**DIVISION 258**

**MOTOR VEHICLE FUEL SPECIFICATIONS**

**340-258-0010**

**Definitions**

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "Attest Engagement" means a review of nonfinancial records by a CPA.

(2) "Averaging Period" means the period of time over which all gasoline sold or dispensed for use in a control area by any control area responsible party must comply with the average oxygen content standard.

(3) "Blend" means regular, unleaded, supreme or other trade names for gasoline products containing differing levels of octane.

(4) "Blender Control Area Responsible Party (Blender CAR)" means a person who owns oxygenated gasoline which is sold or dispensed from a control area oxygenate blending facility.

(5) "Bulk gasoline terminal" means a gasoline storage facility which receives gasoline from refineries primarily by pipeline, ship, or barge, and delivers gasoline to bulk gasoline plants or to commercial or retail accounts primarily by tank truck.

(6) "Carrier" means any person who transports, stores, or causes the transportation or storage of gasoline at any point in the gasoline distribution network, without taking title to or otherwise having ownership of the gasoline and without altering the quality or quantity of the gasoline.

(7) "Control Area" means a geographic area listed in OAR 340-204-0090 in which only gasoline that meets the requirements of 340-258-0110 through 340-258-0310 may be sold or dispensed.

(8) "Control Area Oxygenate Blending Facility" means any facility or truck at which oxygenate is added to gasoline that is intended for use in any control area, and at which the quality and quantity of gasoline is not otherwise altered, except through the addition of deposit-control additives.

(9) "Control Area Responsible Party (CAR)" means a person who owns gasoline and/or oxygenates that is sold or dispensed from a control area terminal.

(10) "Control Area Terminal" means a terminal storage facility that is capable of receiving gasoline in bulk by pipeline or marine vessel, or at which gasoline is altered either in quantity or quality, excluding the addition of deposit control additives. Gasoline that is intended for use in any control area is sold or dispensed into trucks at these control area terminals.

(11) "Control Period" means the period from November 1 through February 29, during which oxygenated gasoline must be sold or dispensed within the control area.

(12) "Department" means the Department of Environmental Quality.

(13) "Distributor" means a person who transports or stores or causes the transportation or storage of gasoline at any point between a gasoline refinery or importer's facility and any retail outlet or wholesale purchaser-consumer's facility.

(14) "EPA" means the U.S. Environmental Protection Agency.

(15) "EPA Substantially Similar Ruling" means a fuel or fuel additive for general use in light-duty vehicles manufactured after the model year 1974, that is substantially similar to a fuel or fuel additive used to certify a model year 1975 or newer vehicle or engine under **42 U.S.C. 7525** (Clean Air Act, Section 206), as amended through November 15, 1990 and any amendments or modifications thereto, and as specified in EPA's Interpretative Ruling at **56 Federal Register 5352 - 5356**, revised through February 11, 1991, and that the EPA has ruled meets the following criteria:

(a) The fuel contains carbon, hydrogen, and any or all of the elements of oxygen, nitrogen, or sulfur exclusively, with the exception of trace levels of impurities which produce gaseous combustion products, in the form of some combination of:

(A) Hydrocarbons;

(B) Aliphatic ethers;

(C) Aliphatic alcohols other than methanol;

(D) Up to 0.3 percent methanol by volume;

(E) Up to 2.75 percent methanol by volume with an equal amount of butanol, or high molecular weight alcohol; or

(F) A fuel additive at a concentration of no more than 0.25 percent by weight which contributes no more than 15 ppm sulfur by weight to the fuel.

(b) The fuel contains no more than 2.0 percent oxygen by weight, except that fuels containing aliphatic ethers and/or alcohols (except methanol) must contain no more than 2.7 percent oxygen by weight;

(c) The fuel possesses, at the time of manufacture, the physical and chemical characteristics of an unleaded gasoline as specified by **ASTM Standard D4814-88** for at least one of the Seasonal and Geographical Volatility Classes specified in the standard; and

(d) The fuel contains only:

(A) Carbon;

(B) Hydrogen; and

(C) Any or all of the following elements: oxygen, nitrogen and sulfur.

(16) "EPA Waiver" means any current motor fuel waivers granted by the U.S. Environmental Protection Agency under authority of **42 U.S.C. 745(f)(4)** (Clean Air Act, Section 211), as amended through November 15, 1990 and any amendments or modifications thereto.

(17) "Gasoline" means:

(a) as used in OAR 340-258-0100 through 340-258-0310 any fuel sold for use in motor vehicles and motor vehicle engines and commonly or commercially known or sold as gasoline;

(b) as used in OAR 340-258-0400 any petroleum distillate having a Reid vapor pressure of 27.6 kPa (4.0 psi) or greater which is used to fuel internal combustion engines.

(18) "Motor Vehicle" means any self-propelled vehicle designed and used for transporting persons or property on a street or highway.

(19) "Nonoxygenated Gasoline" means any gasoline which does not meet the definition of oxygenated gasoline.

(20) "Oxygen Content of Gasoline Blends" means the percentage of oxygen by weight contained in a gasoline blend, based upon its percentage oxygenate by volume, excluding denaturants and other non-oxygen-containing components. All measurements must be adjusted to 60° F.

(21) "Oxygenate" means any substance which, when added to gasoline, increases the amount of oxygen in that gasoline blend. Lawful use of any combination of these substances requires that they be "Substantially Similar" under Section 211(f)(1) of the Clean Air Act (CAA), or be permitted under a waiver granted by the Administrator of the Environmental Protection Agency under the authority of Section 211(f)(4) of the CAA.

(22) "Oxygenate Blender" means a person who owns, leases, operates, controls, or supervises a control area oxygenate blending facility.

(23) "Oxygenated Gasoline" means any gasoline which when supplied on a per gallon basis contains at least 2.7 percent oxygen by weight, except where otherwise required by OAR 340-258-0310, or which when supplied using the averaging method contains at least 2.0 percent oxygen by weight, and has been included in the oxygenated gasoline program accounting by a control area responsible party and which is intended to be sold or dispensed for use in any control area during a control period.

