

By: Pickett

H.B. No. 417

A BILL TO BE ENTITLED

AN ACT

relating to information regarding the storage of certain hazardous chemicals; providing penalties.

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

SECTION 1. Section 63.151, Agriculture Code, is amended by adding Subdivisions (3), (4), and (5) to read as follows:

(3) "Ammonium nitrate storage facility" means a facility that stores ammonium nitrate material or ammonium nitrate to be used in ammonium nitrate material and includes the premises on which a facility is located.

(4) "Fire marshal" means the state fire marshal or a local fire marshal, fire chief, or other fire safety official, including a volunteer fire safety official, having jurisdiction over the area in which an ammonium nitrate storage facility is located.

(5) "Operator" means the person who controls the day-to-day operations of an ammonium nitrate storage facility.

SECTION 2. Subchapter I, Chapter 63, Agriculture Code, is amended by adding Section 63.158 to read as follows:

Sec. 63.158. FIRE PREVENTION AT AMMONIUM NITRATE STORAGE FACILITIES; ADOPTION OF FIRE PROTECTION STANDARDS. (a) The owner or operator of an ammonium nitrate storage facility shall:

(1) allow a fire marshal to enter the facility to make a thorough examination of the facility; and

1 (2) on request, at a reasonable time, allow the local
2 fire department access to the facility to perform a pre-fire
3 planning assessment.

4 (b) A fire marshal who determines the presence of a fire or
5 life safety hazard, as that term is defined by Section 352.016,
6 Local Government Code, at an ammonium nitrate storage facility may
7 direct the owner or operator of the facility to correct the
8 hazardous situation. If directed to do so, an owner or operator
9 shall correct the hazardous situation.

10 (c) The commissioner of insurance, after consultation with
11 the state fire marshal, by rule shall adopt fire protection
12 standards for ammonium nitrate storage facilities, including
13 standards for the storage of ammonium nitrate at those facilities.

14 (d) Except as provided by Subsection (e), a fire marshal who
15 determines that the owner or operator of an ammonium nitrate
16 storage facility has violated or is violating this section shall
17 notify the service of the violation. A violation of a rule adopted
18 under Subsection (c) is a violation of this section.

19 (e) A fire marshal may direct the owner or operator of an
20 ammonium nitrate storage facility to correct a violation of a fire
21 protection standard adopted under Subsection (c). If directed to
22 do so, an owner or operator shall remedy the violation before the
23 expiration of a period specified by the fire marshal, which may not
24 exceed 10 days. If the fire marshal determines that the violation
25 has not been remedied before the expiration of the specified
26 period, the fire marshal shall notify the service that the owner or
27 operator is in violation of this section.

1 (f) The service shall enforce a violation of this section in
2 an appropriate manner as authorized by this chapter.

3 (g) Section 419.909, Government Code, does not apply to an
4 examination of an ammonium nitrate storage facility by a fire
5 marshal under this section.

6 SECTION 3. Section 417.008(b), Government Code, is amended
7 to read as follows:

8 (b) The state fire marshal shall enter and is entitled, at
9 any time:

10 (1) [] to enter any:

11 (A) mercantile, manufacturing, or public
12 building;

13 (B) [] place of amusement;

14 (C) [~~or~~] place where public gatherings are held;

15 (D) ammonium nitrate storage facility, as
16 defined by Section 63.151, Agriculture Code; [] or

17 (E) [~~any~~] premises belonging to [~~such~~] a
18 building, [~~or~~] place, or facility described by Paragraphs
19 (A)-(D); [] and

20 (2) to make a thorough examination of the building,
21 place, facility, or premises described by Subdivision (1).

22 SECTION 4. Section 505.002(b), Health and Safety Code, is
23 amended to read as follows:

24 (b) It is the intent and purpose of this chapter to ensure
25 that accessibility to information regarding hazardous chemicals is
26 provided to:

27 (1) fire departments responsible for dealing with

1 chemical hazards during an emergency;

2 (2) local emergency planning committees and other
3 emergency planning organizations; and

4 (3) the executive director to make the information
5 available to the public through specific procedures.

6 SECTION 5. Section 505.003(b), Health and Safety Code, is
7 amended to read as follows:

8 (b) In this chapter, a reference to the North American
9 Industrial Classification System (NAICS) [~~Standard Industrial~~
10 ~~Classification (SIC)~~], to nomenclature systems developed by the
11 International Union of Pure and Applied Chemistry (IUPAC) or the
12 Chemical Abstracts Service (CAS), or to other information,
13 including information such as classification codes, performance
14 standards, systematic names, standards, and systems described in
15 publications sponsored by private technical or trade
16 organizations, means a reference to the most current version of the
17 publication.

