Antifreeze-Coolant Litigation

GM Under Legal Fire For DEX-COOL® Related Problems
By John R. Hess
Eight Class Action Lawsuits—List Growing

There are now at least eight states in which a DEX-COOL®-related Class Action Litigation has been filed: Missouri, California, New York, New Jersey, Texas, Illinois (State and Federal), Pennsylvania and Michigan. Defendants include GM, ChevronTexaco and Equilon-Shell (Shell Oil Company), but not all are named in all suits. The entire (22 page) complaint for the Illinois case is posted for download on the plaintiff's legal firm's website: cwcd.com/pdf/dexcool_complaint.pdf (Acrobat format).

The allegations vary in the cases, but range from DEX-COOL being defective, that it failed to perform, that OAT (Organic Acid Technology) inhibitors cause a greater amount of rust and corrosion than other inhibitors and that the defendants knew that it lacked the adequate corrosion inhibitors to protect the vehicles’ cooling systems.

Is it out of warranty?
The defendants and their attorneys are well aware that their claims are for failures occurring outside of the vehicle’s stated warranty: 3 years or 36,000 miles. But since the owner’s manual makes reference to the extended life of DEX as being 5 years or 100-150,000 miles, they claim that that period should constitute the actual warranty. To be specific, they believe GM is in breach of warranty under the Magnuson-Moss Act.

Here’s how that’s phrased in the Missouri complaint: “GM gave a written warranty that the Dex-Cool coolant could remain in the vehicle for 5 years or 150,000 miles (100,000 for 1996 vehicles), whichever came first. GM breached its warranty to the plaintiffs and the class because all of those vehicles developed rusty sludge in their cooling systems, which required the Dex-Cool to be removed.”

GM’s position
GM has previously stated that the Service or Change Interval for DEX is 5 years and 150K miles, and that a Service Interval is not a warranty. Now they may have to argue that point in front of a jury. They can say that if the owner did not keep up their part of the bargain, namely to keep the cooling system system full of coolant, GM has no way of stopping system degradation. They can’t possibly visit all of their customers once a week to make sure the maintenance checks are being performed. And after all, if the customer let’s the coolant level drop, the system is going to overheat. The coolant will eventually fail whether it’s DEX, Advanced Hybrid or good old conventional green.

This forces the plaintiff’s attorneys to explain how the coolant levels were allowed to get so low. It takes the operator to regularly pick up the hood and check the coolant level, along with the oil, tranny and windshield fluid, etc. How do they answer the argument that if the coolant level had been maintained to begin with, the degradation would never have gotten started?

They might counter by saying that the contamination did happen in systems with an adequate level of coolant. If the coolant level wasn’t high enough, or if the system was extremely low on coolant, how was the sludge able to build up on the pressure cap?

Five and a half minute video
The Missouri case was aired publicly on May 21, 2003 in Columbus, Ohio by 10TV Eyewitness News of WBNS-TV. A copy of that broadcast can be viewed from www.dexcoolcase.com. It includes interviews with an affected vehicle owner, a mechanic and attorneys representing the plaintiffs. The full web address for high speed internet access is: http://streamdata.dispatchbroadcast.com/10tv/2003_05_21_Consumer10_explorers_problems_with_GMs_Dex_Cool_048.asx. (Or use the link at www.imcool.com.)

continued on page 17
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**Where's the Beef?**

Okay, I’ve now read through the Illinois case several times. I’ve replayed the TV video several times. I’ve heard lots of complaints about the product, both from vehicle owners and service technicians. Laboratory proof of DEX’s defect, however, appears to be nonexistent. Call me crazy, but I’m still not convinced that DEX-COOL is the villain here, or at least not the lone bad guy.

Yes, many specific DEX equipped vehicles have suffered major cooling system corrosion and fouling problems. Yes, GM is probably responsible for a lot of those problems. Yes, GM appears to have grossly mishandled the situation, at least from a customer service standpoint. And yes, the latter has to have cost them dearly by shutting many good, long term customers over to Ford, DaimlerChrysler and other manufacturers.

But, when I hear a technician say that DEX eats water pumps, and an attorney say that it promotes rust, I’d sure like to see some hard evidence of those claims. Plus, they seem to lump in manifold gasket problems that, to my knowledge, are generally attributed to causes other than DEX, or at least, DEX alone.

