

EXECUTIVE ORDERS

Executive Order No. 87: Continuing the Suspension or Modification of Certain Provisions of Law and Regulations.

WHEREAS, on October 26, 2012, I issued Executive Order Number 47, declaring a disaster emergency in all 62 counties in the State of New York; and

WHEREAS, Section 29-a of the Executive Law authorizes the suspension, alteration or modification of statutes, local laws, ordinances, orders, rules or regulations, or parts thereof, if compliance with such provisions would prevent, hinder or delay action necessary to cope with a disaster emergency; and

WHEREAS, on October 31, 2012, I issued Executive Order Number 49 to suspend provisions of law related to vehicle registration; and

WHEREAS, on October 31, 2012, I issued Executive Order Number 50 to, among other things, suspend provisions of the law to facilitate transportation infrastructure recovery; and

WHEREAS, on November 2, 2012, I issued Executive Order Number 56 to suspend and modify regulatory provisions of the State Office for the Aging; and

WHEREAS, on November 2, 2012, I issued Executive Order Number 57 to suspend and modify provisions of the Education Law regarding dialysis services; and

WHEREAS, on November 3, 2012, I issued Executive Order Number 58 to suspend provisions of the Public Health Law and Title 10 of the New York Codes, Rules and Regulations (“NYCRR”) regarding the certification of donated water; and

WHEREAS, on November 3, 2012, I issued Executive Order Number 59 to, among other things, suspend statutory and regulatory provisions relating to limitations on motor and home heating fuel; and

WHEREAS, on November 3, 2012, I issued Executive Order Number 60 to suspend and modify statutory provisions relating to the powers of certain security guards; and

WHEREAS, on November 5, 2012, I issued Executive Order Number 64 to suspend and modify statutory and regulatory provisions regarding home health care; and

WHEREAS, on November 7, 2012, I issued Executive Order Number 65 to suspend and modify statutory provisions relating to the transportation of school children in the City of New York; and

WHEREAS, on November 8, 2012, I issued Executive Order Number 66 to suspend and modify statutory and regulatory provisions relating to emergency shelter; and

WHEREAS, on November 8, 2012, I issued Executive Order Number 67 to suspend and modify regulations relating to the Supplemental Nutrition Assistance Program (“SNAP”); and

WHEREAS, on November 9, 2012, I issued Executive Order Number 68 to suspend and modify statutes and regulations to expand access to tetanus immunizations; and

WHEREAS, on November 9, 2012, I issued Executive Order Number 69 to suspend and modify statutory and regulatory provisions relating to payment of fees for duplicate state-issued documents and to extend expiration dates of certain state-issued documents; and

WHEREAS, on November 11, 2012, I issued Executive Order Number 71 to suspend and modify statutory and regulatory provisions relating to services provided to individuals with developmental disabilities, mental illness and alcohol and substance abuse disorders; and

WHEREAS, on November 11, 2012, I issued Executive Order Number 72 to suspend and modify provisions of the Health Law and related provisions of the NYCRR; and

WHEREAS, on November 20, 2012, I issued Executive Order Number 78 to suspend statutory provisions related to child and family welfare, child day care, juvenile justice, runaway and homeless youth, adult protective services, and residential and non-residential care for victims of domestic violence; and

WHEREAS, on November 20, 2012, I issued Executive Order Number 79 to suspend statutory provisions relating to state contracts and the repair of state facilities; and

WHEREAS, on November 20, 2012, I issued Executive Order Number 81 to, among other things, continue the suspension and modification of provisions of law and regulations ordered by Executive Order Numbers 56, 60, 64, 66, 67, 68, 71, 72, 78, and 79 through December 25, 2012, by Executive Order Numbers 49 and 50 through December 30, 2012, by Executive Order Numbers 57 and 58 through January 2, 2013, by Executive Order Number 59 through January 3, 2013, and by Executive Order Number 65 through January 7, 2013; and

WHEREAS, on November 29, 2012, I issued Executive Order Number 82 to suspend and modify certain provisions of the Insurance Law related to licensing of public adjusters; and

WHEREAS, on December 4, 2012, I issued Executive Order Number 85 to continue the suspension of certain provisions of law and regulations ordered by Executive Order Number 69 through January 8, 2013, and to suspend provisions of law relating to fees for duplicate teaching certificates; and

WHEREAS, Section 29-a of the Executive Law provides that no suspension of laws shall be made for a period in excess of thirty days, provided, however, that upon reconsideration of all of the relevant facts and circumstances, the suspension may be extended for additional thirty-day periods; and

WHEREAS, school district taxes for the 2012-2013 school year were due on or about November 10, 2012, in the school districts located within Nassau County; and

WHEREAS, Section 925-a of the Real Property Tax Law authorizes the Governor to extend the period for paying such taxes without interest or penalty upon request of the chief executive officer of an affected county, city, town, village or school district during a State disaster emergency by up to twenty-one days from the final date such taxes are currently due; and

