

INTER-AGENCY FIRE SAFETY WORKING GROUP RELEASES PROPOSED REVISIONS TO NYS FIRE CODE RELATED TO BATTERY ENERGY STORAGE SYSTEMS

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In 2019, New York State became the first state to adopt language from Section 1207 of the 2021 International Fire Code providing detailed regulations for projects utilizing lithium-ion batteries in Section 1206 of the New York State Fire Code (“FCNYS”).

However, in the wake of fires at battery energy storage system (“BESS”) facilities across New York State in the summer of 2023, Governor Kathy Hochul announced the creation of the Inter-Agency Fire Safety Working Group (“Working Group”) to ensure the safety and security of energy storage systems throughout the State. The Working Group, along with various other state entities were directed to: (1) independently examine current energy storage facility fires and safety standards, (2) identify gaps in current codes and practices, and (3) develop recommendations to revise and bolster the New York State Uniform Fire Prevention and Building Code (“Uniform Code”) with respect to BESS. The Uniform Code, which includes the FCNYS, prescribes the minimum standards for construction in New York, including construction of BESS projects.

On February 6, 2024, the Working Group released 15 proposed recommendations regarding revisions and additions to the FCNYS related to BESS, as well as several other BESS considerations. Notably, these recommendations, if adopted, would apply only to lithium-ion BESS exceeding the 600-kilowatt-hour threshold noted in FCNYS Table 1206.12.

The Working Group’s proposed revisions and recommendations, listed below, largely focus on design and safety requirements to provide the public and first responders with additional information about individual BESS projects to combat potential future BESS fire events. Unsurprisingly, the recommendations place the costs associated with these additional requirements on BESS developers. If adopted, these requirements are sure to influence the cost and timing of securing approvals for future projects with BESS components.

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1. Require industry-funded independent peer reviews for all BESS projects.
2. Expand the requirement for explosion control to include BESS cabinets and provide design requirements for what constitutes a “passable” explosion control system.
3. Require that qualified personnel are available for dispatch within 15 minutes and able to arrive on scene within four hours of a BESS fire event to support local responders.
4. Extend safety signage requirements beyond BESS units to include perimeter fences or security barriers and include a map of the site, BESS enclosures, and associated equipment.
5. Ensure that Battery Management System data is monitored by a 24/7 staffed Network Operations Center or Remote Operations Center which can immediately communicate critical failure notifications to BESS site owner/operators to take corrective action.
6. Incorporate requirements for closed-circuit television systems to be installed on BESS project sites.
7. Remove the FCNYS exemption for BESS projects owned or operated by electrical utilities to ensure that all projects comply with the FCNYS.
8. Include a requirement for an Emergency Response Plan to supplement existing fire safety plan requirements and annual local first responder training for each BESS installation.
9. Include a requirement in the FCNYS for monitoring of fire detection systems by a central station service alarm system to ensure notification to local fire departments in the event of a BESS fire event.
10. Mandate the installation of fire stops/barriers for all BESS enclosure penetrations to prevent fires spreading from one BESS unit to another.
11. Introduce a new provision in the FCNYS mandating industry-funded special inspections for BESS installations.
12. Include BESS “cabinets” in all FCNYS requirements that apply to BESS rooms, areas, or walk-in units, except for fire suppression requirements.
13. Establish a clear framework for conducting a Root Cause Analysis (“RCA”) after a BESS fire event and recommend that the FCNYS may not be the appropriate place to require an RCA.
14. Establish guidance for water supply, including whether water is appropriate for different technologies, in an emergency response to a BESS fire and determining

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if more specific requirements are necessary.

15. Recommend that the New York State Fire Prevention and Building Code Council have further discussions around clearance distances of oil-insulated transformers from BESS.

Comments on the proposed recommendations are due by **March 5, 2024 at 3:00 p.m. EST.**

Hodgson Russ Insights: New York will not reach its energy transition goals without significant additions of energy storage. Public faith in the safety of these installations is essential as local governments are the approving agencies. Although the initial report of the Working Group found fires did not result in any reported injuries, nor release harmful levels of toxins,[1] numerous communities enacted moratoriums on BESSs.

If you have any questions about energy storage, contact [Daniel Spitzer](#), [Alicia Stoklosa](#) or any member of the [Hodgson Russ Renewable Energy Practice](#).

[1] <https://www.governor.ny.gov/news/governor-hochul-announces-release-initial-findings-inter-agency-fire-safety-working-group>

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