

By: Kacal

H.B. No. 942

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the storage of certain hazardous chemicals;
3 transferring enforcement of certain reporting requirements,
4 including the imposition of criminal, civil, and administrative
5 penalties, from the Department of State Health Services to the
6 Texas Commission on Environmental Quality.

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

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

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

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

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

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

23 Sec. 63.158. FIRE PREVENTION AT AMMONIUM NITRATE STORAGE
24 FACILITIES. (a) The owner or operator of an ammonium nitrate

1 storage facility shall:

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

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

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

12 (c) The owner or operator of an ammonium nitrate storage
13 facility shall:

14 (1) provide evidence of compliance with:

15 (A) Chapter 505 or 507, Health and Safety Code,
16 as applicable; and

17 (B) United States Department of Homeland
18 Security registration requirements;

19 (2) post National Fire Protection Association 704
20 warning placards on the outside of the storage area;

21 (3) store ammonium nitrate or ammonium nitrate
22 material in a separate structure; and

23 (4) separate ammonium nitrate or ammonium nitrate
24 material from combustible or flammable material by 30 feet or more.

25 (d) A fire marshal may direct the owner or operator of an
26 ammonium nitrate storage facility to correct a violation of a
27 requirement under Subsection (c).

1 (e) Except as provided by Subsection (f), a fire marshal who
2 determines that the owner or operator of an ammonium nitrate
3 storage facility has violated or is violating this section shall
4 notify the service of the violation.

5 (f) If directed to correct a hazardous situation or a
6 violation of Subsection (c), an owner or operator shall remedy the
7 situation or violation before the expiration of a period specified
8 by the fire marshal, which may not exceed 10 days. If the fire
9 marshal determines that the violation has not been remedied before
10 the expiration of the specified period, the fire marshal shall
11 notify the service that the owner or operator is in violation of
12 this section.

13 (g) The service shall enforce a violation of this section in
14 an appropriate manner as authorized by this chapter.

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

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

19 (1) [] to enter any:

20 (A) mercantile, manufacturing, or public
21 building;

22 (B) [] place of amusement;

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

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

26 (E) [~~any~~] premises belonging to [~~such~~] a
27 building, [~~or~~] place, or facility described by Paragraphs

1 (A)-(D);[7] and

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

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

6 (b) It is the intent and purpose of this chapter to ensure
7 that accessibility to information regarding hazardous chemicals is
8 provided to:

9 (1) fire departments responsible for dealing with
10 chemical hazards during an emergency;

11 (2) local emergency planning committees and other
12 emergency planning organizations; and

13 (3) the executive director to make the information
14 available to the public through specific procedures.

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

17 (b) In this chapter, a reference to the North American
18 Industrial Classification System (NAICS) [~~Standard Industrial~~
19 ~~Classification (SIC)~~], to nomenclature systems developed by the
20 International Union of Pure and Applied Chemistry (IUPAC) or the
21 Chemical Abstracts Service (CAS), or to other information,
22 including information such as classification codes, performance
23 standards, systematic names, standards, and systems described in
24 publications sponsored by private technical or trade
25 organizations, means a reference to the most current version of the
26 publication.

27 SECTION 6. Section 505.004, Health and Safety Code, is

1 amended by adding Subdivisions (3-a) and (8-a) and amending
2 Subdivisions (10), (12), and (23) to read as follows:

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

5 (8-a) "Executive director" means the executive
6 director of the commission.

7 (10) "Facility" means all buildings, equipment,
8 structures, and other stationary items that are located on a single
9 site or on contiguous or adjacent sites, that are owned or operated
10 by the same person, or by any person who controls, is controlled by,
11 or is under common control with that person, and that is in North
12 American Industrial Classification System (NAICS) Codes 31-33
13 [~~Standard Industrial Codes (SIC) 20-39~~].

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

17 (23) "Tier two form" means:

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

21 (B) a form accepted by the EPA under EPCRA for
22 listing hazardous chemicals together with additional information
23 required by the commission ~~[department]~~ for administering its
24 functions related to EPCRA.

