

BILL ANALYSIS

C.S.H.B. 942
By: Kacal
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recent emergency events in Texas have caused the laws relating to oversight and regulation of certain hazardous chemicals to come under public scrutiny. Interested parties contend that such laws are potentially confusing because of the patchwork of various agencies and regulatory bodies to which the laws apply. These parties assert that these issues can be addressed through simple regulatory reforms. C.S.H.B. 942 seeks to clarify the law in this regard and reduce the possibility of the reoccurrence of a disastrous hazardous chemical event.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is transferred to the Texas Commission on Environmental Quality in SECTIONS 11, 20, 30, and 37 of this bill.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 942 amends the Agriculture Code to require the owner or operator of an ammonium nitrate storage facility, on request and at a reasonable time, to allow a fire marshal to enter the facility to make a thorough examination of the facility and allow the local fire department access to the facility to perform a pre-fire planning assessment. The bill requires a fire marshal who determines the presence of one or more hazardous conditions specified by the bill that endangers the safety of a structure or its occupants by promoting or causing fire or combustion to notify the owner or operator of the facility of the need to correct the hazardous condition.

C.S.H.B. 942 requires the owner or operator of an ammonium nitrate storage facility, on request by a fire marshal or the Texas Feed and Fertilizer Control Service, to provide evidence of compliance with the Manufacturing Facility Community Right-To-Know Act or the Nonmanufacturing Facilities Community Right-To-Know Act, as applicable, and federal registration requirements; to post National Fire Protection Association 704 warning placards on

the outside of the storage area; to store ammonium nitrate or ammonium nitrate material separately from any non-fertilizer materials and in a fertilizer storage compartment or bin constructed of wood, metal, or concrete that is protected against impregnation by the ammonium nitrate or ammonium nitrate material; and to separate ammonium nitrate or ammonium nitrate material from combustible or flammable material by 30 feet or more. The bill requires a fire marshal who identifies the existence of a specified hazardous condition or a violation of specified requirements of a facility owner or operator to notify the service of the condition or violation and authorizes the service, if notified by a fire marshal of a specified hazardous condition, to direct the facility owner or operator to correct the condition. The bill requires the service, if notified by a fire marshal of a violation, to direct the facility owner or operator to correct the violation as provided by the bill or take appropriate enforcement action as authorized by statutory provisions governing commercial fertilizer. The bill requires an owner or operator directed by the service to correct a hazardous condition or a violation to remedy the condition or violation before the expiration of a period specified by the service, which the bill caps at 10 days, and requires the service, if it determines that the condition or violation has not been remedied before the expiration of the specified period, to take appropriate enforcement action as authorized by the bill. The bill exempts an examination of an ammonium nitrate storage facility by a fire marshal under the bill's provisions from Government Code provisions requiring certain fire safety inspections to be conducted in accordance with the most recent local fire code or the most recent fire code adopted by the state fire marshal. The bill's provisions relating to fire prevention at ammonium nitrate storage facilities take effect on passage, or, if the bill does not receive the necessary vote, September 1, 2015.

C.S.H.B. 942 transfers from the Department of State Health Services (DSHS) to the Texas Commission on Environmental Quality (TCEQ), on September 1, 2015, the powers, duties, obligations, and liabilities of DSHS relating to the Texas Community Right-To-Know Acts (TCRAs); all unobligated and unexpended funds appropriated to DSHS designated for the administration of the TCRAs; all equipment and property of DSHS used solely or primarily for the administration of the TCRAs; all files and other records kept by DSHS relating to the administration of the TCRAs; and employees of DSHS whose duties relate solely or primarily to the administration of the TCRAs. The bill authorizes DSHS to agree with TCEQ to transfer any DSHS property to TCEQ to implement the required transfer.

