

Renewable Energy/Application of Fire Codes to Battery Systems: Law Firm Blog Notes Massachusetts Fire Appeals Board Decision



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The Foley Hoag LLP Energy & Climate Counsel blog published a post on May 26th titled:

Hot Question for Energy Storage Answered by Massachusetts Fire Appeals Board ("Foley Post")

The *Foley Post* addresses a May 11th Massachusetts Fire Appeals Board ("Mass Board") decision applying the state's Massachusetts Fire Code to the installation of pre-engineered battery storage systems.

Various types of batteries have been and will likely be increasingly utilized in conjunction with solar, wind, and other renewable energy technologies. Renewable energy technologies often must address a variety of environmental and safety issues. However, it is also important to recognize (as the *Foley Post* notes) that code enforcing bodies such as state and local authorities may have to be consulted and/or considered when battery technologies are employed. Such authorities will typically be local or state fire authorities who implement the applicable fire codes.

In discussing the Mass Board the *Foley Post* notes:

The issue was this: while the state fire code allows for the installation of pre-engineered battery storage systems, it also requires that those systems be "listed" in accordance with an Underwriters Laboratory standard (known as UL 9540) before a fire code permit can issue. The local fire department denied the developer's fire code permit application for a battery energy storage system, on the grounds that the system had not been listed to UL 9540 by an OSHA-approved nationally-recognized test laboratory ("NRTL"). The developer contended that nothing in the Fire Code required listing by an OSHA-approved NRTL, and that listing by any duly recognized nationally or internationally accredited test laboratory (as was indisputably the case here) was sufficient.

The Mass Board is ultimately stated to have determined that the Massachusetts Fire Code:

... requires only that large scale fire and fault condition testing be conducted or witnessed and reported by an approved testing laboratory for listed pre-engineering and prepackaged battery arrays.

It is also stated to have indicated that:

... Code expressly "does not (and cannot) require that said approved testing laboratory must also be OSHA approved." Implicitly, the Board's decision recognized that while the Fire Code does provide fire departments a measure of interpretive discretion, this discretion is not unlimited, and cannot be exercised in a way that contravenes the plain language of the Fire Code itself.

Energy storage is likely a relatively new technology for many fire departments and officials. Consequently, such issues should be considered when installing these systems. The process of determining the appropriate requirements could prove challenging because of the many issues involved in addressing fire safety.

A copy of the *Foley Post* can be found [here](#) and the Mass Board decision [here](#).