

DOCKETED

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Document Title:	Stop Lithium BESS Comment Letter
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RE: Seahawk Battery Energy Storage System; Docket 26-OPT-02; Confidentiality of Appendix 3.16A UL 9540A Test Report Comments

Dear Mr. Veerkamp and Mr. Sanchod:

This firm represents Stop Lithium BESS in Santa Cruz County (“Stop Lithium BESS”) with respect to the Seahawk Battery Energy Storage System (“Seahawk BESS” or “Project”). We understand that the Applicant in Docket Number 26-OPT-02 filed an “Application for Confidential Designation” (TN 270292, 270291, 270290, 270289, 270288, 270287) for Appendix 3.16A, UL9540A test reports. Subsequently, on July 2, 2026, the Executive Director of the CEC granted confidentiality for the version of Appendix 3.16A that was submitted by the Applicant on May 27, 2026, based on the Applicant’s allegation that the submittal contained trade secrets. (TN 271254, p. 210/210). Stop Lithium BESS is concerned about the Executive Director extending the grant of confidentiality to subsequent application submittals involving the UL 9540A test reports. Such an extension would impact transparency and public access to information essential to assessing the impacts caused by this Project.

1. The Executive Director’s July 7, 2026, Decision Does Not Include Subsequently Filed UL9540 Testing

According to the Determination of Incompleteness: “Appendix 3.16A, UL 9540A Test Results (confidential), includes a UL 9540 certificate and UL 1973 report rather than the UL 9540A test reports” (TN 271321, p. 209/210). It is not clear how mere certifications required by the California Fire Code could possibly constitute “trade secrets” or “commercially sensitive information” as the Applicant claimed. Regardless, the only UL documents for which the Applicant has requested confidentiality are set forth in Appendix 3.16 and consist entirely of certifications. Because the Applicant did not submit the UL 9540A test reports to the CEC as part

of this application (per the DR WS-12 in Determination of Incompleteness, p. 210/210), the UL 9540A test reports have not been designated as confidential by the CEC and Stop Lithium BESS proactively and strenuously objects to any such designation granted in the future.

2. UL 9540A Test Reports are Not Confidential

Cal. Code Regs., tit. 20, § 2505(a)(3) specifies that an application for confidentiality shall only be “granted if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Commission to keep the record confidential.” The Public Records Act declares that access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in California. (Cal. Gov’t Code § 7921.000.) Exemptions are narrowly construed and the burden is on the CEC to justify that it may withhold records from the public. (*Iloh v. Regents of University of California* (2023) 87 Cal.App.5th 513, 524.)

The Application asserted as its justification the following:

All documents associated with Appendix 3.16A should be kept confidential indefinitely to preserve confidentiality of the Applicant's trade secrets and commercially sensitive information related to the manufacturer's battery energy storage system and equipment; prevent loss of competitive advantage to the Applicant from disclosure of its trade secrets and commercially sensitive information and protect energy infrastructure from vandalism, terrorism, or other bad acts. (TN270292, p. 3.)

Thus, the entire basis of the Applicant’s request is that the entire UL9540A report consists of trade secrets and commercially sensitive information. This is a false premise.

Stop Lithium BESS opposes any confidential designation for any subsequent UL 9540A submissions. There are no “trade secrets” or commercially sensitive information” in UL 9540A test reports. A UL 9540A test is a standardized evaluation method used to document the fire and explosion hazards of a Battery Energy Storage System (BESS) if a cell goes into thermal runaway. (See attached information from Underwriters Laboratories (UL) website.) Information pertaining to test settings, processes, conditions at thermal runaway onset, flame length and characteristics, and other relevant data is of substantial public interest that it is not outweighed by any applicant or manufacturer interest. Therefore, UL9540A testing does not involve any proprietary processes, its results are not “secret”, and there is not a legitimate reason for withholding such results from the public. Accordingly, all such information must be made available to the public.

3. Test results that the CEC intends to rely upon to make findings about the Project's safety are not trade secrets.

It is not in the public interest to prevent access to information essential to understanding the Project's safety. Public disclosure of UL 9540A flame propagation test results is critically important. BESS deflagration is the culmination of a thermal runaway event coupled with its ensuing flame propagation; accordingly flame propagation characteristics lie at the very heart of all the significantly adverse public safety risks posed by the BESS Project at 90 Minto Road. The public has a right to know and understand the flame propagation characteristics and fire behavior of the 266 BESS units that the Applicant seeks to construct and which will directly threaten the safety and wellbeing of densely populated residential communities nearby the proposed BESS Project.

The Applicant's claims that the BESS is "safe" are founded in part on the UL 9540A test reports and such claims cannot be tested or verified by the public if the UL 9540A reports are withheld from the public. This in turn will prevent the public from providing responsive analytical comments and, by extension, preclude meaningful participation in the proceeding. The CEC has a duty to serve the public interest, and such public interest is not served when critical non-confidential information is withheld from the public.

A blanket grant of confidentiality is also contrary to the CEC's actions on UL 9540A test reports for other BESS. For example, the UL 9540A test reports were made public in the Prairie Song Docket 25-OPT-02 and available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=266065&DocumentContentId=103081>.

4. Conclusion

Stop Lithium BESS respectfully requests that the CEC consider these factors and direct the Applicant to publicly disclose all UL 9540A test reports submitted in the future.