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

27 (a) Facility operators whose facilities are in North

1 American Industrial Classification System (NAICS) Codes 31-33 [~~SIC~~
2 ~~Codes 20-39~~] shall comply with this chapter.

3 (d) The executive director shall develop and implement an
4 outreach program concerning the public's ability to obtain
5 information under this chapter similar to the outreach program
6 under Section 502.008.

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

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

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

23 (e) Except as provided by Section 505.0061(c), a [A]
24 facility operator shall file the tier two form with the commission
25 [~~department~~] not later than the 90th day after the date on which the
26 operator begins operation or has a reportable addition, at the
27 appropriate threshold, of a previously unreported hazardous

1 chemical or extremely hazardous substance.

2 (e-1) Except as provided by Section 505.0061(c), a facility
3 operator shall file an updated tier two form with the commission:

4 (1) not later than the 90th day after the date on which
5 the operator has a change in the chemical weight range, as listed in
6 40 C.F.R. Part 370, of a previously reported hazardous chemical or
7 extremely hazardous substance; and

8 (2) as otherwise required by commission rule.

9 (e-2) A facility operator shall furnish a copy of each tier
10 two form and updated tier two form filed with the commission under
11 this section to the fire chief of the fire department having
12 jurisdiction over the facility and to the appropriate local
13 emergency planning committee. [~~The operator shall furnish a copy~~
14 ~~of each tier two form to the fire chief of the fire department~~
15 ~~having jurisdiction over the facility and to the appropriate local~~
16 ~~emergency planning committee.]~~

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

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

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

25 Sec. 505.0061. REPORTING FOR FACILITIES STORING AMMONIUM
26 NITRATE USED IN FERTILIZER. (a) In this section, "ammonium
27 nitrate" and "ammonium nitrate storage facility" have the meanings

1 assigned by Section 63.151, Agriculture Code.

2 (b) As soon as practicable but not later than 72 hours after
3 the commission receives a tier two form reporting the presence of
4 ammonium nitrate at an ammonium nitrate storage facility, the
5 commission shall furnish a copy of the form to the state fire
6 marshal and the Texas Division of Emergency Management. The state
7 fire marshal shall furnish a copy of the form to the chief of the
8 fire department having jurisdiction over the facility. The Texas
9 Division of Emergency Management shall furnish a copy of the form to
10 the appropriate local emergency planning committee.

11 (c) The operator of an ammonium nitrate storage facility
12 shall file:

13 (1) a tier two form with the commission not later than
14 72 hours after the operator:

15 (A) begins operation; or

16 (B) has a reportable addition, at the appropriate
17 threshold, of previously unreported ammonium nitrate; and

18 (2) an updated tier two form not later than 72 hours
19 after the operator has a change in the chemical weight range, as
20 listed in 40 C.F.R. Part 370, of previously reported ammonium
21 nitrate.

22 (d) An ammonium nitrate storage facility operator shall
23 furnish a copy of each tier two form and updated tier two form
24 submitted under Subsection (c) to the fire chief of the fire
25 department having jurisdiction over the facility and to the
26 appropriate local emergency planning committee.

27 SECTION 10. Sections 505.007(c) and (d), Health and Safety

1 Code, are amended to read as follows:

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

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

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

18 (b) A facility operator, on request, shall give the fire
19 chief or the local emergency planning committee such additional
20 information on types and amounts of hazardous chemicals present at
21 a facility as the requestor may need for emergency planning
22 purposes. A facility operator, on request, shall give the
23 executive director, the fire chief, or the local emergency planning
24 committee a copy of the MSDS for any chemical on the tier two form
25 furnished under Section 505.006 or for any chemical present at the
26 facility.

27 SECTION 12. Section 505.009, Health and Safety Code, is

1 amended to read as follows:

2 Sec. 505.009. COMPLAINTS AND INVESTIGATIONS. On
3 presentation of appropriate credentials, an officer or
4 representative of the executive director may enter a facility at
5 reasonable times to inspect and investigate complaints.