C.S.H.B. 942 amends the Health and Safety Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to require TCEQ to implement the developed outreach program concerning the public's ability to obtain information under the TCRAs that is similar to the outreach program required under the Hazard Communication Act. The bill requires a facility operator under the TCRAs to file an updated tier two form with TCEQ not later than the 90th day after the date on which the operator has a change in the chemical weight range, as listed in specified federal regulations, of a previously reported hazardous chemical or extremely hazardous substance and as otherwise required by TCEQ rule. The bill requires a facility operator to furnish a copy of each tier two form and updated tier two form filed with TCEQ to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee. The bill requires TCEQ, as soon as practicable but not later than 72 hours after TCEQ receives a tier two form reporting the presence of ammonium nitrate at an ammonium nitrate storage facility, to furnish a copy of the form to the state fire marshal and the Texas Division of Emergency Management. The bill requires the state fire marshal to furnish a copy of the form to the chief of the fire department having jurisdiction over the facility and requires the division to furnish a copy of the form to the appropriate local emergency planning committee. The bill requires the operator of an ammonium nitrate storage facility to file a tier two form with TCEQ not later than 72 hours after the operator begins operation or has a reportable addition, at the appropriate threshold, of previously unreported ammonium nitrate and an updated tier two form not later than 72 hours after the operator has a change in the chemical weight range, as listed in specified federal regulations, of previously reported ammonium nitrate.

C.S.H.B. 942 authorizes TCEQ to use up to 20 percent of the annual fees collected from facility operators for the filing of tier two forms required under the Public Employer Community Right-

To-Know Act as grants to local emergency planning committees to assist them to fulfill their responsibilities under the federal Emergency Planning and Community Right-To-Know Act. The bill specifies that the amount of fees collected under the Manufacturing Facility Community Right-To-Know Act and the Public Employer Community Right-To-Know Act or the amount of fees paid by the state and its political subdivisions under the Public Employer Community Right-To-Know Act and authorized to be used by DSHS for administration of the Hazard Communication Act is capped at 15 percent.

C.S.H.B. 942 prohibits a facility operator from violating the TCRAs, TCEQ rules adopted under the TCRAs, or an order issued under the TCRAs and authorizes TCEQ to enforce the TCRAs under specified Water Code provisions relating to TCEQ enforcement of certain matters under its jurisdiction, including by issuing an administrative order that assesses a penalty or orders a corrective action.

C.S.H.B. 942 repeals statutory provisions relating to administrative penalties for violating rules or orders under the TCRAs, to criminal penalties and civil penalties for the failure to perform certain duties regarding the disclosure of hazard information, and to the authority of the executive commissioner of the Health and Human Services Commission to require certain facility operators to implement the National Fire Protection Association 704 identification system.

C.S.H.B. 942 amends the Water Code to cap the amount of the penalty against a facility operator who violates the Manufacturing Facility Community Right-To-Know Act or a rule adopted or order issued under that act at \$500 a day for each day a violation continues and to cap the amount of the total penalty for each violation at \$5,000. The bill caps the amount of the penalty against a facility operator who violates the Public Employer Community Right-To-Know Act or the Nonmanufacturing Facilities Community Right-To-Know Act or a rule adopted or order issued under those acts at \$50 a day for each day a violation continues and caps the amount of the total penalty for each violation at \$1,000. The bill subjects a person who knowingly discloses false information or negligently fails to disclose a hazard as required by the Manufacturing Facility Community Right-To-Know Act and the Public Employer Community Right-To-Know Act to a civil penalty of not more than \$5,000 for each violation and specifies that this penalty does not affect any other right of a person to receive compensation under other law. The bill makes it an offense punishable by a maximum fine of \$25,000 to proximately cause an occupational disease or injury to an individual by knowingly disclosing false information or knowingly failing to disclose hazard information as required by the Manufacturing Facility Community Right-To-Know Act and the Public Employer Community Right-To-Know Act and specifies that this offense does not affect any other right of a person to receive compensation under other law.

C.S.H.B. 942 specifies that a DSHS rule that is in effect immediately before September 1, 2015, and that relates to the TCRAs, is, on September 1, 2015, a rule of TCEQ and remains in effect until amended or repealed by TCEQ. The bill specifies that a complaint, investigation, enforcement proceeding, or other proceeding pending before DSHS on September 1, 2015, is continued by DSHS without change in status after the bill's effective date.

