

1-1 By: Kacal, et al. (Senate Sponsor - Birdwell) H.B. No. 942
 1-2 (In the Senate - Received from the House May 5, 2015;
 1-3 May 5, 2015, read first time and referred to Committee on Natural
 1-4 Resources and Economic Development; May 15, 2015, reported
 1-5 favorably by the following vote: Yeas 10, Nays 0; May 15, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the storage of certain hazardous chemicals;
 1-23 transferring enforcement of certain reporting requirements,
 1-24 including the imposition of criminal, civil, and administrative
 1-25 penalties, from the Department of State Health Services to the
 1-26 Texas Commission on Environmental Quality; amending provisions
 1-27 subject to a criminal penalty; reenacting a criminal offense.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 SECTION 1. Section 63.151, Agriculture Code, is amended by
 1-30 adding Subdivisions (3), (4), and (5) to read as follows:

1-31 (3) "Ammonium nitrate storage facility" means a
 1-32 facility that stores ammonium nitrate material or ammonium nitrate
 1-33 to be used in ammonium nitrate material and includes the premises on
 1-34 which a facility is located.

1-35 (4) "Fire marshal" means the state fire marshal or a
 1-36 local fire marshal, fire chief, or volunteer fire chief having
 1-37 jurisdiction over the area in which an ammonium nitrate storage
 1-38 facility is located.

1-39 (5) "Operator" means the person who controls the
 1-40 day-to-day operations of an ammonium nitrate storage facility.

1-41 SECTION 2. Subchapter I, Chapter 63, Agriculture Code, is
 1-42 amended by adding Section 63.158 to read as follows:

1-43 Sec. 63.158. FIRE PREVENTION AT AMMONIUM NITRATE STORAGE
 1-44 FACILITIES. (a) The owner or operator of an ammonium nitrate
 1-45 storage facility shall, on request, at a reasonable time:

1-46 (1) allow a fire marshal to enter the facility to make
 1-47 a thorough examination of the facility; and

1-48 (2) allow the local fire department access to the
 1-49 facility to perform a pre-fire planning assessment.

1-50 (b) A fire marshal who determines the presence of one or
 1-51 more of the following hazardous conditions that endangers the
 1-52 safety of a structure or its occupants by promoting or causing fire
 1-53 or combustion shall notify the owner or operator of the facility of
 1-54 the need to correct the condition. The hazardous conditions are:

1-55 (1) the presence of a flammable substance;

1-56 (2) a dangerous or dilapidated wall, ceiling, or other
 1-57 structural element;

1-58 (3) improper electrical components, heating, or other
 1-59 building services or facilities;

1-60 (4) the presence of a dangerous chimney, flue, pipe,
 1-61 main, or stove, or of dangerous wiring;

2-1 (5) the dangerous storage of substances other than
 2-2 ammonium nitrate or ammonium nitrate material, including storage or
 2-3 use of hazardous substances; or
 2-4 (6) inappropriate means of egress, fire protection, or
 2-5 other fire-related safeguard.
 2-6 (c) The owner or operator of an ammonium nitrate storage
 2-7 facility shall:
 2-8 (1) on request by a fire marshal or the service provide
 2-9 evidence of compliance with:
 2-10 (A) Chapter 505 or 507, Health and Safety Code,
 2-11 as applicable; and
 2-12 (B) United States Department of Homeland
 2-13 Security registration requirements;
 2-14 (2) post National Fire Protection Association 704
 2-15 warning placards on the outside of the storage area;
 2-16 (3) store ammonium nitrate or ammonium nitrate
 2-17 material:
 2-18 (A) in a fertilizer storage compartment or bin
 2-19 constructed of wood, metal, or concrete that is protected against
 2-20 impregnation by the ammonium nitrate or ammonium nitrate material;
 2-21 and
 2-22 (B) separately from any non-fertilizer
 2-23 materials; and
 2-24 (4) separate ammonium nitrate or ammonium nitrate
 2-25 material from combustible or flammable material by 30 feet or more.
 2-26 (d) A fire marshal who identifies the existence of a
 2-27 hazardous condition under Subsection (b) or a violation of
 2-28 Subsection (a) or (c) shall notify the service of the condition or
 2-29 violation.
 2-30 (e) If notified by a fire marshal of a hazardous condition
 2-31 under Subsection (b), the service may direct the owner or operator
 2-32 of the facility to correct the condition.
 2-33 (f) If notified by the fire marshal of a violation of
 2-34 Subsection (a) or (c), the service shall:
 2-35 (1) direct the owner or operator of the facility to
 2-36 correct the violation as provided by Subsection (g); or
 2-37 (2) take appropriate enforcement action as authorized
 2-38 by this chapter.
 2-39 (g) If directed by the service to correct a hazardous
 2-40 condition or a violation, an owner or operator shall remedy the
 2-41 condition or violation before the expiration of a period specified
 2-42 by the service, which may not exceed 10 days. If the service
 2-43 determines that the condition or violation has not been remedied
 2-44 before the expiration of the specified period, the service shall
 2-45 take appropriate enforcement action as authorized by this chapter.
 2-46 (h) Section 419.909(b), Government Code, does not apply to
 2-47 an examination of an ammonium nitrate storage facility by a fire
 2-48 marshal under this section.
 2-49 SECTION 3. Section 505.002(b), Health and Safety Code, as
 2-50 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
 2-51 Session, 2015, is amended to read as follows:
 2-52 (b) It is the intent and purpose of this chapter to ensure
 2-53 that accessibility to information regarding hazardous chemicals is
 2-54 provided to:
 2-55 (1) fire departments responsible for dealing with
 2-56 chemical hazards during an emergency;
 2-57 (2) local emergency planning committees and other
 2-58 emergency planning organizations; and
 2-59 (3) the commission [~~department~~] to make the
 2-60 information available to the public through specific procedures.
 2-61 SECTION 4. Section 505.004, Health and Safety Code, is
 2-62 amended by amending Subdivisions (3-a) and (8-a), as added by S.B.
 2-63 No. 219, Acts of the 84th Legislature, Regular Session, 2015, and
 2-64 amending Subdivisions (12) and (23) to read as follows:
 2-65 (3-a) "Commission" [~~"Commissioner"~~] means the Texas
 2-66 Commission on Environmental Quality [~~commissioner of state health~~
 2-67 services].
 2-68 (8-a) "Executive director" [~~"Executive commissioner"~~]
 2-69 means the executive director of the commission [~~executive~~

