

65-34,143. Rules and regulations. The secretary is authorized and directed to adopt rules and regulations necessary to administer and enforce the provisions of this act. Any rules and regulations so adopted shall be reasonably necessary to preserve, protect and maintain the waters and other natural resources of this state and reasonably necessary to provide for prompt corrective action of releases from drycleaning facilities. Consistent with these purposes, the secretary shall adopt rules and regulations:

(a) Establishing performance standards for drycleaning facilities first brought into use on or after the effective date of regulations authorized by this subsection. Such performance standards shall be effective when the rules and regulations adopted by the secretary become final. The secretary shall make the secretary's best efforts to adopt such rules and regulations so that they become final within 180 days after the effective date of this act. The performance standards for new drycleaning facilities shall allow the use of new technology as it becomes available and shall at a minimum include provisions which are at least as protective of human health and the environment as the following:

(1) A requirement for the proper storage and disposal of those wastes which are generated at a drycleaning facility and which contain any quantity of drycleaning solvent.

(2) A prohibition of the discharge of wastewater from drycleaning units or of drycleaning solvent from drycleaning operations to any sanitary sewer or septic tank or to the waters of this state.

(3) A requirement of compliance with the national emission standards for hazardous air pollutants for perchlorethylene dry cleaning facilities promulgated by the United States environmental protection agency on September 22, 1993.

(4) A requirement that dikes or other containment structures be installed around each drycleaning unit and each drycleaning solvent or waste storage area, which structures shall be capable of containing any leak, spill or release of drycleaning solvent.

(5) A requirement that those portions of all diked floor surfaces upon which any drycleaning solvent may leak, spill or otherwise be released be of epoxy, steel or other material impervious to drycleaning solvents.

(6) A requirement that all chlorinated drycleaning solvents be delivered to drycleaning facilities by means of closed, direct-coupled delivery systems, but only after such systems become generally available.

(b) Adopting a schedule requiring the retrofitting of drycleaning facilities in existence on or before the effective date of rules and regulations authorized by subsection (a) to implement the performance standards established pursuant to subsection (a). The schedule may phase in the standards authorized by this subsection at different times but shall make all such standards effective no later than five years after the effective date of this act.

(c) Establishing requirements for removal of drycleaning solvents and wastes from drycleaning facilities which are to be closed by the owner in order to prevent future releases.

(d) Establishing criteria to prioritize the expenditure of funds from the drycleaning facility release trust fund. The criteria shall include consideration of:

(1) The benefit to be derived from corrective action compared to the cost of conducting such corrective action;

(2) the degree to which human health and the environment are actually affected by exposure to contamination;

(3) the present and future use of an affected aquifer or surface water;

(4) the effect that interim or immediate remedial measures will have on future costs;

(5) the amount of moneys available for corrective action in the drycleaning facility release trust fund; and

(6) such additional factors as the secretary considers relevant.

(e) Establishing criteria under which a determination may be made by the department of the level at which corrective action shall be deemed completed. Criteria for determining completion of corrective action shall be based on the factors set forth in subsection (d) and:

(1) Individual site characteristics including natural remediation processes;

(2) applicable state water quality standards;

(3) whether deviation from state water quality standards or from established criteria is appropriate, based on the degree to which the desired remediation level is achievable and may be reasonably and cost effectively implemented, subject to the limitation that where a state water quality standard is applicable, a deviation may not result in the application of standards more stringent than that standard; and

(4) such additional factors as the secretary considers relevant.

History: L. 1995, ch. 162, § 3; July 1.