Subchapter C. Standards and Fees for State Fire Marshal Inspections
Division 1. General Provisions
28 TAC §34.303

Subchapter J. Battery Energy Storage Facility Safety
28 TAC §34.1001

Subchapter M. Scheduled Administrative Penalties
28 TAC §34.1301 and §34.1302

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to amend 28 TAC §§34.303, 34.1301, and 34.1302 and add new §34.1001, concerning Standards and Fees for State Fire Marshal Inspections, Battery Energy Storage Facility Safety, and Scheduled Administrative Penalties. Proposed new §34.1001 is added to new Subchapter J, Battery Energy Storage Facility Safety. The proposed amendments primarily update various National Fire Protection Association (NFPA) code standards that are adopted by reference and implement the new requirements of Utilities Code Chapter 187 as specified by House Bill 3824, 89th Legislature, 2025.

EXPLANATION. Amendments to §§34.303, 34.1301, and 34.1302 and new §34.1001 are necessary to (1) update state fire marshal adopted standards for the inspection of public and private buildings; (2) implement HB 3824, to provide fire safety standards and emergency operations plans for the operation of battery energy storage facilities (BESS); and (3) implement administrative penalties related to compliance with Utilities Code Chapter 187.

TDI received comments on an informal draft and asked questions to help guide the implementation of HB 3824. The informal draft was posted on TDI's website on April 10, 2026. TDI considered those comments when drafting this proposal.

Descriptions of the sections' proposed amendments follow.

Section 34.303. Amendments to §34.303 adopt the 2024 editions of NFPA 1, Fire Code and NFPA 101, Life Safety Code, both in the 2024 edition, including all referenced publications and editions in those codes. Also, amendments make other changes to the rule text to adhere to current agency style. Specifically, the proposed amendments:

- revise references to the two applicable NFPA codes; and

- recognize the exception for BESS systems subject to Utilities Code Chapter 187 by referencing new proposed Chapter 34, Subchapter J, relating to Battery Energy Storage Facility Safety.

In addition, the proposed amendments include nonsubstantive rule drafting and formatting changes for plain language, to conform this section to the agency's current style, and to improve the rule's clarity.

Under Government Code §417.008(e), the commissioner may adopt by rule any appropriate standard developed by a nationally recognized standards-making association under which the state fire marshal may enforce state laws related to firefighting, fire prevention, and inspection of dangerous conditions. The NFPA is a nationally recognized standards-making association, and the State Fire Marshal's Office (SFMO) has relied on NFPA codes since at least the 1990s.

NFPA codes are generally updated every three or five years, depending on the revision cycle of the particular code. However, TDI has not adopted updated NFPA standards since 2023. Therefore, the proposed amendments will ensure the SFMO is using the most up-to-date NFPA codes when performing its duties under the law. NFPA codes can be accessed at: www.nfpa.org.

The adoption of NFPA 1 and NFPA 101 provides SFMO inspectors with more comprehensive standards than are currently adopted by §34.303. Both NFPA 1-2024 and

NFPA 101-2024 reference NFPA 855-2023, *Standard for the Installation of Stationary Energy Storage Systems*.

Some of the changes from NFPA 1-2021 to NFPA 1-2024 include:

- strengthening and clarifying requirements for In-Building Emergency Responder Communication Enhancement Systems (11.10);

- adding new requirements for the outdoor use of electrically powered cooking appliances in residential occupancies (10.10.6);

- adding new requirements for charging of micromobility devices (10.21);

- revising requirements for listing of relocatable power taps (11.1.4);

- removing all extracts from NFPA 241 and replacing them with references to NFPA 241 (Chapter 16);

- revising classifications for mechanical refrigeration (Chapter 53); and

- updating all extracts through the Annual 2023 revision cycle.