3-1 ~~commissioner of the Health and Human Services Commission~~].

3-2 (12) "Fire chief" means the ~~[elected or paid]~~
3-3 administrative head of a fire department, including a volunteer
3-4 fire department.

3-5 (23) "Tier two form" means:

3-6 (A) a form specified by the commission
3-7 ~~[department]~~ under Section 505.006 for listing hazardous chemicals
3-8 as required by EPCRA; or

3-9 (B) a form accepted by the EPA under EPCRA for
3-10 listing hazardous chemicals together with additional information
3-11 required by the commission ~~[department]~~ for administering its
3-12 functions related to EPCRA.

3-13 SECTION 5. Section 505.005(d), Health and Safety Code, as
3-14 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
3-15 Session, 2015, is amended to read as follows:

3-16 (d) The commission ~~[department]~~ shall develop and implement
3-17 an outreach program concerning the public's ability to obtain
3-18 information under this chapter similar to the outreach program
3-19 under Section 502.008.

3-20 SECTION 6. Section 505.006, Health and Safety Code, is
3-21 amended by amending Subsections (a), (c), and (f), as amended by
3-22 S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015,
3-23 amending Subsections (e) and (g), and adding Subsections (e-1) and
3-24 (e-2) to read as follows:

3-25 (a) For the purpose of community right-to-know, a facility
3-26 operator covered by this chapter shall compile and maintain a tier
3-27 two form that contains information on hazardous chemicals present
3-28 in the facility in quantities that meet or exceed thresholds
3-29 determined by the EPA in 40 CFR Part 370, or at any other reporting
3-30 thresholds as determined by commission ~~[department]~~ rule for
3-31 certain highly toxic or extremely hazardous substances.

3-32 (c) Each tier two form shall be filed annually with the
3-33 commission, along with the appropriate fee, according to the
3-34 procedures specified by commission ~~[department]~~ rules. ~~[The~~
3-35 ~~facility operator shall furnish a copy of each tier two form to the~~
3-36 ~~fire chief of the fire department having jurisdiction over the~~
3-37 ~~facility and to the appropriate local emergency planning~~
3-38 ~~committee.]~~

3-39 (e) Except as provided by Section 505.0061(c), a [A]
3-40 facility operator shall file the tier two form with the commission
3-41 ~~[department]~~ not later than the 90th day after the date on which the
3-42 operator begins operation or has a reportable addition, at the
3-43 appropriate threshold, of a previously unreported hazardous
3-44 chemical or extremely hazardous substance.

3-45 (e-1) Except as provided by Section 505.0061(c), a facility
3-46 operator shall file an updated tier two form with the commission:

3-47 (1) not later than the 90th day after the date on which
3-48 the operator has a change in the chemical weight range, as listed in
3-49 40 C.F.R. Part 370, of a previously reported hazardous chemical or
3-50 extremely hazardous substance; and

3-51 (2) as otherwise required by commission rule.

3-52 (e-2) A facility operator shall furnish a copy of each tier
3-53 two form and updated tier two form filed with the commission under
3-54 this section to the fire chief of the fire department having
3-55 jurisdiction over the facility and to the appropriate local
3-56 emergency planning committee. ~~[The operator shall furnish a copy~~
3-57 ~~of each tier two form to the fire chief of the fire department~~
3-58 ~~having jurisdiction over the facility and to the appropriate local~~
3-59 ~~emergency planning committee.]~~

3-60 (f) A facility operator shall file a safety data sheet with
3-61 the commission ~~[department]~~ on the commission's ~~[department's]~~
3-62 request.

3-63 (g) The commission ~~[department]~~ shall maintain records of
3-64 the tier two forms and other documents filed under this chapter or
3-65 EPCRA for at least 30 years.

3-66 SECTION 7. Chapter 505, Health and Safety Code, is amended
3-67 by adding Section 505.0061 to read as follows:

3-68 Sec. 505.0061. REPORTING FOR FACILITIES STORING AMMONIUM
3-69 NITRATE USED IN FERTILIZER. (a) In this section, "ammonium

4-1 nitrate" and "ammonium nitrate storage facility" have the meanings
4-2 assigned by Section 63.151, Agriculture Code.