Sincerely,



Alene Taber
Attorneys for Stop Lithium BESS

Attachment

SERVICE

UL 9540A Test Method for Battery Energy Storage Systems (BESS)

The UL 9540A test method is designed to meet stringent fire safety and building code requirements for battery energy storage systems.

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UL 9540A, the Standard for Test Method for Evaluating Thermal Runaway Fire Propagation in Battery Energy Storage Systems

UL 9540A is the American and Canadian national standard for assessing fire propagation related to thermal runaway events in battery energy storage systems (ESS). We offer testing that aligns with both the 5th and 6th editions of UL 9540A, giving customers the flexibility to choose the edition that best matches their project and compliance strategy.

Testing to these national standard requirements is an essential element of due diligence. UL 9540A provides a methodology for testing a system's safety-related behavior when the design or installation conditions of an ESS exceed the limits set by the National Fire Protection Association (NFPA) 855, NFPA 1, the International Fire Code (IFC), or the International Residential Code (IRC).

UL 9540A is the only consensus standard explicitly cited in NFPA 855 for large-scale fire testing and the only national standard in the U.S. and Canada for fire safety testing methods for battery ESS.

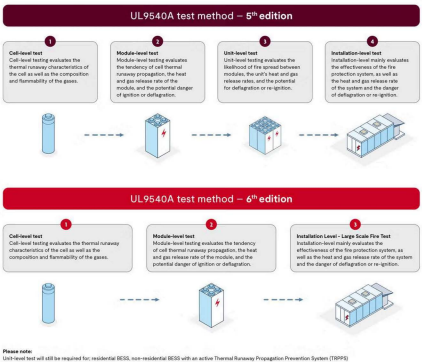
NFPA 855: Reinforcing large-scale fire testing

The 2026 edition of NFPA 855 introduces significant revisions that emphasize the importance of large-scale fire testing. A new section, Annex G.11, outlines expectations for this test, focusing on scenarios where fire could spread from one BESS to another. This addition reflects growing concerns among authorities having jurisdiction (AHJs) and fire safety professionals about real-world failure conditions and the need for robust evaluation methods. Annex G.11 provides guidance on initiating a developed fire condition, evaluating separation distances and considering the role of active fire protection systems.

UL 9540A: Reinforcing longstanding alignment with NFPA 855

UL 9540A has long been the benchmark for assessing thermal runaway and fire propagation in BESS. Its revisions continue to reinforce longstanding alignment with NFPA 855, allowing testing protocols to reflect the latest installation safety requirements. UL 9540A, Ed. 6, updates the installation-level test, introducing a challenging fire scenario and assuming a post-deflagration condition to evaluate enclosure design, separation distances and, for indoor systems, the effectiveness of building-based fire suppression systems.

UL 9540A testing levels



The UL9540A test method is recognized in multiple industry standards and codes, including:

- UL 9540, the Standard for Energy Storage Systems and Equipment.
- American and Canadian National Safety Standards for Energy Storage.
- International Code Council (ICC) IFC.
- NFPA 855, the Standard for the Installation of Stationary Energy Storage Systems.
- Various local, state and international building and fire codes.

Choose UL Solutions for UL 9540A testing

UL Solutions conducts the UL 9540A test method at laboratories in the United States, China, Korea, Taiwan, Germany and other countries. For cell to large-scale fire testing, our battery safety experts will work with you to develop a test plan tailored to your specific needs. As a leader in battery safety technology, we offer:

- Full fire testing facilities, eliminating the need for subcontracting.
- Expert engineering and research teams with in-depth knowledge of battery chemistries and fire suppression.
- A proven track record serving fire departments, electrical inspectors and building officials.
- Proactive planning for project requirements and transparency in our proposals.

Meet our experts



LaTanya Schwalb
Principal Engineer, Energy and Industrial Automation

LaTanya Schwalb is an expert in product safety certification and UL Standards for stationary batteries, energy storage systems, fuel cells and hydrogen generators.

[Learn about LaTanya](#)



Let’s work together

Contact us today to discuss your battery ESS and learn how our UL9540A test method can help you streamline your compliance process and enhance safety.

[Contact us](#)

Related services



Energy Storage System Testing and Certification

Offering solid solutions to address unique safety considerations for system integrators and original equipment manufacturers (OEMs).



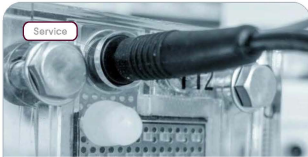
Uninterruptible Power Supply (UPS) Safety and Compliance...

UL 1778 testing and certification for UPS systems to support safety, reliability, and code compliance.



ESS Safety Assessment and NFPA Compliance

Reduce risk, support timely AHJ review and speed launch of energy storage systems (ESS) with third-party assessments aligned to NFPA 855, 68 and...



Fuel Cell Testing and Certification

Testing and certification services to gauge the safety, reliability and performance of fuel cells



Battery Energy Storage System (BESS) Safety and Compliance

Related resources



Introduction to Revisions of UL...

Explore the latest UL 9540A:2025 updates on thermal runaway testing for battery energy storage...

[Watch the on-demand webinar →](#)



Installation Codes and Requirements for...

Answering marketplace questions about evolving ESS safety standards and recent updates to UL 9540A.

[Learn more →](#)



Evolving Large-Scale Fire Test Methods an...

With confusion in the marketplace regarding safety codes and standards related to ESS, this whitepaper...

[Learn more →](#)



e-Book: An Inside Look at the Updates ...

Explore the key updates in UL 9540A:2025, including enhanced testing methods and definitions to improve...

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