NYSERDA Presents:
Battery Energy Storage Systems – Key Considerations for Local Governments

Webinar #3: Permitting and Zoning

June 2, 2021
Meeting Procedures:

• Members of the public are muted upon entry
• Questions and comments may be submitted in writing through the Q&A feature at any time during the event
• The chat feature is disabled
• Today's materials, along with a recording of the webinar, will be posted to www.nyserda.ny.gov/StorageGuidebook
• If technical problems arise, please contact Sal.Graven@nyserda.ny.gov
Coming Webinars:

**Wednesday, June 16th:** Decommissioning and End-of-Life Considerations
Featured Speakers: DNV; Li-Cycle

**Wednesday, June 30th:** Taxation and Assessments
Featured Speakers: Hodgson Russ LLP
Agenda:

- Recap: Energy Storage in NYS
- Energy Storage Guidebook for Local Governments:
  - Model Zoning Law
  - Model Permit & Inspection Checklist
  - 2020 NYS Uniform Code
- Q&A
Speakers:

• Jennifer Manierre
  Program Manager, Clean Energy Siting

• Candace Rossi
  Project Manager, Clean Energy Siting & NY-Sun

• Bill Oberkehr
  Project Manager, Clean Energy Siting
Recap: Energy Storage in NYS
Electricity Sector Goals:

- 70% Renewable Electricity by 2030
- 100% Emissions-Free Grid by 2040

Technology-Specific Goals:

- 6,000 MW Distributed Solar by 2025
- 9,000 MW Offshore Wind by 2035
- 1,500 MW Energy Storage by 2025; 3,000 MW by 2030

Source: Patterns and Trends - New York State Energy Profile (NYSERDA)
Energy Storage Systems (ESS) 101

- ESS store energy for conversion to electrical energy
- Batteries (chemical → electrical energy) are the most common + flexible ESS
- Lithium-ion batteries are the prevailing chemistry for ESS
- ESS components include:
  - Cells → Modules → Racks
  - Battery Management System (BMS)
  - Monitoring, Safety, and Balance of System Equipment
Use Cases for Energy Storage

Battery Energy Storage Systems can serve a variety of important roles, including these more common:

- Defer costly upgrades to transmission and distribution infrastructure
- Provide key grid services
- Support integration of renewable energy generators, including solar and wind
- Alleviate congestion in the grid (reducing brownouts and blackouts)
- Electric bill management, backup power for homes and businesses
NYSERDA Energy Storage Initiative

Provides incentives & technical assistance to support deployment of advanced energy storage technologies

- **Retail Energy Storage Incentives:**
  - For residential through commercial-scale storage projects < 5 megawatts (MW)
  - Incentives vary based on region and megawatt-hour (MWh) block allocation
  - Over $161 million allocated; $16.4 million remaining for residential, commercial projects on Long Island and Con Edison

- **Bulk Energy Storage Incentives:**
  - For storage projects > 5 MW
  - Incentives vary based on project size and year of interconnection
  - Funding is fully allocated

Energy Storage Deployment in NYS

As of October 31, 2020:
- 96.43 MW of installed capacity
- 561 projects

As of April 30, 2021:
- 1,027 MW contracted, under development
- Over 100 commercial and bulk projects
Fire Safety

Key Takeaways:

• **Codes and Standards:** Requirements for BESS have evolved with the technology; robust requirements are already in place under the 2020 NYS Uniform Code.

• **Fire Testing:** Systems are required to complete large-scale fire testing to ensure installation safety.

• **Trainings:** NYS Office of Fire Prevention and Control, NYSERDA, and subject matter experts (SMEs) are partnering to ensure training and information reaches critical audiences.
Model Zoning Law
Regulatory Framework for Permitting Clean Energy Projects

Processes for regulating/permitting clean energy development will vary based on size and type of the installation.