Some changes from NFPA 101-2021 to NFPA 101-2024 include:

- adding a new provision in 18.4.3.2 (aligned with 11.8.2.3) to allow exit stairs in high-rise buildings to not be smokeproof enclosures if the building is fully sprinklered with an approved automatic system;

- referencing updated details and expanded allowances for mass timber construction in health care occupancies and special structures, which aligns with cross-referenced provisions in NFPA 5000 and section A.8.2.1.2 of NFPA 101;

- allowing for other exits associated with horizontal exits to discharge through the building where sprinklered;

- revising listing and installation requirements for two-way communications systems in areas of refuge;

- allowing for additional exit discharge through interior building areas;

- updating alcohol-based hand-rub solution dispenser and storage requirements;

- adding new requirements for inflatable amusement devices, modular rooms, and sleep pods;

- adding a smokeproof enclosure exemption for sprinklered high-rise buildings;

- adding carbon monoxide detection requirements for existing educational, new and existing day-care, new health care, new ambulatory health care, new and existing detention and correctional, existing one- and two-family dwelling, existing lodging or rooming houses, and existing apartment building occupancies;

- adding new requirements for and guidance on alternate care sites;

- revising door locking and suite supervision requirements for health care occupancies;

- adding new requirements for apartment building occupancy valet trash collection services; and

- adding automatic sprinkler system requirements for all new parking structures.

Note that the 2024 edition of both NFPA 1 and 101 reference the 2023 edition of NFPA 855, *Standard for the Installation of Stationary Energy Storage Systems*.

Section 34.1001. New §34.1001 implements HB 3824 by creating requirements that assure transparency to local communities from the BESS operator and by providing specific investigation activities for the SFMO. The purpose of the proposed new chapter is to clearly identify the use of not only the adopted codes of the SFMO but also the use of NFPA 855, *Standard for the Installation of Stationary Energy Storage Systems*, as a requirement for all battery energy storage systems with a capacity of one megawatt hour or greater.

The section proposes to adopt NFPA 855-2023, *Standard for the Installation of Stationary Energy Storage Systems*, and UL 9540A. In addition, new §34.1001 establishes criteria for determining a facility's commercial operations date for purposed of Utilities

Code Chapter 187. These criteria were revised in response to comments received on the informal draft. Based on comments received on the informal draft, the proposed rule establishes criteria for determining the commercial operations date for facilities registered with ERCOT, facilities located within ERCOT region but not registered with ERCOT, facilities located outside the ERCOT region, and facilities not falling within one of the previous categories. The section also specifies that battery energy storage facilities with a capacity of one megawatt hour or greater must comply with the adopted standards.

The state fire marshal has selected NFPA 855-2023 instead of NFPA 855-2026 because, as proposed, this rule will also adopt NFPA 1-2024 and NFPA 101-2024 by reference, both of which reference NFPA 855-2023. Adopting NFPA 855-2023 provides consistency among the related NFPA codes adopted by the state fire marshal.

Section 34.1301. Amendments to §34.1301 add references to Utilities Code Chapter 187 for purposes of the subchapter.

In addition, the proposed amendments add and update references to the names of statutes and rules referenced in the section and include nonsubstantive rule drafting and formatting changes for plain language, to conform this section to the agency's current style, and to improve the rule's clarity.

Section 34.1302. Amendments to §34.1302 propose new administrative penalties for BESS. The penalties are associated with the requirements of Utilities Code §187.003, which generally pertain to the obligations an operator owes the relevant political subdivision or local first responders. Utilities Code §187.005 references the imposition of administrative penalties as specified in Government Code §417.010. Government Code §417.010 references Insurance Code Chapter 84, which states that single violation penalty generally may not exceed $25,000.

Amendments propose to add Figure: 28 TAC §34.1302(g), which adds new penalties related to BESS associated with the requirements of Utilities Code §187.003. The section also notes that, in addition to appropriate administrative penalties, BESS may also be subject to remedial action under Government Code §417.008, concerning Right of Entry; Examination and Correction of Dangerous Conditions. This reservation of authority recognizes that while penalties may be appropriate, a dangerous condition could create a situation where immediate compliance is required by order.