(24) "Permitted Control Area Responsible Parties" means any owner of gasoline being imported or sold at or from a terminal who obtains a terminal operator permit to market gasoline in a control area during the control period.

(25) "Refiner" means a person who owns, leases, operates, controls, or supervises a refinery that produces gasoline for use in a control area.

(26) "Refinery" means a plant at which gasoline is produced.

(27) "Reseller" means a person who purchases gasoline and resells or transfers it to a retailer or wholesale purchaser-consumer.

(28) "Retail Outlet" means any establishment at which gasoline is sold or offered for sale to the ultimate consumer for use in motor vehicles.

(29) "Retailer" means any person who owns, leases, operates, controls, or supervises a retail outlet.

(30) "Substantially Similar" means EPA substantially similar ruling.

(31) "Terminal" means a facility capable of receiving gasoline by pipeline or marine vessel at which gasoline is sold, or dispensed into trucks for transportation to retail outlets or wholesale purchaser-consumer facilities.

(32) "Wholesale Purchaser-Consumer" means any organization that is an ultimate consumer of gasoline and which purchases or obtains gasoline from a supplier for use in motor vehicles and receives delivery of that product into a storage tank of at least 550 gallon capacity substantially under the control of that organization.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0450

**Oxygenated Gasoline**

**340-258-0100**

**Policy**

The Environmental Quality Commission finds and determines that control area responsible parties, distributors and retail outlets are "Indirect Sources" as defined in OAR 340-254-0030.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0440

**340-258-0110**

**Purpose and General Requirements**

(1) Pursuant to ORS 468A.420, OAR 340-258-0100 through 340-258-0310 apply to:

(a) A person who refines, distributes, blends, supplies, sells, offers for sale, or otherwise markets gasoline for use in motor vehicles; and

(b) Permitted control area responsible parties who own gasoline being imported or being sold at or from terminals who market gasoline.

(2) Except as provided in OAR 340-258-0300, the requirements of 340-258-0110 through 340-258-0310 apply only from November 1 to February 29, and only within a control area listed in 340-204-0090.

(3) The labeling requirements of OAR 340-258-0300 apply only within a control area during the control period.

[**NOTE:** This applies only to DEQ rules and a dispenser is still responsible for complying with the disclosure requirements of ORS 646.915.]

(4) To reduce carbon monoxide air pollution from motor vehicles in a control area, OAR 340-258-0110 through 340-258-0310 requires:

(a) The dispensing into gasoline powered motor vehicles of an oxygenated gasoline with an oxygen content that meets the requirements of OAR 340-258-0140 or 340-258-0150, and 340-258-0160, as applicable;

(b) That a dispenser where an oxygenated gasoline is dispensed be labeled as required by OAR 340-258-0300;

(c) That oxygenated gasoline be blended as required by OAR 340-258-0170; and

(d) A person who refines, distributes, blends, supplies, or sells an oxygenated gasoline to meet the recordkeeping and reporting requirements of OAR 340-258-0110 through 340-258-0310.

(5) Nothing in OAR 340-258-0110 through 340-258-0310 precludes a person from using, refining, distributing, blending, supplying, selling, or otherwise marketing fuel that meets the requirements of OAR 340-258-0110 through 340-258-0310:

(a) Between March 1 and October 31 in a control area; or

(b) At any time in any other location statewide.

(6) Nothing in OAR 340-258-0110 through 340-258-0310 precludes a person from using, refining, distributing, blending, supplying, selling, or otherwise marketing nonoxygenated fuel:

(a) Between November 1 and February 29 outside of control areas;

(b) At dispensing facilities where motor vehicles are not fueled.

(7) Except as provided in OAR 340-258-0230, the following dispensing sites are exempt from 340-258-0110 through 340-258-0310 and may dispense nonoxygenated gasoline in control areas during control periods if fuel will not be used in motor vehicles, including but not limited to: Airports, marinas, saw shops, farms dispensing to farm equipment not used as a motor vehicle, and other facilities not dispensing fuel into motor vehicles.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0460

**340-258-0120**

**Sampling and Testing for Oxygen Content**

(1) To determine compliance with the requirements of OAR 340-258-0110 through 340-258-0310, the oxygen content of gasoline must be determined by:

(a) Sampling, using the sampling methods specified in **40 CFR 80, Appendix D**, as amended through July 1, 2013, the provisions of which are incorporated by reference in this rule, to obtain a representative sample of the gasoline to be tested;

(b) Testing, using the test method specified in **ASTM 4815-89** or other test methods determined by DEQ and EPA as being equivalent, to determine the mass concentration of each oxygenate in the gasoline sampled; and

(c) Oxygen content calculations that are made as follows: Calculate the oxygen content of the gasoline sampled by multiplying the volume concentration of each oxygenate in the gasoline sampled by the oxygen molecular weight contribution of the oxygenate set forth in section (2) of this rule, with volume measurements adjusted to 60 degrees F.

(2) The oxygen molecular weight contributions of an oxygenate approved for use under OAR 340-258-0110 through 340-258-0310 are set out in **Table A**. [Table not included. See ED. NOTE.]

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

[ED. NOTE: Copies of the Table referenced in this rule are available from the agency.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; Administrative correction 10-27-97; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0490

**340-258-0130**

**Compliance Options**

Each CAR or blender CAR must comply with applicable oxygen content standards set out in OAR 340-258-0140(1), 340-258-0150(1), and 340-258-0170 by means of either the per gallon compliance option established in 340-258-0140 or the averaging method compliance option established in 340-258-0150.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0500

**340-258-0140**

**Per Gallon Oxygen Content Standard**

(1) All gasoline sold or dispensed for use during the control period described in OAR 340-258-0110(2), for use in each control area described in OAR 340-204-0090, by each CAR or blender CAR using the Per Gallon Oxygen Content Standard Compliance Option, must be blended to contain not less than 2.7 percent oxygen by weight, except where otherwise required by OAR 340-258-0310. Oxygen content calculations must be performed as required in OAR 340-258-0120.