Cool Profit$ Magazine will follow the progress of these cases and any others that come forward. We, along with

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**Above: 10TV reporter, Jim Donovan, listens as attorney Dan Owen (Shughart Thomson & Kilroy of Kansas City, MO) explains how contamination builds and plugs the radiator.**

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**Above: Mechanic interviewed in the 10TV video believes DEX-COOL eats water pumps. GM says it changed from conventional antifreeze to OAT DEX in 1996 in and effort to reduce water pump failures.**

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Intake manifold gasket leaks

What would a discussion about DEX-COOL be without mentioning the 3.1, 3.4 and 3.8L V6 intake manifold gasket problems? But is DEX by itself causing the problem, or is it the EG (ethylene glycol) operating at excessive engine temperatures, poor initial gasket design, warping manifolds or improper torque on the assembly line? Maybe the plastic (Nylon 6,6) portion of the gasket is failing? Could it be “all of the above?” Technicians have also been reporting intake manifold gasket failures on Ford 4.2L V6s, and those systems do not use DEX-COOL. In any case, GM has now released an enhanced gasket for these applications. It’s something many have been waiting for.

Justice (revenge?) by website

Here’s a list of websites with complaints about DEX-COOL and GM:

- www.cwcd.com/dexcool.htm
- www.cwcd.com/dexcool_form.htm
- (Online Evaluation Form—A real attorney will evaluate your “case.”)
- www.petitiononline.com/modPerl/signed.cgi?GMcnsmrs (online manifold gasket leak petition site)
- www.consumeraffairs.com/automotive/gm_dexcool.html
- www.gm-v6lemons.com/ (site about problems with 3.1 and 3.4L V6 engines)
- www.gm-v6lemons.com/pix.html (photos of manifold gasket problems)
- www.geocities.com/b_gillie/dexcool_problems.html (site with lots of stories, including those contained in 15 Guest Book pages)

Comments

We all have our opinions about DEX and its effect on cooling system corrosion and gasket failures, specifically manifold intake gasket failures. Below are examples of messages sent to Cool Profits and what I’ve found posted on various websites. Some were edited for clarity. Read through and you’ll see the range of understanding, or lack of understanding, and feelings about the subject. Emotion often overrides knowledge and logic. While many of these posts are from very upset, non-technical vehicle owners, some were submitted by professional technicians. As an automotive writer,

Above: $5000+ in repairs were attributed to DEX-COOL by this affected vehicle owner seen in the 10TV video.

Above: 10TV video indicates a GM response is that contamination is caused by owners operating vehicles for long periods with a low coolant level.

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my goal is to help you and your customers find and learn the truth.

Comment advising someone with an overheated transmission: “Flush your coolant ASAP. If still under warranty, stick with DeathCool (DexCool...aka pink stuff), as it does NOT do well under high temp, high heat and air in system, etc. If out of warranty consider switching to green.”

Response to the post above: “NO, NO, NO! Do NOT switch to the green stuff! The seals are not made for using the green antifreeze. This can lead to leaks everywhere, head gaskets included.

Comment: The secret to Dexcool is to top off with ONLY 50/50 You can not top off with straight Dexcool or straight water or it will turn sludge.”

Comment: “Known that high temps, high pressure and AIR/DIRT in system acts like accelerating catalyst turning DeathCool into acidic gelatinous globs plugging/eating up the insides of the cooling system.”

Comment: “Everyone make up their own minds on this, but I’ve been calling it DeathCool after almost losing my 7.4L engine to the stuff. Turned and plugged up my radiator in matter of days while researching thermostat mods and cooling mods.”

Comment: “The radiator no longer has cap and CAN NOT fill cooling system from the radiator anymore. Cap is now on what used to be the overflow bottle, which is no longer overflow, but just another tank for the radiator. Overflow is now dumped overboard.”

Comment: “We have been using GM products with Dexcool since 1995 and no problems at all. I have drained and flushed them within 5 years also (usually due to other service or a failed hose - how’s that for a service reminder).

Comment: I drained our 95 Pontiac Transport last month as it had a super small pinhole leak in the plastic side tank. When we had it flushed and the side tank replaced, the shop said the core was in perfect shape (no build up), so the Dex-Cool seems to live up to its long life claims.”

continued on page 20

Does A Vehicle’s Owner’s Manual Constitute A Warranty?

Above: www.gm-v6lemons.com, operated by Shawn Bennear of Pennsylvania, has recorded over 24,000 hits. Here’s a quote from his site: “This is a personal plea for help on this litigation. I am hoping that some of you might be willing to help me on this. If anyone would, I would greatly appreciate your story of your gasket failure, cam breakage, dexcool clog, etc.”

INTER-JECT ELECTROLYSIS ARRESTOR

Keep It Simple!

There are several causes of electrolysis (what car owners call it as they point to the small holes in radiator or heater cores). But the main two are corrosion and voltage, usually a result of poor maintenance. To best correct these problems, use the method described below; it’s simple and cost effective!

