§ 40-0111. Corrective actions and reporting.

1. Where a release of any hazardous substance is suspected or appears probable, the department may order the owner to inspect any storage facility, location and/or associated equipment suspected to be the source of the release and to test for tightness and structural soundness. If the owner fails to conduct such tests within ten days of notification of such an order the department may conduct such tests. The reasonable expenses of conducting such tests incurred by the department shall be paid by the owner.

2. It shall be unlawful to continue operation of any tank where a continuing release to the environment is occurring. The contents of such a tank shall be promptly removed to a secure storage location. The department may prohibit deliveries of hazardous substances 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 hazardous substances 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.

(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 conditions 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 hazardous substance 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 hazardous substances 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.

(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 a hazardous substance to any tank or tanks to which a tag is affixed pursuant to this subdivision.

3. Any person who is the owner of, or in actual or constructive possession or control of, a hazardous substance, as defined in section 40-0105 of this article, or any employee or agent thereof, or any person in a contractual relationship therewith who inspects, tests or repairs any portion of the facility which was or is used for the storage of hazardous substances, shall promptly notify the department as soon as he has knowledge of the release of a reportable quantity of a hazardous substance into the environment.