For solar/wind:
- **Projects < 25 MW**: Permitted at local level (SEQR, municipal requirements)
- **Projects > 25 MW**: Permitted at State level (Article 10, Office of Renewable Energy Siting [ORES])
- **Projects between 20 – 25 MW**: May opt-in to State-level siting process through ORES

For energy storage:
- **Projects paired (or “co-located”) with large-scale renewable generators**: Permitted at State level
- **Projects not paired with large-scale generators**: Permitted at local level
BESS Model Law

Intentions & Instructions:
- Akin to the Model Solar Law; serves as a comprehensive, customizable template law
- Establishes procedural & substantive requirements for BESS
- Addresses systems of all sizes/uses (residential, commercial, and utility-scale installations)
- Reflects the process for compliance with SEQR
- Municipalities are encouraged to modify it as needed/appropriate based on local priorities, concerns, and zoning.
- Consider the comprehensive plan!
BESS Model Law

Model Law Contents:

Section 1: Authority
Section 2: Statement of Purpose
Section 3: Definitions
Section 4: Applicability
Section 5: General Requirements
Section 6: Permitting Requirements for Tier 1 Battery Energy Storage Systems
Section 7: Permitting Requirements for Tier 2 Battery Energy Storage Systems
Section 8: Safety
Section 9: Permit Time Frame and Abandonment
Section 10: Enforcement
Section 11: Severability
BESS Model Law

Section 1: Authority

2. Model Law

1. Authority

This Battery Energy Storage System Law is adopted pursuant to Article IX of the New York State Constitution, §2(c)(6) and (10), New York Statute of Local Governments, § 10 (1) and (7); [Select one: sections 261-263 of the Town Law / sections 7-700 through 7-704 of the Village Law / sections 19 and 20 of the City Law and section 10 of the Municipal Home Rule Law] of the State of New York, which authorize the [Village/Town/City] to adopt zoning provisions that advance and protect the health, safety and welfare of the community.
Section 2: Statement of Purpose

This Battery Energy Storage System Law is adopted to advance and protect the public health, safety, welfare, and quality of life of [Village/Town/City] by creating regulations for the installation and use of battery energy storage systems, with the following objectives:

A. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;
B. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
C. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and
D. To create synergy between battery energy storage system development and other stated goals of the community pursuant to its Comprehensive Plan.

Key Takeaways:
- Should reflect local priorities and concerns (benefits and concerns may vary by community)
- Can encourage alignment with local, county, regional, and state goals
Section 3: Definitions

BATTERY ENERGY STORAGE SYSTEM: One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.

B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.
BESS Model Law

Examples of Tier 1 BESS:

~13 kWh

250 kWh

Up to 232 kWh per unit
BESS Model Law

Examples of Tier 2 BESS:

- 940 kWh
- Unknown MWh (20 MW)
Section 5: General Requirements

A. A building permit and an electrical permit shall be required for installation of all battery energy storage systems.

B. Issuance of permits and approvals by the [Reviewing Board] shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”).]

C. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the [Village/Town/City] Code.

Key Takeaways:
• Establish baseline requirements for BESS
• Ensure alignment with SEQR, NYS Uniform Code, and other applicable codes/standards
Sections 6-7: Permitting Requirements for Tiers 1 and 2

**Section 6: Tier 1 Battery Energy Storage Systems**
- Battery Energy Storage System Permit
- Exempt from Site Plan Review
- Allowable in all zoning districts

**Section 7: Tier 2 Battery Energy Storage Systems**
- Special Use Permit
- Site Plan Review
- Allowable in designated zoning districts
Section 7: Permitting Requirements for Tier 2 BESS

Process for Approval:
- Choose which zoning district(s) to permit systems.
- Applications shall be reviewed for completeness within [10 business days].
- Applications shall be subject to a public hearing and a notice shall be published in the official newspapers 5 days in advance.
- Referred to the [County Planning Department] pursuant to General Municipal Law § 239-m as required.
- Upon closing the public hearing, the reviewing board shall have 62 days to take action on the application. The 62-day period may be extended.

Requirements for Approval:
- B. Utility Lines and Electrical Circuitry
- C. Signage
- D. Lighting
- E. Vegetation and Tree-cutting
- F. Noise
- G. Decommissioning
- H. Site Plan Application
- I. Special Use Permit Standards
- J. Ownership Changes
BESS Model Law

Section 7: Permitting Requirements for Tier 2 BESS

G. Decommissioning

1. Decommissioning Plan:
   • Narrative description of system removal and disposal
   • Anticipated life of system
   • Estimated cost of decommissioning
   • Description of restoration activities

2) Decommissioning Fund. The owner and/or operator of the energy storage system, shall continuously maintain a fund or bond payable to the [Village/Town/City] in a form approved by the [Village/Town/City] for the removal of the battery energy storage system in an amount to be determined by the [Village/Town/City], for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant.
Section 7: Permitting Requirements for Tier 2 BESS

H. Site Plan Application

4) Equipment specification sheet for the proposed battery energy storage system components
8) Commissioning Plan
9) Fire Safety Compliance Plan
10) Operations and Maintenance Manual
11) Erosion, sediment control, and stormwater plans
12) Emergency Operations Plan
Section 7: Permitting Requirements for Tier 2 BESS

I. Special Use Permit Standards:

1) Setbacks. Tier 2 Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures.

