

310 CMR 7.00: AIR POLLUTION CONTROL

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STATUTORY AUTHORITY

All provisions of 310 CMR 7.00 are adopted pursuant to the authority granted by M.G.L. c. 111, §§ 142A through 142J. In addition, 310 CMR 7.08(2) is adopted pursuant to the authority granted by M.G.L. c. 111, § 150A and the following provisions of 310 CMR 7.00 are adopted pursuant to the authority granted by M.G.L. c. 21C, §§ 4 and 6 and by M.G.L. c. 21E, § 6.

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- (1) The following definitions in 310 CMR 7.00:
  - (a) COMBUSTION EFFICIENCY (C.E.).
  - (b) FUEL, including the definition of HAZARDOUS WASTE FUEL and USED OIL FUEL.
  - (c) GENERATOR.
  - (d) HAZARDOUS WASTE.
  - (e) HAZARDOUS WASTE INCINERATOR.
  - (f) PRINCIPAL ORGANIC HAZARDOUS CONSTITUENT (POHC).
  - (g) PRODUCTS OF INCOMPLETE COMBUSTION (PICs).
  - (h) RECYCLABLE MATERIAL.
  - (i) REGULATED RECYCLABLE MATERIAL.
  - (j) SPACE HEATER, including the definition of USED OIL FUEL FIRED SPACE HEATER.
  - (k) TOTAL HALOGENS.
  - (l) UNUSED WASTE OIL.
  - (m) USED OIL FUEL.
  - (n) USED WASTE OIL.
  - (o) WASTE.
- (2) 310 CMR 7.04(9).
- (3) 310 CMR 7.05(7), (8), and (9) and 310 CMR 7.05(8): *Table 3*.
- (4) 310 CMR 7.08(4).

LEGEND

The following symbols will indicate, in the attached 310 CMR 7.00: *Air Pollution Control*, which Air Pollution Control Districts they apply to:

U = Universal, all districts	MB = Metropolitan Boston
B = Berkshire	PV = Pioneer Valley
CM = Central Massachusetts	SM = Southeastern Massachusetts
MV = Merrimack Valley	

**310 CMR 7.00 Air Pollution Control Definitions applicable to  
310 CMR 7.24(3): Distribution of Motor Vehicle Fuel**

ABOVEGROUND STORAGE TANK or AST, as used in 310 CMR 7.24(3) and (6), means a motor vehicle fuel storage tank that is intended for fixed installations, without backfill, that is located above or below grade.

COMMENCE OPERATIONS, as used in 310 CMR 7.24(3) and (6), means that point, after a Stage I or Stage II system has been installed or has undergone a substantial modification, when motor vehicle fuel is first dispensed for sale or use from a motor vehicle fuel dispensing facility or tank truck for the purpose said facility or tank truck is intended.

DUAL-POINT STAGE I SYSTEM as used in 310 CMR 7.24(3), means a type of Stage I system in which the storage tank is equipped with an entry port for a motor vehicle fuel fill pipe and a separate exit port for a vapor connection.

EXECUTIVE ORDER, as used in 310 CMR 7.24(3) and (6), means a certification document, including but not limited to, applicable exhibits, installation, operation and maintenance manuals, manufacturer guidance documents and manufacturer advisory correspondence or mail outs, as issued or approved by CARB, in accordance with the applicable certification procedures (17 of the California Code of Regulations, section 94011, as amended April 12, 1996) and adopted by the Department in 310 CMR 7.24(3) and (6).

MOTOR VEHICLE FUEL means any petroleum distillate having a Reid Vapor Pressure of more than four pounds per square inch as determined by ASTM Method D323 and which is used primarily to power motor vehicles. This definition includes, but is not limited to, gasoline and mixtures of simple alcohols and gasoline.

MOTOR VEHICLE FUEL DISPENSING FACILITY means any facility where motor vehicle fuel is dispensed into motor vehicle fuel storage tanks, motor vehicle fuel-powered equipment, or portable containers from a storage tank with a capacity of 250 gallons or more.

STAGE I CARB ENHANCED VAPOR RECOVERY (EVR) COMPONENT or EVR COMPONENT as used in 310 CMR 7.24(3), means a component identified in any of the Executive Orders listed in 310 CMR 7.24(3)(c)1.: Table 1. and 310 CMR 7.24(3)(c)1.: Table 2.

STAGE I CARB ENHANCED VAPOR RECOVERY (EVR) SYSTEM as used in 310 CMR 7.24(3), means a vapor balance system certified by CARB pursuant to a Phase I Executive Order to prevent discharge to the atmosphere of at least 98% by weight of vapors displaced during the transfer of motor vehicle fuel from a tank truck to a motor vehicle fuel storage tank.

STAGE I COMPONENT ENHANCED VAPOR RECOVERY (EVR) SYSTEM as used in 310 CMR 7.24(3), means: (a) for an underground storage tank, a vapor balance system constructed from components identified in any one of the Phase I Executive Orders listed in 310 CMR 7.24(3)(c)1.: Table 1. including, but not be limited to, the following components: spill

containment buckets, drain valves, dust caps, rotatable product adaptors, riser adaptors, drop tubes, rotatable vapor adaptors, tank gauge ports, and pressure/vacuum vent valves; and (b) for aboveground storage tanks, a vapor balance system constructed from components identified in any of the Phase I Executive Orders and applicable Standing Loss Control Executive Orders listed in 310 CMR 7.24(3)(c).1.: Table 2.

