

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 labeling requirements for biodiesel and biodiesel blends conveyed for consumption in Tennessee. The emergency rules are necessary because of the growing demand for biodiesel and biodiesel blends by consumers and the need to ensure that those products are accurately identified and labeled on fueling dispensers. Previous labeling requirements were taken from model recommendations of the National Conference on Weights and Measures (NCWM). However, we have determined that those NCWM recommendations have conflicting requirements; therefore, we are seeking to establish requirements that are clearly enforceable.

The Tennessee Department of Agriculture has concluded that there is an emergency creating a threat to public safety and welfare as biodiesel and biodiesel blends are continuing to rapidly enter into the marketplace. Therefore, absent any emergency rule, there will be no governmental oversight protecting consumers and industry from misidentified and mislabeled 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 pass on products that are not suitable for use in diesel engines.

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

Amendments

The text of the proposed amendments is as follows:

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 blends containing more than 5% by volume shall be identified by the term Biodiesel Blend.
- (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.

All emergency rules set out herein were properly filed in the Department of State on the 27th day of November, 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 11th day of May, 2007.