

public docket for this ICR. The docket can be viewed online at <https://www.regulations.gov>, or in person, at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit: <http://www.epa.gov/dockets>.

**Abstract:** The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Paints and Allied Products Manufacturing Area Source Category (40 CFR part 63, subpart CCCCCC) were proposed on June 1, 2009, and promulgated on December 3, 2009. These regulations apply to both existing facilities and new facilities that are an area source of hazardous air pollutants (HAP) emissions and that either use or have the potential to emit urban air toxics (*i.e.*, benzene; methylene chloride; cadmium, chromium, lead, and nickel compounds). New facilities include those that commenced either construction or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 63, subpart CCCCCC.

**Form Numbers:** None.

**Respondents/affected entities:** Paint and allied products manufacturing facilities.

**Respondent's obligation to respond:** Mandatory (40 CFR part 63, subpart CCCCCC).

**Estimated number of respondents:** 219 (total).

**Frequency of response:** Annually.

**Total estimated burden:** 504 hours (per year). Burden is defined at 5 CFR 1320.3(b).

**Total estimated cost:** \$134,000 (per year), which includes no annualized capital/startup and/or operation & maintenance costs.

**Changes in the Estimates:** There is no change in burden from the most-recently approved ICR as currently identified in the OMB Inventory of Approved Burdens.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2022-23347 Filed 10-25-22; 8:45 am]

**BILLING CODE 6560-50-P**

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## FEDERAL MEDIATION AND CONCILIATION SERVICE

### Succession Plan for the FMCS

**AGENCY:** Federal Mediation and Conciliation Service (FMCS).

**ACTION:** Notice of Succession Plan for the FMCS.

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**SUMMARY:** The Federal Mediation and Conciliation Service (FMCS), is issuing this notice to inform the public of the succession plan for the Federal Mediation and Conciliation Service (FMCS) provided by the Director of FMCS. This notice supersedes all prior succession plans issued by the agency for officials performing the functions and duties of the Director of FMCS.

**DATES:** This Succession Plan for the FMCS is effective October 26, 2022.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to this Notice, please contact Gregory Goldstein, 202-606-8111, [ggoldstein@fmcs.gov](mailto:ggoldstein@fmcs.gov).

**SUPPLEMENTARY INFORMATION:** By the authority vested in the Director of the Federal Mediation and Conciliation Service (FMCS) by 29 U.S.C. 172, and to provide for the continuity of essential operations of the FMCS in all circumstances, this Notice provides the succession plan of officials authorized to perform the functions and duties of the Director of the Federal Mediation and Conciliation Service. The following is the succession plan of officials hereby ordered:

#### Order of Succession

During any period in which the Director has died, resigned, or otherwise become unable to perform the functions and duties of the Office of the Director, and there is no Acting Director serving under the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345-3349d, the following officers of the FMCS, in the order listed, are hereby delegated the authority to perform the functions and duties of the Director, to the extent permitted by law:

1. Principal Deputy, Chief Operating Officer;
2. Deputy Director, Field Operations; and
3. Deputy Director for Policy and Strategy.

No individual who is serving in an office listed in this order in an acting capacity, by virtue of so serving, shall be delegated the functions and duties of the Director.

Dated: October 20, 2022.

**Gregory Goldstein,**  
*FMCS Acting Director.*

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**BILLING CODE 6732-01-P**

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## FEDERAL TRADE COMMISSION

[File No. R811005]

### Partial Rule Exemption for Gilbarco, Inc.

**AGENCY:** Federal Trade Commission.

**ACTION:** Grant of partial exemption from the Fuel Rating Rule.

**SUMMARY:** The Federal Trade Commission ("FTC" or "Commission") grants a partial exemption to Gilbarco, Inc. ("Gilbarco") from requirements of the Fuel Rating Rule related to label size, shape, font size, and letterspace specifications.

**DATES:** This partial exemption is effective October 26, 2022.

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome (202-326-2889), Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** The Commission grants a partial exemption for Gilbarco to reduce the footprint and type size of fuel labels required under 16 CFR part 306.<sup>1</sup>

#### I. Background

The Commission promulgated the Fuel Rating Rule (the "Rule") (16 CFR part 306) in accordance with the Petroleum Marketing Practices Act ("PMPA"), 15 U.S.C. 2821 *et seq.*, which requires the Commission to establish uniform automotive fuel rating and labeling standards.<sup>2</sup> The ratings and labels provide consumers information they need to choose the correct type or grade of fuel for their vehicles. As originally published in 1979, the Rule only required an octane rating for automotive gasoline.<sup>3</sup> Subsequently, the Commission added labeling requirements for liquid alternative fuels, biodiesel, and ethanol flex fuel.<sup>4</sup> Section 306.12 of the Rule details the label color scheme, shape, size, textual content, and font type/point size. 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.

