



VIA ELECTRONIC SUBMISSION

bulletins@buildings.nyc.gov

New York City Department of Buildings
280 Broadway
New York, NY 10007

Attn: Joseph Ackroyd, P.E., CFM
Assistant Commissioner
Technical Affairs & Code Development

July 17, 2023

Re: Draft Bulletin Clarifying the Use of Fall Arrest Systems In lieu of Railing for Solar Panel Maintenance

Dear Assistant Commissioner Ackroyd,

Thank you for issuing a draft bulletin to clarify the use of guards and personal fall arrest systems to facilitate solar panel maintenance, and for providing stakeholders with the opportunity to provide comments.

The New York Solar Energy Industries Association (NYSEIA) is a nonprofit industry trade association proudly representing hundreds of distributed solar and storage businesses with thousands of employees across the Empire State. Our mission is to advance solar energy and energy storage deployment in New York State through engagement on key legislative, regulatory, and statutory policy matters affecting these industries. Our members install thousands of rooftop solar PV systems in New York City each year, supporting progress toward the City and State's ambitious clean energy goals.

In the Spring of 2023, the NYC Department of Buildings (DOB) reversed previously agreed upon code interpretation that personal fall arrest systems can be viewed as an equally safe alternative to railing for maintenance workers servicing solar panels. The impact of this change in code interpretation and enforcement has been significant, resulting in solar project delays, cancellations and change orders. The impact goes beyond individual projects, and affects solar companies, workers, and progress toward our clean energy goals. For these reasons, NYSEIA appreciates the DOB's issuance of this timely bulletin, which seeks to restore the DOB's prior code interpretation, allowing impacted solar projects, customers and companies to proceed according to plan.

NYSEIA is pleased to provide the following comments for the DOB's consideration:



1. **NYSEIA strongly supports this bulletin and encourages the DOB to proceed with publishing the final version expeditiously.**
2. **NYSEIA recommends that the DOB add a reference to BC 1510.8 Protective Guards in the bulletin.** Although the bulletin provides clear instructions for the usage of anchors in lieu of guardrails for PV installations under the corresponding code sections BC 1015.6, BC 1604.8, BC chapter 17, and OSHA 1926.502(d), it does not explicitly reference BC 1510.8 Protective Guards. BC 1510.8 requires that all buildings over 22' in height provide protective guards along the building exterior walls (i.e., the building perimeters). If BC 1510.8 is not included in the bulletin, there is the risk that any allowance for anchorage in lieu of guardrails is invalidated by the requirements of this separate, but related code section. It is our recommendation that the allowance for anchorage under the stipulations detailed in the bulletin also apply to BC 1510.8 to provide greater clarity and consistency.
3. **NYSEIA recommends proactively informing plan examiners and inspectors of the guidance so it is uniformly enforced as soon as possible.**
4. **NYSEIA recommends prioritizing timely approval for impacted projects in progress.** NYSEIA is aware of many solar projects that are currently stalled at the DOB due to this code interpretation and enforcement issue. Some projects were designed, approved and fully constructed in accordance with their plans. However, the projects failed their inspections due to the lack of railings and are currently in a state of limbo. An even greater number of projects failed their plan review due to the use of anchorage in lieu of railings, and are now stalled as solar companies consider the technical and financial feasibility of modifying systems and adding railings with their customers. Following the issuance of this bulletin, NYSEIA recommends that the DOB:
 - a. Sign-off on solar PV projects that are built to the approved plans and/or for which the applicant of record professionally certifies that they comply with the guidance included in this bulletin.
 - b. Allow the final bulletin to serve as acceptable evidence to resolve plan objections relating to railings for solar panel maintenance.

Thank you for this helpful bulletin and for considering input from New York's solar industry. Please contact me if you have any questions.

Sincerely,

Noah Ginsburg
Executive Director
New York Solar Energy Industries Association