

UTILITIES CODE

TITLE 4. DELIVERY OF UTILITY SERVICES

SUBTITLE B. PROVISIONS REGULATING DELIVERY OF SERVICES

CHAPTER 187. BATTERY ENERGY STORAGE FACILITY SAFETY

Sec. 187.001. DEFINITIONS. In this chapter:

(1) "Battery energy storage facility" includes:

(A) a battery energy storage resource; and

(B) any facility or equipment necessary to support the operation of the battery energy storage resource, other than a facility or equipment owned by an electric utility, as defined by Section [31.002](#).

(2) "Battery energy storage resource" means an electrochemical device, whether connected at the transmission or distribution level, that charges from the grid or a co-located generation resource and discharges that energy at a later time.

(3) "Battery operator" means an electric cooperative, an electric utility, a power generation company, a self-generator, or another person that owns or operates a battery energy storage facility.

(4) "Commissioner" means the commissioner of insurance.

(5) "Electric cooperative" and "municipally owned utility" have the meanings assigned by Section [11.003](#).

(6) "Electric utility" and "power generation company" have the meanings assigned by Section [31.002](#).

Added by Acts 2025, 89th Leg., R.S., Ch. 641 (H.B. [3824](#)), Sec. 1, eff. September 1, 2025.

Sec. 187.002. APPLICABILITY. This chapter applies only to a battery energy storage facility with a capacity of one megawatt hour or greater and a commercial operations date, determined according to criteria adopted by the commissioner, that occurs on or after January 1, 2027.

Added by Acts 2025, 89th Leg., R.S., Ch. 641 (H.B. [3824](#)), Sec. 1, eff. September 1, 2025.

Sec. 187.003. FIRE SAFETY STANDARDS FOR BATTERY ENERGY STORAGE FACILITIES. (a) The commissioner by rule shall adopt fire safety standards and testing requirements for the design, installation, operation, and safety of battery energy storage facilities based solely on:

(1) nationally recognized standards for battery energy storage equipment or facilities established by UL Solutions, such as UL 9540A testing standards; and

(2) minimum standards related to stationary energy storage facilities established by the National Fire Protection Association, such as the 2023 edition of NFPA 855 or a later edition.

(b) The commissioner may periodically update the standards and requirements adopted under Subsection (a) as necessary to reflect changes in the nationally recognized standards and the National Fire Protection Association standards on which the commissioner's standards are based.

(c) Each battery operator or municipally owned utility that owns or operates a battery energy storage facility shall ensure that the facility meets the standards for design, installation, operation, and safety adopted by the commissioner under Subsection (a) in effect at the time the operator or utility first submits an application for a building permit or other similar authorization from the relevant political subdivision to install the facility.

(d) Unless expressly authorized by another statute, a municipality or county may not adopt, enforce, or maintain an ordinance, order, or rule regulating conduct in a field of regulation that is inconsistent with the standards for design, installation, operation, and safety adopted by the commissioner under Subsection (a).

(e) Before the commercial operations date of a battery energy storage facility, on request by a municipality in which the facility is located, or a county in which the facility is located if the facility is in an unincorporated area, a battery operator that owns or operates the facility shall, at the battery operator's expense, select and contract with an independent, third-party engineer licensed in this state or other consultant with

appropriate expertise to:

(1) evaluate the design, safety, and installation of the facility to ensure compliance with the requirements of this section;

(2) produce a written report that:

(A) includes the evaluation;

(B) identifies any noted deficiencies in compliance with the standards adopted under this section; and

(C) recommends appropriate actions to correct deficiencies; and

(3) provide the written report described by Subdivision (2) to the requesting municipality or county.

(f) The battery operator must make available to the engineer or consultant and the requesting municipality or county the following documents if held or created by the battery operator:

(1) at the time the operator first submits an application for a building permit or other similar authorization from the relevant political subdivision to install the battery energy storage facility:

(A) documents relating to the site layout;

(B) any manufacturer specifications for the facility;

(C) a UL 9540A report and any UL listings and associated documentation for the facility;

(D) National Fire Protection Association standards, including any associated documentation, for the facility;

(E) electrical drawings for the facility;

(F) monitoring procedures for the facility; and

(G) fire protection system documentation for the facility; and

(2) at the commencement of installation:

(A) the emergency operations plan described by Section 187.004; and

(B) a hazard mitigation analysis for the battery energy storage facility.