4-3 (b) As soon as practicable but not later than 72 hours after
4-4 the commission receives a tier two form reporting the presence of
4-5 ammonium nitrate at an ammonium nitrate storage facility, the
4-6 commission shall furnish a copy of the form to the state fire
4-7 marshal and the Texas Division of Emergency Management. The state
4-8 fire marshal shall furnish a copy of the form to the chief of the
4-9 fire department having jurisdiction over the facility. The Texas
4-10 Division of Emergency Management shall furnish a copy of the form to
4-11 the appropriate local emergency planning committee.

4-12 (c) The operator of an ammonium nitrate storage facility
4-13 shall file:

4-14 (1) a tier two form with the commission not later than
4-15 72 hours after the operator:

4-16 (A) begins operation; or

4-17 (B) has a reportable addition, at the appropriate
4-18 threshold, of previously unreported ammonium nitrate; and

4-19 (2) an updated tier two form not later than 72 hours
4-20 after the operator has a change in the chemical weight range, as
4-21 listed in 40 C.F.R. Part 370, of previously reported ammonium
4-22 nitrate.

4-23 SECTION 8. Sections 505.007(c) and (d), Health and Safety
4-24 Code, are amended to read as follows:

4-25 (c) Any facility that has received five requests under
4-26 Subsection (a) in a calendar month, four requests in a calendar
4-27 month for two or more months in a row, or more than 10 requests in a
4-28 year may elect to furnish the material to the commission
4-29 [~~department~~].

4-30 (d) Any facility electing to furnish the material to the
4-31 commission [~~department~~] under Subsection (c) may during that same
4-32 filing period inform persons making requests under Subsection (a)
4-33 of the availability of the information at the commission
4-34 [~~department~~] and refer the request to the commission [~~department~~]
4-35 for that filing period. The notice to persons making requests shall
4-36 state the address of the commission [~~department~~] and shall be
4-37 mailed within seven days of the date of receipt of the request, if
4-38 by mail, and at the time of the request if in person.

4-39 SECTION 9. Section 505.008(b), Health and Safety Code, as
4-40 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
4-41 Session, 2015, is amended to read as follows:

4-42 (b) A facility operator, on request, shall give the fire
4-43 chief or the local emergency planning committee such additional
4-44 information on types and amounts of hazardous chemicals present at
4-45 a facility as the requestor may need for emergency planning
4-46 purposes. A facility operator, on request, shall give the
4-47 executive director [~~commissioner~~], the fire chief, or the local
4-48 emergency planning committee a copy of the SDS for any chemical on
4-49 the tier two form furnished under Section 505.006 or for any
4-50 chemical present at the facility.

4-51 SECTION 10. Section 505.009, Health and Safety Code, as
4-52 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
4-53 Session, 2015, is amended to read as follows:

4-54 Sec. 505.009. COMPLAINTS AND INVESTIGATIONS. On
4-55 presentation of appropriate credentials, a commission [~~department~~]
4-56 representative may enter a facility at reasonable times to inspect
4-57 and investigate complaints.

4-58 SECTION 11. Section 505.016, Health and Safety Code, as
4-59 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
4-60 Session, 2015, is amended to read as follows:

4-61 Sec. 505.016. RULES; FEES. (a) The commission [~~executive~~
4-62 ~~commissioner~~] may adopt rules and administrative procedures
4-63 reasonably necessary to carry out the purposes of this chapter.

4-64 (b) The commission [~~executive commissioner~~] by rule may
4-65 authorize the collection of annual fees from facility operators for
4-66 the filing of tier two forms required by this chapter. Except as
4-67 provided by Subsection (d), fees may be used only to fund activities
4-68 under this chapter. The fee for facilities may not exceed:

4-69 (1) \$100 for each required submission having no more

5-1 than 25 hazardous chemicals or hazardous chemical categories;
 5-2 (2) \$200 for each required submission having no more
 5-3 than 50 hazardous chemicals or hazardous chemical categories;
 5-4 (3) \$300 for each required submission having no more
 5-5 than 75 hazardous chemicals or hazardous chemical categories;
 5-6 (4) \$400 for each required submission having no more
 5-7 than 100 hazardous chemicals or hazardous chemical categories; or
 5-8 (5) \$500 for each required submission having more than
 5-9 100 hazardous chemicals or chemical categories.

5-10 (c) To minimize the fees, the commission [~~executive~~
 5-11 ~~commissioner~~] by rule shall provide for consolidated filings of
 5-12 multiple tier two forms for facility operators covered by
 5-13 Subsection (b) if each of the tier two forms contains fewer than 25
 5-14 items.

5-15 (d) The commission [~~department~~] may use up to 20 percent of
 5-16 the fees collected under this section as grants to local emergency
 5-17 planning committees to assist them to fulfill their
 5-18 responsibilities under EPCRA. An amount not to exceed [~~The~~
 5-19 ~~department may use up to~~] 15 percent of the fees collected under
 5-20 this chapter and Chapter 506, or 15 percent of the amount of fees
 5-21 paid by the state and its political subdivisions under Chapter 506,
 5-22 whichever is greater, may be used by the Department of State Health
 5-23 Services to administer Chapter 502.

5-24 SECTION 12. Chapter 505, Health and Safety Code, is amended
 5-25 by adding Section 505.018 to read as follows:

5-26 Sec. 505.018. ENFORCEMENT. (a) A facility operator [may not
 5-27 violate this chapter, commission rules adopted under this chapter,
 5-28 or an order issued under this chapter.

