



Responses Due: Tuesday, March 5, 2024 by 3:00 PM Eastern Time

In issuing this request for public comment, the New York State Energy Research and Development Authority (NYSERDA) seeks to provide an opportunity for subject matter experts and interested stakeholders to evaluate and provide feedback on a draft **Fire Code Recommendations Report** (Recommendations Report) (**Attachment A**) produced by the [New York State \(NYS\) Inter-Agency Fire Safety Working Group](#) (Working Group).¹ Feedback and information provided in response to this request will be evaluated by Working Group members and/or agency staff, and may inform findings and deliverables related to Working Group tasks regarding codes, standards, and best practices for battery energy storage systems (BESS).

Respondents to this request for public comment (“Respondents”) are asked to provide feedback that will assist the Working Group in identifying gaps in current codes and best practices, as well as promulgating recommendations to revise and strengthen the Fire Code of NYS (Fire Code) as contained within the NYS Uniform Fire Prevention and Building Code (Uniform Code). Respondents are not required to provide feedback on all sections of the draft *Recommendations Report* and should focus on specific recommendations, topic areas, or questions relevant to their field of expertise or interests.

PLEASE NOTE: The Uniform Code prescribes the minimum standards for construction in New York. It is applicable in every part of the state except for New York City, which is currently permitted to retain its own code.² Further, ***the Uniform Code is automatically applicable in all such jurisdictions without the need for local action, adoption, or codification under local law.*** As such, recommendations put forth by the Working Group are intended for consideration by the NYS Fire Prevention and Building Code Council (Code Council) and other leading fire safety organizations with whom recommendations may be shared (e.g. New York City Fire Department (FDNY)). Recommendations put forth by the Working Group are **not** intended for consideration or action by local jurisdictions.

Response Submission:

All Respondents must submit a response to this request for public comment by emailing a completed **BESS Code Recommendations Respondent Form (Attachment B)** to BESScodeupdates@nyserda.ny.gov with the subject line ‘Response: BESS Code Recommendations Request’ by no later than **3:00pm ET on Tuesday, March 5, 2024**. Respondents will be asked to provide basic information including affiliation/employer, geographic and sectoral details, and contact information.

Respondents may provide feedback in one, or both, of two ways: (1) submit narrative or summary feedback on **Attachment B**, or (2) submit in-line edits, additions, or comments within the *Recommendations Report* in **Attachment A** (utilizing Microsoft Word or comparable word processing application that tracks edits). If submitting comments via Attachment A, please also complete and submit at least the top portion of Attachment B.

Any questions regarding this request for public comment should be directed in writing to BESScodeupdates@nyserda.ny.gov. NYSERDA, the Working Group, or agents thereof may reach out to Respondents to seek clarification on submitted comments.

Respondents are requested to only provide information that can be made public by NYSERDA and the Working Group. All responses to the RFI will be considered non-confidential and may be shared outside of NYSERDA and the Working Group. NYSERDA and the Working Group may also, at their discretion, elect to engage potential Respondents and interested parties regarding the matters described in this request for public comment.

Background:

The Climate Leadership and Community Protection Act (“Climate Act”), enacted in 2019, requires that New York achieve 70% renewable electricity by 2030, a 100% zero-emission electricity system by 2040, and a reduction of greenhouse gas emissions to 85% below 1990 levels by 2050. The Climate Act also codified technology-specific deployment targets, including the installation of 3,000 megawatts (MW) of energy storage by 2030. Governor Hochul has since announced an intention to double New York’s energy storage deployment target to 6,000 MW by

¹ <https://www.governor.ny.gov/news/governor-hochul-convenes-inter-agency-fire-safety-working-group-following-fires-jefferson>

² <https://dos.ny.gov/uniform-fire-prevention-and-building-code>



2030, as further outlined in the 6 Gigawatt (GW) Energy Storage Roadmap filed by the Department of Public Service and NYSERDA in December 2022.³

Energy storage technologies, including but not limited to BESS, are anticipated to play a critical role in achieving New York’s ambitious electrification and decarbonization targets. The Climate Action Council Scoping Plan⁴ identifies energy storage deployment as a key strategy for relieving current and future grid constraints, increasing penetration of intermittent renewables, replacing (and therefore reducing emissions from) aging or polluting generation assets such as peaker plants, and numerous other opportunities.

In July 2023, Governor Hochul convened the Working Group following incidents at BESS facilities located in Jefferson, Orange, and Suffolk counties. Comprising representatives of state agencies including the Division of Homeland Security and Emergency Services (DHSES), Office of Fire Prevention and Control (OFPC), NYSERDA, New York State Department of Environmental Conservation (DEC), Department of Public Service (DPS), and the Department of State (DOS), the Working Group was tasked with conducting an independent examination of recent failure events, inspecting current installations, and critically evaluating existing codes and safety standards for BESS. Findings and recommendations of the Working Group are intended to ensure the safety of current and future installations, and to strengthen New York’s position as a leader in fire safety and BESS. Additional Working Group information, as well other energy storage safety resources, can be located on [the Working Group’s website](#).

Feedback and Information Requested:

The Working Group seeks input to further inform its recommendations to the Code Council for revisions and enhancements to the Fire Code. While this request for public comment seeks feedback on all items contained in the *Recommendations Report*, the below list of questions may be useful to help Respondents focus their comments:

1. Do the recommendations included in the *Recommendations Report* address all gaps in the current Fire Code, as well as in current BESS standards and regulations (with a focus on lithium-ion BESS exceeding 600 kilowatt-hours (kWh) installed outdoors or in dedicated-use buildings)? If not, what else should be included, excluded, or prioritized? Reference specific sections of codes and regulations as applicable.
2. Do any of the proposed recommendations and enhancements in the *Recommendations Report* have the potential to create unintended consequences with respect to BESS safety, code adoption or enforcement, conflicting language, or other items? Please suggest clarifying language where appropriate to mitigate unintended consequences, and reference specific sections of codes and regulations as applicable.
3. Are any items in the *Recommendations Report* anticipated to be time- or cost-prohibitive, or otherwise unreasonable to implement or fully comply with? Where identified as cost-prohibitive, to what extent, and what is the delta in price points? Please detail any unreasonable challenges which might be faced were these recommendations to be adopted as written and provide alternative suggestions where appropriate.
4. As BESS are a rapidly evolving technology, NYSERDA seeks further input on ways to ensure safety for current and future installations. Are there other NYSERDA program or resource updates not included in the recommendation memo that should be considered as part of this or future efforts? Further, are there any recommendations that would be best addressed outside of the Fire Code (e.g., via NYSERDA program rules) through other means? Consider best practices from the field, other state regulations, codes, standards etc. with proven success rates.
5. The Working Group is particularly interested in feedback from local first responders. Please provide comments on how these recommendations can be enhanced. Do you have additional suggestions to ensure safety or to ensure responsiveness from developers or product owners?

Attachments:

- [Attachment A. *Inter-Agency Fire Safety Working Group – Fire Code Recommendations Report \(DOCX\)*](#)
- [Attachment B. *BESS Code Recommendations Respondent Form \(PDF\)*](#)

³ <https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=55960>

⁴ <https://climate.ny.gov/Resources/Scoping-Plan>