

TEXAS LEGISLATIVE COUNCIL
Preliminary Draft

By: _____

____.B. No. _____

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

SECTION 2. Subchapter I, Chapter 63, Agriculture Code, is amended by adding Sections 63.158, 63.159, 63.160, and 63.161 to read as follows:

Sec. 63.158. STORAGE FACILITY INSPECTIONS AND PRE-FIRE PLANNING ASSESSMENT. (a) An ammonium nitrate storage facility may be inspected at any time by a fire marshal.

(b) Upon request, at a reasonable time, the owner or operator of an ammonium nitrate storage facility shall allow the

1 local fire department access to the facility to perform a pre-fire
2 planning assessment.

3 Sec. 63.159. STORAGE FACILITY REQUIREMENTS. (a) An
4 ammonium nitrate storage facility must:

5 (1) meet the more stringent of:

6 (A) applicable fire protection standards
7 established by the most recent version of National Fire Protection
8 Association (NFPA) 1-2012 Fire Code and NFPA 400-2013 Hazardous
9 Materials Code, including any successor standards developed by a
10 nationally recognized standards-making association and adopted by
11 rule by the commissioner of insurance; or

12 (B) the applicable local fire protection
13 standards, if the facility is located in a geographic area under the
14 jurisdiction of a local government that has adopted a fire code with
15 provisions applicable to the storage of ammonium nitrate;

16 (2) have all ammonium nitrate stored either:

17 (A) under the protection of a fire sprinkler
18 system; or

19 (B) in a building constructed of noncombustible
20 materials and containing only noncombustible contents other than
21 the ammonium nitrate; and

22 (3) be identified with warning placards in accordance
23 with the National Fire Protection Association 704 identification
24 system.

25 (b) This section does not apply to the transient staging of
26 ammonium nitrate during the process of blending and loading of
27 finished fertilizer product into transport vehicles.

1 Sec. 63.160. ENFORCEMENT OF STORAGE FACILITY REQUIREMENTS
2 BY FIRE MARSHAL. (a) A fire marshal who determines the presence of
3 a fire or life safety hazard, as that term is defined by Section
4 352.016, Local Government Code, at an ammonium nitrate storage
5 facility may order the owner or operator of the facility to correct
6 the hazardous situation. If ordered to do so, an owner or operator
7 shall correct the hazardous situation in accordance with the order.

8 (b) A fire marshal may, if necessary, apply to a court for an
9 injunction or order as necessary to enforce an order issued under
10 this section. A fire marshal is not required to give a bond.

11 Sec. 63.161. CIVIL ENFORCEMENT OF STORAGE FACILITY
12 REQUIREMENTS. (a) An ammonium nitrate storage facility owner or
13 operator may not cause, suffer, allow, or permit a violation of
14 Section 63.158, 63.159, or 63.160.

15 (b) An ammonium nitrate storage facility owner or operator
16 who causes, suffers, allows, or permits a violation described by
17 Subsection (a) is liable for a civil penalty of not more than \$5,000
18 for each violation. Each day of a continuing violation is a
19 separate violation.

20 (c) If it appears that an ammonium nitrate storage facility
21 owner or operator has violated, is violating, or threatens to
22 violate a provision described by Subsection (a), the state fire
23 marshal, a county, a municipality, or an emergency services
24 district may institute a civil suit in a district court for:

25 (1) injunctive relief to restrain the person from
26 continuing the violation or threat of violation;

27 (2) the assessment and recovery of a civil penalty; or

1 (3) both injunctive relief and a civil penalty.

2 (d) On the state fire marshal's request, the attorney
3 general shall institute a suit in the name of the state for
4 injunctive relief, to recover a civil penalty, or for both
5 injunctive relief and civil penalty.

6 (e) The suit may be brought in:

7 (1) Travis County;

8 (2) the county in which the defendant resides; or

9 (3) the county in which the violation or threat of
10 violation occurs.

11 (f) In a suit under this section to enjoin a violation or
12 threat of violation described by Subsection (a), the court shall
13 grant the state, county, municipality, or emergency services
14 district, without bond or other undertaking, any injunction that
15 the facts may warrant, including temporary restraining orders,
16 temporary injunctions after notice and hearing, and permanent
17 injunctions.

18 (g) Civil penalties recovered in a suit brought under this
19 section by a county, municipality, or emergency services district
20 shall be equally divided between:

21 (1) the state; and

22 (2) the county, municipality, or emergency services
23 district that first brought the suit.

24 (h) The attorney general or other entity filing suit under
25 this section may recover reasonable expenses incurred in obtaining
26 a civil penalty under this section, including court costs,
27 reasonable attorney's fees, investigative costs, witness fees, and

1 deposition expenses.