18 SECTION 6. Section 505.004, Health and Safety Code, is
19 amended by adding Subdivisions (3-a) and (8-a) and amending
20 Subdivisions (10), (12), and (23) to read as follows:

21 (3-a) "Commission" means the Texas Commission on
22 Environmental Quality.

23 (8-a) "Executive director" means the executive
24 director of the commission.

25 (10) "Facility" means all buildings, equipment,
26 structures, and other stationary items that are located on a single
27 site or on contiguous or adjacent sites, that are owned or operated

1 by the same person, or by any person who controls, is controlled by,
2 or is under common control with that person, and that is in North
3 American Industrial Classification System (NAICS) Codes 31-33
4 [~~Standard Industrial Codes (SIC) 20-39~~].

5 (12) "Fire chief" means the [~~elected or paid~~]
6 administrative head of a fire department, including a volunteer
7 fire department.

8 (23) "Tier two form" means:

9 (A) a form specified by the commission
10 [~~department~~] under Section 505.006 for listing hazardous chemicals
11 as required by EPCRA; or

12 (B) a form accepted by the EPA under EPCRA for
13 listing hazardous chemicals together with additional information
14 required by the commission [~~department~~] for administering its
15 functions related to EPCRA.

16 SECTION 7. Sections 505.005(a) and (d), Health and Safety
17 Code, are amended to read as follows:

18 (a) Facility operators whose facilities are in North
19 American Industrial Classification System (NAICS) Codes 31-33 [~~SIC~~
20 ~~Codes 20-39~~] shall comply with this chapter.

21 (d) The executive director shall develop and implement an
22 outreach program concerning the public's ability to obtain
23 information under this chapter similar to the outreach program
24 under Section 502.008.

25 SECTION 8. Section 505.006, Health and Safety Code, is
26 amended by amending Subsections (a), (c), (e), (f), and (g) and
27 adding Subsections (e-1) and (e-2) to read as follows:

1 (a) For the purpose of community right-to-know, a facility
2 operator covered by this chapter shall compile and maintain a tier
3 two form that contains information on hazardous chemicals present
4 in the facility in quantities that meet or exceed thresholds
5 determined by the EPA in 40 CFR Part 370, or at any other reporting
6 thresholds as determined by commission [~~board~~] rule for certain
7 highly toxic or extremely hazardous substances.

8 (c) Each tier two form shall be filed annually with the
9 commission, along with the appropriate fee, according to the
10 procedures specified by commission [~~board~~] rules. [~~The facility~~
11 ~~operator shall furnish a copy of each tier two form to the fire~~
12 ~~chief of the fire department having jurisdiction over the facility~~
13 ~~and to the appropriate local emergency planning committee.~~]

14 (e) A facility operator shall file the tier two form with
15 the commission [~~department~~] not later than the 90th day after the
16 date on which the operator begins operation or has a reportable
17 addition, at the appropriate threshold, of a previously unreported
18 hazardous chemical or extremely hazardous substance. [~~The operator~~
19 ~~shall furnish a copy of each tier two form to the fire chief of the~~
20 ~~fire department having jurisdiction over the facility and to the~~
21 ~~appropriate local emergency planning committee.~~]

22 (e-1) A facility operator shall file an updated tier two
23 form with the commission:

24 (1) not later than the 90th day after the date on which
25 the operator has a change in the chemical weight range, as listed in
26 40 CFR Part 370, of a previously reported hazardous chemical or
27 extremely hazardous substance; and

1 (2) as otherwise required by commission rule.

2 (e-2) A facility operator shall furnish a copy of each tier
3 two form and updated tier two form filed with the commission under
4 this section to the fire chief of the fire department having
5 jurisdiction over the facility and to the appropriate local
6 emergency planning committee.

7 (f) A facility operator shall file a material safety data
8 sheet with the commission [~~department~~] on the commission's
9 [~~department's~~] request.

10 (g) The commission [~~department~~] shall maintain records of
11 the tier two forms and other documents filed under this chapter or
12 EPCRA for at least 30 years.

13 SECTION 9. Chapter 505, Health and Safety Code, is amended
14 by adding Section 505.0061 to read as follows:

15 Sec. 505.0061. REPORTING FOR FACILITIES STORING AMMONIUM
16 NITRATE USED IN FERTILIZER. (a) In this section, "ammonium
17 nitrate" and "ammonium nitrate storage facility" have the meanings
18 assigned by Section 63.151, Agriculture Code.

19 (b) As soon as practicable but not later than 72 hours after
20 the commission receives a tier two form reporting the presence of
21 ammonium nitrate at an ammonium nitrate storage facility, the
22 commission shall furnish a copy of the form to the state fire
23 marshal and the Texas Division of Emergency Management. The state
24 fire marshal shall furnish a copy of the form to the chief of the
25 fire department having jurisdiction over the facility. The Texas
26 Division of Emergency Management shall furnish a copy of the form to
27 the appropriate local emergency planning committee.

