

CHAPTER 431  
FORMERLY  
SENATE BILL NO. 199  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO EXTREMELY HAZARDOUS SUBSTANCES RISK MANAGEMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 77, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 7705 Definitions.

(6) "Extremely hazardous substance" (EHS) means a substance in the form of a gas, liquid, solid, vapor, powder, aerosol or mixture of these states which is listed pursuant to § 7707 of this title, or any other chemical which may as a result of short-term exposures because of releases to the environment cause public death, injury, or property damage due to their toxicity, reactivity, volatility or corrosivity.

§ 7710. Inspection.

(c) ~~Inspection program schedule~~ -- The Department shall develop and issue a phased initial inspecting program on the basis of degree of risk. Facilities with extremely hazardous substances having the highest substance hazard indexes shall be inspected before facilities with lower indexed extremely hazardous substances. Facility inspections shall continue during the regulation revision process and be an integral part of the revised regulation. The Department shall develop an inspection schedule, so that it can ensure and evaluate compliance with this title, including any regulations or requirements adopted by the Secretary in furtherance of the purposes of this title.

The ~~Secretary~~ Department may determine the frequency of inspection of a specific facility, based on:

- (1) Risk
- ~~(2)~~ Compliance history;
- ~~(3)~~ The recent occurrence of an incident involving an extremely hazardous substance; or
- ~~(4)~~ Recent compliance with this chapter.

~~Each facility shall be inspected at least once every 3 years.~~

The Department will provide covered facility owners and/or operators with 24-hour advance notice before inspections, except:

(1) If the Department determines that an inspection without such notice is warranted by exigent circumstances and approves such inspection; or

(2) If any delay in conducting an inspection might be seriously detrimental to safety, and the Department determines that an inspection without notice is warranted.

(d) Inspection Protocol -- All inspections shall be conducted by trained ~~and tested~~ state personnel or representatives. All inspections shall be conducted within the limits of a thorough Risk Management Program Inspection Protocol issued by the Department and adopted after public hearing. The Protocol consists of specific questions, facility characteristics, required risk management program components, physical observations and interviews.

(e) ~~Inspection training program~~ -- ~~The Department shall have a training program to periodically educate and test state employees or representatives responsible for inspecting regulated facilities. The program shall also be available to personnel responsible for operation of facility risk management programs in accordance with the purpose of this chapter. Preparation of such a training program shall make full use of appropriate available resources. Successful completion of such a training program is a requirement for all state employees or representatives responsible for inspecting regulated facilities or dealing with implementation of this chapter.~~ Inspectors. Inspections and audits are conducted by personnel duly authorized and designated for that purpose as "inspectors" by the Department. An inspector will, on request, present his or her state-issued identification card for examination at a facility being inspected, but the identification card may not be reproduced by the facility.

Approved September 11, 2014