(2) Compliance calculation on a per gallon basis:

(a) Each gallon of gasoline sold or dispensed by a CAR or blender CAR for use within each control area during the control period shall have an oxygen content of at least 2.7 percent by weight, except where otherwise required by OAR 340-258-0310;

(b) In addition, the CAR or blender CAR is prohibited from selling or purchasing oxygen credits based on gasoline for which compliance is calculated under this alternative per gallon method.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0503

**340-258-0150**

**Average Oxygen Content Standard**

(1) All gasoline sold or dispensed for use during the control period described in OAR 340-258-0110(2), for use in each control area described in OAR 340-204-0090, by each CAR or blender CAR using the Average Oxygen Content Standard Compliance Option, must be blended for each averaging period to contain an average oxygen content of not less than 2.7 percent by weight, except where otherwise required by OAR 340-258-0310. Oxygen content calculations must be performed as required in OAR 340-258-0120.

(2) The averaging period for all gasoline sold or dispensed in a control area is the four-month control period established in OAR 340-258-0110(2).

(3) Compliance calculation on average basis:

(a) To determine compliance with the standards in section (1) of this rule, the CAR or blender CAR shall, for each averaging period and for each control area:

(A) Calculate the total volume of gasoline sold or dispensed for use in the control area which is the sum of:

(i) The volume of each separate batch or truck load of oxygenated gasoline that is sold or dispensed;

(ii) Minus the volume of each separate batch or truck load of oxygenated gasoline that is sold or dispensed in a different control area;

(iii) Minus the volume of each separate batch or truck load of oxygenated gasoline that is sold or dispensed in any non-control area.

(B) Calculate the required total oxygen credit units. Multiply the total volume in gallons of oxygenated gasoline sold or dispensed into the control area (as determined by paragraph (3)(a)(A) of this rule) by 2.7 percent, except where otherwise required by OAR 340-258-0310;

(C) Calculate the actual total oxygen units generated. The actual total oxygen credit units generated is the sum of the volume of each batch or truck load of oxygenated gasoline that was sold or dispensed in the control area (as determined by paragraph (3)(a)(A) of this rule) multiplied by the actual oxygen content by weight associated with each batch or truck load;

(D) Calculate the adjusted actual total oxygen credit units. The adjusted actual total oxygen content credit units is the sum of the actual total oxygen credit units generated (as determined in paragraph (3)(a)(C) of this rule):

(i) Plus the total oxygen credit units purchased or acquired through trade; and

(ii) Minus the total oxygen credit units sold or given away through trade.

(E) Compare the adjusted actual total oxygen credit units with the required total oxygen credit units. If the adjusted actual total content oxygen credit units is greater than or equal to the required total oxygen credit units, then the standard in section (1) of this rule is met. If the adjusted actual total oxygen credit units is less than the required total oxygen credit units the purchase of oxygen credit units is required in order to achieve compliance;

(F) In transferring oxygen credit units, the transferor shall provide the transferee with the volume and oxygen content by weight of the gasoline associated with the credits.

(b) To determine the oxygen credit units associated with each batch or truck load of oxygenated gasoline sold or dispensed into the control area, use the running weighted oxygen content (RWOC) of the tank from which the batch or truck load was received at the time the batch or truck load was received. In the case of batches or truck loads of gasoline to which oxygenate is added outside of the terminal storage tank from which it was received, use the weighted average of the RWOC and the oxygen content added as a result of the volume of the additional oxygenate added;

(c) Running weighted oxygen content (RWOC). The RWOC accounts for the volume and oxygen content of all gasoline which enters or leaves the terminal storage tank, and all oxygenates which are added to the tank. The RWOC must be calculated each time gasoline enters or leaves the tank or whenever oxygenates are added to the tank. The RWOC is calculated weighing the following:

(A) The volume and oxygen content of the gasoline in the storage tank at the beginning of the averaging period;

(B) The volume and oxygen content by weight of gasoline entering the storage tank;

(C) The volume and oxygen content by weight of gasoline leaving the storage tank; and

(D) The volume, type and oxygen content by weight of the oxygenate added to the storage tank.

(d) Credit transfers. Credit transfer may be used in the compliance calculations in subsection (3)(a) of this rule, provided that:

(A) The credits are generated in the same control area in which they are used; no credits may be transferred between control areas;

(B) The credits are generated in the same averaging period as they are used;

(C) The ownership of credits is transferred only between properly registered CARs or blender CARs;

(D) The credit transfer agreement is made no later than 30 days after the final day of the averaging period in which the credits are generated; and

(E) The credits are properly created.

(e) Improperly created credits:

(A) No party may transfer any credits to the extent that such a transfer would result in the transferor having a negative credit balance at the conclusion of the averaging period for which the credits were transferred. Any credits transferred in violation of this paragraph are improperly created credits;

(B) In the case of credits which were improperly created, the following subparagraphs apply:

(i) Improperly created credits may not be used, regardless of a credit transferee's good faith belief that it was receiving valid credits;

(ii) The transfer of credits in violation of paragraph (A) of this subsection constitutes a violation of the requirements of section (1) of this rule; and

(iii) Where any credits are transferred in violation of paragraph (A) of this subsection, the transferor's properly-created credits will be applied first to any credit transfers before the transferor may apply any credits to achieve its own compliance;

(iv) Where any credits are transferred in violation of paragraph (A) of this subsection, the transferor shall be held legally and financially liable for any penalties or damages incurred by the transferee as a result of the invalid transaction.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; Renumbered from 340-22-480; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0507

**340-258-0160**

**Minimum Oxygen Content**

(1) Any gasoline sold or dispensed by a CAR or a blender CAR for use within a control area during the control period, must contain not less than the minimum percent oxygen by weight allowed in the Oxygen Content Standard listed below, except where otherwise required by OAR 340-258-0310:

(a) Minimum oxygen content when using the Per Gallon Oxygen Content Standard Compliance Option is 2.7 percent oxygen by weight, unless it is sold or dispensed to another registered CAR or blender CAR. This requirement begins no less than five working days before the control period and applies until the end of that period;

(b) Minimum oxygen content when using the Average Oxygen Content Standard Compliance Option is 2.0 percent oxygen by weight, unless it is sold or dispensed to another registered CAR or blender CAR. This requirement begins at least five working days before the control period and applies until the end of that period.