In the past, the Commission granted partial exemptions to allow Gilbarco to (1) post octane button labels with smaller label dimensions than allowed by the Rule (these changes did not alter font size), and (2) add the word "Press" on the label. In addition, the Commission allowed Gilbarco to make

<sup>1</sup> The petition is available online at <https://www.regulations.gov/document/FTC-2022-0041-0002>.

<sup>2</sup> See 15 U.S.C. 2823(c)(1).

<sup>3</sup> See Octane Posting and Certification Rule, 44 FR 19160 (1979).

<sup>4</sup> See 58 FR 41356 (Aug. 3, 1993) (alternative fuels); 73 FR 40154 (July 11, 2008) (biodiesel); and 81 FR 2054 (Jan. 14, 2016) (ethanol flex fuel).

the font size “slightly smaller” for the prominent octane (96-point font) number on the octane label.<sup>5</sup>

## II. Gilbarco’s Requested Partial Exemption and Requests for Comments

In its new petition, Gilbarco requested a partial exemption 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 such narrower labels. These changes would allow Gilbarco to fit more fuel labels on a single dispenser. Gilbarco explained the exemption is needed “so that retailers may adapt to the needs of consumers while continuing to ensure the clear and conspicuous disclosure of all information required by the Rule.” Given increases in fuel choices at retail pumps, Gilbarco proposed new button label specifications that would allow its dispensers to accommodate one additional fuel grade button, for a total of six buttons for selecting fuel on dispensers.

Specifically, Gilbarco requested the following changes to the fuel rating labels:

1. Permission to post fuel rating labels that deviate from the Rule’s requirements concerning the external dimensions of labels for gasoline, alternative liquid automotive fuels, ethanol flex fuels, biodiesel, biodiesel blends, and biomass-based diesel to allow for labels that are 2.20 inches wide (and the same length as previously permitted by the Commission in previous exemption requests).<sup>6</sup>

2. Permission for fuel retailers to post fuel rating labels that deviate from font size and letterspace specifications contained in the Rule in the following manner:

- a. 22-point font size for “XX% ETHANOL” instead of 24-point font as currently required on the ethanol label;

- b. 10-point font size and 10.5-point letterspace for “MINIMUM OCTANE RATING” instead of 12-point font and 12.5 point spacing as currently required on the octane label; and

- c. 14-point font size for “FLEX-FUEL VEHICLES” instead of 16-point currently required on the ethanol label.

As part of the request, Gilbarco proposed that the overall length of the labels remain as previously approved by

the Commission, and their background and text insertions otherwise comply with the Rule’s color scheme, content, and font type and point size requirements.

## III. Request for Comments

In a June 29, 2022, publication, the Commission proposed granting the requested exemption and sought comments on Gilbarco’s proposal.<sup>7</sup> In response, the Commission received three brief comments, none of which addressed the proposal’s merits.<sup>8</sup>

## IV. Discussion

The Commission concludes that Gilbarco’s proposed label modifications provide clear and conspicuous notice of the required information and are consistent with the objectives of the Rule’s color scheme, content, and font requirements. Additionally, the Commission’s experience with similar exemptions suggests the slight reductions in font size to several label disclosures are unlikely to materially affect consumers’ understanding of the labels at the pump. Accordingly, the Commission grants the requested partial exemption.

## V. Paperwork Reduction Act

The Fuel Rating Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute information collection requirements as defined by 5 CFR 1320.3(c), the definitional provision within the Office of Management and Budget (OMB) regulations that implement the Paperwork Reduction Act (PRA). OMB has approved the Rule’s existing information collection requirements through September 30, 2023 (OMB Control No. 3084–0068). The partial exemption does not amend the Rule or change the substance or frequency of the Rule’s disclosure requirements and, therefore, does not require OMB clearance.

## VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601–612, requires that the Commission conduct an analysis of the anticipated economic impact of the partial exemption on small entities. The RFA requires that the Commission provide an Initial Regulatory Flexibility Analysis (“IRFA”) with a rule unless the Commission certifies that the rule will not have a significant economic impact

on a substantial number of small entities. 5 U.S.C. 605. The exemption does not amend the Rule or alter the substance or frequency of the Rule’s disclosure requirements. Thus, the Commission has concluded that a regulatory flexibility analysis is not necessary and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the exemption will not have a significant economic impact on a substantial number of small entities.

*Authority:* 16 CFR 1.31(g); 16 CFR 306.12(a).

By direction of the Commission.