(g) At least once every five years, each battery operator

shall select and contract with, at the battery operator's expense, an independent, third-party engineer licensed in this state or other consultant with appropriate expertise to produce a fire safety inspection report for the battery operator's battery energy storage facility and provide the report to the municipality in which the facility is located or to the county in which the facility is located if the facility is in an unincorporated area. The report must:

(1) include an evaluation of:

(A) the structural integrity and weatherproofing of any enclosure containing a battery energy storage resource at the site of the facility against design specifications;

(B) the maintenance schedule and any associated documentation for the facility;

(C) the emergency operations plan described by Section 187.004;

(D) any hazard mitigation analysis for the facility;

(E) any monitoring procedures and gas or fire safety alarm activation history for the facility;

(F) fire protection system inspection and testing records for the facility; and

(G) the ventilation equipment of the facility or other safety equipment with the same or a similar function; and

(2) identify any noted deficiencies and recommend appropriate actions to correct deficiencies.

Added by Acts 2025, 89th Leg., R.S., Ch. 641 (H.B. 3824), Sec. 1, eff. September 1, 2025.

Sec. 187.004. EMERGENCY OPERATIONS PLANS FOR BATTERY ENERGY STORAGE FACILITIES. (a) In this section, "first responder" has the meaning assigned by Section 78B.001, Civil Practice and Remedies Code.

(b) The commissioner by rule may prescribe procedures or requirements as necessary for the purposes of this section.

(c) A battery operator or a municipally owned utility shall produce a site-specific emergency operations plan for each battery

energy storage facility site owned or operated by the battery operator or utility. The site-specific emergency operations plan must include:

- (1) an identification of potential risks and hazards specific to the site, including an assessment of any potential environmental effects resulting from an equipment failure;

- (2) a hazard mitigation analysis;

- (3) procedures for the safe shutdown, de-energizing, or isolation of equipment and facilities under emergency conditions, including emergency procedures to be followed in case of fire;

- (4) procedures for handling equipment damaged in a fire or other emergency event;

- (5) procedures and schedules for conducting drills using the procedures listed under this subsection and documentation related to the performance of the drills;

- (6) procedures for communication between the operator or utility and first responders, including procedures that facilitate communication between first responders and emergency contacts designated by the operator or utility; and

- (7) emergency operations protocols to ensure safety during critical events, including protocols that provide for the safety of:

- (A) nearby residents;

- (B) neighboring properties; and

- (C) first responders.

- (d) The battery operator or municipally owned utility shall:

- (1) before the commercial operations date of the battery energy storage facility, provide the site-specific emergency operations plan developed under Subsection (c) to the local first responder that is responsible for providing fire protection services in the area in which the facility is located; and

- (2) maintain safety data sheets or comparable documents and the site-specific emergency operations plan developed under Subsection (c) at an on-site location accessible to

personnel responsible for the operations and maintenance of the battery energy storage facility and first responders.

(e) The battery operator or municipally owned utility shall offer to local first responders, at no cost to the responders, education and annual training regarding responding to an equipment failure incident at the battery energy storage facility site, including:

(1) training on specific characteristics of battery energy storage technology;

(2) training on protecting first responders during incident response;

(3) training on hazards commonly associated with incident response;

(4) training on incident response protocols, including an overview of the site-specific emergency operations plan developed under Subsection (c); and

(5) an on-site review of the perimeter, major equipment, and ingress and egress to the site.

Added by Acts 2025, 89th Leg., R.S., Ch. 641 (H.B. [3824](#)), Sec. 1, eff. September 1, 2025.

Sec. 187.005. ENFORCEMENT. (a) The commissioner by rule shall:

(1) delegate to the state fire marshal the authority to take disciplinary and enforcement actions, including the imposition of administrative penalties, to enforce this chapter in the manner provided by Section [417.010](#), Government Code; and

(2) adopt a schedule of administrative penalties for violations subject to a penalty under this chapter to ensure that the amount of an administrative penalty imposed is appropriate to the violation, in the manner provided by Section [417.010](#), Government Code.

(b) Section [417.010](#), Government Code, applies to the enforcement of this chapter by the state fire marshal.

Added by Acts 2025, 89th Leg., R.S., Ch. 641 (H.B. [3824](#)), Sec. 1, eff. September 1, 2025.