(2) The requirements of this rule apply to all persons downstream of the CAR. Any gasoline offered for sale, sold or dispensed to an ultimate consumer within a control area must contain not less than:

(a) 2.7 percent oxygen by weight when supplied by a CAR or blender CAR who uses the Per Gallon Oxygen Content Standard Compliance Option, except where otherwise required by OAR 340-258-0310. This requirement applies during the entire control period;

(b) 2.0 percent oxygen by weight when supplied by a CAR or blender CAR who uses the Average Oxygen Content Standard Compliance Option. This requirement applies during the entire control period.

(3) A refiner or importer shall determine the oxygen content of gasoline produced by use of an applicable method described in OAR 340-258-0130. This determination must include the percent oxygenate by weight, the type of oxygenate and percent by volume.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0510

**340-258-0170**

**Oxygenated Gasoline Blending**

(1) In addition to the other applicable requirements of OAR 340-258-0110 through 340-258-0310, no person may refine, distribute, blend, supply, sell, offer for sale or otherwise market any unleaded oxygenated gasoline for use in a motor vehicle unless that product:

(a) Has received a waiver from the U.S. Environmental Protection Agency (EPA) under **42 U.S.C. 7545(f)(4)**, as amended through November 15, 1990 and any amendments or modifications thereto; or

(b) Meets EPA's "substantially similar" ruling for a fuel or fuel additive used to certify a model year 1975 or newer vehicle or engine under **42 U.S.C. 7525** (Clean Air Act), as amended through November 15, 1990 and any amendments or modifications thereto.

(2) Only an oxygenate that is found to be acceptable under EPA's "substantially similar" ruling may be used in gasoline containing lead to meet the oxygenate requirements of OAR 340-258-0110 through 340-258-0310.

(3) The requirements of this rule do not affect the blending into leaded gasoline of a compound that does not require an EPA waiver or an EPA "substantially similar" ruling.

(4) Only those oxygenates and concentrations listed below and any gasoline designated by EPA as substantially similar are allowed:

(a) Blends of up to ten percent by volume anhydrous ethanol (200 proof) (commonly referred to as the "gasohol" waiver);

(b) Blends of methanol and gasoline grade tertiary butyl alcohol (GTBA) such that the total oxygen content does not exceed 3.5 percent by weight and the ratio of methanol to GTBA is less than or equal to one. It is also specified that this blended fuel must meet ASTM volatility specifications (commonly referred to as the "ARCO" waiver);

(c) Blends of up to 5.0 percent by volume methanol with a minimum of 2.5 percent by volume cosolvent alcohols having a carbon number of four or less (i.e., ethanol, propanol, butanol and/or GTBA). The total oxygen must not exceed 3.7 percent by weight, and the blend must meet ASTM volatility specifications as well as phase separation and alcohol purity and inhibitor specifications (commonly referred to as the "DuPont" waiver);

(d) Blends up to 5.0 percent by volume methanol with a minimum of 2.5 percent by volume cosolvent alcohols having a carbon number of eight or less. The total oxygen must not exceed 3.7 percent by weight and the blend must meet ASTM volatility specifications as well as phase separation and alcohol purity and inhibitor specifications (commonly referred to as the "Octamix" waiver);

(e) Blends up to 15.0 percent by volume methyl tertiary butyl ether (MTBE) which must meet the ASTM D4614 specifications. Blenders must take precautions that the blends are not used as base gasolines for other oxygenated blends (commonly referred to as the "Sun" waiver);

(f) Blends of aliphatic alcohols other than methanol and aliphatic ethers, provided the oxygen content does not exceed 2.7 percent by weight;

(g) Blends of methanol up to 0.3 percent by volume exclusive of other oxygenates;

(h) Blends up to 2.75 percent by volume methanol with an equal volume of butanol or alcohols of a higher molecular weight.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0520

**340-258-0180**

**Registration**

(1) At least 30 days before the control period in which a person meets the definition of CAR or blender CAR, that person shall petition for registration as a CAR or blender CAR. A person may petition for registration as a CAR or blender CAR after the beginning of the control period but should also do so at least 30 days before conducting activities as a CAR or blender CAR. A petition for registration must be on forms approved by, and available from DEQ, and must include:

(a) The name and business address of the control area responsible party;

(b) The address and physical location of each of the control area terminals from which the control area responsible party operates;

(c) The address and physical location of each control area oxygenate blender facility which is owned, leased, operated, controlled or supervised by a blender CAR; and

(d) The address and physical location where documents required to be retained by this rule will be kept by the control area responsible party.

(2) Within 30 days after any occasion when the registration information previously supplied by a control area responsible party becomes incomplete or inaccurate, the CAR or blender CAR shall submit updated registration information to DEQ.

(3) DEQ will issue each CAR or blender CAR a unique identification number within 30 days after submission of a registration application to DEQ. No person may participate in the averaging program under OAR 340-258-0150 as a CAR or blender CAR until DEQ has issued notice that registration as a CAR or blender CAR has occurred, and a unique CAR identification number. Registration is valid for the time period specified by DEQ.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0530

**340-258-0190**

**CAR, Distributor and Retail Outlet Operating Permits**

Each CAR, distributor and retail outlet supplying gasoline to a control area during a control period shall apply for and receive a permit as specified by OAR 340-258-0200.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0540

**340-258-0200**

**Owners of Gasoline at Terminals, Distributors and Retail Outlets Required to Have Indirect Source Operating Permits**

The owner of gasoline at any gasoline terminal, distributor or retail outlet (defined in OAR 340-258-0010) shall not supply gasoline to any oxygenated gasoline control area during the control period (defined in OAR 340-258-0010) without an approved Indirect Source Operating Permit issued by DEQ or Regional Authority having jurisdiction:

(1) An Indirect Source Operating Permit must be renewed yearly, prior to supplying any gasoline to an oxygenated gasoline control area during the control period.