5-29 (b) The commission may enforce this chapter under Chapter 7,
 5-30 Water Code, including by issuing an administrative order that
 5-31 assesses a penalty or orders a corrective action.

5-32 SECTION 13. Section 506.002(b), Health and Safety Code, as
 5-33 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
 5-34 Session, 2015, is amended to read as follows:

5-35 (b) It is the intent and purpose of this chapter to ensure
 5-36 that accessibility to information regarding hazardous chemicals
 5-37 [~~chemical~~] is provided to:

5-38 (1) fire departments responsible for dealing with
 5-39 chemical hazards during an emergency;

5-40 (2) local emergency planning committees and other
 5-41 emergency planning organizations; and

5-42 (3) the commission [~~department~~] to make the
 5-43 information available to the public through specific procedures.

5-44 SECTION 14. Section 506.004, Health and Safety Code, is
 5-45 amended by amending Subdivisions (3-a) and (8-a), as added by S.B.
 5-46 No. 219, Acts of the 84th Legislature, Regular Session, 2015, and
 5-47 amending Subdivisions (12) and (24) to read as follows:

5-48 (3-a) "Commission" [~~"Commissioner"~~] means the Texas
 5-49 Commission on Environmental Quality [~~commissioner of state health~~
 5-50 ~~services~~].

5-51 (8-a) "Executive director" [~~"Executive commissioner"~~]
 5-52 means the executive director of the commission [~~executive~~
 5-53 ~~commissioner of the Health and Human Services Commission~~].

5-54 (12) "Fire chief" means the [~~elected or paid~~]
 5-55 administrative head of a fire department, including a volunteer
 5-56 fire department.

5-57 (24) "Tier two form" means:

5-58 (A) a form specified by the commission
 5-59 [~~department~~] under Section 506.006 for listing hazardous chemicals
 5-60 as required by EPCRA; or

5-61 (B) a form accepted by the EPA under EPCRA for
 5-62 listing hazardous chemicals together with additional information
 5-63 required by the commission [~~department~~] for administering its
 5-64 functions related to EPCRA.

5-65 SECTION 15. Section 506.005(d), Health and Safety Code, as
 5-66 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
 5-67 Session, 2015, is amended to read as follows:

5-68 (d) The commission [~~department~~] shall develop and implement
 5-69 an outreach program concerning the public's ability to obtain

6-1 information under this chapter similar to the outreach program
6-2 under Section 502.008.

6-3 SECTION 16. Section 506.006, Health and Safety Code, is
6-4 amended by amending Subsections (a), (c), and (e), as amended by
6-5 S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015,
6-6 amending Subsections (d) and (f), and adding Subsections (d-1) and
6-7 (d-2) to read as follows:

6-8 (a) For the purpose of community right-to-know, a facility
6-9 operator covered by this chapter shall compile and maintain a tier
6-10 two form that contains information on hazardous chemicals present
6-11 in the facility in quantities that meet or exceed thresholds
6-12 determined by the EPA in 40 CFR Part 370, or at any other reporting
6-13 thresholds as determined by commission [~~department~~] rule for
6-14 certain highly toxic or extremely hazardous substances.

6-15 (c) Each tier two form shall be filed annually with the
6-16 commission, along with the appropriate fee, according to the
6-17 procedures specified by commission [~~department~~] rules. [~~The~~
6-18 ~~facility operator shall furnish a copy of each tier two form to the~~
6-19 ~~fire chief of the fire department having jurisdiction over the~~
6-20 ~~facility and to the appropriate local emergency planning~~
6-21 ~~committee.~~]

6-22 (d) A facility operator shall file the tier two form with
6-23 the commission [~~department~~] not later than the 90th day after the
6-24 date on which the operator begins operation or has a reportable
6-25 addition, at the appropriate threshold, of a previously unreported
6-26 hazardous chemical or extremely hazardous substance, but a fee may
6-27 not be associated with filing this report.

6-28 (d-1) A facility operator shall file an updated tier two
6-29 form with the commission:

6-30 (1) not later than the 90th day after the date on which
6-31 the operator has a change in the chemical weight range, as listed in
6-32 40 C.F.R. Part 370, of a previously reported hazardous chemical or
6-33 extremely hazardous substance; and

6-34 (2) as otherwise required by commission rule.

6-35 (d-2) A facility operator shall furnish a copy of each tier
6-36 two form and updated tier two form filed with the commission under
6-37 this section to the fire chief of the fire department having
6-38 jurisdiction over the facility and to the appropriate local
6-39 emergency planning committee. [~~The operator shall furnish a copy~~
6-40 ~~of each tier two form to the fire chief of the fire department~~
6-41 ~~having jurisdiction over the facility and to the appropriate local~~
6-42 ~~emergency planning committee.~~]

6-43 (e) A facility operator shall file a safety data sheet with
6-44 the commission [~~department~~] on the commission's [~~department's~~]
6-45 request.

6-46 (f) The commission [~~department~~] shall maintain records of
6-47 the tier two forms and other documents filed under this chapter or
6-48 EPCRA for at least 30 years.

6-49 SECTION 17. Sections 506.007(c) and (d), Health and Safety
6-50 Code, are amended to read as follows:

6-51 (c) Any facility that has received five requests under
6-52 Subsection (a) in a calendar month, four requests in a calendar
6-53 month for two or more months in a row, or more than 10 requests in a
6-54 year may elect to furnish the material to the commission
6-55 [~~department~~].

