

Emergency Rules
of the
Department of Agriculture
Division of Regulatory Services

Chapter 0080-5-12
Kerosene and Motor Fuels Quality Inspection Regulations

Statement of Necessity Requiring Emergency Rules

Pursuant to T.C.A. §4-5-208, the Department of Agriculture is promulgating emergency rules that will amend Chapter 0080-5-12 Kerosene and Motor Fuels Quality Inspection Regulations covering standards for biodiesel and biodiesel blends conveyed for consumption in Tennessee. The emergency rules are necessary because of an order by the Governor to implement interim standards until permanent national standards are developed by ASTM International and available for adoption in state rules.

The Department has concluded that there is an emergency creating a threat to public safety and welfare as biodiesel and biodiesel blends are making a sudden and rapid entry into the marketplace prior to the final development of the ASTM International standards for these products. Therefore, absent any emergency rule, there will be no governmental oversight protecting consumers and industry from substandard products entering into commerce in Tennessee. The lack of these rules would be injurious to consumer's vehicles and to businesses that may unknowingly receive and convey products that are not suitable for use in diesel engines.

For copies of the entire text of the proposed amendments, contact: Jimmy Hopper, Director, Division of Regulatory Services, Department of Agriculture, Ellington Agricultural Center, 615-837-5150.

Jimmy Hopper
Director of Regulatory Services
Tennessee Department of Agriculture

The text of the proposed amendments to the current rule as part of this emergency action is as follows:

Rule 0080-5-12-.01 Definitions (8) is amended by deleting the current language in its entirety and submitting the following language so that, as amended, the subparagraph shall read:

0080-5-12-.01 Definitions

- (8) "Biodiesel" means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats.

Authority: T.C.A. §47-18-1304 and §47-18-1309.

Paragraph (12) of rule 0080-5-12-.02 Standard Specifications is amended by deleting the current language in its entirety and submitting the following language so that, as amended, the subparagraph shall read:

- (12) Biodiesel Fuel Blend Stock – All Biodiesel blend stock intended for blending with diesel fuel shall meet the most recent version of ASTM D 6751, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels."

Authority: T.C.A. §47-18-1304 and §47-18-1309.

Rule 0080-5-12-.02 Standard Specifications is amended by adding language in new paragraphs (14), (15), (16) and (17) to the current language so that, as amended, the rule shall read:

- (14) Biodiesel Blends up to 5 Percent by Volume – Biodiesel blends up to 5% by volume shall meet the most recent version of ASTM D 975, “Standard Specification for Diesel Fuel Oils.” At such time that an ASTM standard specification is developed for blends up to 5%, the ASTM standard shall prevail as rule.
- (15) Biodiesel Blends More Than Five Percent and Up to Twenty Percent by Volume – Biodiesel blends more than 5% and up to 20% by volume shall meet the most recent version of ASTM D 975, “Standard Specification for Diesel Fuel Oils”, except that the maximum temperature of the 90 percent volume recovered distillation point shall be five degrees centigrade greater than that specified in Table 1 of ASTM D 975. At such time that an ASTM standard specification is developed for blends greater than 5% and up to 20%, the ASTM standard shall prevail as rule.
- (16) Low Temperature Operability of Biodiesel Blends – All biodiesel blends must meet the tenth percentile minimum ambient temperature values for low temperature operability as published in ASTM D 975 Appendix X.4. Low temperature operability may be qualified by either ASTM Standard Test Method D 4539 or ASTM Standard Test Method D 2500.
- (17) Biodiesel Conveyed at Public Retail Sale Points – Biodiesel conveyed at retail sale points that are available to the general consuming public shall not exceed 20% by volume.

Authority: T.C.A. §47-18-1304 and §47-18-1309.

Rule 0080-5-12-.03 Classification and Method of Sale of Petroleum Products is amended by adding language in a new paragraph (12) and subparagraphs to the current language so that, as amended, the rule shall read:

- (12) Biodiesel
 - (a) Identification of Product – Biodiesel and biodiesel blends containing more than 5% by volume shall be identified by the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel. (Examples: B10; B20; B100.)
 - (b) Labeling of Dispensers Containing more than Five Percent (5%) and Up to Twenty Percent (20%) Biodiesel – Each dispenser of biodiesel blends containing more than 5% and up to and including 20% shall be labeled with either the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel and ending with "Biodiesel Blend". (Examples: B10 Biodiesel Blend; B20 Biodiesel Blend) or the phrase "Biodiesel Blend between 5 % and 20 %" or similar words.
 - (c) Documentation for Dispenser Labeling Purposes - The retailer shall be provided, at the time of delivery of the fuel, with a declaration of the volume percent biodiesel on an invoice, bill of lading, shipping paper, or other document. This documentation is for dispenser labeling purposes only; it is the responsibility of any potential blender to determine the amount of biodiesel in the diesel fuel prior to blending.

Authority: T.C.A. §47-18-1304 and §47-18-1309.

Rule 0080-5-12-.08 Test Methods and Reproducibility Limits is amended by adding the following language and renumbering the remainder of the section:

- (3) Biodiesel Blends – The test method for determining the percent biodiesel in a blend of biodiesel and diesel fuel shall be EN 14078 “Liquid petroleum products – Determination of fatty methyl esters (FAME) in middle distillates – Infared spectroscopy method.” At such time that ASTM develops a comparable standard test method, the ASTM method shall become the standard method for purposes of this rule.

Authority: T.C.A. §47-18-1304 and §47-18-1309.

Legal Contact who will approve final copy: Phyllis Childs, General Counsel
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 615-837-5280

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Signature of the agency officer or officers directly responsible for proposing and/or drafting these rules:

Jimmy Hopper
 Director of Regulatory Services
 Tennessee Dept. of Agriculture

I certify that this is an accurate and complete copy of emergency rules, lawfully promulgated and adopted by the Department of Agriculture on the ____ day of _____, 20 ____.

Ken Givens, Commissioner
 Tennessee Dept. of Agriculture

Subscribed and sworn to before me this the ____ day of _____, 20____.

Notary Public

My commission expires on the ____ day of _____, 20 ____.

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Paul G. Summers
Attorney General and Reporter

The emergency rules set out herein were properly filed in the Department of State on the 27th day of April, 2006, and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 9th day of October, 2006.