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

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

6 (1) [] to enter any:

7 (A) mercantile, manufacturing, or public
8 building;

9 (B) [] place of amusement;

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

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

13 (E) [] premises belonging to [] a
14 building, [] place, or facility described by Paragraphs
15 (A)-(D); [] and

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

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

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

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

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

27 (3) the executive director to make the information

1 available to the public through specific procedures.

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

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

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

17 (3-a) "Commission" means the Texas Commission on
18 Environmental Quality.

19 (8-a) "Executive director" means the executive
20 director of the commission.

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

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

4 (23) "Tier two form" means:

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

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

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

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

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

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

24 (a) For the purpose of community right-to-know, a facility
25 operator covered by this chapter shall compile and maintain a tier
26 two form that contains information on hazardous chemicals present
27 in the facility in quantities that meet or exceed thresholds

1 determined by the EPA in 40 CFR Part 370, or at any other reporting
2 thresholds as determined by commission [~~board~~] rule for certain
3 highly toxic or extremely hazardous substances.

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

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

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

20 (1) not later than the 90th day after the date on which
21 the operator has a change in the chemical weight range, as listed in
22 40 C.F.R. Part 370, of a previously reported hazardous chemical or
23 extremely hazardous substance; and

24 (2) as otherwise required by commission rule.

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

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

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

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

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

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

22 (1) begins operation;
23 (2) has a reportable addition, at the appropriate
24 threshold, of previously unreported ammonium nitrate; or

25 (3) has a change in the chemical weight range, as
26 listed in 40 C.F.R. Part 370, of previously reported ammonium
27 nitrate.

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

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

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

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

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

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

1 purposes. A facility operator, on request, shall give the
2 executive director, the fire chief, or the local emergency planning
3 committee a copy of the MSDS for any chemical on the tier two form
4 furnished under Section 505.006 or for any chemical present at the
5 facility.

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

8 Sec. 505.009. COMPLAINTS AND INVESTIGATIONS. On
9 presentation of appropriate credentials, an officer or
10 representative of the executive director may enter a facility at
11 reasonable times to inspect and investigate complaints.

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

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

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

22 (1) \$100 for each required submission having no more
23 than 25 hazardous chemicals or hazardous chemical categories;

24 (2) \$200 for each required submission having no more
25 than 50 hazardous chemicals or hazardous chemical categories;

26 (3) \$300 for each required submission having no more
27 than 75 hazardous chemicals or hazardous chemical categories;

1 (4) \$400 for each required submission having no more
2 than 100 hazardous chemicals or hazardous chemical categories; or

3 (5) \$500 for each required submission having more than
4 100 hazardous chemicals or chemical categories.

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

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

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

20 Sec. 505.018. ENFORCEMENT. (a) A facility operator may not
21 cause, suffer, allow, or permit a violation of this chapter,
22 commission rules adopted under this chapter, or an order issued
23 under this chapter.

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

27 SECTION 15. Section 506.002(b), Health and Safety Code, is

1 amended to read as follows:

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

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

7 (2) local emergency planning committees and other
8 emergency planning organizations; and

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

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

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

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

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

21 (24) "Tier two form" means:

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

25 (B) a form accepted by the EPA under EPCRA for
26 listing hazardous chemicals together with additional information
27 required by the commission [~~department~~] for administering its

1 functions related to EPCRA.

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

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

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

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

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

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

1 hazardous chemical or extremely hazardous substance, but a fee may
2 not be associated with filing this report. The operator shall
3 furnish a copy of each tier two form to the fire chief of the fire
4 department having jurisdiction over the facility and to the
5 appropriate local emergency planning committee.

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

8 (1) not later than the 90th day after the date on which
9 the operator has a change in the chemical weight range, as listed in
10 40 C.F.R. Part 370, of a previously reported hazardous chemical or
11 extremely hazardous substance; and

12 (2) as otherwise required by commission rule.

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

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

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

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

26 (d) Any facility electing to furnish the material to the
27 commission [~~department~~] under Subsection (c) may during that same

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

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

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

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

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

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

27 Sec. 506.017. RULES; FEES. (a) The commission [~~board~~] may

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

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

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

8 (2) \$100 for each required submission having more than
9 75 hazardous chemicals or chemical categories.

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

14 (d) An amount not to exceed [~~The department may use up to~~] 15
15 percent of the fees collected under Chapter 505 and this chapter, or
16 15 percent of the amount of fees paid by the state and its political
17 subdivisions under this chapter, whichever is greater, may be used
18 by the Department of State Health Services to administer Chapter
19 502.

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

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

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

1 assesses a penalty or orders a corrective action.

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

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

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

9 (2) local emergency planning committees and other
10 emergency planning organizations; and

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

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

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

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

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

24 (3-a) "Commission" means the Texas Commission on
25 Environmental Quality.