Additional potentially finable offenses were added in response to informal comments received. The rule proposal specifies that a penalty is incurred each day. The priority of the state fire marshal is fire protection and safety, and penalties are not intended to be used for revenue. Compliance with Utilities Code Chapter 187 and rules adopted herein is the goal.

In addition, the text in all the current figures in the section has been resized and reformatted to improve readability as well as updated to reflect current citations to the 2024 edition of NFPA 101. An administrative penalty amount has been added to a previously blank penalty amount in Figure 28 TAC §34.1302(a), regarding §34.517(b)(1), failure to abide by adopted standards or manufacturers requirements for fixed extinguishers. No other penalty amounts or penalty descriptions have been materially altered.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Kelley Stalder, State Fire Marshal's Office deputy chief of inspections, has determined that during each year of the first five years the proposed new section and amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the new section and amendments other than that imposed by statute. Mr. Stalder made this determination because the proposed new section and amendments do

not add to or decrease state revenues or expenditures. It may be possible that a local government would itself be a BESS operator, and to the extent that the rules and statute would apply to any BESS operator, that local government would need to comply with the new section and amendments.

Mr. Stalder does not anticipate a measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed new section and amendments are in effect, Mr. Stalder expects that enforcing and administering the sections as proposed will have the public benefit of ensuring that TDI's rules conform to Utilities Code Chapter 187 and Government Code §417.008 and §417.010. The new proposed BESS standards and updated NFPA codes will promote the health and safety of the public.

Mr. Stalder expects that the updated codes in amended §34.303 will impose an economic cost on persons required to comply with the amendments. Amendments to §34.1301 and §34.1302 similarly implement HB 3824 and set administrative penalties that may be imposed on noncompliant BESS facilities.

Costs of Revised NFPA Codes

Mr. Stalder expects that the proposed amendments will impose an economic cost on persons required to comply with the amendments. Because of revisions in the updated codes, building owners and licensees may be required to meet more stringent or altered code requirements, and building owners and licensees may have higher costs to comply with the more recent version of the standards. However, these costs will be individualized and based on the existing condition of the building, the number of buildings affected by

the updated standards, and the work processes of affected businesses. In addition, the proposed updated NFPA codes will provide for greater reduction of the risk of fire.

The NFPA offers instant digital access to NFPA codes and standards through its online service called NFPA LiNK. With NFPA LiNK, interested persons and entities can access a digital library of the current and five previous editions of NFPA codes and standards for approximately $13.99 a month for individual access or $1,259 annually for up to 10 users. However, because a free read-only version of the updated NFPA standards exists through the NFPA website, TDI has not ascribed a cost to accessing the updated codes.

Costs of proposed administrative penalties

Whether an applicable operator is required to pay an administrative penalty depends on the licensee's compliance with the current applicable regulations. The amended penalty schedules may result in some costs to noncompliant operators but will be limited to costs relating to (1) responding to the alleged violation and (2) the administrative penalty.

Cost of new BESS standards

Mr. Stalder expects that the new §34.1001 will not increase the cost of compliance for regulated persons because the amendments would not impose requirements beyond those in statute.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed new section and amendments may have an adverse economic effect on small or micro businesses, or rural communities. The cost analysis in the Public Benefit and Cost Note section of this proposal also applies to these small and micro businesses and rural communities. TDI estimates that proposed §34.303 may affect approximately 20,000 small or micro businesses and potentially any rural community that owns a building subject to the revised code requirements.

The proposed amendments to the administrative penalty schedule in §34.1302 are important to better protect the health and safety of the public. There are no regulatory alternatives to the adoption of the penalty matrix in this proposal that will sufficiently protect the health and safety of Texas citizens.