STAGE I MINOR MODIFICATION as used in 310 CMR 7.24(3), means the installation, repair or replacement of one or more Stage I system components that is not substantial including, but not limited to, product drop tubes; overfill prevention devices; "screw-on" spill containment and dry break buckets.

STAGE I NON-ENHANCED VAPOR RECOVERY SYSTEM as used in 310 CMR 7.24(3), means a vapor balance system certified by CARB to prevent discharge to the atmosphere of at least 95% by weight of vapors displaced during the transfer of motor vehicle fuel from a tank truck to a motor vehicle fuel storage tank.

STAGE I ROUTINE MAINTENANCE as used in 310 CMR 7.24(3), means the regular installation, repair or replacement of one or more Stage I system components including, but not limited to, bucket plow rings; "slip-on" spill containment and dry break buckets; "O" rings and seals; product adaptors; vapor adaptors; product caps; vapor caps; monitor caps; riser caps; drain valves; and pressure/vacuum vent valves.

STAGE I SUBSTANTIAL MODIFICATION as used in 310 CMR 7.24(3), means, the installation, repair or replacement of one or more Stage I system components requiring excavation below a shear valve or tank pad including, but not limited to, vent piping; vapor space tie bar; dual-point or co-axial Stage I systems; or motor vehicle fuel storage tanks.

STAGE I SYSTEM means a Stage I CARB EVR System, a Stage I Component EVR System, or a Stage I Non-enhanced vapor recovery system.

SUBMERGED FILLING means the filling of a motor vehicle fuel storage tank through a pipe whose discharge opening is entirely submerged below the surface level of the liquid in the tank.

TANK TRUCK means a truck or trailer equipped with a storage tank and used for the transport of motor vehicle fuel from sources of supply to stationary fuel tanks, or to motor vehicle fuel tanks.

VAPOR BALANCE SYSTEM means a vapor recovery system utilizing direct displacement to collect and/or process vapors during the transfer of motor vehicle fuel.

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4. any transfer of organic material takes place through a submerged fill pipe; and,
5. each loading rack at the bulk terminal is equipped with a loading arm which has a vapor collection adaptor designed, maintained and operated to force a vapor-tight seal between the adaptor and hatch; and,
6. each loading rack at the bulk terminal has a means to:
  - a. prevent any remaining liquid organic material from draining when the loading rack is disconnected from the hatch of any tank truck, trailer or other contrivances; or,
  - b. accomplish complete drainage of any remaining organic material before the loading rack is disconnected from the hatch of any tank truck, trailer or other contrivance; or,
  - c. if loading is effected through means other than a hatch, then all loading and vapor lines shall be equipped with fittings which make vapor-tight connections and which close automatically when disconnected.

(b) CM, MB, MV, PV, SM. Bulk Plants On or after July 1, 1980 no person who owns, leases, operates or controls a bulk plant shall cause, suffer, allow or permit the transfer into any tank truck, trailer or other contrivance of any organic material with a vapor pressure of 1.5 psia or greater under actual storage conditions unless:

1. the transfer of the organic material takes place through a submerged fill pipe; and,
2. any vapor discharged during transfer of the organic material is processed by vapor balance system.

(c) B. Dukes County, Nantucket County. Bulk Plants. On or after April 1, 1993 no person who owns, leases, operates or controls a bulk plant shall cause, suffer, allow or permit the transfer into a tank truck, trailer or other contrivance of any organic material with a vapor pressure of 1.5 psia or greater under actual storage conditions unless:

1. the transfer of the organic material takes place through a submerged fill pipe; and,
2. any vapor discharged during transfer of the organic material is processed by a vapor balance system.

(d) Any person who owns, leases, operates or controls a facility which is or becomes subject to 310 CMR 7.24(2)(a) through (c), shall only transfer organic material with a vapor pressure of 1.5 psia or greater under actual storage condition into tank trucks which are in compliance with 310 CMR 7.24(4).

(e) Any person who owns, leases, operates or controls a facility which is or becomes subject to 310 CMR 7.24(2)(a), (b) or (c), shall continue to comply with all requirement of 310 CMR 7.24(2)(a), (b) or (c), respectively, even if the facility no longer meets the applicability requirements of 310 CMR 7.24(2)(a), (b) or (c).

(f) 310 CMR 7.24(2) shall not apply to dispensing of motor vehicle fuel to motor vehicle fuel tanks.

(3) Distribution of Motor Vehicle Fuel.

(a) Applicability.

