

PROPOSED RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE
FOOD AND DAIRIES DIVISION

CHAPTER 0080-4-8-.01
ANTIFREEZE REGULATIONS

Presented herein are proposed rules of the Tennessee Department of Agriculture submitted pursuant to Tennessee Code Annotated, Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed in the office of the Staff Attorney, Tennessee Department of Agriculture Center, Hogan Road, P. O. Box 40627, Melrose Station, Nashville, Tennessee 37204 and in the Administrative Procedures Division of the Department of State, Fifth Floor, James K. Polk State Office Building, Sixth and Deaderick, Nashville, Tennessee 37219, and must be signed by twenty-five (25) persons who will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the general assembly. The text of the proposed rules is as follows:

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0080-4-8-.01 - DEFINITIONS.

(1) "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of antifreeze products.

(2) "Antifreeze-coolant" or "antifreeze and summer coolant" or "summer coolant" means any substance as defined in Tennessee Code Annotated, Section 53-3713(t) which is sold, distributed or intended for raising the boiling point of water or for the prevention of engine overheating whether or not used as a year-round cooling system fluid. Unless otherwise stated, the term "antifreeze" includes "antifreeze," "antifreeze-coolant," "antifreeze and summer coolant," and "summer coolant."

(3) "Distribute" means to hold with intent to sell, offer for sale, to sell, barter or otherwise supply to the consumer.

(4) "Home consumer-sized package" as used in 0080-4-8-.04(7) shall refer to packages of one fluid U.S. gallon or less.

(5) "Labeling" means the labels and any other written, printed or graphic matter accompanying a package.

(6) "Package" means a sealed tamperproof retail package, drum, or other container designed for the sale of antifreeze directly to the consumer or a container from which the antifreeze may be installed directly by the seller into the cooling system, but does not include shipping containers containing properly labeled inner containers.

(7) "Person," as used in these regulations shall be construed to mean both the singular and plural as the case demands, and shall include individuals, partnerships, corporations, companies and associations.

Authority: T.C.A. §§53-3713, 53-3720

0080-4-8-.02 - ADULTERATION. Antifreeze shall be deemed to be adulterated:

(1) If, in the form in which it is sold and directed to be used, it would be injurious to the cooling system in which it is installed, or if, when used in such cooling system, it would make the operation of the engine dangerous to the user.

(2) If its strength, quality, or purity falls below the standard of strength, quality, or purity established by the Commissioner for the particular type or composition of antifreeze product.

Authority: T.C.A. §§53-3715(h), 53-3720

0080-4-8-.03 - MISBRANDING. Antifreeze shall be deemed to be misbranded:

- (1) If it does not bear a label which,
 - (a) specifies the identity of the product,
 - (b) states the name and place of business of the manufacturer, packager, or distributor,
 - (c) states the correct net quantity of contents in terms of liquid measure separately and accurately in a uniform location upon the principal display panel, as provided by the Federal Fair Packaging and Labeling Act, and
 - (d) contains a statement warning of any hazard of substantial injury to human beings which may result from the intended use or reasonably foreseeable misuse of the antifreeze, as provided by applicable federal and state product safety laws and regulations.

(2) If the label on a container of less than five (5) gallons, or the labeling for a container of five (5) gallons or more, does not contain

a statement or chart showing the appropriate amount, percentage, proportion or concentration of the antifreeze to be used to provide claimed protection from freezing at a specified degree or degrees of temperature, claimed protection from corrosion, or claimed increase of boiling point or protection from overheating.

(3) If its labeling contains any claim that it has been approved or recommended by the Commissioner.

(4) If its labeling is false, deceptive, or misleading.

Authority: T.C.A. §§53-3714(b), 53-3715(h), 53-3720

0080-4-8-.04 - PROHIBITED ACTS.

(1) Distribute any antifreeze unless it is in the manufacturers, packagers or distributor's unbroken package or is installed by the seller into the cooling system of the purchaser's vehicle directly from the manufacturer's, packager's, or distributor's package, and the label on such package if less than five gallons, or the labeling of such package if five gallons or more, does not bear the information required by 0080-4-8-.03.