In addition, the proposed amendments to the updated fire protection standards are necessary to better protect the health and safety of the public. TDI has determined, in accordance with Government Code §2006.002(c-1), the proposal substantially contributes to the health and safety of Texas citizens by incorporating more current NFPA standards. There are no current regulatory alternatives to the adoption of the updated standards in this proposal that will sufficiently protect the health and safety of Texas citizens affected by the rules.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does impose a possible cost on regulated persons. However, no additional rule amendments are required under Government Code §2001.0045 because the proposed rules are necessary to (1) implement legislation; and (2) protect the health, safety, and welfare of the residents of this state. The proposed rule implements Utilities Code Chapter 187 as added by HB 3824, 89th Legislature, 2026. The proposed amendments will better protect the public from fires by allowing the state fire marshal to apply the most recent standards and recommendations for the inspection of buildings. Examinations conducted by the state fire marshal using these updated standards will result in better protection of individual citizens, fire fighters, buildings, and structures. In order to properly protect life and property, it is necessary that nationally recognized standards for inspection of buildings and premises be used.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;

- will not require the creation of new employee positions or the elimination of existing employee positions;

- will not require an increase or decrease in future legislative appropriations to the agency;

- will not require an increase or decrease in fees paid to the agency;

- will create a new regulation;

- will expand, limit, or repeal an existing regulation;

- will not increase or decrease the number of individuals subject to the rule's applicability; and

- will positively affect the Texas economy.

New Subchapter J creates new requirements for BESS facilities to implement HB 3824. The new proposed BESS standards and updated NFPA codes will promote the health and safety of the public.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on January 6, 2027. Consistent with Government Code §2001.024(a)(8), TDI requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal and any applicable data, research, and analysis. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

The commissioner of insurance will also consider written and oral comments on the proposal in a public hearing under Docket No. 2880 at 2:00 p.m., central time, on December 11, 2026. TDI will hold the public hearing remotely using online resources and in person at the Barbara Jordan State Office Building, 1601 Congress Avenue, Austin, Texas 78701 in Room 2.035. Details on how to view and participate virtually in the public hearing will be made available on TDI's website at www.tdi.texas.gov/alert/event/index.html.

Subchapter C. Standards and Fees for State Fire Marshal Inspections
Division 1. General Provisions
28 TAC §34.303

STATUTORY AUTHORITY. TDI proposes amendments to §34.303 under Government Code §§417.005, 417.008(e), and 417.0081 and Insurance Code §36.001.

Government Code §417.005 states that the commissioner, after consulting with the state fire marshal, may adopt rules necessary to guide the state fire marshal in the performance of other duties for the commissioner.

Government Code §417.008(e) provides that the commissioner may adopt by rule any appropriate standard related to fire danger developed by a nationally recognized standards-making association.

Government Code §417.0081 provides that the commissioner, by rule, adopt guidelines for assigning potential fire safety risk to state-owned and state-leased buildings and providing for the inspection of each building to which this section applies.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 34.303 implements Government Code §417.008.

TEXT.

§34.303. Adopted Standards.

(a) The commissioner [~~Commissioner~~] adopts by reference:

(1) NFPA 1-2024 [~~1-2021~~] Fire Code, except for:

(A) Chapter 1 Administration, to the extent that subsections 1.6 Enforcement, 1.7 Authority, 1.8 Duties and Powers of the Incident Commander, 1.9 Liability, 1.10 Pre-Incident Planning, 1.11 [~~1.10~~] Fire Code Board of Appeals, 1.12 [~~1.11~~] Records and Reports, 1.13 [~~1.12~~] Permits and Approvals, 1.14 [~~1.13~~] Certificates of Fitness, 1.15 [~~1.14~~] Plan Review, and 1.17 [~~1.16~~] Notice of Violations and Penalties do not apply to state fire marshal inspections;

(B) Chapter 30 Motor Fuel Dispensing Facilities and Repair Garages, to the extent it conflicts with standards adopted in Subchapter A of this chapter (relating to Flammable Liquids) and Health and Safety Code Chapter 753, concerning Flammable Liquids;