C.S.H.B. 942 repeals the following provisions of the Health and Safety Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015:

- Sections 505.004(2), (5), and (6)
- Sections 505.008(c), 505.010, 505.011, 505.012, 505.013, and 505.014
- Sections 506.004(2), (5), and (6)
- Sections 506.008(c), 506.010, 506.011, 506.012, 506.013, 506.014, 506.015, and 506.016
- Sections 507.004(2), (5), and (6)
- Sections 507.007(c), 507.009, 507.010, and 507.011

EFFECTIVE DATE

Except as otherwise provided, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 942 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

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

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

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

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

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

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

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

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

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

HOUSE COMMITTEE SUBSTITUTE

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 volunteer fire chief having jurisdiction over the area in which an ammonium nitrate storage facility is located.

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

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

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

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

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

(b) A fire marshal who determines the presence of one or more of the following hazardous conditions that endangers the safety of a structure or its occupants by promoting or causing fire or combustion shall notify the owner or operator of the facility of the need to correct the condition.

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

(1) provide evidence of compliance with:

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

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

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

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

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

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

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

The hazardous conditions are:

(1) the presence of a flammable substance;
(2) a dangerous or dilapidated wall, ceiling, or other structural element;

(3) improper electrical components, heating, or other building services or facilities;

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

(5) the dangerous storage of substances other than ammonium nitrate or ammonium nitrate material, including storage or use of hazardous substances; or

(6) inappropriate means of egress, fire protection, or other fire-related safeguard.

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

(1) on request by a fire marshal or the service provide evidence of compliance with:

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

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

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

(3) store ammonium nitrate or ammonium nitrate material:

(A) in a fertilizer storage compartment or bin constructed of wood, metal, or concrete that is protected against impregnation by the ammonium nitrate or ammonium nitrate material; and

(B) separately from any non-fertilizer materials; and

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

(d) A fire marshal who identifies the existence of a hazardous condition under Subsection (b) or a violation of Subsection (a) or (c) shall notify the service of the condition or violation.

(e) If notified by a fire marshal of a hazardous condition under Subsection (b), the service may direct the owner or operator of the facility to correct the condition.

(f) If notified by the fire marshal of a violation of Subsection (a) or (c), the service shall:

(1) direct the owner or operator of the facility to correct the violation as provided by Subsection (g); or

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

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

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

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

(1)[;] to enter any:

(A) mercantile, manufacturing, or public building;

(B)[;] place of amusement;

(C)[;-ø#] place where public gatherings are held;

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

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

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

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

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

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

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

(3) the executive director to make the

(2) take appropriate enforcement action as authorized by this chapter.

(g) If directed by the service to correct a hazardous condition or a violation, an owner or operator shall remedy the condition or violation before the expiration of a period specified by the service, which may not exceed 10 days. If the service determines that the condition or violation has not been remedied before the expiration of the specified period, the service shall take appropriate enforcement action as authorized by this chapter.

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

No equivalent provision.

SECTION 3. Section 505.002(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

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

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

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

(3) the commission [~~department~~] to make

information available to the public through specific procedures.

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

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

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

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

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

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

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

(23) "Tier two form" means:

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

(B) a form accepted by the EPA under EPCRA for listing hazardous chemicals

the information available to the public through specific procedures.

No equivalent provision.

SECTION 4. Section 505.004, Health and Safety Code, is amended by amending Subdivisions (3-a) and (8-a), as added by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, and amending Subdivisions (12) and (23) to read as follows:

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

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

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

(23) "Tier two form" means:

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

(B) a form accepted by the EPA under EPCRA for listing hazardous chemicals

together with additional information required by the commission [~~department~~] for administering its functions related to EPCRA.

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

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

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

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

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

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

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

(e-1) Except as provided by Section

together with additional information required by the commission [~~department~~] for administering its functions related to EPCRA.

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

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

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

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

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

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

(e-1) Except as provided by Section

505.0061(c), a facility operator shall file an updated tier two form with the commission:
(1) not later than the 90th day after the date on which the operator has a change in the chemical weight range, as listed in 40 C.F.R. Part 370, of a previously reported hazardous chemical or extremely hazardous substance; and

(2) as otherwise required by commission rule.