1 (c) Notwithstanding Section 505.006(e), the operator of an
2 ammonium nitrate storage facility shall file a tier two form with
3 the commission not later than 72 hours after the operator:

4 (1) begins operation;

5 (2) has a reportable addition, at the appropriate
6 threshold, of previously unreported ammonium nitrate; or

7 (3) has a change in the chemical weight range, as
8 listed in 40 CFR Part 370, of previously reported ammonium nitrate.

9 (d) An ammonium nitrate storage facility operator shall
10 furnish a copy of each tier two form submitted under Subsection (c)
11 to the fire chief of the fire department having jurisdiction over
12 the facility and to the appropriate local emergency planning
13 committee.

14 SECTION 10. Sections 505.007(c) and (d), Health and Safety
15 Code, are amended to read as follows:

16 (c) Any facility that has received five requests under
17 Subsection (a) in a calendar month, four requests in a calendar
18 month for two or more months in a row, or more than 10 requests in a
19 year may elect to furnish the material to the commission
20 ~~[department]~~.

21 (d) Any facility electing to furnish the material to the
22 commission ~~[department]~~ under Subsection (c) may during that same
23 filing period inform persons making requests under Subsection (a)
24 of the availability of the information at the commission
25 ~~[department]~~ and refer the request to the commission ~~[department]~~
26 for that filing period. The notice to persons making requests shall
27 state the address of the commission ~~[department]~~ and shall be

1 mailed within seven days of the date of receipt of the request, if
2 by mail, and at the time of the request if in person.

3 SECTION 11. Section 505.008(b), Health and Safety Code, is
4 amended to read as follows:

5 (b) A facility operator, on request, shall give the fire
6 chief or the local emergency planning committee such additional
7 information on types and amounts of hazardous chemicals present at
8 a facility as the requestor may need for emergency planning
9 purposes. A facility operator, on request, shall give the
10 executive director, the fire chief, or the local emergency planning
11 committee a copy of the MSDS for any chemical on the tier two form
12 furnished under Section 505.006 or for any chemical present at the
13 facility.

14 SECTION 12. Section 505.009, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 505.009. COMPLAINTS AND INVESTIGATIONS. On
17 presentation of appropriate credentials, an officer or
18 representative of the executive director may enter a facility at
19 reasonable times to inspect and investigate complaints.

20 SECTION 13. Section 505.016, Health and Safety Code, is
21 amended to read as follows:

22 Sec. 505.016. RULES; FEES. (a) The commission [~~board~~] may
23 adopt rules and administrative procedures reasonably necessary to
24 carry out the purposes of this chapter.

25 (b) The commission [~~board~~] may authorize the collection of
26 annual fees from facility operators for the filing of tier two forms
27 required by this chapter. Except as provided by Subsection (d),

1 fees may be used only to fund activities under this chapter. The
2 fee for facilities may not exceed:

3 (1) \$100 for each required submission having no more
4 than 25 hazardous chemicals or hazardous chemical categories;

5 (2) \$200 for each required submission having no more
6 than 50 hazardous chemicals or hazardous chemical categories;

7 (3) \$300 for each required submission having no more
8 than 75 hazardous chemicals or hazardous chemical categories;

9 (4) \$400 for each required submission having no more
10 than 100 hazardous chemicals or hazardous chemical categories; or

11 (5) \$500 for each required submission having more than
12 100 hazardous chemicals or chemical categories.

13 (c) To minimize the fees, the commission [~~board~~] by rule
14 shall provide for consolidated filings of multiple tier two forms
15 for facility operators covered by Subsection (b) if each of the tier
16 two forms contains fewer than 25 items.

17 (d) The commission [~~department~~] may use up to 20 percent of
18 the fees collected under this section as grants to local emergency
19 planning committees to assist them to fulfill their
20 responsibilities under EPCRA. An amount not to exceed [~~The~~
21 ~~department may use up to~~] 15 percent of the fees collected under
22 this chapter and Chapter 506, or 15 percent of the amount of fees
23 paid by the state and its political subdivisions under Chapter 506,
24 whichever is greater, may be used by the Department of State Health
25 Services to administer Chapter 502.

26 SECTION 14. Chapter 505, Health and Safety Code, is amended
27 by adding Section 505.018 to read as follows:

1 Sec. 505.018. ENFORCEMENT. (a) A facility operator may not
2 cause, suffer, allow, or permit a violation of this chapter,
3 commission rules adopted under this chapter, or an order issued
4 under this chapter.

5 (b) The commission may enforce this chapter under Chapter 7,
6 Water Code, including by issuing an administrative order that
7 assesses a penalty or orders a corrective action.