(C) Chapter 60 Hazardous Materials, to the extent it will not be applied to university laboratories and laboratories in health care occupancies; [~~and~~]

(D) Chapter 65 Explosives, Fireworks, and Model Rocketry, to the extent it conflicts with Subchapter H of this chapter (relating to Storage and Sale of Fireworks) and Occupations Code Chapter 2154, concerning Regulation of Fireworks and Fireworks Displays; and

(E) NFPA 855, Standard for the Installation of Stationary Energy Storage Systems, to the extent it conflicts with Subchapter J of this chapter (relating to Battery Energy Storage Facility Safety) and Utilities Code Chapter 187, concerning Battery Energy Storage Facility Safety.

(2) NFPA Life Safety Code 101-2024. [~~101-2021.~~]

(b) These copyrighted standards and recommendations are adopted in their entirety for inspections performed under Government Code §417.008, concerning Right of Entry; Examination and Correction of Dangerous Conditions, except to the extent they are in conflict with sections of this chapter or any Texas statute [~~statutes~~] or federal law. NFPA [~~The~~] standards are published by and are available from the National Fire Protection

Association Inc. (NFPA) on the NFPA website at www.nfpa.org. UL standards are available from UL Solutions on the UL Solutions website at www.ul.com.

Subchapter J. Battery Energy Storage Facility Safety

28 TAC §34.1001

STATUTORY AUTHORITY. TDI proposes new §34.1001 under Utilities Code §187.003 and §187.004, Government Code §417.005, and Insurance Code §36.001.

Utilities Code §187.003 provides that the commissioner, by rule, 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.

Utilities Code §187.004 states that the commissioner by rule may prescribe procedures or requirements as necessary for the purposes of the section.

Government Code §417.005 states that the commissioner, after consulting with the state fire marshal, may adopt rules necessary to guide the state fire marshal in the performance of other duties for the commissioner.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section §34.1001 implements Utilities Code §187.003 and §187.004.

TEXT.

§34.1001. Adopted Standards for Battery Energy Storage Facilities.

(a) The purpose of this subchapter is to administer Utilities Code Chapter 187, concerning Battery Energy Storage Facility Safety.

(b) The commissioner adopts by reference NFPA 855-2023, *Standard for the Installation of Stationary Energy Storage Systems*, and UL 9540A. These standards are in addition to standards adopted in §34.303 of this title (relating to Adopted Standards).

(c) For purposes of Utilities Code Chapter 187, the commercial operations dates are as follows.

(1) For a battery energy storage resource connected at either the transmission or distribution level and registered with the applicable independent organization certified under Utilities Code §39.151, concerning Essential Organizations, for the Electric Reliability Council of Texas (ERCOT) power region, the date the independent organization declares that the facility has completed all qualification testing as part of the resource interconnection process and is approved for participation in market operations.;

(2) For a battery energy storage resource located in the ERCOT power region but not registered with the applicable independent organization certified under Utilities Code §39.151 for the ERCOT power region, the date the facility completes testing and qualification and is authorized to participate in commercial operations by the interconnecting transmission and distribution service provider.

(3) For a battery energy storage resource located within the boundaries of a non-ERCOT regional transmission organization or independent system operator, the

date on which the resource has completed all required interconnection testing and qualification and is recognized as having achieved commercial operation under an interconnection arrangement including, if applicable, acceptance by the regional transmission organization or independent system operator and the interconnecting transmission owner of the interconnection customer's commercial operation notification or equivalent declaration.

(4) For a battery energy storage resource that does not fall under the umbrella of sections (1) - (3), the date on which the resource has completed all testing and is capable of operating in accordance with the manufacturer's instructions.

(d) Battery energy storage systems must comply with the applicable requirements of the adopted standards based on the capacity thresholds established in those standards. In addition, a battery energy storage facility with an aggregate capacity of one megawatt hour or greater must comply with the requirements of Utilities Code Chapter 187.