1. The requirements of 310 CMR 7.24(3) apply to:
  - a. Any owner/operator of a motor vehicle fuel dispensing facility;
  - b. Any owner/operator of a company that performs Stage I compliance tests pursuant to 310 CMR 7.24(3).
2. The requirements of 310 CMR 7.24(3) do not apply to:
  - a. Stationary motor vehicle fuel storage tanks of less than 550 gallons capacity used exclusively for farm use provided the transfer of motor vehicle fuel only occurs through submerged filling;
  - b. Transfers made to motor vehicle fuel storage tanks equipped with floating roofs that have been approved by the Department pursuant to 310 CMR 7.24(1);
  - c. Stationary motor vehicle fuel storage tanks with a capacity of 250 to 1000 gallons, used for the purpose of onsite fueling of motor vehicles with motor vehicle fuel that is the by-product of motor vehicle salvage yard operations, provided the motor vehicle fuel storage tank is equipped with:
    - i. a submerged fill pipe; and
    - ii. a pressure vacuum vent valve;

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d. Stationary motor vehicle fuel storage tanks of greater than 1000 gallons capacity, used for the purpose of onsite fueling of motor vehicles with motor vehicle fuel that is the by-product of motor vehicle salvage yard operations, provided the motor vehicle fuel storage tank is equipped with:

- i. a submerged fill pipe; and
- ii. an EVR pressure vacuum vent valve.

(b) Stage I Requirements.

1. No owner/operator of a motor vehicle fuel dispensing facility shall allow the transfer of motor vehicle fuel to a storage tank unless the vapors are collected by a Stage I system.
2. Any owner/operator of a motor vehicle fuel dispensing facility shall:
  - a. On or before two years from January 2, 2015, or upon decommissioning a Stage II system, whichever occurs sooner, install:
    - i. CARB Enhanced Vapor Recovery (EVR) pressure/vacuum vent valves; and
    - ii. CARB EVR rotatable product and vapor adaptors; except that such adaptors shall not be required for aboveground storage tanks and motor vehicle fuel storage tanks equipped with coaxial Stage I systems.
  - b. On or before seven years from January 2, 2015 install:
    - i. A Stage I CARB EVR System in accordance with any one of the Executive Orders listed in 310 CMR 7.24(3)(c)1.: *Table 1*, except in accordance with 310 CMR 7.24(3)(d)4.; or
    - ii. A Stage I Component EVR System in accordance with the applicable Executive Orders listed in 310 CMR 7.24(3)(c)1.: *Table 1*. and manufacturers' guidance, except in accordance with 310 CMR 7.24(3)(d)4.
  - c. Not install a coaxial Stage I system, except that an existing coaxial system may be repaired (including replaced) and maintained with non-EVR components until the motor vehicle fuel tank is replaced.
3. Any owner/operator of a motor vehicle fuel dispensing facility who installs a Stage I system after January 2, 2015 shall install:
  - a. A Stage I CARB EVR System in accordance with one of the Executive Orders listed in 310 CMR 7.24(3)(c)1.: *Table 1*; or
  - b. A Stage I Component EVR System in accordance with the applicable Executive Orders listed in 310 CMR 7.24(3)(c)1.: *Table 1*. and manufacturers' guidance;
  - c. Submerged fill pipes so that the discharge point is entirely submerged when the liquid level is six inches above the bottom of the tank; and
  - d. A dual-point Stage I system.
4. Except as provided in 310 CMR 7.24(3)(b)5., any owner/operator of a motor vehicle fuel dispensing facility that has a monthly throughput of 100,000 gallons of motor vehicle fuel or more shall install and operate a Stage I system that meets the following design criteria:
  - a. All vapor connections and lines on the storage tank shall be equipped with closures that seal upon disconnect;
  - b. The vapor line from the gasoline storage tank to the gasoline cargo tank shall be vapor-tight;
  - c. The vapor balance system shall be designed such that the pressure in the tank truck does not exceed 18 inches water pressure or 5.9 inches water vacuum during product transfer;
  - d. The vapor recovery and product adaptors, and the method of connection with the delivery elbow, shall be designed so as to prevent the over-tightening or loosening of fittings during normal delivery operations;
  - e. If a gauge well separate from the fill tube is used, it shall be provided with a submerged drop tube that extends no more than six inches from the bottom of the tank;
  - f. Liquid fill connections for all systems shall be equipped with vapor-tight caps.
  - g. Pressure/vacuum (P/V) vent valves shall be installed on the storage tank vent pipes. The pressure specifications for PV vent valves shall be: a positive pressure setting of 2.5 to 6.0 inches of water and a negative pressure setting of 6.0 to 10.0 inches of water. The total leak rate of all PV vent valves at an affected facility, including connections, shall not exceed 0.17 cubic foot per hour at a pressure of 2.0 inches of water and 0.63 cubic foot per hour at a vacuum of four inches of water;

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h. The vapor balance system shall be capable of meeting the static pressure performance requirement of the following equation:

$$P_f = 2e^{-500.887/v}$$

Where:

$P_f$  = Minimum allowable final pressure, inches of water.

$v$  = Total ullage affected by the test, gallons.

$e$  = Dimensionless constant equal to approximately 2.718.

2 = The initial pressure, inches water.

