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HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL NO. 259

AN ACT TO AMEND TITLE 7, TITLE 16, AND TITLE 20 OF THE DELAWARE CODE RELATING TO  
EMERGENCY ALERTS.

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

Section 1. Amend Chapter 31, Title 20 of the Delaware Code by making deletions as shown by strike through and  
insertions as shown by underline as follows:

§ 3109. Emergency alerts.

(a) As part of the comprehensive plan and program for emergency management under § 3107 of this title, DEMA  
shall develop, establish, and maintain an emergency alert plan and system in accordance with relevant regulations and  
guidelines promulgated by federal agencies.

(b) The emergency alert plan must be designed to rapidly disseminate useful information in a predetermined  
manner to radio and television stations broadcasting within this state and to wireless devices through the Wireless  
Emergency Alert system operated by federal agencies.

(c) The emergency alert plan must be activated in accordance with policies established by the Department of  
Safety and Homeland Security.

(d) Emergency alerts must broadcast alerts in Spanish, in addition to English, when possible.

Section 2. Amend § 7705, Title 7 of the Delaware Code by making deletions as shown by strike through and  
insertions as shown by underline as follows:

§ 7705. Definitions.

~~As used in~~ For purposes of this chapter:

(1) ~~“A catastrophic~~ (2) “Catastrophic event” means a sudden release of a sufficient quantity of an EHS, a  
pressure wave or a thermal exposure beyond the property boundaries of a facility which may cause death or permanent  
disability to a person because of a single short-term exposure. ~~In this definition, an~~ An accidental fire at a nonregulated  
facility is ~~excluded from consideration as a catastrophic event~~ not a “catastrophic event” creating EHS.

(2) (1) “Actual quantity” (~~AQ~~) or “AQ” means the sum of all the physical quantities of a specific EHS in whatever form at the maximum design capacity of the facility.

(3) ~~“A substance (17) “Substance hazard index” (SHI) or “SHI”~~ means a calculated number which relates the relative danger of a substance considering substance toxicity and ability to disperse in the atmosphere ~~as specified in under § 7707 of this title.~~

(3) “Catastrophic release” means a major uncontrolled emission, fire, or explosion, involving 1 or more regulated substances that presents imminent and substantial endangerment to public health and the environment.

(4) “Department” means the Department of Natural Resources and Environmental Control.

(5) “EPA” means the United States Environmental Protection Agency.

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

(7) “Extremely hazardous substance list” (~~EHSL~~) or “EHSL” means a compilation of EHS that meets the criteria ~~set forth in under § 7707 of this title.~~

(8) “Facility” means an area bounded by a property line where a person has EHS present, or the sum of adjacent such areas separated by less than 100 meters under common management control.

(9) “Inspection notes” means handwritten statements or descriptions made during an inspection used to aid memory when preparing the inspection report.

(10) “OSHA” means the United States Department of Labor, Occupational Safety and Health Administration.

(11) “Person” means a natural person, partnership, limited partnership, trust, estate, corporation, custodian, ~~association nominee association, nominee,~~ or any other individual entity in its own or any representative capacity.

(12) “Release” means the introduction of an EHS into the atmosphere that, by means of atmospheric dispersion under average atmospheric conditions for Delaware, will cause an EHS to be conveyed outside of a facility or the generation of a pressure wave or a thermal exposure beyond the facility’s boundary.

(13) “Responsible ~~person(s)~~” means: person” means 1 or more of the following:

a. For a ~~corporation: corporation,~~ a president, vice-president, ~~secretary secretary,~~ or treasurer of the ~~corporation corporation,~~ or any other person who performs similar policy or decision making functions for the

corporation, or a duly authorized representative of ~~such a~~ person approved in advance by the ~~Department (which~~  
~~Department, who~~ may be the “contact person” as indicated in the ~~RMP~~), RMP.

b. For a partnership, limited partnership or sole ~~proprietorship~~; proprietorship, a general partner or the  
proprietor, respectively, or the delegation of authority to a representative approved in advance by the ~~Department~~  
~~(which~~ Department, who may be the “contact person” as indicated in the ~~RMP~~), RMP.

c. For a municipality, state, ~~federal~~ federal, or other public ~~agency~~; agency, either a principal executive  
officer, a ranking elected ~~official~~ official, or a duly authorized representative of ~~such a~~ person approved by the  
~~Department (which~~ Department, who may be the “contact person” as indicated in the ~~RMP~~), RMP.