6-56 (d) Any facility electing to furnish the material to the
6-57 commission [~~department~~] under Subsection (c) may during that same
6-58 filing period inform persons making requests under Subsection (a)
6-59 of the availability of the information at the commission
6-60 [~~department~~] and refer the request to the commission [~~department~~]
6-61 for that filing period. The notice to persons making requests shall
6-62 state the address of the commission [~~department~~] and shall be
6-63 mailed within seven days of the date of receipt of the request, if
6-64 by mail, and at the time of the request if in person.

6-65 SECTION 18. Section 506.008(b), Health and Safety Code, as
6-66 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
6-67 Session, 2015, is amended to read as follows:

6-68 (b) A facility operator, on request, shall give the fire
6-69 chief or the local emergency planning committee such additional

7-1 information on types and amounts of hazardous chemicals present at
 7-2 a facility as the requestor may need for emergency planning
 7-3 purposes. A facility operator, on request, shall give the
 7-4 executive director [~~commissioner~~], the fire chief, or the local
 7-5 emergency planning committee a copy of the SDS for any chemical on
 7-6 the tier two form furnished under Section 506.006 or for any
 7-7 chemical present at the facility.

7-8 SECTION 19. Section 506.009, Health and Safety Code, as
 7-9 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
 7-10 Session, 2015, is amended to read as follows:

7-11 Sec. 506.009. COMPLAINTS AND INVESTIGATIONS. On
 7-12 presentation of appropriate credentials, a commission [~~department~~]
 7-13 representative may enter a facility at reasonable times to inspect
 7-14 and investigate complaints.

7-15 SECTION 20. Section 506.017, Health and Safety Code, as
 7-16 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
 7-17 Session, 2015, is amended to read as follows:

7-18 Sec. 506.017. RULES; FEES. (a) The commission [~~executive~~
 7-19 ~~commissioner~~] may adopt rules and administrative procedures
 7-20 reasonably necessary to carry out the purposes of this chapter.

7-21 (b) The commission [~~executive commissioner~~] by rule may
 7-22 authorize the collection of annual fees from facility operators for
 7-23 the filing of tier two forms required by this chapter. The fee may
 7-24 not exceed:

7-25 (1) \$50 for each required submission having no more
 7-26 than 75 hazardous chemicals or hazardous chemical categories; or

7-27 (2) \$100 for each required submission having more than
 7-28 75 hazardous chemicals or chemical categories.

7-29 (c) To minimize the fees, the commission [~~executive~~
 7-30 ~~commissioner~~] by rule shall provide for consolidated filings of
 7-31 multiple tier two forms for facility operators covered by
 7-32 Subsection (b) if each of the tier two forms contains fewer than 25
 7-33 items.

7-34 (d) The commission may use up to 20 percent of the fees
 7-35 collected under this section as grants to local emergency planning
 7-36 committees to assist them to fulfill their responsibilities under
 7-37 EPCRA. An amount not to exceed [~~The department may use up to~~] 15
 7-38 percent of the fees collected under Chapter 505 and this chapter, or
 7-39 15 percent of the amount of fees paid by the state and its political
 7-40 subdivisions under this chapter, whichever is greater, may be used
 7-41 by the Department of State Health Services to administer Chapter
 7-42 502.

7-43 SECTION 21. Chapter 506, Health and Safety Code, is amended
 7-44 by adding Section 506.018 to read as follows:

7-45 Sec. 506.018. ENFORCEMENT. (a) A facility operator may not
 7-46 violate this chapter, commission rules adopted under this chapter,
 7-47 or an order issued under this chapter.

7-48 (b) The commission may enforce this chapter under Chapter 7,
 7-49 Water Code, including by issuing an administrative order that
 7-50 assesses a penalty or orders a corrective action.

7-51 SECTION 22. Section 507.002(b), Health and Safety Code, as
 7-52 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
 7-53 Session, 2015, is amended to read as follows:

7-54 (b) It is the intent and purpose of this chapter to ensure
 7-55 that accessibility to information regarding hazardous chemicals is
 7-56 provided to:

7-57 (1) fire departments responsible for dealing with
 7-58 chemical hazards during an emergency;

7-59 (2) local emergency planning committees and other
 7-60 emergency planning organizations; and

7-61 (3) the commission [~~department~~] to make the
 7-62 information available to the public through specific procedures.

7-63 SECTION 23. Section 507.003, Health and Safety Code, is
 7-64 amended to read as follows:

7-65 Sec. 507.003. FEDERAL LAWS AND REGULATIONS. (a) In this
 7-66 chapter, a reference to a federal law or regulation means a
 7-67 reference to the most current version of that law or regulation.

7-68 (b) In this chapter, a reference to the North American
 7-69 Industry Classification System (NAICS) means a reference to the

8-1 most current version of that system.

8-2 SECTION 24. Section 507.004, Health and Safety Code, is
8-3 amended by amending Subdivisions (3-a) and (8-a), as added by S.B.
8-4 No. 219, Acts of the 84th Legislature, Regular Session, 2015, and
8-5 amending Subdivisions (10), (12), and (23) to read as follows:

8-6 (3-a) "Commission" [~~"Commissioner"~~] means the Texas
8-7 Commission on Environmental Quality [~~commissioner of state health~~
8-8 ~~services~~].