5. NESHAPS Compliance.

a. Any owner/operator subject to 310 CMR 7.24(3)(b)4. who chooses, under the provisions of 40 CFR Part 63.6(g), to use a vapor balance system other than that described in Table 1 to Subpart CCCCCC of 40 CFR Part 63, and who demonstrates to EPA the equivalency of their vapor balance system to that described in 310 CMR 7.24(3)(c)1.: *Table 1* pursuant to 40 CFR Part 63.11120(b), shall not be required to install and operate a Stage I system that meets the design criteria in 310 CMR 7.24(3)(b)4.a. through h.

b. Any owner/operator subject to 310 CMR 7.24(3)(b)4. who does not meet the requirements of 40 CFR Part 63.11118(b)(2) is required to fully comply with all applicable requirements in Subpart CCCCCC of 40 CFR Part 63, including recordkeeping, testing and monitoring, notification and reporting to EPA.

(c) CARB EVR Systems.

1. The Department adopts all terms and conditions of the CARB EVR System Executive Orders listed in 310 CMR 7.24(3)(c)1.: *Table 1.* and *Table 2.*

Table 1.

CARB Underground Storage Tank Phase I Enhanced Vapor Recovery System Executive Orders

Executive Order Number	Description	Date
VR-101-V	Phil-Tite/EBW/FFS Phase I Vapor Recovery System	April 27, 2022
VR-102-V	OPW Phase I Vapor Recovery System	May 31, 2021
VR-104-L	CNI Manufacturing Phase I Vapor Recovery System	May 31, 2021
VR-105-J	EMCO Wheaton Phase I Vapor Recovery System	May 31, 2021

Table 2.

CARB Aboveground Storage Tank Phase I Enhanced Vapor Recovery System Executive Orders

Executive Order Number	Description	Date
VR-301-I	Standing Loss Control of Vapor Recovery Systems for Existing Installations of Aboveground Storage Tanks	June 26, 2020
VR-302-I	Standing Loss Control of Vapor Recovery Systems for New Installations of Aboveground Storage Tanks	June 26, 2020
VR-401-F	OPW Phase I Enhanced Vapor Recovery (EVR) System for Aboveground Storage Tanks (AST)	July 17, 2019
VR-402-E	Morrison Brothers Phase I Enhanced Vapor Recovery (EVR) System for Aboveground Storage Tanks (AST)	July 17, 2019
G-70-216	Extension of Effective Dates for Existing Aboveground Storage Tanks	March 13, 2014



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(d) Stage I System Operation, Maintenance and Record Keeping.

1. Any owner/operator of a motor vehicle fuel dispensing facility shall operate and maintain the Stage I system in accordance with the system's applicable Executive Orders and manufacturers' guidance.
2. Any owner/operator of a motor vehicle fuel dispensing facility shall visually inspect or cause to be visually inspected the Stage I system once every seven days to determine that the system and its components are unbroken, correctly installed and functioning. Each visual inspection shall include, but not be limited to, inspection of: coaxial adaptors; fuel and vapor rotatable adaptors; dust caps and gaskets; fuel and vapor spill buckets; drain valves; and pressure/vacuum vent valves. The owner/operator shall ensure that:
  - a. Visual inspections shall be performed only by a person who is trained to operate and maintain the Stage I system in accordance with the applicable manufacturers' guidance; and
  - b. A current record of all persons trained shall be maintained on site, including the date training was last received and the trainee's printed name and signature acknowledging receipt of the training.
3. Upon determining during a visual inspection that a Stage I system component is incorrectly installed, non-functioning or broken, the owner/operator of a motor vehicle fuel dispensing facility shall:
  - a. Immediately repair or replace the component; or
  - b. If repairs or replacements cannot be made immediately, repair or replace the component within 30 days of the visual inspection date, or
  - c. If a component cannot be repaired or replaced within 30 days of the visual inspection date, the transfer of motor vehicle fuel into the motor vehicle fuel storage tank equipped with the incorrectly installed, non-functioning or broken component is prohibited until the component is repaired or replaced.
4. Any replacement of an incorrectly installed, non-functioning or broken Stage I components shall be with a CARB EVR component and shall be installed in accordance with the applicable Executive Orders and manufacturers' guidance, except that an existing non-EVR "slip-on" spill bucket may be repaired (including replaced) until seven years from January 2, 2015 and may be used after seven years from January 2, 2015 until it needs to be repaired or replaced.
5. Every visual inspection shall be recorded on an inspection checklist that contains at a minimum the following information:
  - a. The date each inspection was performed and the name and signature of the person who performed the inspection;
  - b. Any Stage I system component determined to be incorrectly installed, non-functioning or broken;
  - c. Whether any incorrectly installed, non-functioning or broken component was immediately repaired or replaced within 30 days, or whether the transfer of motor vehicle fuel into the motor vehicle fuel storage tank was prohibited until the component was repaired or replaced; and
  - d. The date the incorrectly installed, non-functioning or broken component was repaired or replaced.
6. Any owner/operator of a motor vehicle fuel dispensing facility shall retain on-site in a centralized location in either hard copy or electronic format, the following records:
  - a. All of the visual inspection checklists for the prior rolling twelve-month period.
  - b. A copy of compliance testing company test results for compliance tests performed during the prior rolling 12-month period.
  - c. A copy of the Stage I system's most recent In-use Compliance Certification in accordance with 310 CMR 7.24(3)(e)4., or, if more recent, a copy of the Stage I system's Installation/Substantial Modification Certification in accordance with 310 CMR 7.24(3)(e)3.
  - d. The date and type of Stage I Routine Maintenance performed in the most recent rolling 12-month period in accordance with 310 CMR 7.24(3)(e)2.a.
7. All records required to be maintained shall be made available to the Department and EPA immediately upon request. If requested records cannot be made immediately available, requested records shall be delivered to the Department and EPA within seven business days of the initial request.



