

Concurring Statement of Commissioner Christine S. Wilson
Notice of Proposed Exemption to the Fuel Rating Rule

June 14, 2022

The Commission has approved a Federal Register Notice (“Notice”) seeking comment on a proposed exemption to the Fuel Rating Rule.¹ The Commission promulgated this Rule pursuant to the Petroleum Marketing Practices Act (“PMPA”), which requires the Commission to establish “a uniform method of displaying the automotive fuel rating of automotive fuel at the point of sale to ultimate purchasers.”² The Commission’s Rule details the label color scheme, shape, size, textual content, and font type/point size.³ Gilbarco, Inc., a manufacturer of fuel dispensers, requests a partial exemption to the Rule to permit retailers to post narrower label dimensions for button labels, as well as to allow the use of smaller font size for certain text to accommodate the narrower labels.

The Notice indicates that the Commission has granted at least seven other exemptions to the Rule since 1979.⁴ I support the Commission’s flexibility in granting exemptions that allow manufacturers to adapt the labels and, in several instances, to provide additional information to consumers. I question whether the highly prescriptive requirements in this Rule are needed to satisfy the PMPA’s mandate to establish a uniform method of displaying fuel ratings. I believe that relaxation of the prescriptive requirements in the Commission’s Rule could obviate the need for repeated exemption petitions. Moreover, companies may have additional ideas about how to make labels more user-friendly but forego acting on those initiatives due to the time and expense required to seek government approval.

For these reasons, I encourage the Commission to consider ways to streamline the Rule’s prescriptive requirements, facilitating the conveyance of information to consumers uniformly while giving greater flexibility to manufacturers.⁵

¹ 16 CFR Part 306.

² 15 U.S.C 2823(c)(1)(B).

³ See 16 CFR Section 306.12. As explained in the Notice, for example, the octane label must display the fuel’s octane number in 96-point font. In addition, ethanol labels must state “Use Only In Flex-Fuel Vehicles/May Harm Other Engines” in capital letters and black font, with the phrase “Flex-Fuel Vehicles” in 16-point font.

⁴ See Notice at n.5. Notably the companies seeking these exemptions have been large companies, including Exxon and Sunoco. The Notice states that Gilbarco is one of the largest manufactures of fuel dispensers in the U.S.

⁵ I have repeatedly suggested a similar review of the Energy Labeling Rule’s even more highly prescriptive requirements. See Dissenting Statement of Commissioner Christine S. Wilson, Notice of Proposed Rulemaking to Energy Labeling Rule (May 11, 2022),

https://www.ftc.gov/system/files/ftc_gov/pdf/Commission%20Wilson%20Dissenting%20Statement%20Energy%20Labeling%20Rule%205.11.22%20FINAL.pdf.