2) Height. Tier 2 Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the underlying zoning district.

3) Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a [7-foot-high] fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.

4) Screening and Visibility. Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports.
BESS Model Law

8. Safety
   • Adherence to applicable UL listing standards
   • Safety of site access
     • Working space and weatherproof enclosures

9. Permit Timeframe and Abandonment

10. Enforcement

11. Severability
Model Permit & Inspection Checklist
BESS Model Permit

Intentions & Instructions:

• Akin to the Unified Solar Permit; serves as a comprehensive, dedicated permit for residential/small commercial BESS

• Helps municipalities establish minimum submittal requirements for electrical and structural plan review

• Intended to make BESS permitting increasingly streamlined and predictable

• In NYSERDA Model Law, this serves as the primary requirement for permitting Tier 1 BESS
BESS Model Permit

PERMIT APPLICATION
Battery Energy Storage System Model Permit

Note: Language in [ALL CAPS] below indicates where local jurisdictions need to provide information specific to the jurisdiction. Language in italics indicates explanatory notes from the authors of this document that may be deleted from the distributed version.

SUBMITTAL INSTRUCTIONS

This application and the following attachments will constitute the Battery Energy Storage System Permitting Package.

- This application form, with all fields completed and bearing relevant signatures.
- Permitting fee of \$[ENTER FEE HERE], payable by [ENTER VALID PAYMENT METHODS, IF CHECKS ARE ALLOWED [INCLUDING WHO CHECKS SHOULD BE MADE PAYABLE TO]]
- Required Construction Documents for the battery energy storage system being installed, including required attachments.

Completed permit applications can be submitted electronically to [EMAIL ADDRESS] or in person at [BUILDING DEPARTMENT ADDRESS] during business hours [INDICATE BUSINESS HOURS].

APPLICATION REVIEW TIMELINE

Permit determinations will be issued within [TIMELINE] calendar days upon receipt of complete and accurate applications. The municipality will provide feedback within [TIMELINE] calendar days of receiving incomplete or inaccurate applications.

FOR FURTHER INFORMATION

Questions about this permitting process may be directed to [MUNICIPAL CONTACT INFORMATION].

Customize based on municipality’s existing or new fee schedule and payment requirements

Set expectations for application submission process and timelines
BESS Model Permit

Key details which will shape applicable requirements in the NYS Uniform Code for BESS

<table>
<thead>
<tr>
<th>EXISTING USE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
</tr>
<tr>
<td>Commercial</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PROVIDE THE TOTAL SYSTEM CAPACITY RATING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total System Capacity Rating: _______ kWh</td>
</tr>
<tr>
<td>Power Rating: _______ kW (Select One)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>SELECT SYSTEM CONFIGURATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>AC Coupled</td>
</tr>
<tr>
<td>DC Coupled</td>
</tr>
<tr>
<td>Standalone</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>SELECT BATTERY TYPE</th>
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</thead>
<tbody>
<tr>
<td>Lithium-ion, all types</td>
</tr>
<tr>
<td>Lead-acid, all types</td>
</tr>
<tr>
<td>Nickel-cadmium (Ni-Cd)</td>
</tr>
<tr>
<td>Flow batteries</td>
</tr>
<tr>
<td>Other: __________________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SELECT INSTALLATION TYPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indoor</td>
</tr>
<tr>
<td>Outdoor</td>
</tr>
<tr>
<td>Attached/Detached/Open Garage</td>
</tr>
<tr>
<td>Rooftop</td>
</tr>
<tr>
<td>Dedicated Use Building</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BATTERY ENERGY STORAGE SYSTEM INSTALLATION CONTRACTOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contractor Business Name</td>
</tr>
<tr>
<td>Contractor Business Address</td>
</tr>
<tr>
<td>Contractor Contact Name</td>
</tr>
<tr>
<td>Contractor License Number(s)</td>
</tr>
</tbody>
</table>
Application Requirements Sections:

