

## **Informal Working Draft and Request for Informal Comments on Rules Relating to Battery Energy Storage Facility Safety (BESS)**

Texas Administrative Code, Title 28, Chapter 34: Subchapter C, §34.303; new Subchapter J, §34.1001 and §34.1002; and Subchapter M, §34.1301 and §34.1302

Posting date: April 10, 2026

Comments due: May 11, 2026

---

The Texas Department of Insurance (TDI) and the State Fire Marshal's Office (SFMO) have collaborated on an informal working draft of concepts and rules relating to [House Bill 3824](#) (89R, 2025) and the new Battery Energy Storage Facility Safety (BESS), [Chapter 187](#) in the Utilities Code.

- TDI will propose to amend rules to update National Fire Protection Association (NFPA) 1 and 101 from the 2021 NFPA edition to the 2024 edition.
- TDI will propose to amend rules to allow for TDI's and SFMO's administration of laws in Chapter 187 of the Utilities Code.

In addition to comments on the informal draft, TDI and SFMO seek input on:

- (1) Chapter 187 directs that the chapter applies to all BESS facilities with a capacity of one megawatt hour or greater, and a commercial operations date (defined by the commissioner) on or after January 1, 2027. NFPA 855 is to govern operations. NFPA 855 applies to facilities with a capacity of 20 megawatt hours.

What standards should apply between 1 and 20 megawatts?

- (2) The amended rules would update NFPA 1 and 101 from the 2021 edition to the 2024 edition. NFPA 855 and UL standards are incorporated as part of those standards.

Is there a benefit or additional clarity to be gained by adding the expressly stated adoption of the NFPA 855 and UL standards?

- (3) The draft rules include guidance on determining commercial operations date.

What should the criteria include?

How should the commissioner define the commercial operations date?

(4) Utilities Code §187.005 contemplates administrative penalties.

What penalties should be included?

What are reasonable penalties?

TDI invites your input on the informal working draft. This is an informal posting intended to gather comments from stakeholders and the general public. This is not a formal publication for rulemaking.

The comment period for this informal working draft will close at 5 p.m. Central time, on May 11, 2026. Submit comments to SFMO at [fire.marshall@tdi.texas.gov](mailto:fire.marshall@tdi.texas.gov).

To receive more information about this informal working draft, call SFMO at 512-676-6800.

[Continue to the BESS informal rule text.](#)