(e) These copyrighted standards and recommendations are adopted except to the extent they conflict with sections of this chapter or any Texas statute or federal law. NFPA standards are available from the NFPA at www.nfpa.org. UL standards are available from UL Solutions at www.ul.com.

(f) A battery energy storage facility must communicate timely and professionally with local first responders as required by Utilities Code §187.004.

Subchapter M. Scheduled Administrative Penalties
28 TAC §34.1301 and §34.1302

STATUTORY AUTHORITY. TDI proposes amendments to §34.1301 and §34.1302 under Utilities Code §187.005, Government Code §417.005, §417.010, and Insurance Code §36.001.

Utilities Code §187.005 requires that the commissioner, by rule, delegate to the state fire marshal the authority to take disciplinary and enforcement actions, including the imposition of administrative penalties, to enforce Utilities Code Chapter 187, and 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 §417.010, Government Code.

Government Code §417.005 provides that the commissioner may adopt necessary rules to guide the state fire marshal in the performance of duties for the commissioner.

Government Code §417.010 provides that the commissioner by rule must adopt a schedule of administrative penalties for violations subject to a penalty under the section to ensure that the amount of an administrative penalty is appropriate to the violation.

Insurance Code §36.001 provides that the commissioner may adopt any necessary and appropriate rules to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Sections 34.1301 and 34.1302 implement Utilities Code §187.005 and Government Code §417.010.

TEXT.

§34.1301. Imposition of Penalty.

(a) The commissioner delegates to the state fire marshal the authority to take disciplinary and enforcement action as described in this subchapter.

(b) The state fire marshal may impose an administrative penalty as described in §34.1302 of this title (relating to Schedule of Administrative Penalties) against a person who violates:

(1) a provision of Title 20, Insurance Code, concerning Regulation of Other Occupations, including Chapters [~~Chapter~~] 6001, 6002, or 6003, concerning Fire Extinguisher Service and Installation, Fire Detection and Alarm Device Installation, and Fire Protection Sprinkler System Service and Installation, respectively;

(2) Occupations Code Chapter 2154, concerning Regulation of Fireworks and Fireworks Displays; [~~or~~]

(3) a rule appearing in Subchapter E, F, G, or H of this chapter (relating to Fire Extinguisher Rules [~~and Installation~~], Fire Alarm Rules, Fire Sprinkler Rules, and Storage and Sale of Fireworks, respectively)[~~.~~]; or

(4) Utilities Code Chapter 187, concerning Battery Energy Storage Facility Safety, or a rule appearing in Subchapter C of this chapter (relating to Standards and Fees for State Fire Marshal Inspections) to the extent applicable to battery energy storage facilities.

(c) As used in this subchapter, the term "licensee" includes all persons licensed, registered, or otherwise regulated by Title 20, Insurance Code, [~~or~~] Occupations Code Chapter 2154, or Utilities Code Chapter 187.

(d) The state fire marshal may refer a violation of subsection (b)(1), (2), [~~or~~] (3), or (4) of this section to the Texas Department of Insurance, Enforcement Section, instead of imposing an administrative penalty under this subchapter. Sanctions under Insurance Code Chapters 82, 83, and 84, concerning Sanctions, Emergency Cease and Desist Orders, and Administrative Penalties, respectively; [~~and~~] Occupations Code Chapter 2154; and Utilities Code Chapter 187[~~,~~] are not restricted to the administrative penalty amounts under §34.1302 of this title.

§34.1302. Schedule of Administrative Penalties.

(a) The Fire Extinguisher Penalty Schedule is specified as follows.

Figure: 28 TAC §34.1302(a) [~~Figure: 28 TAC §34.1302(a)~~]

(b) The Fire Alarm Penalty Schedule is specified as follows.

Figure: 28 TAC §34.1302(b) [~~Figure: 28 TAC §34.1302(b)~~]

(c) The Fire Protection Sprinkler Penalty Schedule is specified as follows.