8 SECTION 15. Section 506.002(b), Health and Safety Code, is
9 amended to read as follows:

10 (b) It is the intent and purpose of this chapter to ensure
11 that accessibility to information regarding hazardous chemicals
12 [~~chemical~~] is provided to:

13 (1) fire departments responsible for dealing with
14 chemical hazards during an emergency;

15 (2) local emergency planning committees and other
16 emergency planning organizations; and

17 (3) the executive director to make the information
18 available to the public through specific procedures.

19 SECTION 16. Section 506.004, Health and Safety Code, is
20 amended by adding Subdivisions (3-a) and (8-a) and amending
21 Subdivisions (12) and (24) to read as follows:

22 (3-a) "Commission" means the Texas Commission on
23 Environmental Quality.

24 (8-a) "Executive director" means the executive
25 director of the commission.

26 (12) "Fire chief" means the [~~elected or paid~~]
27 administrative head of a fire department, including a volunteer

1 fire department.

2 (24) "Tier two form" means:

3 (A) a form specified by the commission
4 [~~department~~] under Section 506.006 for listing hazardous chemicals
5 as required by EPCRA; or

6 (B) a form accepted by the EPA under EPCRA for
7 listing hazardous chemicals together with additional information
8 required by the commission [~~department~~] for administering its
9 functions related to EPCRA.

10 SECTION 17. Section 506.005(d), Health and Safety Code, is
11 amended to read as follows:

12 (d) The executive director shall develop and implement an
13 outreach program concerning the public's ability to obtain
14 information under this chapter similar to the outreach program
15 under Section 502.008.

16 SECTION 18. Section 506.006, Health and Safety Code, is
17 amended by amending Subsections (a), (c), (d), (e), and (f) and
18 adding Subsections (d-1) and (d-2) to read as follows:

19 (a) For the purpose of community right-to-know, a facility
20 operator covered by this chapter shall compile and maintain a tier
21 two form that contains information on hazardous chemicals present
22 in the facility in quantities that meet or exceed thresholds
23 determined by the EPA in 40 CFR Part 370, or at any other reporting
24 thresholds as determined by commission [~~board~~] rule for certain
25 highly toxic or extremely hazardous substances.

26 (c) Each tier two form shall be filed annually with the
27 commission, along with the appropriate fee, according to the

1 procedures specified by commission [~~board~~] rules. [~~The facility~~
2 ~~operator shall furnish a copy of each tier two form to the fire~~
3 ~~chief of the fire department having jurisdiction over the facility~~
4 ~~and to the appropriate local emergency planning committee.~~]

5 (d) A facility operator shall file the tier two form with
6 the commission [~~department~~] not later than the 90th day after the
7 date on which the operator begins operation or has a reportable
8 addition, at the appropriate threshold, of a previously unreported
9 hazardous chemical or extremely hazardous substance, but a fee may
10 not be associated with filing this report. [~~The operator shall~~
11 ~~furnish a copy of each tier two form to the fire chief of the fire~~
12 ~~department having jurisdiction over the facility and to the~~
13 ~~appropriate local emergency planning committee.~~]

14 (d-1) A facility operator shall file an updated tier two
15 form with the commission:

16 (1) not later than the 90th day after the date on which
17 the operator has a change in the chemical weight range, as listed in
18 40 CFR Part 370, of a previously reported hazardous chemical or
19 extremely hazardous substance; and

20 (2) as otherwise required by commission rule.

21 (d-2) A facility operator shall furnish a copy of each tier
22 two form and updated tier two form filed with the commission under
23 this section to the fire chief of the fire department having
24 jurisdiction over the facility and to the appropriate local
25 emergency planning committee.

26 (e) A facility operator shall file a material safety data
27 sheet with the commission [~~department~~] on the commission's

1 [~~department's~~] request.

2 (f) The commission [~~department~~] shall maintain records of
3 the tier two forms and other documents filed under this chapter or
4 EPCRA for at least 30 years.

5 SECTION 19. Sections 506.007(c) and (d), Health and Safety
6 Code, are amended to read as follows:

7 (c) Any facility that has received five requests under
8 Subsection (a) in a calendar month, four requests in a calendar
9 month for two or more months in a row, or more than 10 requests in a
10 year may elect to furnish the material to the commission
11 [~~department~~].

12 (d) Any facility electing to furnish the material to the
13 commission [~~department~~] under Subsection (c) may during that same
14 filing period inform persons making requests under Subsection (a)
15 of the availability of the information at the commission
16 [~~department~~] and refer the request to the commission [~~department~~]
17 for that filing period. The notice to persons making requests shall
18 state the address of the commission [~~department~~] and shall be
19 mailed within seven days of the date of receipt of the request, if
20 by mail, and at the time of the request if in person.