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

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

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

16 (1) \$100 for each required submission having no more
17 than 25 hazardous chemicals or hazardous chemical categories;

18 (2) \$200 for each required submission having no more
19 than 50 hazardous chemicals or hazardous chemical categories;

20 (3) \$300 for each required submission having no more
21 than 75 hazardous chemicals or hazardous chemical categories;

22 (4) \$400 for each required submission having no more
23 than 100 hazardous chemicals or hazardous chemical categories; or

24 (5) \$500 for each required submission having more than
25 100 hazardous chemicals or chemical categories.

26 (c) To minimize the fees, the commission [~~board~~] by rule
27 shall provide for consolidated filings of multiple tier two forms

1 for facility operators covered by Subsection (b) if each of the tier
2 two forms contains fewer than 25 items.

3 (d) The commission [~~department~~] may use up to 20 percent of
4 the fees collected under this section as grants to local emergency
5 planning committees to assist them to fulfill their
6 responsibilities under EPCRA. An amount not to exceed [~~The~~
7 ~~department may use up to~~] 15 percent of the fees collected under
8 this chapter and Chapter 506, or 15 percent of the amount of fees
9 paid by the state and its political subdivisions under Chapter 506,
10 whichever is greater, may be used by the Department of State Health
11 Services to administer Chapter 502.

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

14 Sec. 505.018. ENFORCEMENT. (a) A facility operator may not
15 cause, suffer, allow, or permit a violation of this chapter,
16 commission rules adopted under this chapter, or an order issued
17 under this chapter.

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

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

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

26 (1) fire departments responsible for dealing with
27 chemical hazards during an emergency;

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

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

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

8 (3-a) "Commission" means the Texas Commission on
9 Environmental Quality.

10 (8-a) "Executive director" means the executive
11 director of the commission.

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

15 (24) "Tier two form" means:

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

19 (B) a form accepted by the EPA under EPCRA for
20 listing hazardous chemicals together with additional information
21 required by the commission ~~[department]~~ for administering its
22 functions related to EPCRA.

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

25 (d) The executive director shall develop and implement an
26 outreach program concerning the public's ability to obtain
27 information under this chapter similar to the outreach program

1 under Section 502.008.

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

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

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

18 (d) A facility operator shall file the tier two form with
19 the commission [~~department~~] not later than the 90th day after the
20 date on which the operator begins operation or has a reportable
21 addition, at the appropriate threshold, of a previously unreported
22 hazardous chemical or extremely hazardous substance, but a fee may
23 not be associated with filing this report.

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

26 (1) not later than the 90th day after the date on which
27 the operator has a change in the chemical weight range, as listed in

1 40 C.F.R. Part 370, of a previously reported hazardous chemical or
2 extremely hazardous substance; and

3 (2) as otherwise required by commission rule.

4 (d-2) A facility operator shall furnish a copy of each tier
5 two form and updated tier two form filed with the commission under
6 this section to the fire chief of the fire department having
7 jurisdiction over the facility and to the appropriate local
8 emergency planning committee. [The operator shall furnish a copy
9 of each tier two form to the fire chief of the fire department
10 having jurisdiction over the facility and to the appropriate local
11 emergency planning committee.]

12 (e) A facility operator shall file a material safety data
13 sheet with the commission [~~department~~] on the commission's
14 [~~department's~~] request.

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

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

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

25 (d) Any facility electing to furnish the material to the
26 commission [~~department~~] under Subsection (c) may during that same
27 filing period inform persons making requests under Subsection (a)

1 of the availability of the information at the commission
2 [~~department~~] and refer the request to the commission [~~department~~]
3 for that filing period. The notice to persons making requests shall
4 state the address of the commission [~~department~~] and shall be
5 mailed within seven days of the date of receipt of the request, if
6 by mail, and at the time of the request if in person.

