§ 17-1007. Corrective actions.

1. Any operator shall within forty-eight hours notify the facility owner and the department, and if the facility is located within any county, or city of a population of one million or more which filed with the department a written declaration under subdivision two of section 17-1017 of this title which is approved by the commissioner in written findings the operator shall also notify such county or city of a population of one million or more, of any abnormal loss or gain detected through daily inventory which cannot be explained by inaccurate record keeping, temperature variations, or other causes not related to leakage. For the purposes of this subdivision, "abnormal loss or gain" shall mean a loss or gain of three-quarters of one percent or greater of the total volume of petroleum handled over a period of ten days.

2. Where a leak or spill of petroleum is suspected or appears probable, the department may order the owner to inspect that tank or tanks or associated equipment suspected to be leaking and to test for tightness and structural soundness or may prohibit delivery pursuant to subdivision four of this section. If the owner fails within ten days to conduct such tests as required under this subdivision, the department may conduct such tests for tightness or structural soundness. The reasonable expenses of conducting such tests incurred by the department shall be paid by the owner.

3. It shall be unlawful to continue operation of any leaking tank or associated equipment of a facility. The contents of such tank or equipment shall be promptly removed.

4. The department may prohibit deliveries of petroleum to any tank (i) that is leaking or (ii) where a leak appears probable. If the source of the leak or a probable leak cannot be determined, the department may prohibit deliveries to any tank or tanks that may be the probable source of a leak until such time as the source has been identified, at which time the prohibition on delivery will apply to the leaking tank or tanks. In addition, the department may prohibit deliveries of petroleum to any tank that is in violation of any requirement prescribed by

regulation pursuant to this title related to:

a. installing required equipment for spill prevention, overfill protection, leak detection, corrosion protection or secondary containment;

b. performing leak detection or inspections of tank systems;

c. properly operating or maintaining leak detection; or

d. properly operating or maintaining spill, overfill or corrosion protection equipment.

(i) The department shall attach a tag to the tank or tanks to identify those tanks to which delivery is prohibited and provide a written notice to the owner and operator specifying the reasons for the prohibition of delivery. The department may consider not prohibiting deliveries of petroleum for up to one hundred eighty days after a determination is made that the facility or tank meets the conditions in this subdivision if such prohibition would jeopardize the availability of, or access to, fuel in any rural and remote areas unless the department has determined that the condition at the facility endangers public health, safety or the environment.

(ii) As promptly as possible thereafter, not to exceed fifteen days, the commissioner shall provide the owner or operator an opportunity to be heard and to present proof that such condition or activity does not violate the provisions of this section or of the rules or regulations adopted pursuant to this title. The commissioner shall adopt rules and regulations describing the procedure to be followed in the prohibition of petroleum deliveries. In adopting such rules and regulations the department shall allow for the owner or operator at any time to submit information to the department to demonstrate that the owner or operator is in compliance with the requirements or has corrected the violation that prompted the department to prohibit deliveries of petroleum and to allow the tank or tanks to be, as promptly as possible, brought back into operation, not to exceed two business days from the department's determination that a tank is in compliance. The department shall use its best efforts to timely determine compliance. The commissioner shall

draft such rules and regulations and submit them to the state petroleum bulk storage advisory council for comments within six months of the effective date of this subparagraph.

(iii) Unless otherwise authorized by the department, no person shall tamper with or remove, or cause the tampering with or removal of, a tag attached to any tank under the provisions of this subdivision.

(iv) No person shall deliver, cause the delivery of, deposit, or accept petroleum to any tank or tanks to which a tag is affixed pursuant to this subdivision.