



State of New York

DEC 28 2012

Department of State  
Secretary of State

# State of New York

## Executive Chamber

No. 88

### EXECUTIVE ORDER

#### **DIRECTING STATE AGENCIES AND AUTHORITIES TO IMPROVE THE ENERGY EFFICIENCY OF STATE BUILDINGS**

**WHEREAS**, New York is dedicated to the mutually compatible goals of environmental protection, energy security, and economic growth; and

**WHEREAS**, increasing energy efficiency has been identified as among the most cost-effective methods for reducing greenhouse gas and other environmental pollutant emissions and increasing energy security; and

**WHEREAS**, increasing energy efficiency can lead to increased jobs and a reduction in building operating expenses; and

**WHEREAS**, New York is committed to implementing new policies to promote the efficient use of energy and natural resources in the interest of the long-term protection and enhancement of the State's environment, economy and public health;

**NOW, THEREFORE**, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby order as follows:

#### **I. DEFINITIONS**

For the purposes of this Executive Order, the following terms are defined as follows:

A. "Affected State Entities" means (i) all agencies and departments over which the Governor has Executive Authority, and (ii) all public-benefit corporations, public authorities and commissions, for which the Governor appoints the Chair, the Chief Executive, or the majority of Board Members, except for the Port Authority of New York and New Jersey.

B. "Average Source Energy Use Intensity" or "average EUI" means the average source energy use per square foot for all state-owned and managed buildings.

C. "Source energy" means all the energy used in delivering energy to a site, including power generation, transmission and distribution losses.

#### **II. ENERGY REDUCTION TARGET**

By April 1, 2020, all Affected State Entities shall collectively reduce the average EUI in State-owned and managed buildings by at least 20% from a baseline of the average EUI of such buildings for State fiscal year 2010/2011 ("Target").

### III. OBLIGATIONS TO MEET TARGET

A. Central Management and Implementation Team: The New York Power Authority ("NYPA") shall establish a central management and implementation team ("CMIT") to administer this Executive Order.

(1) The CMIT is hereby directed and authorized to:

- (a) Take all appropriate measures to ensure that the Target is met;
- (b) Direct Affected State Entities to comply with the requirements of this Executive Order;
- (c) Create guidelines ("Guidelines") within nine months of the issuance of this Executive Order to assist Affected State Entities in complying with this Executive Order, and thereafter update such Guidelines as necessary;
- (d) Provide strategic, technical, and other assistance to each Affected State Entity to support implementation of this Executive Order;
- (e) Develop annual milestones for achieving the Target over the next seven years within 12 months of the issuance of this Executive Order;
- (f) Develop and implement reporting requirements to document each Affected State Entity's progress toward meeting the Target;
- (g) Develop a comprehensive operations and maintenance plan for the State's building portfolio to help achieve no cost and low cost efficiency improvements and ensure that efficiency savings are sustained; and
- (h) Submit an annual report to the Governor by January 15<sup>th</sup> of each year, beginning in 2014, detailing the overall progress Affected State Entities are making toward meeting the Target. Requirements for the annual report shall be contained in the Guidelines.

(2) The Office of General Services and the New York State Energy Research and Development Authority are hereby directed to provide technical assistance to the CMIT and each of the Affected State Entities with respect to complying with and implementing the requirements of this Executive Order and those established by the CMIT pursuant to this Executive Order.

#### B. Affected State Entities

In addition to the requirements established above, each of the Affected State Entities shall comply with the following:

(1) Benchmarking. For each State fiscal year, each Affected State Entity shall measure the energy use in State-owned and managed buildings having an area greater than 20,000 square feet. Buildings on master-metered campuses shall be benchmarked at the campus level until they are sub-metered at the building level, after which point those buildings shall be benchmarked at the building level.

(2) Audits. Buildings that receive low benchmark scores, as defined by the Guidelines, shall undergo an American Society of Heating, Refrigeration, and Air-Conditioning Engineers ("ASHRAE") Level II energy audit, or any other comparable audit that the CMIT approves. Campuses that have above-average EUIs or poor benchmark scores, as defined by the Guidelines, or are otherwise prioritized by the Affected State Entities and the CMIT, shall undergo a campus-wide ASHRAE Level II energy audit or any other comparable audit approved by the CMIT. In addition to energy efficiency measures, the audits shall identify opportunities for cost-effective on-site renewable generation and high-efficiency combined heat and power.

(3) Required Capital Projects and Energy Optimization Measures. Affected State Entities shall implement a cost-effective portfolio of measures identified and recommended in the audit and shall complete or make substantial progress toward completion of such measures within two years of completion of the audit. A portfolio may include, but shall not be limited to, no- and low-cost operational improvements, retrocommissioning, capital energy efficiency retrofits, on-site renewable and high-efficiency combined heat and power, and other measures identified by the CMIT.

(4) Submetering. Affected State Entities shall work with the CMIT to prioritize sub-metering for all relevant energy sources of buildings larger than 100,000 square feet on a master-metered campus to identify ways to finance such sub-metering. All buildings having an area larger than 100,000 square feet on

master-metered campuses shall be sub-metered for all fuels and other energy sources by December 31, 2016, to enable individual building benchmarking, unless the Affected State Entity that owns or operates the building can demonstrate to the CMIT that it is not cost-effective or feasible to do so.

(5) Incorporating Energy Efficiency Analysis in the Capital Planning Process. As part of the capital planning process, all Affected State Entities shall include an energy efficiency analysis in the design phase of all capital project plans. The capital project should include energy efficient measures or technologies determined to be the most cost-effective, as defined by the Guidelines.

(6) Credits. Affected State Entities may receive credit towards the Target for increasing energy efficiency in leased space. In addition, Affected State Entities may receive credit towards meeting the Target for installing on-site renewable generation if the host site for such renewable generation has deployed all cost-effective energy efficiency improvements consistent with the goals of this Executive Order. Affected State Entities shall consult with and apply to the CMIT concerning such credits.

(7) Reporting. No later than October 1<sup>st</sup> of each calendar year, each Affected State Entity shall submit all information requested by the CMIT on all State-owned and managed buildings having an area over 20,000 square feet, as well as any other information related to assessing compliance with this Executive Order.

#### C. Exemptions

Electric usage attributable to vehicle charging shall not be included in the Target and requirements of this Executive Order. The CMIT is authorized to provide other exemptions for good cause shown pursuant to criteria and procedures established in the Guidelines, including exceptions associated with buildings that have obtained and maintained ENERGY STAR or similar certification, or have benchmark scores placing such buildings in the top quartile of comparable buildings for the particular year at issue. Affected State Entities shall submit requests for annual exemptions to the CMIT. Any such request for exemptions and resulting determination by the CMIT shall be included in the annual report.

#### IV. REPEAL OF PRIOR EXECUTIVE ORDERS

Executive Order No. 111, promulgated on June 10, 2001, is hereby revoked and superseded by this Executive Order as of the date hereof.



BY THE GOVERNOR

G I V E N under my hand and the Privy Seal of the  
State in the City of Albany this twenty-  
eighth day of December in the year two  
thousand twelve.

*Laura Scheraga*  
Secretary to the Governor