26 (8-a) "Executive director" means the executive
27 director of the commission.

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

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

12 (23) "Tier two form" means:

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

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

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

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

26 (d) The executive director shall develop and implement an
27 outreach program concerning the public's ability to obtain

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

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

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

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

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

27 (e-1) A facility operator shall file an updated tier two

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

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

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

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

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

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

4 (1) begins operation;

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

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

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

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

17 (b) A facility operator, on request, shall give the fire
18 chief or the local emergency planning committee such additional
19 information on types and amounts of hazardous chemicals present at
20 a facility as the requestor may need for emergency planning
21 purposes. A facility operator, on request, shall give the
22 executive director, the fire chief, or the local emergency planning
23 committee a copy of the MSDS for any chemical on the tier two form
24 furnished under Section 507.006 or for any chemical present at the
25 facility.

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

1 Sec. 507.008. COMPLAINTS AND INVESTIGATIONS. On
2 presentation of appropriate credentials, an officer or
3 representative of the executive director may enter a facility at
4 reasonable times to inspect and investigate complaints.

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

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

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

15 (1) \$50 for each required submission having no more
16 than 75 hazardous chemicals or hazardous chemical categories; or

17 (2) \$100 for each required submission having more than
18 75 hazardous chemicals or chemical categories.

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

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

27 SECTION 33. Chapter 507, Health and Safety Code, is amended

1 by adding Section 507.014 to read as follows:

2 Sec. 507.014. ENFORCEMENT. (a) A facility operator may not
3 cause, suffer, allow, or permit a violation of this chapter,
4 commission rules adopted under this chapter, or an order issued
5 under this chapter.

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

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

11 (a) The commission has general jurisdiction over:

12 (1) water and water rights including the issuance of
13 water rights permits, water rights adjudication, cancellation of
14 water rights, and enforcement of water rights;

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

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

21 (4) the determination of the feasibility of certain
22 federal projects;

23 (5) the adoption and enforcement of rules and
24 performance of other acts relating to the safe construction,
25 maintenance, and removal of dams;

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

1 (7) the administration of the state's program relating
2 to inactive hazardous substance, pollutant, and contaminant
3 disposal facilities;

4 (8) the administration of a portion of the state's
5 injection well program;

6 (9) the administration of the state's programs
7 involving underground water and water wells and drilled and mined
8 shafts;

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

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

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

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

18 (b-4) The amount of the penalty against a facility operator
19 who causes, suffers, allows, or permits a violation of Chapter 505,
20 Health and Safety Code, may not exceed \$500 a day for each day a
21 violation continues with a total not to exceed \$5,000 for each
22 violation. The amount of a penalty against a facility operator who
23 causes, suffers, allows, or permits a violation of Chapter 506 or
24 507, Health and Safety Code, may not exceed \$50 a day for each day a
25 violation continues with a total not to exceed \$1,000 for each
26 violation.

27 SECTION 36. Section 7.102, Water Code, is amended to read as

1 follows:

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

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

19 Sec. 7.1851. VIOLATIONS RELATING TO COMMUNITY
20 RIGHT-TO-KNOW LAWS. (a) A person who proximately causes an
21 occupational disease or injury to an individual by knowingly
22 disclosing false information or knowingly failing to disclose
23 hazard information as required by Chapter 505, 506, or 507, Health
24 and Safety Code, commits an offense.

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

27 (c) An offense under this section is punishable under

1 Section 7.187(a)(1)(B).

2 SECTION 38. The following provisions of the Health and
3 Safety Code are repealed:

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

5 (2) Sections 505.008(c), 505.010, 505.011, 505.012,
6 505.013, and 505.014;

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

8 (4) Sections 506.008(c), 506.010, 506.011, 506.012,
9 506.013, 506.014, 506.015, and 506.016;

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

11 (6) Sections 507.007(c), 507.009, 507.010, and
12 507.011.

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

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

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

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

26 (4) all files and other records of the Department of
27 State Health Services kept by the department relating to the

1 administration of Chapters 505, 506, and 507, Health and Safety
2 Code; and

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

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

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

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

27 SECTION 40. An ammonium nitrate storage facility operating

1 on or before September 1, 2015, is not required to comply with the
2 requirements of Section 63.159, Agriculture Code, as added by this
3 Act, until September 1, 2018.

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

6 (b) Sections 63.158 and 63.160, Agriculture Code, as added
7 by this Act, take effect immediately if this Act receives a vote of
8 two-thirds of all the members elected to each house, as provided by
9 Section 39, Article III, Texas Constitution. If this Act does not
10 receive the vote necessary for immediate effect, those sections
11 take effect September 1, 2015.