(14) A “~~risk~~ Risk management plan” (“~~RMP~~”) ~~is or~~ “RMP” means the information which shall ~~that must be~~  
submitted by each EPA regulated facility in a method and format to a central point as specified by EPA prior to June  
21, 1999. This information shall contain an executive summary, registration, 5-year accident history, off-site  
consequence analysis, prevention program summary, summary of the emergency response ~~program~~ program, and a  
certification statement by the facility owner or operator. For substances regulated by Delaware but not regulated by  
EPA, the risk management plan shall be submitted in a method and format to a central point as specified by the  
Department, by regulation, prior to June 21, 1999. The RMP from each facility will be made available to the  
Department, the State Emergency Response Commission, the Local Emergency Planning Committees, to other state  
agencies involved in emergency planning and ~~preparedness~~ preparedness, and the citizens of ~~the~~ this State.

(15) “Risk management program” means all activities intended to reduce risk, ~~including, but not limited to,~~  
under § 7709 of this title, including the consideration of technology, personnel ~~personnel, and facilities, and is more~~  
~~fully described in § 7709 of this title.~~ facilities.

(16) “Secretary” means the Secretary of the Department of Natural Resources and Environmental Control or  
the Secretary’s designee.

~~(17)~~ (18) “Threshold quantity” (~~TQ~~) or “TQ” means the amount of EHS sufficient to cause a catastrophic  
event. The threshold quantity shall be calculated based on the criterion established ~~in~~ under § 7707(b) of this title.

~~(18)~~ (19) “Unit” ~~as used in § 7713 of this title is defined as~~ means the actual quantity of EHS on a facility  
within a process divided by the threshold quantity.

Section 3. Amend § 7712, Title 7 of the Delaware Code by making deletions as shown by strike through and  
insertions as shown by underline as follows:

§ 7712. Information program.

79 (a) The Department, assisted by the Division of Public Health of the Department of Health and Social Services and  
80 the Department of Safety and Homeland Security shall prepare and implement an information program designed to inform  
81 the general public, local public ~~officials~~ officials, and the business community about the requirements of this chapter and  
82 regulations adopted thereto, about the health risks of accidental releases of extremely hazardous substances and about  
83 means available to minimize the chances of accidental catastrophic releases of such substances.

84 (b) The information program ~~shall~~ must include information about current risk management programs of industrial  
85 companies and business establishments in Delaware as well as emergency plans, public and private, to protect the public in  
86 cases of catastrophic accidental releases of extremely hazardous substances. The Department may cooperate with other  
87 groups for purposes of this program.

88 (c) The Department shall use the emergency alert system under § 3109 of Title 20 to notify the public of a  
89 catastrophic release.

90 Section 4. Amend § 6304, Title 16 of the Delaware Code by making deletions as shown by strike through and  
91 insertions as shown by underline as follows:

92 § 6304. Emergency release notifications.

93 (a) Emergency release notification requirements ~~shall be as are~~ are established under ~~§ 6028~~ § 6014, § 6028, and §  
94 7712 of Title 7.

#### SYNOPSIS

This Act requires Delaware to use the Wireless Emergency Alert (“WEA”) system to notify the public of emergency alerts and requires that the emergency alert system be used when a catastrophic release occurs. A catastrophic release is a major uncontrolled emission, fire, or explosion that presents an imminent and substantial endangerment to public health. This Act also requires that emergency alerts be broadcast in Spanish, in addition to English, when possible.

The WEA system is a federal public safety system, currently used by the Delaware Emergency Management Agency (DEMA), that allows customers who own mobile devices to receive geographically targeted, text-like messages alerting them of imminent threats to safety in their area.

Delaware still uses reverse 911 notifications to landline phones for environmental hazards, but only 6.5% of U.S. households use landlines as their only form of phone communication. In contrast, the National Center for Health Statistics reported that during the first 6 months of 2020, 62.5% of adults and 73.8% of children lived in wireless-only households. To ensure that Delaware’s cell phone users receive WEA alerts, DEMA asked cell phone users to manually register their cell phones with the Delaware Emergency Notification System (“DENS”) to receive WEA notifications. After numerous years of marketing campaigns, and encouragement from public officials, private entities, and advocacy groups, only 3% of Delawareans have manually registered their cell phones with the Delaware Emergency Notification System to receive wireless emergency alerts.

In addition, because the WEA system targets geographic areas, emergency alerts are sent to all wireless devices with service provided by participating carriers. Thus, emergency alerts are provided to wireless devices in the geographic area affected by the hazard, regardless of whether people register their phones, live in the area, or have phone numbers with a local area code.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.