- General Requirements
  - Document submission requirements
- Site Plan and Floor Plan Requirements
- Electrical Requirements
  - Compliance with BESS Electrical Checklist
  - 1- or 3-line diagram
  - Spec sheets & installation instructions
- Fire Requirements
  - Adherence to applicable NYS Uniform Code sections

PERMITS AND APPROVALS REQUIRED

The following permits are the minimum requirements for battery energy storage systems installed with an aggregate energy capacity less than or equal to 600kWh and, if in a room or indoor area, where only a single energy storage system technology is provided.

1. Battery Energy Storage System Permit
2. [LIST TYPE OF PERMIT(S) REQUIRED BY THE LOCAL JURISDICTION, i.e., ELECTRICAL OR BUILDING PERMIT]

SUBMITTAL REQUIREMENTS

In order to submit a complete permit application for a new battery energy storage system, the applicant must include:

a) Completed Application form.
b) Construction Documents, with listed attachments. Construction Documents must be stamped and signed by a New York State Licensed Professional Engineer.
BESS Electrical Checklist

Intentions & Instructions:
• Acts as a guideline for field inspections of residential and small commercial BESS
• Can be used by municipal staff or provided to 3rd party inspection service
• Incorporates up to date electrical codes for NYS
• Pairs with the BESS Model Permit to provide Code Enforcement and Building officials with the tools to approve projects.
BESS Electrical Checklist

Checklist Sections:
- General
- Equipment
- Grounding
- Main Electric Service
- Ventilation
- Connections and Terminations
- Monitoring and Charge Control
- Disconnecting Means
- Interconnection
- Signage
Codes and Standards

Evolution of ESS Codes and Standards:

- **2016**: Underwriters Laboratory (UL) publishes 1st ed. of UL 9540 (listing standard for ESS)
- **2017**: UL publishes 1st ed. of UL 9540A (test method to evaluate system safety and inform installations)
- **2018**:  
  - International Code Council (ICC) introduces Chapter 12, Energy Storage Systems to International Fire Code (IFC)
- **2019**:  
  - National Fire Protection Association (NFPA) releases *NFPA 855*
  - UL publishes 4th ed. of UL 9540A
  - ICC introduces draft 2021 IFC & IRC
NYS Uniform Code


- **2019**: NYS Uniform Code Council adopts the 2019 Energy Storage System Supplement
- **2020**: 2020 Uniform Code cycle goes into effect; codifies requirements for ESS in multiple codes:
  - 2020 Residential Code
  - 2020 Building Code
  - 2020 Fire Code

Applicable across NYS without need for local adoption
NYS Uniform Code

2020 NYS Residential Code

• Size, Location, and Separation requirements
  • 20 kWh per unit
  • Allowable in attached/detached garages, on exterior walls, within utility closets and storage/utility spaces
  • Up to 40 or 80 kWh in aggregate depending on location of installation(s)
  • Minimum separation of 3 feet from other units, as well as doors, windows, etc.

• Fire-Resistance Rating requirements
  • For walls/ceilings of rooms and areas containing ESS

• Protection from Impact

Certain requirements may be modified by the AHJ based on large-scale fire testing
NYS Uniform Code

2020 NYS Fire Code:

• **Hazard Mitigation Analysis**
  • Required for larger commercial/grid-scale systems (>600 kWh)
  • Evaluates consequences of ESS failure modes
  • Approval contingent on demonstration that consequences of ESS failure (fires, toxic or flammable gases) will be contained, controlled, or limited by system protections

• **Large-Scale Fire Testing**
  • Conducted in accordance with UL 9540A or approved equivalent
  • Demonstrates that fire will not spread to adjacent systems/areas
  • Testing results will inform necessary protections and requirements
  • Required for systems >600 kWh; may also be utilized to seek exception from certain requirements
2020 NYS Fire Code (cont.):

• Fire Remediation
  • ESS owner required to provide a fire remediation team to relieve first responders, notify FD as needed.

• Peer Review
  • As required by the AHJ, ESS owner required to retain and fund services of an approved peer reviewer.

