

By: King, et al.

H.B. No. 3824

Substitute the following for H.B. No. 3824:

By: Thompson

C.S.H.B. No. 3824

A BILL TO BE ENTITLED

AN ACT

relating to fire safety standards and emergency operations plans for the operation of battery energy storage facilities; providing administrative penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 4, Utilities Code, is amended by adding Chapter 187 to read as follows:

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

1 insurance.

2 (5) "Electric cooperative" and "municipally owned
3 utility" have the meanings assigned by Section 11.003.

4 (6) "Electric utility" and "power generation company"
5 have the meanings assigned by Section 31.002.

6 Sec. 187.002. APPLICABILITY. This chapter applies only to
7 a battery energy storage facility with a capacity of one megawatt
8 hour or greater installed on or after January 1, 2027.

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

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

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

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

26 (c) Each battery operator or municipally owned utility that
27 owns or operates a battery energy storage facility shall ensure

1 that the facility meets the standards for design, installation,
2 operation, and safety adopted by the commissioner under Subsection
3 (a) in effect at the time the operator or utility first submits an
4 application for a building permit or other authorization from the
5 relevant political subdivision to install the facility.

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

12 (e) On request by a municipality in which a battery energy
13 storage facility subject to this chapter is located, or a county in
14 which a battery energy storage facility subject to this chapter is
15 located if the facility is in an unincorporated area, a battery
16 operator that owns or operates the facility shall, at the battery
17 operator's expense, select and contract with an independent,
18 third-party engineer licensed in this state or other consultant
19 with appropriate expertise to:

20 (1) evaluate the design, safety, and installation of
21 the facility before the start of operations to ensure compliance
22 with the requirements of this section;

23 (2) produce a written report that:

24 (A) includes the evaluation;

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

27 (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 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.

1 (g) At least once every five years, each battery operator
2 shall select and contract with, at the battery operator's expense,
3 an independent, third-party engineer licensed in this state or
4 other consultant with appropriate expertise to produce a fire
5 safety inspection report for the battery operator's battery energy
6 storage facility and provide the report to the municipality in
7 which the facility is located or to the county in which the facility
8 is located if the facility is in an unincorporated area. The report
9 must:

10 (1) include an evaluation of:

11 (A) the structural integrity and weatherproofing
12 of any enclosure against design specifications at the site of the
13 facility;

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

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

18 (D) any hazard mitigation analysis for the
19 facility;

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

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

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

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

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

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

7 (c) A battery operator or a municipally owned utility shall
8 produce a site-specific emergency operations plan for each battery
9 energy storage facility site owned or operated by the battery
10 operator or utility. The site-specific emergency operations plan
11 must include:

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

15 (2) a hazard mitigation analysis;

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

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

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

25 (6) procedures for communication between the operator
26 or utility and first responders, including procedures that
27 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 operating 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

1 incident response;

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

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

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

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

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

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

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

22 SECTION 2. This Act takes effect September 1, 2025.