(2) Persons applying for an Indirect Source Operating Permit shall at the time of application pay the following fees:

(a) Gasoline Terminals -- $2,500;

(b) Gasoline Distributors -- $250.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.040
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0136

**340-258-0210**

**Recordkeeping**

(1) All persons in the gasoline distribution network shall maintain records containing the applicable compliance information described in this rule. The records must be kept by the regulated persons for at least two years:

(2) Refiners and importers shall, for each separate quantity of gasoline produced or imported for use in a control area during the control period, maintain records containing results of any tests needed to determine the types of oxygenates and percentage by volume:

(a) Oxygenate type;

(b) Oxygenate content by volume;

(c) Oxygen content by weight;

(d) Total volume; and

(e) Name and address of the party to whom each separate quantity of gasoline was sold or transferred.

(3) A person who owns, leases, operates or controls a gasoline terminal that serves a control area shall maintain records containing:

(a) The name and address of the owner of each batch of gasoline handled during the control period;

(b) The volume of each batch or truck load of gasoline going into or out of the terminal;

(c) The RWOC of all batches or truck loads of gasoline leaving the terminal;

(d) The type of oxygenate, purity and percentage by volume if available;

(e) The oxygen content by weight of all batches or truck loads received at the terminal;

(f) Information of each tank truck sale or batch of gasoline, as to whether it was designated for use within a control area or not;

(g) The name and address of the person to whom the gasoline was sold or transferred and the date of the sale or transfer; and

(h) Results of the tests for oxygenates, if performed, of each sale or transfer and who performed the tests.

(4) CARs and blender CARs must maintain records containing the information listed in section (3) of this rule, plus the following information:

(a) CAR or blender CAR identification number;

(b) Records supporting and demonstrating compliance with the Per Gallon Oxygen Content Standard listed in OAR 340-258-0140; or

(c) Records supporting and demonstrating compliance with the Average Oxygen Content Standard listed in OAR 340-258-0150:

(A) For any credits bought, sold, traded or transferred, the date of each transaction, the name, address and CAR or blender CAR number of the CAR or blender CAR involved in each transaction, and the amount of credit units (oxygen content and volume of gasoline) transferred; credit units transferred must be accompanied by a demonstration of how those credits were calculated, including adequate documentation that both parties have agreed to all credit transactions;

(B) The name and address of the auditor, and the results of the attest engagement conducted under OAR 340-258-0290;

(C) The name and address of the person from whom each shipment of gasoline was received, and the date when it was received;

(D) Data on each shipment of gasoline received, including:

(i) The volume of each shipment;

(ii) The type of oxygenate, purity and percentage by volume; and

(iii) Oxygen content by weight.

(E) The volume of each receipt of bulk oxygenates;

(F) The name and address of the persons from whom bulk oxygenates was received;

(G) The date and destination of each sale of gasoline, whether it was intended for use within a control area or not;

(H) Data on each shipment of gasoline sold or dispensed including:

(i) The volume of each shipment;

(ii) The type of oxygenate, purity and percentage by volume; and

(iii) Oxygen content by weight.

(I) Documentation of the results of all required tests done regarding the oxygen content of the gasoline; and

(J) The names, addresses and CAR or blender CAR identification numbers of the persons to whom any gasoline was sold or dispensed, and the dates of each transaction.

(5) Retailers and wholesale purchaser-consumers within a control area shall maintain the following records which shall be available for Department inspection upon request:

(a) The names, addresses and CAR or blender CAR identification number of each person from whom a shipment of gasoline was purchased or received, and the date when each shipment was received; and

(b) Data on each shipment bought, sold or transported including:

(A) The volume of each shipment;

(B) The type of oxygenate, purity and percentage by volume;

(C) Oxygen content by weight.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0550

**340-258-0220**

**Reporting**

(1) Each CAR or blender CAR shall submit a report for each control period defined in OAR 340-258-0110(2), reflecting the compliance information detailed in 340-258-0140 or 340-258-0150, as applicable. Reports are due to DEQ on the 30th day of the month following the close of the control period for which the information is required. Reports must be filed on forms provided by DEQ.

(2) If the CO Contingency Provision, as specified in OAR 340-258-0310, is triggered, each CAR or blender CAR shall submit the information described in section (1) of this rule after the first half of the control period and at the end of the control period. Reports are due to DEQ on the 30th day of the month following the end of each two month segment of the control period.

(3) Each time that physical custody or title of gasoline destined for a control area is transferred, except when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer facility, the transferor shall provide to the transferee, in addition to, or as part of, normal bills of lading or invoices, a transfer document containing information on the shipment. The transfer document must accompany every shipment of gasoline to a control area after it has been dispensed by a terminal, or the information must be included in the normal paperwork that accompanies each shipment of gasoline. The information must legibly and conspicuously contain the following information:

(a) The date of the transfer;

(b) The name, address and CAR or blender CAR identification number, if applicable of the transferor;

(c) The name, address and CAR or blender CAR identification number, if applicable, of the transferee;

(d) The volume of gasoline being transferred;

(e) The proper identification of the gasoline as nonoxygenated or oxygenated;

(f) The location of the gasoline at the time of the transfer;

(g) The type of oxygenate and purity;

(h) The percentage by volume, to the nearest 0.1 percent, of oxygenate in the fuel; and

(i) For gasoline in the gasoline distribution network between the refinery or import facility and the covered area terminal, the oxygen content by weight and the oxygenate volume of the gasoline.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0560

**340-258-0230**

**Prohibited Activities**

(1) During the control period, no refiner, importer, oxygenate blender, carrier, distributor or reseller may manufacturer, sell, offer for sale, dispense, supply, offer for supply, store, transport or cause the transportation of:

(a) Gasoline that contains less than 2.0 percent oxygen by weight, for use during the control period, in a control area; or

(b) Gasoline represented as oxygenated which has an oxygen content that is improperly stated in the documents that accompany the gasoline.

