§ 40-0113. Rules and regulations.

1. The department, on or before July first, nineteen hundred eighty-eight, shall promulgate rules and regulations to implement this article. Such rules and regulations may differ as required based on the nature of the hazardous substance stored, the type or class of storage facility, and the degree of environmental protection required.

The regulations shall include but are not limited to:

a. A list of hazardous substances described by subdivision four of section 40-0105 of this article. Such list shall indicate the minimum quantity of each such hazardous substance the storage of which shall be subject to regulation pursuant to this article. Such list shall also indicate the minimum quantity of each such hazardous substance which, if released into the environment, shall be deemed to be a reportable quantity.

b. Minimum standards and schedules for design, construction, installation, operation, maintenance, repair, monitoring, testing and inspection of facilities. Schedules shall be based on factors such as type of facility, type and quantity of hazardous substances stored, facility age, condition and construction type, soil conditions, location of facility relative to water supplies, surrounding population, and other environmental factors including but not limited to future physical climate risk due to sea level rise, and/or storm surges and/or flooding, based on available data predicting the likelihood of future extreme weather events, including hazard risk analysis data if available.

c. Requirements for maintaining records pursuant to this article.

d. Requirements for reporting releases and corrective action in response to such releases, and for taking such corrective action pursuant to this article.

e. Provision for variances from specific provisions, provided it can be shown to the satisfaction of the department that the new or alternate

design, practice or method used or proposed to be used provides protection equal to or greater than the requirements of the regulations. The regulations shall also include policies, procedures and criteria for reviewing such variance requests.

f. Criteria whereby facilities are properly closed and thereby released from testing and inspection requirements.

g. Requirements for maintaining such evidence of financial responsibility as is deemed necessary and desirable for operating, maintaining or closing storage facilities pursuant to this article.

Evidence of financial responsibility shall be established in accordance with such regulations and may include, but shall not be limited to any one or any combination of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer.

h. Rules and training requirements for operators of hazardous substance storage facilities. The department shall specify training requirements for:

(i) persons having primary responsibility for on-site operation and maintenance of storage tank systems;

(ii) persons having daily on-site responsibility for the operation and maintenance of storage tank systems; and

(iii) daily, on-site employees having primary responsibility for addressing emergencies presented by a spill or release from a storage tank system.

2. Nothing in this article shall authorize the department to adopt or amend any rule or regulation in a manner less stringent than provided in the Federal Resource Conservation and Recovery Act of 1976, as amended, and in rules and regulations promulgated pursuant thereto.