(2) Use the term "ethylene glycol" in connection with the name of a product which contains other glycols unless it is qualified by the word "base," "type," or similar word, and unless the product meets the following requirements:

- (a) It consists essentially of ethylene glycol;
- (b) If it contains suitable glycols other than ethylene glycol that no more than a maximum of 15% of such other glycols be present;
- (c) It contains a minimum total glycol content of 93% by weight;
- (d) The specific gravity is corrected to give reliable freezing point readings on a commercial ethylene glycol type hydrometer; and
- (e) The freezing point of a 50% by volume aqueous mixture of the antifreeze shall not be above -34° F.

(3) Refuse, when requested, to permit a purchaser to see the container from which antifreeze is drawn for installation into the purchaser's vehicle.

(4) Refill any container bearing an acceptable label, unless by the manufacturer or his duly-designated jobber, under regulations established by the Commissioner.

(5) Distribute any antifreeze for which a practical, rapid means for measuring the freeze protection by the user is not readily available, whether by hydrometer or other means.

(6) Distribute antifreeze which is in violation of the Federal Poison Prevention Packaging Act, its regulations, and related federal and state product safety laws and regulations.

(7) Distribute antifreeze in home consumer-sized packages which are constructed of either transparent or translucent packaging materials.

Authority: T.C.A. §§53-3715, 53-3720

0080-4-7-.05 - SUBMISSION OF FORMULA. When antifreeze is introduced into commerce within the state, the Commissioner may require the manufacturer to furnish a statement of the formula or contents of such antifreeze, however, the statement of formula or contents may state the content of inhibitor ingredients in generic terms if such inhibitor ingredients total less than five percent (5%) by weight of the antifreeze and if in lieu thereof the manufacturer, packer, seller or distributor furnishes the Commissioner with satisfactory evidence, other than by disclosure of the actual chemical names and percentages of the inhibitor ingredients, that the said antifreeze is in conformity with Tennessee Code Annotated, Sections 53-3713 - 53-3723 and this Chapter.

Authority: T.C.A. §§53-3715, 53-3720

0080-4-7-.06 - PUBLICATIONS.

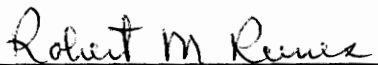
(1) The Commissioner may publish or furnish, upon request, a list of the brands and classes or types of antifreeze inspected by the Department during the fiscal year which have been found to be in accord with this Article.

(2) The Commissioner may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this Act including the nature of the charge and the disposition thereof.

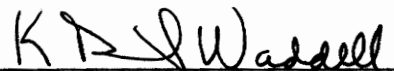
(3) The Commissioner may also cause to be disseminated such information regarding antifreezes as he deems necessary in the interest of protection of the public. Nothing in this Section shall be construed to prohibit the Commissioner from collecting, reporting, and illustrating the results of the investigations of the Department.

Authority: T.C.A. §§53-3723, 53-3720

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



Robert M. Reeves, Director
Food and Dairies Division



K. David Waddell
Staff Attorney

I certify that this is an accurate and complete copy of proposed rules lawfully promulgated and adopted by the Tennessee Department of Agriculture on the 2 day of September, 1982.

William H. Walker III
William H. Walker, III
Commissioner

Subscribed and sworn to before me this the 2nd day of September, 1982.

Bessie M. Southman
Notary Public

My commission expires on the 21st day of July, 1985.

All proposed 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.

William M. Leech, Jr
William M. Leech, Jr
Attorney General and Reporter

The proposed rules set out herein were properly filed in the Administrative Procedures Division of the Department of State and pursuant to the instructions set out above and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 15th day of ~~NOVEMBER~~ December 1982, unless repealed, withdrawn, or stayed by the Tennessee Department of Agriculture or disapproved by the appropriate standing committee of the general assembly. This statement of effective date does not constitute the actual effective date of the rules which follows:

Gentry Crowell

Gentry Crowell
Secretary of State

By: Thomas G. Stewart

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