(2) No retailer or wholesale purchaser-consumer may dispense, offer for sale, sell, or store, for use during the control period, gasoline that contains less than 2.7 percent oxygen by weight in a control area when supplied by a CAR using the Per Gallon Oxygen Content Standard or less than 2.0 percent oxygen by weight in a control area when supplied by a CAR using the Average Oxygen Content Standard.

(3) No person may operate as, or claim to be a CAR or blender CAR unless that person is registered by DEQ under OAR 340-252-0180. No CAR or blender CAR may offer for sale, store, sell or dispense gasoline to any person who is not registered as a CAR for use in a control area, unless:

(a) The oxygen content of the gasoline during the control period or averaging period meets the standard set in OAR 340-258-0140 or 340-258-0150, and 340-258-0160, as applicable; and

(b) The gasoline contains at least:

(A) 2.7 percent oxygen by weight when the Per Gallon Oxygen Content Standard is used, except as required by OAR 340-258-0310;

(B) 2.0 percent oxygen by weight when the Average Oxygen Content Standard is used.

(4) For a terminal that sells or dispenses gasoline intended for use in a control area during the control period, the terminal owner or operator may not accept gasoline into the terminal unless:

(a) Transfer documentation accompanies it containing information required by OAR 340-258-0220(3); and

(b) The terminal owner or operator conducts a quality assurance program to verify the accuracy of the information referred to in subsection (a) of this section.

(5) No person may sell, store or dispense nonoxygenated gasoline in any control area during the control period unless:

(a) The nonoxygenated gasoline is segregated from oxygenated gasoline;

(b) Clearly marked documents accompany the nonoxygenated gasoline marking it as "**nonoxygenated gasoline, not for sale to an ultimate consumer in a control area**"; and

(c) The nonoxygenated gasoline is in fact not sold or dispensed to ultimate consumers during the control period, in the control area.

(6) No person subject to the requirements of OAR 340-258-0110 through 340-258-0310 may fail to comply with the requirements of 340-258-0110 through 340-258-0310.

(7) No person may sell, store, dispense, or transfer oxygenated gasoline, except for use by the ultimate consumer at a retail outlet or wholesale purchaser-consumer facility, without transfer documents that accurately contain the information required by OAR 340-2582-0220(3).

(8) Any CAR, distributor or retail outlet that does not have a valid terminal permit may not market gasoline for use in a control area during the control period unless a prior owner of the gasoline has a valid terminal permit as required by OAR 340-258-0200.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0570

**340-258-0240**

**Inspection and Sampling**

, DEQ may, at any reasonable time, enter the premises of any person subject to the requirements of OAR 340-258-0110 through 340-258-0310 to determine compliance. DEQ will inspect all relevant records and equipment, and will, in its discretion, purchase gasoline samples for testing by DEQ.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0580

**340-258-0250**

**Liability for Violation of a Prohibited Activity**

(1) Subject to OAR 340-258-0260, if gasoline contained in a storage tank at a facility owned, leased, operated, controlled or supervised by a retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender is found to be in violation of OAR 340-258-0230(1)(a) or (2), the following persons will be considered in violation:

(a) The retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender who owns, leases, operates, controls or supervises the facility where the violation is found; and

(b) Each oxygenate blender, distributor, reseller and carrier who, downstream of the control area terminal, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported or caused the transportation of gasoline that is in the storage tank containing gasoline found to be in violation.

(2) Subject to OAR 340-258-0260, if gasoline contained in a storage tank at a facility owned, leased, operated, controlled or supervised by a retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender is found to be in violation of OAR 340-258-0230(1)(b) or (2), the following persons will be considered in violation:

(a) The retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer or oxygenate blender who owns, leases, operates, controls or supervises the facility where the violation is found; and

(b) Each refiner, importer, oxygenate blender, distributor, reseller and carrier who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported or caused the transportation of gasoline that is in the storage tank containing gasoline found to be in violation.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0590

**340-258-0260**

**Defenses for Prohibited Activities**

(1) A refiner, importer, oxygenate blender, distributor, reseller or carrier is considered to be in violation of OAR 340-258-0230(1) unless that person demonstrates that:

(a) The violation was not caused by the regulated person or that person's employee or agent;

(b) The person possesses documents that should accompany the gasoline, and that contain the information required by OAR 340-258-0220;

(c) The person conducts a quality assurance sampling and testing program as described in OAR 340-258-0280; and

(2) A refiner, importer, oxygenate blender, distributor, reseller or carrier is considered to be in violation of OAR 340-258-0230(5) unless that person demonstrates that:

(a) The product is clearly labeled as "**blendstock/export/storage**" and the evidence supports this classification;

(b) The accompanying documents clearly state that the product does not comply with the oxygenated gasoline requirements;

(c) Some aspect of the product's quality supports the party's claim that the product was intended to be further blended before being sold, supplied, etc., as a finished product;

(d) The seller, supplier or transporter of the product has obtained a written certification or notice on shipping documents from the buyer/recipient of the product that the buyer/recipient understands that the product is not intended for sale or distribution as finished gasoline in a control area or until:

(A) It is blended to meet the oxygenated gasoline requirements of OAR 340-258-0110 through 340-258-0310; or

(B) The buyer/recipient receives equivalent certification from a subsequent buyer or obtains a written certification that the gasoline will not be sold or dispensed for use within a control area; and

(e) The party has no knowledge or reason to believe that the product will not be further blended to comply with the standards of OAR 340-258-0140 or 340-258-0150, and 340-258-0160 before being sold, supplied or transported as finished product, or that it would be sold or dispensed without further blending within a control area.

(3) A retailer or wholesale purchaser-consumer is considered be in violation of OAR 340-258-0230(2) unless that person demonstrates that:

(a) The violation was not caused by the regulated person or that person's employee or agent;

(b) The person possesses documents that should accompany the gasoline, and that contain the information required by OAR 340-258-0220.