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

9 (b) A facility operator, on request, shall give the fire
10 chief or the local emergency planning committee such additional
11 information on types and amounts of hazardous chemicals present at
12 a facility as the requestor may need for emergency planning
13 purposes. A facility operator, on request, shall give the
14 executive director, the fire chief, or the local emergency planning
15 committee a copy of the MSDS for any chemical on the tier two form
16 furnished under Section 506.006 or for any chemical present at the
17 facility.

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

20 Sec. 506.009. COMPLAINTS AND INVESTIGATIONS. On
21 presentation of appropriate credentials, an officer or
22 representative of the executive director may enter a facility at
23 reasonable times to inspect and investigate complaints.

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

26 Sec. 506.017. RULES; FEES. (a) The commission [~~board~~] may
27 adopt rules and administrative procedures reasonably necessary to

1 carry out the purposes of this chapter.

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

5 (1) \$50 for each required submission having no more
6 than 75 hazardous chemicals or hazardous chemical categories; or

7 (2) \$100 for each required submission having more than
8 75 hazardous chemicals or chemical categories.

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

13 (d) The commission may use up to 20 percent of the fees
14 collected under this section as grants to local emergency planning
15 committees to assist them to fulfill their responsibilities under
16 EPCRA. An amount not to exceed [~~The department may use up to~~] 15
17 percent of the fees collected under Chapter 505 and this chapter, or
18 15 percent of the amount of fees paid by the state and its political
19 subdivisions under this chapter, whichever is greater, may be used
20 by the Department of State Health Services to administer Chapter
21 502.

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

24 Sec. 506.018. ENFORCEMENT. (a) A facility operator may not
25 cause, suffer, allow, or permit a violation of this chapter,
26 commission rules adopted under this chapter, or an order issued
27 under this chapter.

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

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

6 (b) It is the intent and purpose of this chapter to ensure
7 that accessibility to information regarding hazardous chemicals is
8 provided to:

9 (1) fire departments responsible for dealing with
10 chemical hazards during an emergency;

11 (2) local emergency planning committees and other
12 emergency planning organizations; and

13 (3) the executive director to make the information
14 available to the public through specific procedures.

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

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

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

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

26 (3-a) "Commission" means the Texas Commission on
27 Environmental Quality.

1 (8-a) "Executive director" means the executive
2 director of the commission.

3 (10) "Facility" means all buildings, equipment,
4 structures, and other stationary items that are located on a single
5 site or on contiguous or adjacent sites and that are owned or
6 operated by the same person or by any person who controls, is
7 controlled by, or is under common control with that person, and that
8 is in North American Industrial Classification System (NAICS) Codes
9 11-23 or Codes 42-92. The term does not include a facility subject
10 to Chapter [~~505 or~~] 506.

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

14 (23) "Tier two form" means:

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

18 (B) a form accepted by the EPA under EPCRA for
19 listing hazardous chemicals together with additional information
20 required by the commission [~~department~~] for administering its
21 functions related to EPCRA.

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

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

1 (d) The executive director shall develop and implement an
2 outreach program concerning the public's ability to obtain
3 information under this chapter similar to the outreach program
4 under Section 502.008.

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

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

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

21 (e) Except as provided by Section 507.0061(c), a [A]
22 facility operator shall file the tier two form with the commission
23 [~~department~~] not later than the 90th day after the date on which the
24 operator begins operation or has a reportable addition, at the
25 appropriate threshold, of a previously unreported hazardous
26 chemical or extremely hazardous substance.

27 (e-1) Except as provided by Section 507.0061(c), a facility

1 operator shall file an updated tier two form with the commission:

2 (1) not later than the 90th day after the date on which
3 the operator has a change in the chemical weight range, as listed in
4 40 C.F.R. Part 370, of a previously reported hazardous chemical or
5 extremely hazardous substance; and

6 (2) as otherwise required by commission rule.

7 (e-2) A facility operator shall furnish a copy of each tier
8 two form and updated tier two form filed with the commission under
9 this section to the fire chief of the fire department having
10 jurisdiction over the facility and to the appropriate local
11 emergency planning committee. [~~The operator shall furnish a copy~~
12 of each tier two form to the fire chief of the fire department
13 having jurisdiction over the facility and to the appropriate local
14 emergency planning committee.]

