted pursuant to this article shall limit, impair, or 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. Paragraph a of subdivision 1 of section 374 of the executive law, as amended by section 96 of subpart B of part C and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

a. Two members, to be appointed by the governor, from among the commissioners of the departments of economic development, environmental conservation, corrections and community supervision, education, health, labor, mental health and social services, office of general services, division of housing and community renewal, the president of the New York state energy research and development authority, and the superintendent of financial services.

§ 22. Subdivision 3 of section 374 of the executive law, as added by chapter 707 of the laws of 1981, is amended to read as follows:

3. The council shall meet at least quarterly at the call of the chairman. Additional meetings may be called upon at least five [~~days~~] days' notice by the chairman or by petition of five members of the council.

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

2. Such account shall consist of all penalties received by the department of state pursuant to section three hundred ninety-nine-z of the general business law, section 16-106 of the energy law and any additional monies appropriated, credited or transferred to such account by the Legislature. Any interest earned by the investment of monies in such account shall be added to such account, become part of such account, and be used for the purposes of such account.

§ 24. A building code or other requirement applicable to commercial or residential buildings or construction may not prohibit the use of a substance allowed pursuant to the United States Environmental Protection Agency's significant new alternatives policy to implement 42 U.S.C. 767lk, provided that such substance and the refrigeration or air condi-

tioning system or other equipment or products utilizing such substance are designed, installed, and used in accordance with nationally recognized published standards that protect building occupant safety and reduce fire risks. Substances under review but not yet listed by the United States Environmental Protection Agency pursuant to 42 U.S.C. 767lk may be allowed for use provided that such substance has a lower global warming potential than alternative substances and such substance and the refrigeration or air conditioning system or other equipment or products utilizing such substance are designed, installed, and used in accordance with nationally recognized published standards that protect building occupant safety and reduce fire risks and, if such substance contains any perfluoroalkyl and polyfluoroalkyl substances, has not been determined by the department of environmental conservation to require additional study to determine the extent of any environmental and/or health impacts that may result from such use.

§ 25. This act shall take effect immediately; provided, however, that sections six through twenty-four of this act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the amendments to subdivision 4 of section 16-106 of the energy law made by section sixteen of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith. Effective immediately, the addition, amendment, and/or repeal of any rule or regulation necessary for the timely implementation of this act on or before its effective date are hereby authorized to be made and completed on or before such effective date.