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(e) Stage I Compliance Testing and Certification.

1. Compliance Tests. Any owner/operator of a motor vehicle fuel dispensing facility shall conduct the following compliance tests:

- a. For all Stage I underground storage tank systems:
  - i. Pressure Decay two inch Test (CARB TP-201.3; March 17, 1999);
  - ii. Vapor Tie Test (San Diego APCD TP-96-1, section 5.1.9; March 1, 1996);
  - iii. Pressure/Vacuum Vent Valve Test (CARB TP-201.1E; October 8, 2003);
  - iv. Static Torque Rotatable Adaptor Test (CARB TP-201.1B; October 8, 2003), if rotatable adaptors are installed; and
  - v. as applicable to CARB EVR components, either:
    - (i) Leak Rate of Drop Tube/Drain Valve Assembly Test (CARB TP-201.1C; October 8, 2003); or
    - (ii) Leak Rate of Drop Tube/ Overfill Prevention Devices (CARB TP-201.1D; October 8, 2003).
- b. For all Stage I aboveground storage tank systems:
  - i. Determination of Static Pressure Performance of Vapor Recovery Systems at Gasoline Dispensing Facilities with Aboveground Storage Tanks in Exhibit 4 of CARB Executive Order VR-401-C (June 30, 2013) and CARB Executive Order VR-402-B (April 15, 2013);
  - ii. Static Torque Rotatable Adaptor Test (CARB TP-201.1B; October 8, 2003), if rotatable adaptors are installed; and
  - iii. Pressure/Vacuum Vent Valve Test (CARB TP-201.1E; October 8, 2003).

2. Stage I Routine Maintenance and Stage I Minor Modifications.

- a. In the event of Stage I routine maintenance, a record of all Stage I routine maintenance shall be maintained in accordance with 310 CMR 7.24(3)(d)6. Compliance testing and submittal of a compliance certification to the Department is not required.
- b. In the event of a Stage I minor modification, applicable compliance tests shall be performed in accordance with 310 CMR 7.24(3)(e)1. and passed prior to commencing system operation and a record of the modification and test results shall be maintained in accordance with 310 CMR 7.24(3)(d)6. Submittal of a compliance certification to the Department is not required.
- c. Any replacement of a Stage I system component shall be with a CARB EVR component.

3. Stage I Installation and Substantial Modification Certification. Any owner/operator of a motor vehicle fuel dispensing facility who installs a Stage I system or makes a Stage I substantial modification shall, prior to commencing operation, perform and pass all applicable compliance tests listed in 310 CMR 7.24(3)(e)1. The owner/operator shall submit to the Department within seven business days of performing and passing the tests, a fully completed and signed Installation/Substantial Modification Certification, on a form provided by the Department, attesting to the following:

- a. The installed or substantially modified Stage I system has been installed, repaired or modified in accordance with the applicable Executive Orders and manufacturers' guidance; and
- b. All applicable compliance tests listed in 310 CMR 7.24(3)(e)1. were performed and passed.

4. Annual In-use Compliance Certification. Except as provided in 310 CMR 7.24(3)(e)5.:

- a. Any owner/operator of a motor vehicle fuel dispensing facility shall annually submit to the Department within 30 days of performing and passing all applicable compliance tests a fully completed and signed In-use Compliance Certification on a form provided by the Department.
- b. Any owner/operator of a motor vehicle fuel dispensing facility shall attest to the following:
  - i. The Stage I system is operated and maintained in accordance with the applicable Executive Orders and manufacturers' guidance; and
  - ii. All applicable compliance tests listed in 310 CMR 7.24(3)(e)1. were performed and passed.