8-9 (8-a) "Executive director" [~~"Executive commissioner"~~]
8-10 means the executive director of the commission [~~executive~~
8-11 ~~commissioner of the Health and Human Services Commission~~].

8-12 (10) "Facility" means all buildings, equipment,
8-13 structures, and other stationary items that are located on a single
8-14 site or on contiguous or adjacent sites and that are owned or
8-15 operated by the same person or by any person who controls, is
8-16 controlled by, or is under common control with that person, and that
8-17 is in North American Industry Classification System (NAICS) Codes
8-18 11-23 or Codes 42-92. The term does not include a facility subject
8-19 to Chapter [~~505 or~~] 506.

8-20 (12) "Fire chief" means the [~~elected or paid~~]
8-21 administrative head of a fire department, including a volunteer
8-22 fire department.

8-23 (23) "Tier two form" means:

8-24 (A) a form specified by the commission
8-25 [~~department~~] under Section 507.006 for listing hazardous chemicals
8-26 as required by EPCRA; or

8-27 (B) a form accepted by the EPA under EPCRA for
8-28 listing hazardous chemicals together with additional information
8-29 required by the commission [~~department~~] for administering its
8-30 functions related to EPCRA.

8-31 SECTION 25. Section 507.005, Health and Safety Code, is
8-32 amended by amending Subsection (a) and amending Subsection (d), as
8-33 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
8-34 Session, 2015, to read as follows:

8-35 (a) Facility operators whose facilities are in North
8-36 American Industry Classification System (NAICS) Codes 11-23 or
8-37 NAICS Codes 42-92 and who are not subject to Chapter [~~505 or~~] 506
8-38 shall comply with this chapter.

8-39 (d) The commission [~~department~~] shall develop and implement
8-40 an outreach program concerning the public's ability to obtain
8-41 information under this chapter similar to the outreach program
8-42 under Section 502.008.

8-43 SECTION 26. Section 507.006, Health and Safety Code, is
8-44 amended by amending Subsections (a), (c), and (f), as amended by
8-45 S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015,
8-46 amending Subsections (e) and (g), and adding Subsections (e-1) and
8-47 (e-2) to read as follows:

8-48 (a) For the purpose of community right-to-know, a facility
8-49 operator covered by this chapter shall compile and maintain a tier
8-50 two form that contains information on hazardous chemicals present
8-51 in the facility in quantities that meet or exceed thresholds
8-52 determined by the EPA in 40 CFR Part 370, or at any other reporting
8-53 thresholds as determined by commission [~~department~~] rule for
8-54 certain highly toxic or extremely hazardous substances.

8-55 (c) Each tier two form shall be filed annually with the
8-56 commission, along with the appropriate fee, according to the
8-57 procedures specified by commission [~~department~~] rules. [~~The~~
8-58 ~~facility operator shall furnish a copy of each tier two form to the~~
8-59 ~~fire chief of the fire department having jurisdiction over the~~
8-60 ~~facility and to the appropriate local emergency planning~~
8-61 ~~committee.~~]

8-62 (e) Except as provided by Section 507.0061(c), a [~~A~~]
8-63 facility operator shall file the tier two form with the commission
8-64 [~~department~~] not later than the 90th day after the date on which the
8-65 operator begins operation or has a reportable addition, at the
8-66 appropriate threshold, of a previously unreported hazardous
8-67 chemical or extremely hazardous substance.

8-68 (e-1) Except as provided by Section 507.0061(c), a facility
8-69 operator shall file an updated tier two form with the commission:

9-1 (1) not later than the 90th day after the date on which
 9-2 the operator has a change in the chemical weight range, as listed in
 9-3 40 C.F.R. Part 370, of a previously reported hazardous chemical or
 9-4 extremely hazardous substance; and

9-5 (2) as otherwise required by commission rule.

9-6 (e-2) A facility operator shall furnish a copy of each tier
 9-7 two form and updated tier two form filed with the commission under
 9-8 this section to the fire chief of the fire department having
 9-9 jurisdiction over the facility and to the appropriate local
 9-10 emergency planning committee. [The operator shall furnish a copy
 9-11 of each tier two form to the fire chief of the fire department
 9-12 having jurisdiction over the facility and to the appropriate local
 9-13 emergency planning committee.]

9-14 (f) A facility operator shall file a safety data sheet with
 9-15 the commission [~~department~~] on the commission's [~~department's~~]
 9-16 request.

9-17 (g) The commission [~~department~~] shall maintain records of
 9-18 the tier two forms and other documents filed under this chapter or
 9-19 EPCRA for at least 30 years.

9-20 SECTION 27. Chapter 507, Health and Safety Code, is amended
 9-21 by adding Section 507.0061 to read as follows:

9-22 Sec. 507.0061. REPORTING FOR FACILITIES STORING AMMONIUM
 9-23 NITRATE USED IN FERTILIZER. (a) In this section, "ammonium
 9-24 nitrate" and "ammonium nitrate storage facility" have the meanings
 9-25 assigned by Section 63.151, Agriculture Code.

9-26 (b) As soon as practicable but not later than 72 hours after
 9-27 the commission receives a tier two form reporting the presence of
 9-28 ammonium nitrate at an ammonium nitrate storage facility, the
 9-29 commission shall furnish a copy of the form to the state fire
 9-30 marshal and the Texas Division of Emergency Management. The state
 9-31 fire marshal shall furnish a copy of the form to the chief of the
 9-32 fire department having jurisdiction over the facility. The Texas
 9-33 Division of Emergency Management shall furnish a copy of the form to
 9-34 the appropriate local emergency planning committee.