21 SECTION 20. Section 506.008(b), Health and Safety Code, is
22 amended to read as follows:

23 (b) A facility operator, on request, shall give the fire
24 chief or the local emergency planning committee such additional
25 information on types and amounts of hazardous chemicals present at
26 a facility as the requestor may need for emergency planning
27 purposes. A facility operator, on request, shall give the

1 executive director, the fire chief, or the local emergency planning
2 committee a copy of the MSDS for any chemical on the tier two form
3 furnished under Section 506.006 or for any chemical present at the
4 facility.

5 SECTION 21. Section 506.009, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 506.009. COMPLAINTS AND INVESTIGATIONS. On
8 presentation of appropriate credentials, an officer or
9 representative of the executive director may enter a facility at
10 reasonable times to inspect and investigate complaints.

11 SECTION 22. Section 506.017, Health and Safety Code, is
12 amended to read as follows:

13 Sec. 506.017. RULES; FEES. (a) The commission [~~board~~] may
14 adopt rules and administrative procedures reasonably necessary to
15 carry out the purposes of this chapter.

16 (b) The commission [~~board~~] may authorize the collection of
17 annual fees from facility operators for the filing of tier two forms
18 required by this chapter. The fee may not exceed:

19 (1) \$50 for each required submission having no more
20 than 75 hazardous chemicals or hazardous chemical categories; or

21 (2) \$100 for each required submission having more than
22 75 hazardous chemicals or chemical categories.

23 (c) To minimize the fees, the commission [~~board~~] by rule
24 shall provide for consolidated filings of multiple tier two forms
25 for facility operators covered by Subsection (b) if each of the tier
26 two forms contains fewer than 25 items.

27 (d) The commission may use up to 20 percent of the fees

1 collected under this section as grants to local emergency planning
2 committees to assist them to fulfill their responsibilities under
3 EPCRA. An amount not to exceed [~~The department may use up to~~] 15
4 percent of the fees collected under Chapter 505 and this chapter, or
5 15 percent of the amount of fees paid by the state and its political
6 subdivisions under this chapter, whichever is greater, may be used
7 by the Department of State Health Services to administer Chapter
8 502.

9 SECTION 23. Chapter 506, Health and Safety Code, is amended
10 by adding Section 506.018 to read as follows:

11 Sec. 506.018. ENFORCEMENT. (a) A facility operator may not
12 cause, suffer, allow, or permit a violation of this chapter,
13 commission rules adopted under this chapter, or an order issued
14 under this chapter.

15 (b) The commission may enforce this chapter under Chapter 7,
16 Water Code, including by issuing an administrative order that
17 assesses a penalty or orders a corrective action.

18 SECTION 24. Section 507.002(b), Health and Safety Code, is
19 amended to read as follows:

20 (b) It is the intent and purpose of this chapter to ensure
21 that accessibility to information regarding hazardous chemicals is
22 provided to:

23 (1) fire departments responsible for dealing with
24 chemical hazards during an emergency;

25 (2) local emergency planning committees and other
26 emergency planning organizations; and

27 (3) the executive director to make the information

1 available to the public through specific procedures.

2 SECTION 25. Section 507.003, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 507.003. FEDERAL LAWS AND REGULATIONS. (a) In this
5 chapter, a reference to a federal law or regulation means a
6 reference to the most current version of that law or regulation.

7 (b) In this chapter, a reference to the North American
8 Industrial Classification System (NAICS) means a reference to the
9 most current version of that system.

10 SECTION 26. Section 507.004, Health and Safety Code, is
11 amended by adding Subdivisions (3-a) and (8-a) and amending
12 Subdivisions (10), (12), and (23) to read as follows:

13 (3-a) "Commission" means the Texas Commission on
14 Environmental Quality.

15 (8-a) "Executive director" means the executive
16 director of the commission.

17 (10) "Facility" means all buildings, equipment,
18 structures, and other stationary items that are located on a single
19 site or on contiguous or adjacent sites and that are owned or
20 operated by the same person or by any person who controls, is
21 controlled by, or is under common control with that person, and that
22 is in North American Industrial Classification System (NAICS) Codes
23 11-23 or Codes 42-92. The term does not include a facility subject
24 to Chapter ~~505 or~~ 506.

25 (12) "Fire chief" means the ~~[elected or paid]~~
26 administrative head of a fire department, including a volunteer
27 fire department.

1 (23) "Tier two form" means:

2 (A) a form specified by the commission
3 [~~department~~] under Section 507.006 for listing hazardous chemicals
4 as required by EPCRA; or

5 (B) a form accepted by the EPA under EPCRA for
6 listing hazardous chemicals together with additional information
7 required by the commission [~~department~~] for administering its
8 functions related to EPCRA.