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5. Alternative Annual In-use Compliance Certification.
  - a. Any owner/operator of a motor vehicle fuel dispensing facility who submits Annual In-use Compliance Certifications for two consecutive years in compliance with 310 CMR 7.24(3)(e)4. in which all applicable in-use compliance tests were passed on the first try, as certified pursuant to 310 CMR 7.24(3)(h)8., may elect to submit to the Department an Alternative Annual In-use Compliance Certification on a form provided by the Department.
  - b. An owner/operator meeting the requirements of 310 CMR 7.24(3)(e)5.a. and electing to submit an Alternative Annual In-use Compliance Certification shall be:
    - i. exempt from annual Stage I compliance testing requirements in the first year the Alternative Annual In-use Compliance Certification is submitted in compliance with 310 CMR 7.24(3)(e)5.a.; and
    - ii. subject to all compliance tests listed in 310 CMR 7.24(3)(e)1. as applicable, in the second year the Alternative Annual In-use Compliance Certification is submitted, and every other year thereafter.
  - c. Any owner/operator of a motor vehicle fuel dispensing facility who submits an alternative In-use Compliance Certification and fails one or more compliance certification tests on the first try shall, in subsequent years, comply with the requirements of 310 CMR 7.24(3)(e)4., until such time as the owner/operator meets the requirements in 310 CMR 7.24(3)(e)5.a.
6. Determination of Submittal and Receipt Dates.
  - a. The owner/operator of a motor vehicle fuel dispensing facility shall submit the annual certification required by 310 CMR 7.24(3)(e)4. to the Department no later than the anniversary of the receipt date of the most recently submitted:
    - i. Stage I Installation/Substantial Modification Certification;
    - ii. Annual Stage I In-use Compliance Certification;
    - iii. Alternative Annual In-use Compliance Certification; or
    - iv. Stage II Decommissioning Notification.
  - b. If the owner/operator requests a change in the submittal due date, the Department may revise the annual certification submittal due date and shall set a revised submittal due date that is no more than 12 months after the current submittal due date.
  - c. Receipt Date at the Department shall be determined as follows:
    - i. If hand-delivered, the receipt date is the date of the receipt stamp;
    - ii. If mailed, the receipt date is the date of the postmark on the envelope used to submit the document to the Department; or
    - iii. If electronically submitted, the receipt date is the date the electronic submission is sent to the Department.
7. Any owner/operator of a motor vehicle fuel dispensing facility whose Stage I system fails one or more in-use compliance tests required by 310 CMR 7.24(3)(e)1. shall:
  - a. Immediately repair or replace the incorrectly installed, non-functioning or broken component in accordance with the applicable Executive Orders and manufacturers' guidance;
  - b. If any Stage I system component is replaced, it shall be replaced with a CARB EVR component and installed in accordance with applicable Executive Orders and manufacturers' guidance;
  - c. Continue to repair or replace and re-test until each failed test is passed; and
  - d. Submit to the Department an Annual In-use Compliance Certification on or before the facility's Annual In-use Compliance Certification submittal due date or within 30 days of the date of the first passing test result, whichever occurs first.
8. If a Stage I system fails one or more required in-use compliance tests and the system cannot be repaired as required by 310 CMR 7.24(3)(e)7., the owner/operator of a motor vehicle fuel dispensing facility shall not transfer or allow the transfer of motor vehicle fuel into the motor vehicle fuel storage tank equipped with the failing Stage I system until the system is repaired in accordance with the applicable Executive Orders and manufacturers' guidance and all applicable compliance testing, record keeping and certification requirements for routine maintenance, minor modification or substantial modification of a Stage I system are complied with.

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9. Any Certification submitted to the Department as required by 310 CMR 7.24(3)(e) shall be signed by a Stage I System Responsible Official as required by 310 CMR 7.24(3)(g).

10. Any owner/operator of a motor vehicle fuel dispensing facility, upon written notice from the Department, shall perform such compliance tests as the Department determines necessary to demonstrate the Stage I system is installed and maintained in accordance with the applicable Executive Orders and manufacturers' guidance and shall submit the results to the Department within 14 days of the performance of the tests.

11. Compliance tests performed to meet the requirements of 310 CMR 7.24(3)(e)1. shall be performed only by a compliance testing company that has submitted a Compliance Testing Company Notification to the Department as required by 310 CMR 7.24(3)(h)1.

(f) Notification Requirements.

1. Any person, upon entering into a purchase, lease or other contractual agreement by which the person becomes the owner/operator of a motor vehicle fuel dispensing facility subject to 310 CMR 7.24(3), shall submit to the Department, within 30 days of the effective date of becoming such an owner/operator or within ten days of a written request from the Department, a fully completed New Stage I System Owner/Operator Notification on a form provided by the Department.

a. The Notification shall include the following:

- i. The name of the new Stage I system owner/operator, and related business documentation, including the name and address of the facility where the Stage I system is located; and
- ii. The effective date that the person became the new owner/operator.

b. The Notification shall be signed by the individual who is a Stage I Responsible Official for the new owner/operator regarding the Stage I system, who shall attest to the following:

- i. I certify that I personally examined the foregoing and am familiar with the information contained in this document and all the attachments and that, based on my inquiry of those persons immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment;
- ii. I am fully authorized to make this attestation on behalf of this facility.

2. Any owner/operator of a motor vehicle fuel dispensing facility, upon entering into a sale, lease or other contractual agreement by which the owner/operator relinquishes his or her authority as an owner/operator of a motor vehicle fuel dispensing facility subject to 310 CMR 7.24(3), shall submit to the Department, within 30 days of the effective date of the sale, lease or other contractual agreement, a signed letter, or a form provided by the Department, notifying the Department of the following:

- a. The name of the owner/operator relinquishing authority as an owner/operator, the facility name, address, and DEP Facility Account Number, as applicable;
- b. The name of the new owner/operator of the motor vehicle fuel dispensing facility subject to 310 CMR 7.24(3) mailing address, phone number, email address; and
- c. The effective date of the change of owner/operator.