9-35 (c) The operator of an ammonium nitrate storage facility
 9-36 shall file:

9-37 (1) a tier two form with the commission not later than
 9-38 72 hours after the operator:

9-39 (A) begins operation; or

9-40 (B) has a reportable addition, at the appropriate
 9-41 threshold, of previously unreported ammonium nitrate; and

9-42 (2) an updated tier two form with the commission not
 9-43 later than 72 hours after the operator has a change in the chemical
 9-44 weight range, as listed in 40 C.F.R. Part 370, of previously
 9-45 reported ammonium nitrate.

9-46 SECTION 28. Section 507.007(b), Health and Safety Code, as
 9-47 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
 9-48 Session, 2015, is amended to read as follows:

9-49 (b) A facility operator, on request, shall give the fire
 9-50 chief or the local emergency planning committee such additional
 9-51 information on types and amounts of hazardous chemicals present at
 9-52 a facility as the requestor may need for emergency planning
 9-53 purposes. A facility operator, on request, shall give the
 9-54 executive director [~~commissioner~~], the fire chief, or the local
 9-55 emergency planning committee a copy of the SDS for any chemical on
 9-56 the tier two form furnished under Section 507.006 or for any
 9-57 chemical present at the facility.

9-58 SECTION 29. Section 507.008, Health and Safety Code, as
 9-59 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
 9-60 Session, 2015, is amended to read as follows:

9-61 Sec. 507.008. COMPLAINTS AND INVESTIGATIONS. On
 9-62 presentation of appropriate credentials, a commission [~~department~~]
 9-63 representative may enter a facility at reasonable times to inspect
 9-64 and investigate complaints.

9-65 SECTION 30. Section 507.013, Health and Safety Code, as
 9-66 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
 9-67 Session, 2015, is amended to read as follows:

9-68 Sec. 507.013. RULES; FEES. (a) The commission [~~executive~~
 9-69 commissioner] may adopt rules and administrative procedures

10-1 reasonably necessary to carry out the purposes of this chapter.

10-2 (b) The commission [~~executive commissioner~~] by rule may
10-3 authorize the collection of annual fees from facility operators for
10-4 the filing of tier two forms required by this chapter. Except as
10-5 provided by Subsection (d), fees may be used only to fund activities
10-6 under this chapter. The fee may not exceed:

10-7 (1) \$50 for each required submission having no more
10-8 than 75 hazardous chemicals or hazardous chemical categories; or

10-9 (2) \$100 for each required submission having more than
10-10 75 hazardous chemicals or chemical categories.

10-11 (c) To minimize the fees, the commission [~~executive
10-12 commissioner~~] by rule shall provide for consolidated filings of
10-13 multiple tier two forms for facility operators covered by
10-14 Subsection (b) if each of the tier two forms contains fewer than 25
10-15 items.

10-16 (d) The commission [~~department~~] may use up to 20 percent of
10-17 the fees collected under this section as grants to local emergency
10-18 planning committees to assist them to fulfill their
10-19 responsibilities under EPCRA.

10-20 SECTION 31. Chapter 507, Health and Safety Code, is amended
10-21 by adding Section 507.014 to read as follows:

10-22 Sec. 507.014. ENFORCEMENT. (a) A facility operator may not
10-23 violate this chapter, commission rules adopted under this chapter,
10-24 or an order issued under this chapter.

10-25 (b) The commission may enforce this chapter under Chapter 7,
10-26 Water Code, including by issuing an administrative order that
10-27 assesses a penalty or orders a corrective action.

10-28 SECTION 32. Section 5.013(a), Water Code, is amended to
10-29 read as follows:

10-30 (a) The commission has general jurisdiction over:

10-31 (1) water and water rights including the issuance of
10-32 water rights permits, water rights adjudication, cancellation of
10-33 water rights, and enforcement of water rights;

10-34 (2) continuing supervision over districts created
10-35 under Article III, Sections 52(b)(1) and (2), and Article XVI,
10-36 Section 59, of the Texas Constitution;

10-37 (3) the state's water quality program including
10-38 issuance of permits, enforcement of water quality rules, standards,
10-39 orders, and permits, and water quality planning;

10-40 (4) the determination of the feasibility of certain
10-41 federal projects;

10-42 (5) the adoption and enforcement of rules and
10-43 performance of other acts relating to the safe construction,
10-44 maintenance, and removal of dams;

10-45 (6) conduct of the state's hazardous spill prevention
10-46 and control program;

10-47 (7) the administration of the state's program relating
10-48 to inactive hazardous substance, pollutant, and contaminant
10-49 disposal facilities;

10-50 (8) the administration of a portion of the state's
10-51 injection well program;

10-52 (9) the administration of the state's programs
10-53 involving underground water and water wells and drilled and mined
10-54 shafts;

10-55 (10) the state's responsibilities relating to regional
10-56 waste disposal;

10-57 (11) the responsibilities assigned to the commission
10-58 by Chapters 361, 363, 382, [~~and~~] 401, 505, 506, and 507, Health and
10-59 Safety Code; and

10-60 (12) any other areas assigned to the commission by
10-61 this code and other laws of this state.

10-62 SECTION 33. Section 7.052, Water Code, is amended by adding
10-63 Subsection (b-4) to read as follows:

10-64 (b-4) The amount of the penalty against a facility operator
10-65 who violates Chapter 505, Health and Safety Code, or a rule adopted
10-66 or order issued under that chapter may not exceed \$500 a day for
10-67 each day a violation continues with a total not to exceed \$5,000 for
10-68 each violation. The amount of a penalty against a facility operator
10-69 who violates Chapter 506 or 507, Health and Safety Code, or a rule

11-1 adopted or order issued under those chapters may not exceed \$50 a
 11-2 day for each day a violation continues with a total not to exceed
 11-3 \$1,000 for each violation.

11-4 SECTION 34. Subchapter D, Chapter 7, Water Code, is amended
 11-5 by adding Section 7.1021 to read as follows:

11-6 Sec. 7.1021. MAXIMUM CIVIL PENALTY: VIOLATION OF COMMUNITY
 11-7 RIGHT-TO-KNOW LAWS. (a) A person who knowingly discloses false
 11-8 information or negligently fails to disclose a hazard as required
 11-9 by Chapter 505 or 506, Health and Safety Code, is subject to a civil
 11-10 penalty of not more than \$5,000 for each violation.

11-11 (b) This section does not affect any other right of a person
 11-12 to receive compensation under other law.

11-13 SECTION 35. Subchapter E, Chapter 7, Water Code, is amended
 11-14 by adding Section 7.1851 to read as follows:

11-15 Sec. 7.1851. VIOLATIONS RELATING TO COMMUNITY
 11-16 RIGHT-TO-KNOW LAWS. (a) A person who proximately causes an
 11-17 occupational disease or injury to an individual by knowingly
 11-18 disclosing false information or knowingly failing to disclose
 11-19 hazard information as required by Chapter 505 or 506, Health and
 11-20 Safety Code, commits an offense punishable by a fine of not more
 11-21 than \$25,000.

11-22 (b) This section does not affect any other right of a person
 11-23 to receive compensation under other law.

11-24 SECTION 36. The following provisions of the Health and
 11-25 Safety Code, including provisions amended by S.B. No. 219, Acts of
 11-26 the 84th Legislature, Regular Session, 2015, are repealed:

- 11-27 (1) Sections 505.004(2), (5), and (6);
- 11-28 (2) Sections 505.008(c), 505.010, 505.011, 505.012,
- 11-29 505.013, and 505.014;
- 11-30 (3) Sections 506.004(2), (5), and (6);
- 11-31 (4) Sections 506.008(c), 506.010, 506.011, 506.012,
- 11-32 506.013, 506.014, 506.015, and 506.016;
- 11-33 (5) Sections 507.004(2), (5), and (6); and
- 11-34 (6) Sections 507.007(c), 507.009, 507.010, and
- 11-35 507.011.

11-36 SECTION 37. (a) On September 1, 2015, the following are
 11-37 transferred to the Texas Commission on Environmental Quality:

11-38 (1) the powers, duties, obligations, and liabilities
 11-39 of the Department of State Health Services relating to Chapters
 11-40 505, 506, and 507, Health and Safety Code;

11-41 (2) all unobligated and unexpended funds appropriated
 11-42 to the Department of State Health Services designated for the
 11-43 administration of Chapters 505, 506, and 507, Health and Safety
 11-44 Code;

11-45 (3) all equipment and property of the Department of
 11-46 State Health Services used solely or primarily for the
 11-47 administration of Chapters 505, 506, and 507, Health and Safety
 11-48 Code;

11-49 (4) all files and other records of the Department of
 11-50 State Health Services kept by the department relating to the
 11-51 administration of Chapters 505, 506, and 507, Health and Safety
 11-52 Code; and

11-53 (5) employees of the Department of State Health
 11-54 Services whose duties relate solely or primarily to the
 11-55 administration of Chapters 505, 506, and 507, Health and Safety
 11-56 Code.

11-57 (b) A rule adopted by the Department of State Health
 11-58 Services that is in effect immediately before September 1, 2015,
 11-59 and that relates to Chapters 505, 506, and 507, Health and Safety
 11-60 Code, is, on September 1, 2015, a rule of the Texas Commission on
 11-61 Environmental Quality and remains in effect until amended or
 11-62 repealed by the Texas Commission on Environmental Quality. A
 11-63 complaint, investigation, enforcement proceeding, or other
 11-64 proceeding pending before the Department of State Health Services
 11-65 on September 1, 2015, is continued by that department without
 11-66 change in status after the effective date of this Act.

11-67 (c) The Department of State Health Services may agree with
 11-68 the Texas Commission on Environmental Quality to transfer any
 11-69 property of the department to the commission to implement the

12-1 transfer required by this Act.

12-2 SECTION 38. (a) Except as otherwise provided by Subsection
12-3 (b) of this section, this Act takes effect September 1, 2015.

12-4 (b) Sections 63.151(3), (4), and (5) and Section 63.158,
12-5 Agriculture Code, as added by this Act, take effect immediately if
12-6 this Act receives a vote of two-thirds of all the members elected to
12-7 each house, as provided by Section 39, Article III, Texas
12-8 Constitution. If this Act does not receive the vote necessary for
12-9 immediate effect, those sections take effect September 1, 2015.

12-10

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