WHEREAS, a request for such an extension has been received by the Governor’s Office on behalf of the Franklin Square Union Free School District located in Nassau County; and

WHEREAS, given the difficulties confronting the people of the Franklin Square Union Free School District, such an extension is eminently warranted;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law, and after having reconsidered all of the relevant facts and circumstances, do hereby order the following:

The suspension and modification of statutory and regulatory provisions extended by Executive Order Number 81 shall continue as follows:

1. The suspension and modification of statutory and regulatory provisions ordered by Executive Order Numbers 56, 60, 64, 66, 67, 68, 72 and 79, and which will expire on December 25, 2012, shall continue through January 24, 2013;

2. The suspension of provisions of law ordered by Executive Order Number 71, and which will expire on December 25, 2012, shall continue through January 24, 2013, except that the provision suspending Section 31.27 of the Mental Hygiene Law and any associated regulations, and the provision suspending Sections 633.8, 633.14 and 633.17 of Title 14 of the NYCRR, shall not be continued;

3. The suspension of statutory and regulatory provisions as ordered by Executive Order Number 78, and which will expire on December 25, 2012, shall be continued through January 24, 2013, only for the following:

a. Parts 441-443, 446-449 and 451 of Title 18 of the NYCRR, except with respect to timeframes for completing specified services or activities other than the timeframes related to completing casework contacts and certifying, approving or renewing certifications or approvals of foster family boarding homes;

b. Part 443 of Title 18 of the NYCRR;

c. Subdivision (2) of Section 390, subdivision (3) of Section 390-a, and subdivision (2) of Section 461-b of the Social Services Law, except that the suspension shall no longer apply to municipalities, runaway and homeless youth programs, and residential programs for victims of domestic violence;

d. Section 459-b of the Social Services Law and Sections 408.6, 452.9, 454.5 and 455.4 of Title 18 of the NYCRR;

e. Sections 427.1, 427.7 and 427.9 of Title 18 of the NYCRR;

f. Paragraph (a) of subdivision (2) of Section 153-k and Section 398 of the Social Services Law and associated regulations, except that the suspension shall no longer apply to congregate foster care facilities;

g. Paragraph (p) of subdivision (6) of Section 398 and subdivisions (1), (5) and (7) of Section 409-a of the Social Services Law and paragraph (16) of subdivision (b) of Section 423.2, subdivision (b) of Section 423.4, subdivisions (c) through (j) of Section 430.9 and Section 435.5 of Title 18 of the NYCRR; and

h. Part 404 of Title 18 of the NYCRR, except that the suspension shall no longer apply to the timeframes for making eligibility and service authorization determinations and redeterminations for social services;

4. The suspension of statutory provisions ordered by Executive Order Numbers 49 and 50, and which will expire on December 30, 2012, shall continue through January 29, 2013;

5. The suspension and modification of statutory and regulatory provisions ordered by Executive Order Numbers 57 and 58, and which will expire on January 2, 2013, shall continue through February 1, 2013;

6. The suspension of Section 19-0325 of the Environmental Conservation Law and regulations promulgated thereunder relating to limits on the sulfur content of heating oil sold in New York ordered by Executive Order Number 59, and which will expire on January 3, 2013, shall continue through January 18, 2013;

7. The suspension of provisions of law ordered by Executive Order Number 65, and which will expire on January 8, 2013, shall continue through February 7, 2013;

The suspension and modification of provisions of law ordered by Executive Order Number 82, which will expire on December 29, 2012, shall continue through January 28, 2013.

The suspension and modification of provisions of law extended or ordered by Executive Order Number 85 shall continue as follows:

1. The suspension of provisions of law ordered by Executive Order Number 69 and which will expire on January 8, 2013, shall be continued through February 7, 2013, except the suspension of laws relating to the Department of Taxation and Finance shall not be continued;

2. The suspension of subdivision 2 of Section 3006 of the Education Law which will expire on January 3, 2013, shall be continued through February 2, 2012; and

FURTHER, by virtue of the authority vested in me by Section 925-a of the Real Property Tax Law, I do hereby retroactively extend the period for paying without interest or penalty the school district taxes that were due on or about November 10, 2012, in the Franklin Square Union Free School District in Nassau County, to December 1, 2012.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany, this twenty-first day of December in the year two thousand twelve.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Lawrence Schwartz

Secretary to the Governor

Executive Order No. 88: 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 15th 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 1st 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.

(L.S.)

GIVEN 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.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Lawrence Schwartz

Secretary to the Governor

Executive Order No. 89: Declaring an Emergency in Order to Appoint New Jersey and Connecticut Police Officers as Railroad Police Officers to Provide Enhanced Security on Commuter Trains, Buses and Ferries.