Corrosion by itself will create voltage, and therefore must be overcome. Voltage can also be caused by poor grounds on electrical equipment. An example is the ground wire to the motor becoming corroded at the connection inside the block. The current must now find another path back to the alternator, like through the radiator!

The correction: Drain and back flush the system thoroughly. Add the proper amount of antifreeze and good water. Then add INTER-JECT ELECTROLYSIS ARRESTOR. Check the coolant level regularly and keep the system topped off.

Coolant, as it becomes old, loses its protective qualities and tends to become acidic. This allows the different metals in the engine to build up corrosion, which then becomes a haven for electric voltage.

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Comment: “Intake manifold gasket major leaking. The injector must be serviced, the coolant and the engine oil must be changed: all of these are related to the intake manifold gasket leak. The diagnosis and evaluation report by the dealer specifies that the leak can cause big internal engine damage! The dealer specified that if not repaired soon, the engine, the injectors, the emission system, the exhaust system will be damaged! The repair has been evaluated at $982.90 (Canadian) plus taxes. There is no confirmation from GM that the design problem has been eliminated and the gasket will last! During my visit to the dealer, another three customers were diagnosed with the same problem! I think only a legal action (that will cost GM more than the cost of the repair itself) can make GM move and initiate a recall! So, maybe a lawyer advice is required! I also think that all the people that signed this petition should be able to exchange information (forum/chat) and to be contacted in case of a legal action.” (Chevrolet Malibu 1998, 77,700 miles)

Comment: “How you can tell the Dexcool is shot...Get pH test strips. Health food stores carry them here. If Dexcool pH measures less than 7.0, it’s shot. New, 50/50 mix with distilled water, about 8.2 to 8.5.
You will be lucky if it lasts two years. What a yuk-yuk about GM’s statement mixing it with green changes life to 2 years later. “

Comment: “My heater stopped working so I took it into the shop to have it checked and they changed the thermostat. When I got it back it still wasn’t working right and the next morning the coolant reservoir was empty. There wasn’t any coolant leaking under the van and so I took it back to the mechanic. He told me that it was the manifold gasket and that the coolant was leaking into my engine. Now the engine is knocking very loud and I can’t afford to pay @ $1,000 to get it fixed and then turn around and have to do it again because it is a faulty design. I am afraid to drive it because I have heard that it can back fire and cause the van to catch on fire. Something needs to be done NOW!” (1998 Chevy Venture Van)

Comment: “Antifreeze News

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years. What they meant is the green boosts the life to 2 years.”

Comment: “BTW: Dex-Cool evaporates very, very quickly! You’re going to have to use coolant dye to find the leak or get a pressure test done on the system!”

Comment: “MY opinion is this: Dex-Cool Coolant is better than conventional antifreeze based upon these reasons:

1.) Slipperier than conventional antifreeze thus protects & lubricates water pump better.

2.) Protects aluminum engines & radiators better than conventional antifreeze.

3.) Longer life span than conventional antifreeze (5 years as compared to 2 years).

NOTE: all COOLANT does not wear out in the normal sense. Coolant does lose its protective properties over time just like engine oil. That’s why there is recharge kits available. Remember the coolant does not have to be changed just recharged unless contaminated. Yes I would use it in my Bonneville if it was available, but since I own a 92, I’m stuck with conventional antifreeze for now until I replace the engine!”

Please read my letter that follows.

There’s web version posted at [www.imcool.com/articles/antifreeze-coolant/DEX-COOL_Request_Proof_Of_Claims.htm](http://www.imcool.com/articles/antifreeze-coolant/DEX-COOL_Request_Proof_Of_Claims.htm). (It’s quicker to go to [www.imcool.com](http://www.imcool.com) and click on the link.)

Comments are welcome from service techs, shop owners, industry manufacturers and distributors, including engineers and marketing folks. Send us and email telling your fellow Cool Profit$ Magazine readers what you “know” of DEX-COOL, good or bad. I will distribute the most pertinent messages in the next issue. And if you disagree with what’s been written so far, please don’t be bashful in pointing out any errors.

Below is an open letter to attorney Ernest Cory regarding the Illinois Class Action Lawsuit

July 5, 2003

Mr. Ernest Cory
Cory, Watson, Crowder & DeGaris, P.C.
2131 Magnolia Ave, Birmingham, AL

Above: GM TSB from March, 2003 lists vehicles eligible for new intake manifold gaskets. (All came equipped with DEX.) Owners may report apparent oil or coolant leak, and that indications are “spots on the driveway to having to add fluids.” The listed Cause is that the manifold may be allowing oil, coolant or both to get into the engine. The Correction explains that the material used in the gasket has been changed the sealing ability.

