

LAWS OF DELAWARE
VOLUME 83
CHAPTER 479
151st GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 308
AS AMENDED BY
SENATE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO FIRE-RESISTANCE-RELATED CONSTRUCTION.

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

Section 1. Amend Title 16 of the Delaware Code by adding a new Chapter 66D and by making deletions as shown by strikethrough and insertions as shown by underline as follows:

Chapter 66D. Fire-Resistance-Related Construction.

§ 6601D. Definitions.

For purposes of this chapter:

(1) “Buildings” means a building equipped with HVAC Fire Dampers, Smoke Dampers and/or Smoke Control System. As used in this chapter, “buildings” does not include residential buildings excluded under § 6602D of this chapter.

(2) “Fire Life Safety damper testing” means testing and inspection activities, including all physical, visual, and operational tests necessary to ensure the complete opening and closing of dampers and the proper functioning of fire dampers and smoke dampers as required by the IFC, NFPA 80, NFPA 105, and applicable engineering specifications.

(3) “Fire Life Safety Dampers” means all fire dampers, smoke dampers, and combination fire and smoke dampers.

a. “Combination Fire/Smoke Damper” means a device that meets both the fire damper and smoke damper requirements.

b. “Fire Damper” means a device installed in an air distribution system, designed to close automatically upon detection of heat, to interrupt migratory airflow and to restrict the passage of flame; and includes devices installed in air conditioning systems to close automatically upon detection of heat, to interrupt migratory airflow, and to restrict the passage of flames. A Fire Damper shall also include a combination fire/smoke damper system.

c. “Smoke Damper” means a device within an air distribution system to control the movement of smoke, and includes devices installed in air conditioning systems to control the movement of smoke. A Smoke Damper shall also include a combination smoke/fire damper system.

(4) “NFPA” means National Fire Protection Association.

(5) “Smoke Control System” means an engineered system that includes all methods that can be used singly or in combination to modify smoke movement, including engineered systems that use mechanical fans to produce pressure differences across smoke barriers to inhibit smoke movement.

§ 6602D. Buildings subject to testing.

All buildings shall establish a Heating, Ventilating, and Air Conditioning (HVAC) Fire Life Safety Damper, and Smoke Control System Inspection Verification Program for the purpose of ensuring that Fire Life Safety Dampers and Smoke Control Systems are in working order to prevent the spread of fire and smoke within walls, floors, and ceilings except:

(1) Any structure or portion thereof which is occupied as, or designed or intended for occupancy as a residence for 2 or less families, including multifamily, single family, and townhouse dwellings, is excluded from the testing requirements in § 6603D of this title.

(2) All other residential buildings, including hotels, are subject to the required testing only for mechanical rooms and common use areas, including stairs, hallways, and lobbies.

§ 6603D. Required testing of Fire Life Safety Dampers.

(a) All owners of buildings shall be responsible for ensuring that newly-installed Fire Life Safety Dampers shall be subject to Fire Life Safety Damper testing required to be installed in buildings pursuant to the Delaware Building Standards Code are inspected and tested as required by the applicable NFPA standards referenced in the Delaware Building Standards Code or as set forth in regulations adopted by the State Fire Marshal and in accordance with this section before use is permitted.

(b) Fire Dampers, Smoke Dampers, and Fire Combination Fire/Smoke Dampers shall be inspected and tested no less than once after the first year of installation, and once every 4 years thereafter, except for hospitals. In hospitals, Fire Dampers, Smoke Dampers, and Combination Fire/Smoke Dampers shall be inspected and tested no less than once after the first year of installation, and once every 6 years thereafter. The testing of Fire Dampers, Smoke Dampers and Combination Fire/Smoke Dampers shall include the Visual Inspection Method as defined in NFPA 80, 19.5.2.3.2 and in NFPA 105, Section 7.6.3.2. The Remote Inspection Method set defined in Section 19.5.2.2.3 of NFPA 80 and Section 7.6.3.3 of NFPA 105 shall not be used in place of visual inspection for the periodic testing required under this section. All Fire/Smoke Dampers shall be tested, per the aforementioned schedule, regardless of location.

(c) Once installed, Fire Life Safety Dampers shall be inspected and tested no less than once after the first year of installation, and once every 4 years thereafter, except for hospitals. In hospitals, Fire Life Safety Dampers shall be inspected and tested no less than once after the first year of installation and once every 6 years thereafter. The testing of Fire Life Safety Dampers shall include the Visual Inspection Method as defined in NFPA 80, 19.5.2.3.2 and in NFPA 105, Section 7.6.3.2. The Remote Inspection Method set defined in Section 19.5.2.2.3 of NFPA 80 and Section 7.6.3.3 of NFPA 105 shall not be used in place of visual inspection for the periodic testing required under this section. All Fire/Smoke Dampers shall be tested, per the aforementioned schedule, regardless of location.