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

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

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

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

27 (b) As soon as practicable but not later than 72 hours after

1 the commission receives a tier two form reporting the presence of
2 ammonium nitrate at an ammonium nitrate storage facility, the
3 commission shall furnish a copy of the form to the state fire
4 marshal and the Texas Division of Emergency Management. The state
5 fire marshal shall furnish a copy of the form to the chief of the
6 fire department having jurisdiction over the facility. The Texas
7 Division of Emergency Management shall furnish a copy of the form to
8 the appropriate local emergency planning committee.

9 (c) The operator of an ammonium nitrate storage facility
10 shall file:

11 (1) a tier two form with the commission not later than
12 72 hours after the operator:

13 (A) begins operation; or

14 (B) has a reportable addition, at the appropriate
15 threshold, of previously unreported ammonium nitrate; and

16 (2) an updated tier two form with the commission not
17 later than 72 hours after the operator has a change in the chemical
18 weight range, as listed in 40 C.F.R. Part 370, of previously
19 reported ammonium nitrate.

20 (d) An ammonium nitrate storage facility operator shall
21 furnish a copy of each tier two form and updated tier two form
22 submitted under Subsection (c) to the fire chief of the fire
23 department having jurisdiction over the facility and to the
24 appropriate local emergency planning committee.

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

27 (b) A facility operator, on request, shall give the fire

1 chief or the local emergency planning committee such additional
2 information on types and amounts of hazardous chemicals present at
3 a facility as the requestor may need for emergency planning
4 purposes. A facility operator, on request, shall give the
5 executive director, the fire chief, or the local emergency planning
6 committee a copy of the MSDS for any chemical on the tier two form
7 furnished under Section 507.006 or for any chemical present at the
8 facility.

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

11 Sec. 507.008. COMPLAINTS AND INVESTIGATIONS. On
12 presentation of appropriate credentials, an officer or
13 representative of the executive director may enter a facility at
14 reasonable times to inspect and investigate complaints.

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

17 Sec. 507.013. RULES; FEES. (a) The commission [~~board~~] may
18 adopt rules and administrative procedures reasonably necessary to
19 carry out the purposes of this chapter.

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

25 (1) \$50 for each required submission having no more
26 than 75 hazardous chemicals or hazardous chemical categories; or

27 (2) \$100 for each required submission having more than

1 75 hazardous chemicals or chemical categories.

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

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

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

12 Sec. 507.014. ENFORCEMENT. (a) A facility operator may not
13 cause, suffer, allow, or permit a violation of this chapter,
14 commission rules adopted under this chapter, or an order issued
15 under this chapter.

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

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

21 (a) The commission has general jurisdiction over:

22 (1) water and water rights including the issuance of
23 water rights permits, water rights adjudication, cancellation of
24 water rights, and enforcement of water rights;

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

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

4 (4) the determination of the feasibility of certain
5 federal projects;

6 (5) the adoption and enforcement of rules and
7 performance of other acts relating to the safe construction,
8 maintenance, and removal of dams;

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

11 (7) the administration of the state's program relating
12 to inactive hazardous substance, pollutant, and contaminant
13 disposal facilities;

14 (8) the administration of a portion of the state's
15 injection well program;

16 (9) the administration of the state's programs
17 involving underground water and water wells and drilled and mined
18 shafts;

19 (10) the state's responsibilities relating to regional
20 waste disposal;

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

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

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

1 (b-4) The amount of the penalty against a facility operator
2 who causes, suffers, allows, or permits a violation of Chapter 505,
3 Health and Safety Code, may not exceed \$500 a day for each day a
4 violation continues with a total not to exceed \$5,000 for each
5 violation. The amount of a penalty against a facility operator who
6 causes, suffers, allows, or permits a violation of Chapter 506 or
7 507, Health and Safety Code, may not exceed \$50 a day for each day a
8 violation continues with a total not to exceed \$1,000 for each
9 violation.