Above: Petitiononline.com website dedicated to intake manifold gasket problems. Thousands of upset customers vent their wrath at DEX-COOL and failing intake manifold gasket.

Above: Petitiononline.com website dedicated to intake manifold gasket problems. Thousands of upset customers vent their wrath at DEX-COOL and failing intake manifold gasket.

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Re: Your Complaint against GM, Chevron-Texaco and Equilon-Shell at:

Mr. Cory,

While speaking to your receptionist on Thursday the 3rd, I may have understated my interest with your above Complaint. Since it greatly affects the operation and livelihood of thousands of my readers, I'm writing to request assistance and offer comments.

First, there is a mistake in your complaint on page 9, #33. The title of the presentation made by Jay Dankovich and Stede Granger at the MACS 2001 convention was not: "GM and Texaco "Bare All" about DEX-COOL™." I created that title for my review of their presentation, which I attended. The review was published in the Jan/Feb 2001 issue of Cool Profit$ Magazine. You can find the article on my www.imcool.com website at: http://www.imcool.com/articles/antifreeze-coolant/dexcool-macs2001.htm. I would appreciate your efforts to correct the record.

Being an independent reporter/writer/editor/publisher with 32 years involvement in radiators and engine cooling systems, I'm very interested in your condemnation of DEX-COOL. Specifically, your claims that it is a "defective" and "hazardous" antifreeze/coolant, that it "causes rust and corrosion to a much greater degree than traditional coolants," that the defendants knew that DEX-COOL lacked adequate corrosion inhibitors and that there was a "lack of adequate testing of DEX-COOL," necessitate my investigation.

The above are in the Complaint starting after subheads "Facts Common To All Counts, The Defective Nature of DEX-COOL," "Defendants' Knowledge Of And Inadequate Response To DEX-COOL's Defects" and "Class Action Allegations." Reference: page 6, #s14 & 15, page 7, #s21 & 25, page 8, #s29, 30 and 31, page 9, #32 and page 11, #44.

Plus, in Count 1 on page 13, #s48 (b) & (c), you make additional serious charges that DEX-COOL is not suitable as an engine coolant, that it will not last 5 years or 150,000 miles nor will it meet the quality standards as declared by the defendants. The charges are repeated in Counts II through IV.

Proof of DEX-COOL defects. I request proof of your claims for the items listed above—assuming you are prepared to prove them. To my knowledge, no recognized testing facility has ever declared DEX-COOL defective, hazardous, etc. If you are correct, the livelihoods of many of my readers are at risk as they sell and dispense the product. Hopefully, you can release some of that proof without jeopardizing your Complaint.

Urgent interest. As a reporter, my job is to provide unbiased information to thousands of engine cooling service specialists worldwide. I have been informing them of antifreeze/coolant technology advances for several years. In fact, I will soon publish an article suggesting that service shops, as part of their regular inventory, stock a carboxylate antifreeze like DEX-COOL. Your Complaint casts an ominous shadow over that report, and adds to the urgency of my request.

Viable product. Personally, I believe you're wrong about DEX-COOL being defective and lacking quality. Millions of vehicles use it and appear to have no coolant or cooling system problems.
If you are correct. But, if you prove DEX-COOL to truly be defective, etc., I will be the first to so inform my readers, and to credit your actions appropriately. Besides helping vehicle owners enjoy more trouble free driving, you will have bettered the understanding and subsequent service given by professional auto shops.

Other causes. Some of your charges, like "damaged and leaky cooling system gaskets," "damage to the head gaskets" and "oil in the engine coolant system," may have no connection to the quality of DEX-COOL. Most professionals I know attribute coolant and oil leaks in late model GM gaskets to a particular type of gasket and/or warpage of engine manifolds, heads or blocks.

Entrained air? A failed pressure cap could allow air to enter and remain in a cooling system. Maybe DEX-COOL's inhibition chemistry is unable to cope with large amounts of entrained air, resulting in severe component corrosion, contamination and eventual fouling of the entire system. In any case, I hope we will all know the truth by the time your litigation ends. But preferably, sooner.

Your comments are welcome and appreciated.

John Hess/Publisher, Cool Profit$ Magazine

Look for an update in Issue #53. But again, for more timely updates, sign up for the Heat Transfer Service Newsletter at www.imcool.com/.

All those (including manufacturers) wishing to comment on coolant or gasket failures, or any type of Pattern Failure, please contact us. Email: imcool@imcool.com. Voice/Fax: 800-883-8929, or, 707-769-8929.

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