**April J. Tabor,**  
*Secretary.*

**Note:** The following statement will not be included in the Code of Federal Regulations:

## Concurring Statement of Commissioner Christine S. Wilson

The Commission has approved an exemption to the Fuel Rating Rule.<sup>1</sup> As I explained in my statement when the Commission sought comment on this proposed exemption,<sup>2</sup> 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.”<sup>3</sup> The Commission’s Rule details the label color scheme, shape, size, textual content, and font type/point size.<sup>4</sup> Gilbarco, Inc., a manufacturer of fuel dispensers, requested 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 partial exemption document indicates that the Commission has granted at least seven other exemptions to the Rule since 1979.<sup>5</sup> I support the

<sup>1</sup> 16 CFR part 306.

<sup>2</sup> Christine S. Wilson, Concurring Statement of Commissioner Christine S. Wilson, Notice of Proposed Exemption to the Fuel Rating Rule (June 14, 2022), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/R811005FuelRatingWilsonConcurringStatement.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/R811005FuelRatingWilsonConcurringStatement.pdf).

<sup>3</sup> 15 U.S.C. 2823(c)(1)(B).

<sup>4</sup> See 16 CFR 306.12. As explained in the partial exemption document, 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.

<sup>5</sup> See partial exemption document above at n.5. Notably the companies seeking these exemptions have been large companies, including Exxon and Sunoco. The document states that Gilbarco is one of the largest manufacturers of fuel dispensers in the U.S.

<sup>5</sup> See Gilbarco exemptions at 60 FR 57584 (Nov. 16, 1995); 53 FR 29277 (Aug. 3, 1988); 81 FR 86914 (Dec. 2, 2016); see also similar exemptions granted to other companies including Sunoco, 44 FR 33740 (June 12, 1979) and 55 FR 1871 (Jan. 19, 1990); Dresser Industries, Inc., 56 FR 26821 (June 11, 1991); Exxon Corp., 54 FR 14072 (Apr. 7, 1989).

<sup>6</sup> The Rule (16 CFR 306.12) requires labels that are 3 inches wide by 2.5 inches long.

<sup>7</sup> 87 FR 38692.

<sup>8</sup> The comments are available at <https://www.regulations.gov/docket/FTC-2022-0041/comments>. The comments either did not address the proposal or addressed issues that fell outside the purview of the Rule.

Commission's flexibility in granting exemptions that allow manufacturers to adapt the labels and, in several instances, to provide additional information to consumers. I also support the granting of this exemption. I continue to question, however, 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. As I noted in my prior Concurring Statement, relaxation of the prescriptive requirements in the Commission's Rule potentially could obviate the need for repeated exemption petitions, which call to mind the familiar children's game of "Mother May I." Much has been said about permissionless innovation in the context of high-tech companies,<sup>6</sup> but its benefits apply in this context, as well. For example, companies may have additional ideas about how to make labels more user-friendly but may choose to forgo acting on those initiatives due to the time and expense required to seek government approval, chilling beneficial innovation.

I again 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.<sup>7</sup>

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## FEDERAL TRADE COMMISSION

[File No. 211 0083]

### Tractor Supply Company and Orscheln Farm and Home LLC; Analysis of Agreement Containing Consent Orders To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement; request for comment.

**SUMMARY:** The consent agreement in this matter settles alleged violations of

<sup>6</sup> See e.g., Adam D. Thierer, "Embracing a Culture of Permissionless Innovation" CATO Institute (Nov. 17, 2012) (explaining that "permissionless innovation refers to the notion that experimentation with new technologies and business models should generally be permitted by default" and that "[p]ermissionless innovation is not an absolutist position that rejects any role for government. Rather, it is an aspirational goal that stresses the benefit of 'innovation allowed' as the default position to begin policy debates.").

<sup>7</sup> 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](https://www.ftc.gov/system/files/ftc_gov/pdf/Commission%20Wilson%20Dissenting%20Statement%20Energy%20Labeling%20Rule%205.11.22%20FINAL.pdf).

federal law prohibiting unfair methods of competition. The attached Analysis of Proposed Consent Orders to Aid Public Comment describes both the allegations in the complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before November 25, 2022.

**ADDRESSES:** Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write: "Tractor Supply Company and Orscheln Farm and Home LLC; File No. 211 0083" on your comment and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex D), Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Laura Krachman (202-326-2895), Bureau of Competition, Federal Trade Commission, 400 7th Street SW, Washington, DC 20024.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule § 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of 30 days. The following Analysis of Agreement Containing Consent Orders to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC website at this web address: <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before November 25, 2022. Write "Tractor Supply Company and Orscheln Farm and Home LLC; File No. 211 0083" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the <https://www.regulations.gov> website.

Due to protective actions in response to the COVID-19 pandemic and the agency's heightened security screening,

postal mail addressed to the Commission will be delayed. We strongly encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you prefer to file your comment on paper, write "Tractor Supply Company and Orscheln Farm and Home LLC; File No. 211 0083" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex D), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential"—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule § 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule § 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on <https://www.regulations.gov>—as legally required by FTC Rule § 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the