(4) For purposes of this rule, the term "was caused" means that the person must demonstrate by a preponderance of the evidence through reasonably specific showings, by direct or circumstantial evidence, that the violation was caused or must have been caused by another person.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0600

**340-258-0270**

**Inability to Produce Conforming Gasoline Due to Extraordinary Circumstances**

DEQ will allow a person to distribute fuel which does not meet the oxygenated gasoline requirements of OAR 340-258-0110 through 340-258-0310 in appropriate extreme and unusual circumstances which are clearly outside the control of the blender CAR and which could not have been avoided by the exercise of prudence, diligence and due care if:

(1) It is in the public interest to do so because distribution of the nonconforming fuel is necessary to meet projected shortfalls which cannot otherwise be compensated for;

(2) The blender CAR exercised prudent planning and was not able to avoid the violation and has taken all reasonable steps to minimize the extent of the nonconformity;

(3) The blender CAR can show how the requirements for oxygenated gasoline will be expeditiously achieved; and

(4) The blender CAR agrees to make up the air quality detriment associated with the nonconforming gasoline, where practicable.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0610

**340-258-0280**

**Quality Assurance Program**

To demonstrate an acceptable quality assurance program under this rule, a person shall conduct periodic sampling and testing to determine if the oxygenated gasoline has oxygen content that is consistent with the product transfer documentation.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0620

**340-258-0290**

**Attest Engagements Guidelines When Prohibited Activities Alleged**

(1) DEQ will not require a CAR or blender CAR to submit attest engagement reports except as an optional defense for any alleged violations of OAR 340-258-0110 through 340-258-0310.

(2) The attest engagement shall consist of performing the agreed-upon procedures set forth in the guidelines in accordance with the Association of Independent Certified Public Accountants' (AICPA's) statements on standards for Attestation Engagements and using statistical sample design parameters provided by EPA.

(3) In performing the attest engagement, the CPA shall determine the sample size for each population according to parameters set out in **Table B**. [Table not included. See ED. NOTE.]

(4) The number of populations from which samples should be drawn will vary depending on the circumstances. Sample items should be selected in such a way that the sample can be expected to be representative of the population.

(5) If the CPA agrees to use some other form of sample selection and some other method to determine the sample size, that agreement should be summarized in the CPA's report.

(6) The attest engagement shall be conducted by an independent Certified Public Accountant (CPA).

(7) The CPA is required to comply with the general code of conduct and ethics as prescribed by the State of Oregon and by the AICPA.

(8) The attest engagement shall include the following agreed-upon procedures, as appropriate, for the CAR's standardized reporting form(s):

(a) Read the report completed by management and filed with DEQ;

(b) Obtain from the CAR an inventory reconciliation summarizing receipts and deliveries of all gasoline, gasoline blendstocks, and oxygenates for CARs serving a control area:

(A) Test mathematical accuracy of inventory reconciliation;

(B) Agree beginning and ending inventory amounts to company's perpetual inventory records;

(C) Agree deliveries into the control area to Department report, if applicable.

(c) Obtain listing of all gasoline, gasoline blendstocks, and oxygenate receipts during the period:

(A) Test mathematical accuracy of listing;

(B) Agree amounts to inventory reconciliation;

(C) Select a representative sample of individual receipts of gasoline, gasoline blendstocks, and oxygenates and trace details back to source documents.

(d) Obtain listing of all gasoline, gasoline blendstocks, and oxygenates sold or dispensed during the period:

(A) Test mathematical accuracy of listing;

(B) Agree amounts to inventory reconciliation report;

(C) Select a representative sample of individual batches sold or dispensed both into and outside the control area:

(i) Agree volumes for the sample items to original bill of lading or other source documents;

(ii) For sales or deliveries into the control area, determine that oxygenate content is at least two percent by examining bills of lading.

(e) Using the volume of oxygenated gasoline sold or dispensed into the control area from the inventory reconciliation report, recalculate the number of oxygen content units required by multiplying by 2.7 percent, except where otherwise specified in OAR 340-258-0310, and agree to Department report;

(f) Recalculate the actual total oxygen credit units generated by adding the oxygen content of each batch or truck load of oxygenated gasoline that was sold or dispensed in the control area as determined in subsection (8)(e) of this rule multiplied by the actual oxygen content by weight associated with each batch or truck load;

(g) Recalculate the adjusted actual total oxygen credit units as follows:

(A) The actual total oxygen credit units generated from subsection (8)(f) of this rule;

(B) Plus the total oxygen credit units purchased or acquired through trade; and

(C) Minus the total oxygen credit units sold or given away through trade.

(h) The following steps apply to the testing of the actual total oxygen content from subsection (8)(f) of this rule and are applicable based on method of blending:

(A) For CARs using rack- and truck-blending, recompute oxygen content by weight for a representative sample of deliveries based on detailed meter readings of gasoline, blendstocks and oxygenate receipts;

(B) For CARs using in-tank blending of gasoline, blendstocks and oxygenates, obtain register of running weighted oxygen content by tank and:

(i) Using the individual sample items from subsections (8)(c) and (d) of this rule test calculation of running totals;

(ii) Where laboratory analysis is used with the CARs weighted average calculation, select individual analysis reports of oxygenated gasoline receipts and deliveries during the period on a representative sample basis:

(I) Review laboratory results for consistency with CAR's calculations noting oxygen volume and specific gravity;

(II) Recalculate oxygen by weight;

(III) Agree information on lab reports to underlying delivery and receiving documentation.

(i) Obtain register of oxygen credit unit purchases and sales and select separate representative samples of individual purchased credits and individual sales credits:

(A) Agree selected credit unit transactions to the underlying contract and/or other supporting documentation noting specific volumes and oxygen content of the gasoline associated with the credits;

(B) Agree to the underlying contract and/or supporting documentation that the credits are generated in the same control areas as they are used. For example, no credits may be transferred between control areas;

(C) Agree to the underlying contract and/or supporting documentation that the credits are generated in the same averaging period as they are used;

(D) Agree to the underlying contract and/or supporting documentation that the ownership of credits is transferred only between CARs;

(E) Agree to the underlying contract and/or supporting documentation that the credit transfer agreement was made no later than 30 days after the final day of the averaging period in which the credits are generated.