• Commissioning, Decommissioning, Operations & Maintenance Plans:
  • Operations & Maintenance Manual
    - Provided prior to commencing operation
    - Maintained at onsite location
  • Commissioning and Decommissioning Plans
    - Should account for removal at end-of-life, or in the event of fire or other damage
2020 NYS Fire Code (cont.):

- Technology-Specific Requirements
  - Establishes safety and mitigation requirements based on risks associated with different ESS technologies

<table>
<thead>
<tr>
<th>Compliance Required</th>
<th>Battery Technology</th>
<th>Other Energy Storage System and Battery Technologies</th>
<th>Capacitor Energy Storage System</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Lead-acid</td>
<td>Ni-Cad and Ni-MH</td>
<td>Lithium-ion</td>
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<tr>
<td>1206.13.1. Exhaust ventilation</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>1206.12.2 Spill control and neutralization</td>
<td>Yes&lt;sup&gt;c&lt;/sup&gt;</td>
<td>Yes&lt;sup&gt;c&lt;/sup&gt;</td>
<td>No</td>
</tr>
<tr>
<td>1206.12.3 Explosion control</td>
<td>Yes&lt;sup&gt;a&lt;/sup&gt;</td>
<td>Yes&lt;sup&gt;a&lt;/sup&gt;</td>
<td>Yes</td>
</tr>
<tr>
<td>1206.12.4 Safety caps</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>1206.12.5 Thermal Runaway</td>
<td>Yes&lt;sup&gt;d&lt;/sup&gt;</td>
<td>Yes</td>
<td>Yes&lt;sup&gt;e&lt;/sup&gt;</td>
</tr>
</tbody>
</table>
NYS Uniform Code

2020 NYS Fire Code (cont.):

• Location-Specific Requirements
  • Indoor Installations:
    1. Dedicated-Use
    2. Non-Dedicated-Use
  • Outdoor
    3. Outdoor Near Exposures
    4. Outdoor Remote
## 2020 NYS Fire Code (cont.):

- Location-Specific Requirements: Indoor Installations

<table>
<thead>
<tr>
<th>Compliance Required</th>
<th>Dedicated Use Buildings</th>
<th>Non-Dedicated Use Buildings</th>
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<tbody>
<tr>
<td>1206.11 General Installation Requirements</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>1206.12.1 Size and separation</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>1206.12.2 Maximum allowable quantities</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>1206.12.3 Elevation</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>1206.12.4 Smoke and automatic fire detection</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>1206.12.5 Fire suppression systems</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>1206.14.3 Dwelling units and sleeping units</td>
<td>NA</td>
<td>Yes</td>
</tr>
<tr>
<td>1206.14.4 Fire-resistance rated separations</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>1206.13 Technology specific protection</td>
<td>Yes</td>
<td>Yes</td>
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## 2020 NYS Fire Code (cont.):

- Location-Specific Requirements: Outdoor Installations

<table>
<thead>
<tr>
<th>Compliance Required</th>
<th>Remote Installations</th>
<th>Installations Near Exposures</th>
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<tbody>
<tr>
<td>1206.11 General Installation Requirements</td>
<td>Yes</td>
<td>Yes</td>
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<td>1206.12.1 Size and separation</td>
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<td>1206.12.5 Fire suppression systems</td>
<td>Yes <strong>d</strong></td>
<td>Yes</td>
</tr>
<tr>
<td>1206.12.6 Maximum enclosure size</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>1206.12.7 Vegetation control</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>1206.12.8 Means of egress separation</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>1206.15.3 Clearance to exposures</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>1206.13 Technology specific protection</td>
<td>Yes</td>
<td>Yes</td>
</tr>
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</table>
NYSERDA Resources for Local Governments

NY Battery Energy Storage System Guidebook:
• Model Zoning Law
• Model Permit + Inspection Checklist
• 2020 NYS Uniform Code References

NYSERDA Clean Energy Siting Team
• Work one-on-one with municipal boards & local officials to provide free technical assistance
• Offer free accredited trainings for code enforcement officials or planning/zoning board members
Q&A

Helpful links:

• Energy Storage Guidebook for Local Governments
• NYSERDA Energy Storage Program

For additional assistance, reach out to cleanenergyhelp@nyserda.ny.gov
Next Webinar in Series:

Decommissioning and End-of-Life Considerations (Wednesday, June 16th)

Questions?
Email cleanenergyhelp@nyserda.ny.gov