Figure: 28 TAC §34.1302(c) [~~Figure: 28 TAC §34.1302(c)~~]

(d) The Fireworks Indoor Retail Stand Penalty Schedule is specified as follows.

Figure: 28 TAC §34.1302(d) [~~Figure: 28 TAC §34.1302(d)~~]

(e) The Fireworks Retail Site Penalty Schedule is specified as follows.

Figure: 28 TAC §34.1302(e) [~~Figure: 28 TAC §34.1302(e)~~]

(f) The Fireworks Distributor Licensing Retailer Permit Penalty is specified as follows.

Figure: 28 TAC §34.1302(f) [~~Figure: 28 TAC §34.1302(f)~~]

(g) The Battery Energy Storage Facility Penalty Schedule is specified as follows. A condition that creates a dangerous condition may result in an order to remove a building or structure or other remedial action under Government Code §417.008, concerning Right of Entry; Examination and Correction of Dangerous Conditions.

Figure: 28 TAC §34.1302(g)

Citation	**Violation**	**Fine**
Inspection and Ongoing Compliance		
Utilities Code §187.003(a)-(b)	Failure to design, install, operate, or maintain a battery energy storage facility in compliance with applicable safety standards adopted under §187.003(a)-(b).	up to $5,000 per day

Utilities Code §187.003(a)-(b)	Operation of a battery energy storage facility with knowledge, including knowledge obtained through inspection reports, evaluations, or internal monitoring, or one or more deficiencies that materially impair fire protection, monitoring, ventilation, or other safety systems required under NFPA 855 and UL9540A, as adopted by the commissioner and state fire marshal under §187.003(a)-(b), without taking steps to remedy these deficiencies within a reasonable time.	up to $5,000 per day
Utilities Code §187.003(e)	Failure to provide an independent report evaluating the design, safety, and installation of the facility prior to commencing commercial operations if requested by municipality or county in which the facility is located as required by §187.003(e).	up to $5,000 per day
Utilities Code §187.003(e)(1)-(2)	Report required under §187.003(e) fails to meet requirements under §187.003(e)(1)-(2).	up to $5,000 per day
Utilities Code §187.003(f)	Failure to make available to the engineer, consultant, the requesting municipality, or county documents created or held by the battery operator as required by §187.003(f).	up to $5,000 per day
Utilities Code §187.003(g)	Failure to provide a fire safety inspection report to the municipality or country in which the facility is located at least once every five years as required by §187.003(g).	up to $5,000 per day
Utilities Code §187.003(g)(1)-(2)	Report required under §187.003(g) fails to meet requirements under §187.003(g)(1)-(2).	up to $5,000 per day
First Responder Education and Training		
Utilities Code §187.004(c)-(d)	Failure to provide required documents.	up to $5,000 per day
Utilities Code §187.003(g)	Failure to conduct a required fire safety inspection report or an insufficiency in the report.	up to $5,000 per day
Utilities Code §187.004(c)	Failure to produce a site-specific emergency operation plan or an insufficiently in the report	up to $5,000 per day
Utilities Code §187.004(d)(1)	Failure to provide the site-specific emergency operations plan developed to the local first responder that is responsible for providing fire protection services in the area where the facility is located.	up to $5,000 per day
Utilities Code §187.004(d)(2)	Failure to maintain safety data sheets or comparable documents and the site-specific emergency operations plan at an onsite location accessible to personnel responsible for the operations and maintenance of the battery energy storage facility and first responders.	up to $5,000 per day

Utilities Code §187.004(e)	Failure to offer education and annual training regarding responding to an equipment failure incident at the battery energy storage facility site.	up to $5,000 per day
Utilities Code §187.004(e)	Failure to provide education and annual training at no cost regarding responding to an equipment failure incident at the battery energy storage facility site to local first responders if local first responders have previously accepted offer for education and annual training.	up to $5,000 per day

CERTIFICATION. The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on November 16, 2026.

Signed by:
Jessica Barta
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Jessica Barta, General Counsel
Texas Department of Insurance