(d) All owners of buildings shall be responsible for ensuring that Smoke Control Systems required to be installed pursuant to the Delaware Building Standards Code are tested as required by the applicable NFPA standards referenced in the Delaware Building Standards Code or as set forth in regulations adopted by the State Fire Marshal. Dedicated Smoke Control Systems shall be tested at least semiannually. Non-Dedicated Smoke Control Systems shall be tested at least annually. Testing of Smoke Control Systems shall include tests to determine airflow quantities and pressure differences are code compliant, including at the following locations:

(1) Across smoke barrier openings.

(2) At the air makeup supplies.

(3) At smoke exhaust equipment.

§ 6604D. Required qualifications of individual testers of fire/smoke dampers.

(a) The Delaware State Fire Prevention Commission shall establish and administer a program to review and approve third-party inspection training and certification programs to ensure conformance to the minimum qualifications set forth in this section.

(b) Inspections and tests under this Section shall be performed by a qualified inspector. For the purposes of this section a “qualified inspector” means either of the following:

(1) Authorized state or local fire department personnel.

(2) A technician possession certification from the International Certification Board as a HVAC Fire Life Safety Technician or through an equivalent certification program accredited under the ISO/IEC 17024 Personnel Certification standard and that is employed and supervised by a contractor that maintains current workers' compensation insurance coverage.

§ 6605D. Certificate of Operation.

If the Fire Life Safety Dampers and Smoke Control Systems pass the applicable inspections and tests, the person performing the inspection or test shall execute a Certificate of Operation which shall verify such compliance, and provide the name and certification number of the individual(s) conducting the inspection or test and that person's employer, the name of the building owner and address of the property, the location of all Smoke Dampers, Fire Dampers, Combination Fire/Smoke Dampers, and Smoke Control Systems inspected or tested, and the date of the inspection or test. The building owner shall maintain a copy of the Certificate of Operation on the building property and make the Certificate available for inspection upon request.

§ 6606D. Testing Failures.

(a) In the event an inspection or test reveals deficiencies in Fire Life Safety Dampers, or Smoke Control Systems, the person(s) who conducted the inspection or test shall prepare a Deficiency Report for the building owner identifying the nature of the deficiency and reasons for non-compliance. The Deficiency Report shall also contain the name and certification number of the individual(s) conducting the inspection or test and that person's employer, the name of the building owner, address of the property, the location of all Fire Dampers, Smoke Dampers, Combination Fire/Smoke Dampers and Smoke Control Systems inspected or tested, and the date of the inspection or test. The building owner shall, without delay, take the necessary steps to ensure the defective equipment is replaced or repaired and that compliance with the applicable inspection and testing requirements has been achieved. A building that does not achieve compliance within 30 days shall be deemed in violation of this section.

(b) The building owner shall post a notice of verification of the testing and inspection of Fire Life Safety Dampers, and Smoke Control Systems in the outside lobby window of the building or other area clearly visible to the public. The verification shall state the address of the building and the date of the last fire damper inspection, smoke damper inspection, and smoke control system inspection, and the date that each inspection expires.

§ 6607D. ~~County functions.~~ Submissions and Inspections.

(a) Building owners shall submit copies of Operation Certificates to the ~~County~~ Municipal or State Fire Marshall showing they are in compliance with the testing requirements of this section within 30 days of obtaining Operation Certificates. The ~~County~~ Municipal or State Fire Marshall shall commence enforcement actions for any instance of non-compliance.

(b) Inspections. When the ~~County~~ Municipal or State Fire Marshall conducts an annual fire inspection of any building, it shall inspect the building owner's Fire Life Safety Damper and Smoke Control System Certificate of Operation to ensure it complies with the requirements of this section and commence enforcement actions if violations are found.

§ 6608D. Enforcement and penalties.

Any person who violates this chapter shall be assessed a civil penalty of \$100.00 for each day of non-compliance payable to the Office of State Fire Marshal.

Section 2. This Act takes effect upon the establishment of a program to review and approve third-party inspection training and certification programs by the Delaware State Fire Prevention Commission pursuant to § 6604D of Title 16, or 1 year after enactment, whichever occurs first.

Approved October 21, 2022