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

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

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

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

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

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

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

505.0061(c), a facility operator shall file an updated tier two form with the commission:
(1) not later than the 90th day after the date on which the operator has a change in the chemical weight range, as listed in 40 C.F.R. Part 370, of a previously reported hazardous chemical or extremely hazardous substance; and

(2) as otherwise required by commission rule.

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

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

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

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

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

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

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

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

(A) begins operation; or

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

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

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

SECTION 10. Sections 505.007(c) and (d), Health and Safety Code, are amended.

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

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

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

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

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

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

(A) begins operation; or

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

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

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

SECTION 8. Same as introduced version.

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

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

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

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

SECTION 11. Section 505.016, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular

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

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

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

or

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

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

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

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

Sec. 505.018. ENFORCEMENT. (a) A facility operator may not cause, suffer, allow, or permit a violation of this chapter,

Session, 2015, is amended to read as follows:

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

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

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

or

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

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

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

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

Sec. 505.018. ENFORCEMENT. (a) A facility operator may not violate this chapter, commission rules adopted under

commission rules adopted under this chapter, or an order issued under this chapter.

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

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

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

- (1) fire departments responsible for dealing with chemical hazards during an emergency;
- (2) local emergency planning committees and other emergency planning organizations; and
- (3) the executive director to make the information available to the public through specific procedures.

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

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

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

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

(24) "Tier two form" means:

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

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

this chapter, or an order issued under this chapter.

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

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

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

- (1) fire departments responsible for dealing with chemical hazards during an emergency;
- (2) local emergency planning committees and other emergency planning organizations; and
- (3) the commission [~~department~~] to make the information available to the public through specific procedures.

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

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

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

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

(24) "Tier two form" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) as otherwise required by commission rule.

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

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

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

SECTION 19. Sections 506.007(c) and (d), Health and Safety Code, are amended.

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

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

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

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

(2) as otherwise required by commission rule.

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

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

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

SECTION 17. Same as introduced version.

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

(b) A facility operator, on request, shall give the fire chief or the local emergency planning committee such additional information on types and amounts of hazardous chemicals present at a facility as the requestor may need for emergency planning purposes. A facility operator, on request, shall give the executive director ~~[commissioner]~~, the fire chief, or the local emergency planning committee a copy of the SDS for any chemical on the tier two form furnished under Section 506.006 or for any chemical present at the facility.

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

Sec. 506.009. COMPLAINTS AND INVESTIGATIONS. On presentation of appropriate credentials, a commission ~~[department]~~ representative may enter a facility at reasonable times to inspect and

and investigate complaints.

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

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

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

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

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

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

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

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

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

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

investigate complaints.

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

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

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

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

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

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

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

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

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

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

that assesses a penalty or orders a corrective action.

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

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

- (1) fire departments responsible for dealing with chemical hazards during an emergency;
- (2) local emergency planning committees and other emergency planning organizations; and
- (3) the executive director to make the information available to the public through specific procedures.

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

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

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

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

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

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

(10) "Facility" means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person or by any person who controls, is controlled by, or is under common control with that person, and that is in North American Industrial

that assesses a penalty or orders a corrective action.

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

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

- (1) fire departments responsible for dealing with chemical hazards during an emergency;
- (2) local emergency planning committees and other emergency planning organizations; and
- (3) the commission [~~department~~] to make the information available to the public through specific procedures.

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

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

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

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

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

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

(10) "Facility" means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person or by any person who controls, is controlled by, or is under common control with that person, and that is in North American Industry

Classification System (NAICS) Codes 11-23 or Codes 42-92. The term does not include a facility subject to Chapter ~~[505-06]~~ 506.

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

(23) "Tier two form" means:

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

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

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

(a) Facility operators whose facilities are in North American Industrial Classification System (NAICS) Codes 11-23 or NAICS Codes 42-92 and who are not subject to Chapter ~~[505-06]~~ 506 shall comply with this chapter.

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

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

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

(c) Each tier two form shall be filed

Classification System (NAICS) Codes 11-23 or Codes 42-92. The term does not include a facility subject to Chapter ~~[505-06]~~ 506.

