SPONSOR: Rep. Lambert & Sen. Hansen
Reps. S. Moore, Schwartzkopf; Sens. Bonini, Brown, Ennis, Gay, Hocker, Lawson, Lockman, Lopez, Mantzavinos, Paradee, Pettyjohn, Pinkney, Poore, Richardson, Sokola, Sturgeon, Townsend, Walsh, Wilson

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 259
AS AMENDED BY
HOUSE AMENDMENT NO. 1

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 all of the following:

(1) Radio and television stations broadcasting within this state.

(2) Wireless devices through the Wireless Emergency Alerts or subsequent systems operated by federal agencies to provide authenticated emergency and life-saving information to the public.

(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

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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 extremely hazardous substances that imminently and substantially endangers public health beyond the property boundaries of the facility.

(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~~ regulated substances under § 7707 of this ~~title.~~ title in Regulation 1201 of Title 7 of the Delaware Administrative Code.

(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.

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

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

(c) If a catastrophic release requires the public to take protective action, the Department shall use emergency alerts under § 3109(b)(2) of Title 20 to communicate instructions.

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

§ 6304. Emergency release notifications.

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