

From: Joyce Palemr Fortune  
Chair, Board of Selectmen  
Whately, Ma 01093

November 6, 2025

Re: Comments on BESS model bylaw

Dear Sirs

I am writing to comment on the BESS Model by-law.

I think it accomplishes a number of good things, balancing the need for energy storage with need for farmland and natural lands more generally.

However, as is often the case with state laws made in the eastern half of the state, where your water resources come primarily from the Quabbin Reservoir, We here in the western part of the state have more precarious water sources that would be either vulnerable in the case of the release of toxic materials or insufficient in volume to fight/control fires in event of a battery fire.

NFPA 855 4.9.4 requires “a permanent source of water for fire protection”.<sup>1</sup> Where no “adequate and reliable” water supply exists, it stipulates that the requirements of NFPA 1142 apply. However, NFPA 1142 has no explicit provisions for energy storage systems. It does, however, define an adequate water supply:

NFPA 1142 1.1.2 “An adequate and reliable municipal-type water supply is one that is sufficient every day of the year to control and extinguish anticipated fires in the jurisdiction, building or building group served by the water supply.”

**1. Many rural towns or areas within towns lack the capacity to provide such an adequate water supply to control potential battery energy storage system fires.**

Lack of a municipal water supply. In my town, Whately (population 1607) the public water supply serves only about 50 percent of its 20.7 square mile area. (See the attachment.) The remainder of the town relies on private wells, which are woefully inadequate to handle even a garage fire. The only large body of water is a reservoir owned by the City of Northampton with a large protective area around it (also owned by Northampton) making it effectively inaccessible. There is no realistic access to sufficient water in that entire section of town capable of controlling a BESS fire.

Small municipal water supplies. Rural areas in Western Massachusetts frequently rely on municipal wells for their water. These are sized relative to the typical need and generally lack the volume of water and the water pressure required to control a thermal runaway fire.

**The model BESS bylaw should include a provision allowing a municipality to prohibit siting BESS where no adequate and reliable source of water to control a fire exists.**

**2. Protection for public wells.**

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<sup>1</sup> 4.9.4.1 requires this for all nonmechanical ESS except as modified in Chapters 9-13. 9.6.3.2.1 and 9.6.3.2.2 exempt certain lead acid and nickel cadmium systems. There are no modifications in Chapters 10-13.

According to the October 21 Webinar for the model bylaws, municipalities will be able to prohibit BESS in Zone II aquifer protection areas. By not also allowing protection in Zone III areas, the entire wellhead protection area is threatened. Zone III areas are by definition the areas where water flows into Zone II. CMR 22.21 (2) (b) prohibits precisely the same potentially harmful uses in Zone III that it does in Zone II. To be consistent with that regulation, the model bylaw should do the same.

**The model BESS bylaw should allow municipalities to prohibit BESS in both Zone II and Zone III aquifer protection districts.**

### **3. Protection for private wells.**

Where there is no public water supply, residents are dependent upon private wells for their water, yet the model BESS bylaw doesn't stipulate any protection for these wells. DEP has established Interim Wellhead Protection Area (IWPA) guidelines to protect recharge areas for this type of well, but these are much less well known than the zones established for community wells. The IWPA default radius for non-community sources is 750 feet (228.6 meters) for Non Transient (NTNC) wells.

**The model BESS bylaw should stipulate a minimum setback of 750 feet from non-community wells providing potable water.**

### **4. Protection from pollution of irrigation water sources.**

Farmers in rural areas are often dependent on ponds, brooks and rivers as a source of their irrigation water. These water sources have become more critical as climate change increases the frequency of drought conditions. Once polluted, they jeopardize the farms' viability.

**The model bylaw should stipulate that municipalities may prohibit BESS siting where local streams and ponds typically used for irrigation are vulnerable to toxic runoff.**

### **5. Requirement for liability insurance.**

The model bylaw requires insurance for decommissioning, but there is no requirement for liability insurance in case of damage to individuals or property from the facility. This isn't a problem just for rural areas, but smaller municipalities are definitely less able to finance any remediation needed as the result of damage caused by a BESS accident or mismanagement.

**The model bylaw should require that the BESS maintain adequate liability insurance to cover damage to individuals or property caused by the facility.**

Thank you for the opportunity to comment. If you have questions, I can be reached at 413-665-6739 or [j.palmerfortune@whately.org](mailto:j.palmerfortune@whately.org)

cc: Senator Comerford, Senator Mark, Representative Blais, Western Regional Siting Coordinator Allison Gage

## Whately Public Water & Aquifer Protection Districts 2025