9 SECTION 27. Sections 507.005(a) and (d), Health and Safety
10 Code, are amended to read as follows:

11 (a) Facility operators whose facilities are in North
12 American Industrial Classification System (NAICS) Codes 11-23 or
13 NAICS Codes 42-92 and who are not subject to Chapter [~~505 or~~] 506
14 shall comply with this chapter.

15 (d) The executive director shall develop and implement an
16 outreach program concerning the public's ability to obtain
17 information under this chapter similar to the outreach program
18 under Section 502.008.

19 SECTION 28. Section 507.006, Health and Safety Code, is
20 amended by amending Subsections (a), (c), (e), (f), and (g) and
21 adding Subsections (e-1) and (e-2) to read as follows:

22 (a) For the purpose of community right-to-know, a facility
23 operator covered by this chapter shall compile and maintain a tier
24 two form that contains information on hazardous chemicals present
25 in the facility in quantities that meet or exceed thresholds
26 determined by the EPA in 40 CFR Part 370, or at any other reporting
27 thresholds as determined by commission [~~board~~] rule for certain

1 highly toxic or extremely hazardous substances.

2 (c) Each tier two form shall be filed annually with the
3 commission, along with the appropriate fee, according to the
4 procedures specified by commission [~~board~~] rules. [~~The facility~~
5 ~~operator shall furnish a copy of each tier two form to the fire~~
6 ~~chief of the fire department having jurisdiction over the facility~~
7 ~~and to the appropriate local emergency planning committee.~~]

8 (e) A facility operator shall file the tier two form with
9 the commission [~~department~~] not later than the 90th day after the
10 date on which the operator begins operation or has a reportable
11 addition, at the appropriate threshold, of a previously unreported
12 hazardous chemical or extremely hazardous substance. [~~The operator~~
13 ~~shall furnish a copy of each tier two form to the fire chief of the~~
14 ~~fire department having jurisdiction over the facility and to the~~
15 ~~appropriate local emergency planning committee.~~]

16 (e-1) A facility operator shall file an updated tier two
17 form with the commission:

18 (1) not later than the 90th day after the date on which
19 the operator has a change in the chemical weight range, as listed in
20 40 CFR Part 370, of a previously reported hazardous chemical or
21 extremely hazardous substance; and

22 (2) as otherwise required by commission rule.

23 (e-2) A facility operator shall furnish a copy of each tier
24 two form and updated tier two form filed with the commission under
25 this section to the fire chief of the fire department having
26 jurisdiction over the facility and to the appropriate local
27 emergency planning committee.

1 (f) A facility operator shall file a material safety data
2 sheet with the commission [~~department~~] on the commission's
3 [~~department's~~] request.

4 (g) The commission [~~department~~] shall maintain records of
5 the tier two forms and other documents filed under this chapter or
6 EPCRA for at least 30 years.

7 SECTION 29. Chapter 507, Health and Safety Code, is amended
8 by adding Section 507.0061 to read as follows:

9 Sec. 507.0061. REPORTING FOR FACILITIES STORING AMMONIUM
10 NITRATE USED IN FERTILIZER. (a) In this section, "ammonium
11 nitrate" and "ammonium nitrate storage facility" have the meanings
12 assigned by Section 63.151, Agriculture Code.

13 (b) As soon as practicable but not later than 72 hours after
14 the commission receives a tier two form reporting the presence of
15 ammonium nitrate at an ammonium nitrate storage facility, the
16 commission shall furnish a copy of the form to the state fire
17 marshal and the Texas Division of Emergency Management. The state
18 fire marshal shall furnish a copy of the form to the chief of the
19 fire department having jurisdiction over the facility. The Texas
20 Division of Emergency Management shall furnish a copy of the form to
21 the appropriate local emergency planning committee.

22 (c) Notwithstanding Section 507.006(e), the operator of an
23 ammonium nitrate storage facility shall file a tier two form with
24 the commission not later than 72 hours after the operator:

- 25 (1) begins operation;
26 (2) has a reportable addition, at the appropriate
27 threshold, of previously unreported ammonium nitrate; or

1 (3) has a change in the chemical weight range, as
2 listed in 40 CFR Part 370, of previously reported ammonium nitrate.

3 (d) An ammonium nitrate storage facility operator shall
4 furnish a copy of each tier two form submitted under Subsection (c)
5 to the fire chief of the fire department having jurisdiction over
6 the facility and to the appropriate local emergency planning
7 committee.

8 SECTION 30. Section 507.007(b), Health and Safety Code, is
9 amended to read as follows:

10 (b) A facility operator, on request, shall give the fire
11 chief or the local emergency planning committee such additional
12 information on types and amounts of hazardous chemicals present at
13 a facility as the requestor may need for emergency planning
14 purposes. A facility operator, on request, shall give the
15 executive director, the fire chief, or the local emergency planning
16 committee a copy of the MSDS for any chemical on the tier two form
17 furnished under Section 507.006 or for any chemical present at the
18 facility.