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

(23) "Tier two form" means:

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

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

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

(a) Facility operators whose facilities are in North American Industry Classification System (NAICS) Codes 11-23 or NAICS Codes 42-92 and who are not subject to Chapter ~~[505-06]~~ 506 shall comply with this chapter.

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

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

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

(c) Each tier two form shall be filed

annually with the commission, along with the appropriate fee, according to the procedures specified by commission [~~board~~] rules. [~~The facility operator shall furnish a copy of each tier two form to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee.~~]

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

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

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

(2) as otherwise required by commission rule.

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

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

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

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

Sec. 507.0061. REPORTING FOR FACILITIES STORING AMMONIUM NITRATE USED IN FERTILIZER. (a) In this section, "ammonium nitrate" and

annually with the commission, along with the appropriate fee, according to the procedures specified by commission [~~department~~] rules. [~~The facility operator shall furnish a copy of each tier two form to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee.~~]

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

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

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

(2) as otherwise required by commission rule.

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

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

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

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

Sec. 507.0061. REPORTING FOR FACILITIES STORING AMMONIUM NITRATE USED IN FERTILIZER. (a) In this section, "ammonium nitrate" and

"ammonium nitrate storage facility" have the meanings assigned by Section 63.151, Agriculture Code.

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

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

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

(A) begins operation; or

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

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

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

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

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

"ammonium nitrate storage facility" have the meanings assigned by Section 63.151, Agriculture Code.

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

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

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

(A) begins operation; or

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

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

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

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

present at the facility.

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

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

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

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

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

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

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

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

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

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

Sec. 507.014. ENFORCEMENT. (a) A facility operator may not cause, suffer, allow, or permit a violation of this chapter,

any chemical present at the facility.

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

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

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

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

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

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

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

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

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

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

Sec. 507.014. ENFORCEMENT. (a) A facility operator may not violate this chapter, commission rules adopted under

commission rules adopted under this chapter, or an order issued under this chapter.

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

SECTION 34. Section 5.013(a), Water Code, is amended to read.

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

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

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

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

this chapter, or an order issued under this chapter.

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

SECTION 32. Same as introduced version.

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

(b-4) The amount of the penalty against a facility operator who violates Chapter 505, Health and Safety Code, or a rule adopted or order issued under that chapter may not exceed \$500 a day for each day a violation continues with a total not to exceed \$5,000 for each violation. The amount of a penalty against a facility operator who violates Chapter 506 or 507, Health and Safety Code, or a rule adopted or order issued under those chapters may not exceed \$50 a day for each day a violation continues with a total not to exceed \$1,000 for each violation.

No equivalent provision. *(But see SECTION 34 below.)*

No equivalent provision. (But see SECTION 36 above.)

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

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

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

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

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

- (1) Sections 505.004(2), (5), (6), (14), and (20);
- (2) Sections 505.008(c), 505.010, 505.011, 505.012, 505.013, and 505.014;
- (3) Sections 506.004(2), (5), (6), (14), and (20);
- (4) Sections 506.008(c), 506.010, 506.011, 506.012, 506.013, 506.014, 506.015, and 506.016;
- (5) Sections 507.004(2), (5), (6), (14), and (20); and
- (6) Sections 507.007(c), 507.009, 507.010, and 507.011.

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

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

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

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

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

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

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

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

- (1) Sections 505.004(2), (5), and (6);
- (2) Sections 505.008(c), 505.010, 505.011, 505.012, 505.013, and 505.014;
- (3) Sections 506.004(2), (5), and (6);
- (4) Sections 506.008(c), 506.010, 506.011, 506.012, 506.013, 506.014, 506.015, and 506.016;
- (5) Sections 507.004(2), (5), and (6); and
- (6) Sections 507.007(c), 507.009, 507.010, and 507.011.

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

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

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

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

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

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

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

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

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

SECTION 40. (a) Except as otherwise provided by this Act, this Act takes effect

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

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

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

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

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

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

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

SECTION 38. (a) Except as otherwise provided by Subsection (b) of this section,

September 1, 2015.

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

this Act takes effect September 1, 2015.

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