10 SECTION 36. Section 7.102, Water Code, is amended to read as
11 follows:

12 Sec. 7.102. MAXIMUM PENALTY. A person who causes, suffers,
13 allows, or permits a violation of a statute, rule, order, or permit
14 relating to Chapter 37 of this code, Chapter 366, 371, [~~or~~] 372,
15 505, 506, or 507, Health and Safety Code, Subchapter G, Chapter 382,
16 Health and Safety Code, or Chapter 1903, Occupations Code, shall be
17 assessed for each violation a civil penalty not less than \$50 nor
18 greater than \$5,000 for each day of each violation as the court or
19 jury considers proper. A person who causes, suffers, allows, or
20 permits a violation of a statute, rule, order, or permit relating to
21 any other matter within the commission's jurisdiction to enforce,
22 other than violations of Chapter 11, 12, 13, 16, or 36 of this code,
23 or Chapter 341, Health and Safety Code, shall be assessed for each
24 violation a civil penalty not less than \$50 nor greater than \$25,000
25 for each day of each violation as the court or jury considers
26 proper. Each day of a continuing violation is a separate violation.

27 SECTION 37. Subchapter E, Chapter 7, Water Code, is amended

1 by adding Section 7.1851 to read as follows:

2 Sec. 7.1851. VIOLATIONS RELATING TO COMMUNITY
3 RIGHT-TO-KNOW LAWS. (a) A person who proximately causes an
4 occupational disease or injury to an individual by knowingly
5 disclosing false information or knowingly failing to disclose
6 hazard information as required by Chapter 505, 506, or 507, Health
7 and Safety Code, commits an offense.

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

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

12 SECTION 38. The following provisions of the Health and
13 Safety Code are repealed:

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

15 (2) Sections 505.008(c), 505.010, 505.011, 505.012,
16 505.013, and 505.014;

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

18 (4) Sections 506.008(c), 506.010, 506.011, 506.012,
19 506.013, 506.014, 506.015, and 506.016;

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

21 (6) Sections 507.007(c), 507.009, 507.010, and
22 507.011.

23 SECTION 39. (a) On January 1, 2016, the following are
24 transferred to the Texas Commission on Environmental Quality:

25 (1) the powers, duties, obligations, and liabilities
26 of the Department of State Health Services relating to Chapters
27 505, 506, and 507, Health and Safety Code;

1 (2) all unobligated and unexpended funds appropriated
2 to the Department of State Health Services designated for the
3 administration of Chapters 505, 506, and 507, Health and Safety
4 Code;

5 (3) all equipment and property of the Department of
6 State Health Services used solely or primarily for the
7 administration of Chapters 505, 506, and 507, Health and Safety
8 Code;

9 (4) all files and other records of the Department of
10 State Health Services kept by the department relating to the
11 administration of Chapters 505, 506, and 507, Health and Safety
12 Code; and

13 (5) employees of the Department of State Health
14 Services whose duties relate solely or primarily to the
15 administration of Chapters 505, 506, and 507, Health and Safety
16 Code.

17 (b) A rule adopted by the Department of State Health
18 Services that is in effect immediately before January 1, 2016, and
19 that relates to Chapters 505, 506, and 507, Health and Safety Code,
20 is, on January 1, 2016, a rule of the Texas Commission on
21 Environmental Quality and remains in effect until amended or
22 repealed by the Texas Commission on Environmental Quality. A
23 complaint, investigation, enforcement proceeding, or other
24 proceeding pending before the Department of State Health Services
25 on January 1, 2016, is continued by that department without change
26 in status after the effective date of this Act.

27 (c) The Department of State Health Services may agree with

1 the Texas Commission on Environmental Quality to transfer any
2 property of the department to the commission to implement the
3 transfer required by this Act.

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

10 SECTION 40. (a) Except as otherwise provided by this Act,
11 this Act takes effect September 1, 2015.

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