19 SECTION 31. Section 507.008, Health and Safety Code, is
20 amended to read as follows:

21 Sec. 507.008. COMPLAINTS AND INVESTIGATIONS. On
22 presentation of appropriate credentials, an officer or
23 representative of the executive director may enter a facility at
24 reasonable times to inspect and investigate complaints.

25 SECTION 32. Section 507.013, Health and Safety Code, is
26 amended to read as follows:

27 Sec. 507.013. RULES; FEES. (a) The commission [~~board~~] may

1 adopt rules and administrative procedures reasonably necessary to
2 carry out the purposes of this chapter.

3 (b) The commission [~~board~~] may authorize the collection of
4 annual fees from facility operators for the filing of tier two forms
5 required by this chapter. Except as provided by Subsection (d),
6 fees may be used only to fund activities under this chapter. The
7 fee may not exceed:

8 (1) \$50 for each required submission having no more
9 than 75 hazardous chemicals or hazardous chemical categories; or

10 (2) \$100 for each required submission having more than
11 75 hazardous chemicals or chemical categories.

12 (c) To minimize the fees, the commission [~~board~~] by rule
13 shall provide for consolidated filings of multiple tier two forms
14 for facility operators covered by Subsection (b) if each of the tier
15 two forms contains fewer than 25 items.

16 (d) The commission [~~department~~] may use up to 20 percent of
17 the fees collected under this section as grants to local emergency
18 planning committees to assist them to fulfill their
19 responsibilities under EPCRA.

20 SECTION 33. Chapter 507, Health and Safety Code, is amended
21 by adding Section 507.014 to read as follows:

22 Sec. 507.014. ENFORCEMENT. (a) A facility operator may not
23 cause, suffer, allow, or permit a violation of this chapter,
24 commission rules adopted under this chapter, or an order issued
25 under this chapter.

26 (b) The commission may enforce this chapter under Chapter 7,
27 Water Code, including by issuing an administrative order that

1 assesses a penalty or orders a corrective action.

2 SECTION 34. Section 5.013(a), Water Code, is amended to
3 read as follows:

4 (a) The commission has general jurisdiction over:

5 (1) water and water rights including the issuance of
6 water rights permits, water rights adjudication, cancellation of
7 water rights, and enforcement of water rights;

8 (2) continuing supervision over districts created
9 under Article III, Sections 52(b)(1) and (2), and Article XVI,
10 Section 59, of the Texas Constitution;

11 (3) the state's water quality program including
12 issuance of permits, enforcement of water quality rules, standards,
13 orders, and permits, and water quality planning;

14 (4) the determination of the feasibility of certain
15 federal projects;

16 (5) the adoption and enforcement of rules and
17 performance of other acts relating to the safe construction,
18 maintenance, and removal of dams;

19 (6) conduct of the state's hazardous spill prevention
20 and control program;

21 (7) the administration of the state's program relating
22 to inactive hazardous substance, pollutant, and contaminant
23 disposal facilities;

24 (8) the administration of a portion of the state's
25 injection well program;

26 (9) the administration of the state's programs
27 involving underground water and water wells and drilled and mined

1 shafts;

2 (10) the state's responsibilities relating to regional
3 waste disposal;

4 (11) the responsibilities assigned to the commission
5 by Chapters 361, 363, 382, [~~and~~] 401, 505, 506, and 507, Health and
6 Safety Code; and

7 (12) any other areas assigned to the commission by
8 this code and other laws of this state.

9 SECTION 35. Section 7.052, Water Code, is amended by adding
10 Subsection (b-4) to read as follows:

11 (b-4) The amount of the penalty against a facility operator
12 who causes, suffers, allows, or permits a violation of Chapter 505,
13 Health and Safety Code, may not exceed \$500 a day for each day a
14 violation continues with a total not to exceed \$5,000 for each
15 violation. The amount of a penalty against a facility operator who
16 causes, suffers, allows, or permits a violation of Chapter 506 or
17 507, Health and Safety Code, may not exceed \$50 a day for each day a
18 violation continues with a total not to exceed \$1,000 for each
19 violation.

20 SECTION 36. Section 7.102, Water Code, is amended to read as
21 follows:

22 Sec. 7.102. MAXIMUM PENALTY. A person who causes, suffers,
23 allows, or permits a violation of a statute, rule, order, or permit
24 relating to Chapter 37 of this code, Chapter 366, 371, [~~or~~] 372,
25 505, 506, or 507, Health and Safety Code, Subchapter G, Chapter 382,
26 Health and Safety Code, or Chapter 1903, Occupations Code, shall be
27 assessed for each violation a civil penalty not less than \$50 nor

1 greater than \$5,000 for each day of each violation as the court or
2 jury considers proper. A person who causes, suffers, allows, or
3 permits a violation of a statute, rule, order, or permit relating to
4 any other matter within the commission's jurisdiction to enforce,
5 other than violations of Chapter 11, 12, 13, 16, or 36 of this code,
6 or Chapter 341, Health and Safety Code, shall be assessed for each
7 violation a civil penalty not less than \$50 nor greater than \$25,000
8 for each day of each violation as the court or jury considers
9 proper. Each day of a continuing violation is a separate violation.