3. Any owner/operator of a motor vehicle fuel dispensing facility seeking to permanently or temporarily take out-of-service a Stage I system shall submit to the Department a fully completed and signed Stage I System Closure Notification on a form provided by the Department.

a. The Stage I System Closure Notification shall include, but not be limited to:

- i. The name of the motor vehicle fuel dispensing facility owner/operator and related business information;
- ii. The DEP Facility Account Number, as applicable;
- iii. The name and address of the facility where the Stage I system is located;
- iv. The date the Stage I system was permanently or temporarily taken out-of-service, and attached, as applicable, current:

(i) Underground storage tank Registration pursuant to 310 CMR 80.00: *Underground Storage Tank (UST) Operator Training* indicating that the status of the tank is Temporarily Out-of-service;

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- (ii) Underground storage tank Registration pursuant to 310 CMR 80.00: *Underground Storage Tank (UST) Operator Training* indicating the that status of the tank is closed (Removed or Closed In-place); or
  - (iii) Local permit for aboveground storage tank documenting Temporarily Out-of service Status or closure/removal.
- b. A Stage I system shall not be temporarily out-of-service for more than five years from the date of being taken out of service pursuant to 310 CMR 7.24(3)(f)a.iv.(i) through (iii), as applicable.
- c. Any owner/operator of a Stage I system that is temporarily out-of-service in accordance with 310 CMR 7.24(3)(f)3. shall, prior to recommencing operation, perform and pass all applicable compliance tests in accordance with 310 CMR 7.24(3)(e)1. and submit to the Department a fully completed Installation/Substantial Modification Certification as required by 310 CMR 7.24(3)(e)3.
- d. Any Notification submitted to the Department as required by 310 CMR 7.24(6)(f) shall be signed by a Responsible Official as required by 310 CMR 7.24(3)(g).
- (g) Stage I System Responsible Official Certification of Compliance.
  - 1. Except in circumstances described in 310 CMR 7.24(3)(g)2., any Certification required by 310 CMR 7.24(3)(e) or Notification required by 310 CMR 7.24(3)(f) shall be signed by a Responsible Official regarding Stage I system compliance.
  - 2. For Stage I systems owned by one party and leased, operated or controlled by another independent party and where both parties have separate Stage I system compliance responsibilities, any Certification submitted pursuant to 310 CMR 7.24(3)(e) or Notification submitted pursuant to 310 CMR 7.24(3)(f) shall be signed by Responsible Officials for each party regarding Stage I system compliance. Each Responsible Official shall attest to the following:
    - a. I certify that I personally examined the foregoing and am familiar with the information contained in this document and all the attachments and that, based on my inquiry of those persons immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment;
    - b. that systems to maintain compliance are in place at the facility and will be maintained for the coming year even if the processes or operating procedures are changed over the course of the year; and
    - c. I am fully authorized to make this attestation on behalf of this facility.
- (h) Compliance Testing Company Requirements.
  - 1. If an owner/operator, employee or contractor of a compliance testing company performs Stage I compliance tests to meet the requirements of 310 CMR 7.24(3)(e)1., the owner/operator of a compliance testing company shall submit to the Department a fully completed Compliance Testing Company Notification, on a form provided by the Department, prior to performing any required Stage I compliance test.
    - a. The Compliance Testing Company Notification shall include the following:
      - i. The name and business mailing address of the Stage I compliance testing company owner, operator, lessee or controller;
      - ii. The name and address of any business that is engaged in the installation or Substantial Modification of Stage I systems and is owned, operated, leased or controlled by, or affiliated with the owner/operator of the compliance testing company;
      - iii. The name and address of any motor vehicle fuel dispensing facility subject to 310 CMR 7.24(3) that is owned, operated, leased or controlled by, or affiliated with the owner/operator of the compliance testing company;
      - iv. The address and telephone number of the facility(ies) from which the daily compliance testing activities of the compliance testing company originate and at which any records required by 310 CMR 7.24(3)(h)10. are maintained;
      - v. A written description of the employee training systems in place at the compliance testing company to ensure required compliance tests are performed as required by applicable protocols and procedures, pursuant to 310 CMR 7.24(3)(h)6. and 7.; and