(j) Prepare a report to client in accordance with the report provisions of Statements on Standards for Attestation Engagements indicating results of performing the above procedures.

(9) The attestation report must be in compliance with the AICPA's Statement on Standards for Attestation Engagements.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

[ED. NOTE: Copies of the Table referenced in this rule are available from the agency.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; Administrative correction 10-27-97; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0630

**340-258-0300**

**Dispenser Labeling**

(1) A person who sells or markets oxygenated gasoline at retail, or who otherwise provides oxygenated gasoline for consumption by an ultimate consumer, shall place two labels on a dispenser used to dispense the gasoline to identify the oxygenate in the fuel, using the following criteria:

(a) The first label must include the following statement: "**The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles**";

(b) The second label must contain the type of oxygenate(s) and the exact (plus or minus 0.5 percent) or maximum use concentration by volume. Only those oxygenates and concentrations listed below and any gasoline designated by EPA as substantially similar are allowed.

[**NOTE:** This applies only to DEQ rules and dispenser is still responsible for complying with the disclosure requirements of ORS 646.915.]

(c) Lettering on the label must be legible and in block style of at least 20 point bold type;

(d) The lettering on the label shall be in a color contrasting to the intended background;

(e) The label must be placed on each side of the dispenser from which the gasoline can be dispensed and shall be on the upper one half of the dispenser, in a position that will be clear and conspicuous to the consumer.

(2) A person who pursuant to OAR 340-258-0110(7) dispenses nonoxygenated gasoline in a control area during the control period at a site where motor vehicles may have access must display a label in accordance to the standards above containing the following information: "**This fuel is not oxygenated to State of Oregon standards and may not be dispensed into motor vehicles**".

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

[**NOTE:** Dispensing sites that are not accessible to motor vehicles are not required to have the above labels.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0640

**340-258-0310**

**Contingency Provision for Carbon Monoxide Nonattainment Areas**

(1) Subsections (a), (b), (c) and (d) of this section apply to OAR 340-258-0100 through 340-258-0300:

(a) Upon determination by DEQ, or written notification to DEQ by the EPA Administrator that a carbon monoxide nonattainment area in a control area, as specified in OAR 340-204-0090, fails to meet an applicable Clean Air Act deadline for attainment of the NAAQS for carbon monoxide, the following provisions shall become applicable in such control areas within eight months of written notification by DEQ or the EPA Administrator, whichever is sooner:

(A) Oxygenates shall be supplied at maximum EPA approved oxygen content levels during the control period (e.g., 3.5percent for gasoline oxygenated with ethanol and 2.7 percent for gasoline oxygenated with MTBE);

(B) Compliance calculations shall be based on the per gallon oxygen content supplied by each CAR or blender CAR during the control period.

(b) At the end of each control period during which fuel meeting requirements of subsection (1)(a) of this rule is supplied, DEQ will evaluate control area oxygenate mix information which is submitted by CARs and blender CARs in accordance with OAR 340-258-0220. If DEQ projects, based on this data, that the average oxygen content of gasoline supplied in a control area will be less than 3.1 percent in the next control season, DEQ shall notify affected parties no later than March 1 and the following additional requirements shall become effective in subsequent control periods:

(A) The average oxygen content standard of gasoline for CARs or blender CARs using the Average Oxygen Content Standard Compliance Option, shall be increased to a minimum of 2.9 percent;

(B) The oxygen content standard of gasoline for CARs and blender CARs using the Per Gallon Oxygen Content Standard Compliance Option, shall be increased to a minimum of 2.9 percent;

(C) Compliance calculations and the calculation of oxygen credit units, where applicable, shall be based on an oxygen content of 2.9 percent.

(c) Federal standards for percent by volume oxygenate content may not be exceeded and shall not be affected by any requirement under section (1) of this rule;

(d) This rule shall be applicable during the control period specified in OAR 340-258-0110(2).

**NOTE:** OARs affected by this provision include: OAR 340-258-0010, 340-258-0140(1) and (2); 340-258-0150(1) and (3)(a)(B), 340-258-0160(1)(a) and (2)(a), 340-258-0220, 340-258-0230(3)(b)(A), and 340-258-0290(8)(e).

(2) DEQ may propose to the Environmental Quality Commission the adoption of an equivalent alternative program to achieve necessary carbon monoxide emission reductions as a substitute for measures outlined in subsection (1)(a) of this rule. An alternative carbon monoxide contingency plan which is adopted by the EQC shall not become effective until approved by the EPA as a SIP revision.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468A.420
Hist.: DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0650

**Standard for Automotive Gasoline**

**340-258-0400**

**Reid Vapor Pressure for Gasoline**

(1) No person shall sell or supply as a fuel for motor vehicles any gasoline which does not comply with the requirements of 40 CFR 80.

(2) The Reid Vapor Pressure of gasoline sold or supplied, by bulk gasoline terminals and gasoline refiners, as fuel for motor vehicles shall be measured according to the procedures established in the most current method of **ASTM D323**:

(a) The geographic coverage of this section shall be consistent with boundary specified in **ASTM D439**, specifically all of Oregon, west of 122 degrees Longitude;

(b) Test results from samples submitted to DEQ by refiners or distributors of gasoline shall be sampled and tested pursuant to methods established by the most current method of **ASTM D323**. Analysis of all fuel from pipeline, tanker, or other sources outside of the state shall be summarized and forwarded to DEQ on a monthly basis. Such reports will be supplied on a form supplied by DEQ;

(c) DEQ reserves the right to audit records and to sample gasoline for the purposes of compliance. Samples of petroleum shall be sampled pursuant and tested by methods established by the most current method of **ASTM D323** or by methods established under the California Air Resources rule, **Title 13, §2251** or **Part 80** of **Title 40** of the **Code of Federal Regulations** -- Fuel and Fuel Additives.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

[Publications: The publication(s) referred to in this rule are available from the agency.]

Stat. Auth.: ORS 468.020 & ORS 468A.025
Stats. Implemented: ORS 468A.025
Hist.: DEQ 11-1989, f. 6-12-89, cert. ef. 6-15-89; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0300