10 SECTION 37. Subchapter E, Chapter 7, Water Code, is amended
11 by adding Section 7.1851 to read as follows:

12 Sec. 7.1851. VIOLATIONS RELATING TO COMMUNITY
13 RIGHT-TO-KNOW LAWS. (a) A person who proximately causes an
14 occupational disease or injury to an individual by knowingly
15 disclosing false information or knowingly failing to disclose
16 hazard information as required by Chapter 505, 506, or 507, Health
17 and Safety Code, commits an offense.

18 (b) This section does not affect any other right of a person
19 to receive compensation under other law.

20 (c) An offense under this section is punishable under
21 Section 7.187(a)(1)(B).

22 SECTION 38. The following provisions of the Health and
23 Safety Code are repealed:

24 (1) Sections 505.004(2), (5), (6), (14), and (20);

25 (2) Sections 505.008(c), 505.010, 505.011, 505.012,
26 505.013, and 505.014;

27 (3) Sections 506.004(2), (5), (6), (14), and (20);

1 (4) Sections 506.008(c), 506.010, 506.011, 506.012,
2 506.013, 506.014, 506.015, and 506.016;

3 (5) Sections 507.004(2), (5), (6), (14), and (20); and

4 (6) Sections 507.007(c), 507.009, 507.010, and
5 507.011.

6 SECTION 39. (a) Not later than April 1, 2016, the
7 commissioner of insurance by rule shall adopt the fire protection
8 standards required under Section 63.158, Agriculture Code, as added
9 by this Act.

10 (b) An ammonium nitrate storage facility operating on
11 September 1, 2015, is not required to meet the fire protection
12 standards adopted under Section 63.158(c), Agriculture Code, as
13 added by this Act, until September 1, 2018.

14 SECTION 40. (a) On January 1, 2016, the following are
15 transferred to the Texas Commission on Environmental Quality:

16 (1) the powers, duties, obligations, and liabilities
17 of the Department of State Health Services relating to Chapters
18 505, 506, and 507, Health and Safety Code;

19 (2) all unobligated and unexpended funds appropriated
20 to the Department of State Health Services designated for the
21 administration of Chapters 505, 506, and 507, Health and Safety
22 Code;

23 (3) all equipment and property of the Department of
24 State Health Services used solely or primarily for the
25 administration of Chapters 505, 506, and 507, Health and Safety
26 Code;

27 (4) all files and other records of the Department of

1 State Health Services kept by the department relating to the
2 administration of Chapters 505, 506, and 507, Health and Safety
3 Code; and

4 (5) employees of the Department of State Health
5 Services whose duties relate solely or primarily to the
6 administration of Chapters 505, 506, and 507, Health and Safety
7 Code.

8 (b) A rule adopted by the Department of State Health
9 Services that is in effect immediately before January 1, 2016, and
10 that relates to Chapters 505, 506, and 507, Health and Safety Code,
11 is, on January 1, 2016, a rule of the Texas Commission on
12 Environmental Quality and remains in effect until amended or
13 repealed by the Texas Commission on Environmental Quality. A
14 complaint, investigation, enforcement proceeding, or other
15 proceeding pending before the Department of State Health Services
16 on January 1, 2016, is continued by that department without change
17 in status after the effective date of this Act.

18 (c) The Department of State Health Services may agree with
19 the Texas Commission on Environmental Quality to transfer any
20 property of the department to the commission to implement the
21 transfer required by this Act.

22 (d) In the period beginning on the effective date of this
23 Act and ending on January 1, 2016, the Department of State Health
24 Services shall continue to perform functions and activities under
25 Chapters 505, 506, and 507, Health and Safety Code, as if those
26 chapters had not been amended by this Act, and the former law is
27 continued in effect for that purpose.

1 SECTION 41. (a) Except as otherwise provided by this Act,
2 this Act takes effect September 1, 2015.

3 (b) Sections [63.151\(3\)](#), (4), and (5) and [63.158](#),
4 Agriculture Code, as added by this Act, take effect immediately if
5 this Act receives a vote of two-thirds of all the members elected to
6 each house, as provided by Section [39](#), Article III, Texas
7 Constitution. If this Act does not receive the vote necessary for
8 immediate effect, those sections take effect September 1, 2015.