WHEREAS, thousands of commuters travel between the states of New York, New Jersey and Connecticut via Mass Transit Systems that include interstate rail, bus and ferry systems accessible to the public, and an enhanced law enforcement presence on these conveyances is prudent to protect public safety; and

WHEREAS, terrorists have used explosive and other devices to attack public and private transportation systems, as demonstrated by the bombings in London in 2005 and in Madrid in 2004, and while there is no known confirmed threat to the New York metropolitan area, mass transit systems between New York, New Jersey and Connecticut are particularly high-risk targets; and

WHEREAS, the completed and attempted attacks in New York, including the arrest of Raess Alam Qazi in November 2012 for planning to carry out attacks at landmarks in New York; the plot against the PATH railway system by Assem Hammoud in 2006; the plot against New York City subways by Najibullah Zazi in 2009; the foiled plots of Faisal Shahzad and his co-conspirators in May 2010; the October 2012 foiled attempt by Quazi Mohammad Rezwanaul Ahsan Nafis to detonate a 1,000 pound car bomb outside the Federal Reserve Bank of New York in Lower Manhattan; and the May 2011 arrest of Ahmed Ferhani and Mohamed Mamdouh for plotting to bomb New York City synagogues, during which Ferhani and Mamdouh discussed additional targets in New York City, including churches and the Empire State Building, demonstrate that terrorists continue to pose a persistent threat to the State of New York; and

WHEREAS, the holiday season, including New Year's Eve and Day is a time of heightened alert and risk of terrorist attack as terror-

ists typically consider significant, symbolic dates when planning attacks, with the objective of inflicting mass casualties and maximizing the economic and psychological damage to the United States, as evidenced by the 2009 Christmas Day plot to blow up a Detroit-bound airliner; the November 2010 plot to bomb a holiday tree lighting ceremony in Portland, Oregon, by a homegrown violent extremist; the December 2010 attack on a market filled with Christmas shoppers in Stockholm, Sweden, by a suicide bomber; and the December 2010 arrests in the United Kingdom of 12 individuals plotting to conduct attacks during the holiday season; and

WHEREAS, New York's sister states, the States of Connecticut and New Jersey, have agreed to deploy police officers from their states to provide increased security on commuter trains, buses and ferries going to and from New York State; and

WHEREAS, sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey are restricted in their law enforcement authority once such a conveyance crosses the jurisdictional boundary between Connecticut and New York or between New Jersey and New York respectively; and

WHEREAS, New York, New Jersey and Connecticut are all members of the Emergency Management Assistance Compact ("EMAC"), which allows for mutual assistance and resource sharing among sister states; and

WHEREAS, EMAC provides that emergency forces from the sending state, while operating within the jurisdictional boundaries of the receiving state pursuant to the compact, shall have the same powers (except that of arrest, unless specifically authorized by the receiving state), duties, rights and privileges as are afforded forces of the receiving state in which they are performing emergency services; and

WHEREAS, to utilize the police resources provided by our sister states, we must confer police officer powers, including arrest powers, on such officers while they are within the geographic jurisdiction of New York State; and

WHEREAS, Section 88 of the Railroad Law authorizes the Superintendent of the State Police to appoint any person as a railroad police officer only under prescribed circumstances and subject to certain limitations; and

WHEREAS, if such circumstances and limitations were applied to sworn police officers from our sister states who are serving as railroad police officers from December 31, 2012, through January 1, 2013, such application would prevent, hinder and delay action necessary to respond to a terrorist attack or a threat thereof; and

WHEREAS, Executive Law § 29-a authorizes the suspension, alteration and modification of statutes, local laws, ordinances, orders, rules or regulations, or parts thereof, if compliance with such provisions would prevent, hinder or delay action necessary to cope with a disaster emergency and the inclusion of any other terms and conditions;

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 find that a disaster may be imminent, and to which the affected local governments are unable to respond adequately without assistance. Therefore, pursuant to the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, I hereby declare a State Disaster Emergency effective December 31, 2012; and

FURTHER, pursuant to the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend and modify specific provisions of any statute, local law, ordinance, order, rule or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such provisions would prevent, hinder or delay action necessary to cope with the disaster, I hereby temporarily suspend and modify, for the period from 12:01 AM on December 31, 2012 until 12:01 AM on January 2, 2013, the following laws for purposes of appointment of sworn members of the Connecticut State Police, sworn police officers of any county or municipality

in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey as Railroad Police;

Subdivision 1 of Section 88 of the Railroad Law insofar as it requires the Superintendent of the State Police to appoint railroad police officers only upon the application of a corporation, express company, or steamboat company, and is modified to the extent necessary to allow the Governor to appoint sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey as railroad police officers, and to include all rail and bus facilities and property owned, operated or in the custody or control of the Port Authority of New York and New Jersey or its subsidiaries, the Metropolitan Transit Authority or its subsidiaries, New Jersey Transit or its subsidiaries, and ferries certified to carry passengers to and from New York State;

Subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16 and 17 of Section 88 of the Railroad Law as necessary to effectuate this Order; and

FURTHER, this Order shall take effect at 12:01 AM on December 31, 2012 and shall remain in effect until 12:01 AM on January 2, 2013.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany, this thirty-first day of December in the year two thousand twelve.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Lawrence Schwartz

Secretary to the Governor