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- vi. A list of all compliance testing company Responsible Officials with the authority to sign Compliance Testing Company Certifications on behalf of the compliance testing company.
- b. Each Compliance Testing Company Notification shall be signed by an individual who is a Responsible Official for the compliance testing company, who shall attest to the following:
  - i. I certify that I personally examined the foregoing and am familiar with the information contained in this document and all the attachments and that, based on my inquiry of those persons immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment;
  - ii. Employee training systems are in place at the compliance testing company to ensure Stage I compliance tests are performed as required by all applicable protocols and procedures and such training systems will be maintained for the coming year even if the protocols and procedures are changed over the course of the year; and
  - iii. I am fully authorized to make this attestation on behalf of this compliance testing company.
- 2. An owner/operator of a compliance testing company shall notify the Department in writing of any change to the information submitted to the Department pursuant to 310 CMR 7.24(3)(h)1. within 14 days of the effective date of such change. Upon the Department's written request, the person shall submit a fully revised and completed Notification to the Department as required by the requirements of 310 CMR 7.24(3)(h)1.
- 3. No owner/operator, employee or contractor of a compliance testing company shall perform any Stage I compliance test unless said person has first been trained in accordance with the applicable compliance test protocols and procedures required by 310 CMR 7.24(3)(h)7.
- 4. An owner/operator of a compliance testing company shall submit, at least once every two weeks, a written list to the Department identifying all motor vehicle fuel dispensing facilities at which the company is scheduled to perform required Stage I compliance tests over the next 14 day period.
  - a. The list shall include the name and address of each motor vehicle fuel dispensing facility to be tested, the applicable section under 310 CMR 7.24(3)(e) 3., 4., or 5., and the estimated time that the company expects to arrive at the facility location.
  - b. The Department shall be notified, in writing, of any change of date of an individual facility's scheduled compliance tests no later than 9:00 A.M. of the day the scheduled tests are to occur. Additions to a submitted compliance-testing schedule shall be submitted to the Department, in writing, no less than two working days prior to the date of any scheduled test.
  - c. Failure to comply with the Notification requirements of 310 CMR 7.24(3)(h)4. may be a basis for the Department to determine that tests conducted after inadequate notice are invalid.
- 5. An owner/operator of a compliance testing company shall immediately notify the Department of any failed Stage I compliance tests performed as required by 310 CMR 7.24(3)(e) if the person did not return to retest the Stage I system as required by 310 CMR 7.24(3)(e)7. on or before the facility's Annual In-use Compliance Certification submittal date, or within 30 days of the date of the Stage I system's first passing test result, whichever occurs first. The owner/operator of the compliance testing company shall notify the Department regarding the name and address of the motor vehicle fuel dispensing facility, the facility's Facility Account Number and the tests failed.
- 6. An owner/operator, employee or contractor of a compliance testing company shall perform compliance tests to meet the requirements of 310 CMR 7.24(3)(e) only upon confirmation that:
  - a. All Stage I system components are installed as required and are the correct components pursuant to the requirements of 310 CMR 7.24(3)(c); and
  - b. All motor vehicle fuel dispensing facilities with two or more motor vehicle fuel storage tanks are properly manifolded pursuant to the requirements of applicable Executive Orders.



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7. An owner/operator, employee or contractor of a compliance testing company shall perform Stage I compliance tests on all Stage I systems to meet the requirements of 310 CMR 7.24(3) only in accordance with the applicable test procedures cited in 310 CMR 7.24(3)(e)1.
8. An owner/operator of a compliance testing company shall certify to the Department that each compliance test performed to meet the requirements of 310 CMR 7.24(3)(e) was performed as required by 310 CMR 7.24(3)(h)6. and 7. As applicable, the Certification shall be submitted on a Stage I Installation/Substantial Modification Certification, Alternative Annual In-use Compliance Certification, or In-use Compliance Certification and shall include:
  - a. The date each compliance test was first performed and the result; and
  - b. The date each compliance test was performed and passed.
9. Each Certification submitted pursuant to 310 CMR 7.24(3)(h)8. shall be fully completed and signed by a compliance testing company Responsible Official, who shall attest to the following:
  - a. I certify that I personally examined the foregoing and am familiar with the information contained in this document and all the attachments and that, based on my inquiry of those persons immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment; and
  - b. I am fully authorized to make this attestation on behalf of this compliance testing company.
10. An owner/operator of a compliance testing company shall maintain the following records on site, for a minimum of five years, at the location(s) referenced on the form submitted pursuant to 310 CMR 7.24(3)(h)1.a.:
  - a. A complete set of records of compliance tests performed to meet the requirements of 310 CMR 7.24(3)(c). Such records shall include, by facility address:
    - i. The date and first result for each required test performed;
    - ii. The date each test was performed and passed; and
    - iii. An itemized list of all Stage I system components repaired or replaced as necessary for the system to pass the applicable tests, including but not limited to: all spill containment buckets, drain valves, dust caps, rotatable product adaptors, riser adaptors, drop tubes, rotatable vapor adaptors, tank gauge ports, and pressure/vacuum vent valves that are replaced with a CARB EVR component.
  - b. A current record of all employees or contractors trained as required by 310 CMR 7.24(3)(h)3. Such record shall include the following:
    - i. The date training was received;
    - ii. The person or employee's printed name; and
    - iii. The signature of the person or employee acknowledging receipt of required training.
11. The owner/operator of the compliance testing company shall make all records available to the Department or EPA immediately upon the request. If requested records cannot be made immediately available, requested records shall be delivered to the Department and EPA within seven business days of the initial request.
- (i) Violations of 310 CMR 7.24(3). Any failure to comply with 310 CMR 7.24(3), or the terms and conditions of any order, permit, authorization, determination, certification, prohibition or approval issued under 310 CMR 7.24(3) shall constitute a violation of 310 CMR 7.24(3). Nothing in 310 CMR 7.24(3), or in any order issued pursuant thereto, shall be construed to limit any right of the Department to take enforcement action pursuant to any other authority.
- (j) Enforcement Provisions. The provisions and requirements of 310 CMR 7.24(3)(a) and (b) are subject to the enforcement provisions specified in 310 CMR 7.52.
- (4) Motor Vehicle Fuel Tank Trucks.
  - (a) No owner/operator of a tank truck that carries motor vehicle fuel with a true vapor pressure equal to or greater than 1.5 psia under actual storage conditions and receives fuel from or delivers fuel to a facility subject to 310 CMR 7.24(2), or delivers fuel to a facility subject to the requirements of 310 CMR 7.24(2) or (3) shall cause, suffer, allow or permit the tank truck to be loaded or unloaded unless the tank truck: