

By: Birdwell

S.B. No. 528

A BILL TO BE ENTITLED

1 AN ACT  
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.