

• April 21, 2010, at 1:30 p.m., at the Crowne Plaza Chicago O'Hare Hotel and Conference Center, 5440 North River Road, Rosemont, IL, 60018

To participate in one of the April 21, 2010 stakeholder meetings, or be a nonparticipating observer, you may submit notice of intent electronically, by facsimile, or by hard copy. OSHA intends to give preference to organizations that have not participated in previous stakeholder meetings, in order to encourage as wide a range of viewpoints as possible. OSHA will confirm participants as necessary to ensure a fair representation of interests and to facilitate gathering diverse viewpoints. To receive a confirmation of your participation 1 week before the meeting, register by the date listed in the **DATES** section of this notice.

However, registration will remain open until the meetings are full. Additional nonparticipating observers that do not register for the meeting will be accommodated as space permits. See the **ADDRESSES** section of this notice for the registration Web site, facsimile number, and address. To register electronically, follow the instructions provided on the Web site. To register by mail or facsimile, please indicate the following:

- Name, address, phone, fax, and e-mail.
- First and second preferences of meeting time.
- Organization for which you work.
- Organization you represent (if different).
- Stakeholder category: Government, industry, standards-developing organization, research or testing agency, union, trade association, insurance, fire protection equipment manufacturer, consultant, or other (if other, please specify).
- Industry sector (if applicable): metals, wood products, grain or wet corn milling, food (including sugar), pharmaceutical or chemical manufacturing, paper products, rubber or plastics, coal, or other (if other, please specify).

Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available on the OSHA Web page at: <http://www.osha.gov>.

#### Authority and Signature

This document was prepared under the direction of David Michaels, PhD MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), 29 CFR part 1911, and Secretary's Order 5-2007 (72 FR 31160).

Signed at Washington, DC, on March 2, 2010.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2010-4916 Filed 3-8-10; 8:45 am]

**BILLING CODE 4510-26-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 575

[Docket No. NHTSA-2010-0025]

RIN 2127-AK51

#### New Car Assessment Program (NCAP); Safety Labeling

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** Since September 2007, new passenger vehicles have been required to be labeled with safety rating information published by the National Highway Traffic Safety Administration (NHTSA) under its New Car Assessment Program (NCAP). This information is required to be part of the Monroney (automobile price sticker) label. In July 2008, NHTSA announced a decision to enhance the NCAP ratings program. In this document, the agency is proposing to upgrade its regulation on vehicle labeling of safety rating information to reflect the enhanced NCAP ratings program. NHTSA is proposing, among other things, to include a new overall vehicle score on the Monroney label.

**DATES:** Comments should be submitted early enough to ensure that they are received no later than April 8, 2010.

**ADDRESSES:** Comments should refer to the docket number above and be submitted by one of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Please note, if you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using an Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.

- *Fax:* 1-202-493-2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building

Ground Floor, Room W12-140, Washington, DC 20590-0001.

• *Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

*Instructions:* All submissions must include the agency name and docket number. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of NHTSA's dockets by the name of the individual submitting the comments (or signing the comments, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may contact Ms. Jennifer N. Dang, Office of Crashworthiness Standards (Telephone: 202-493-0598). For legal issues, you may contact Ms. Dorothy Nakama, Office of the Chief Counsel (Telephone: 202-366-2992). You may send mail to both of these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590-0001.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background on the Monroney Label**

Most new vehicle buyers are probably familiar with the label affixed to the side window showing the price of the vehicle and the options installed on that vehicle. This label is required by Federal law. The Automobile Information Disclosure Act (15 U.S.C. 1231-1233) was enacted into law in 1958, and is also called the "Monroney Act," after its sponsor, Senator Monroney of Oklahoma. The Monroney Act requires all new light vehicles to have a window sticker affixed that shows, among other things:

- Vehicle make.
- Vehicle model.
- Vehicle identification number.
- The final assembly point.
- The name and location of the dealer to whom the vehicle is to be delivered.
- The manufacturer's suggested retail price (MSRP) of the base vehicle.

- The MSRP of the optional equipment installed on the particular vehicle.

- The transportation charges for delivery of the vehicle from the manufacturer to the dealer, and

- The total MSRP of all of the above.

Beginning with the 1959 model year, this information was provided on the window label. Beginning in 1962, some manufacturers began providing information not just on the options installed on the vehicle, but on standard items as well.

The information required to be labeled on the window by the Monroney Act remained unchanged from its passage in 1958 until 2005. In 2005, Congress enacted SAFETEA-LU (Pub. L. 109-59), which expanded the window label requirement to include the safety ratings assigned by NHTSA under its New Car Assessment Program (NCAP), or a statement that the vehicle was not assigned safety ratings under NCAP. The 2005 law also added size and visibility requirements for the safety

ratings information (15 U.S.C. 1232(g) and (h)).

In addition to the MSRP and safety ratings information, Congress has also permitted the information from two other Federal programs to appear on the Monroney label on the window of new vehicles. 49 U.S.C. 32908(b) requires that the Environmental Protection Agency (EPA) issue regulations requiring vehicle manufacturers to attach a label in a prominent place of the vehicle that provides information on:

- The vehicle's fuel economy.
- The estimated annual fuel cost of operating the vehicle.
- The range of fuel economy of comparable vehicles by all manufacturers, and
- A statement that a booklet is available from the dealer to compare the fuel economy of other vehicles manufactured by all manufacturers for the model year.

49 U.S.C. 32908(b)(2) expressly provides that the EPA "may allow a manufacturer to comply with this

subsection by disclosing the information on the label required under \* \* \* the Automobile Information Disclosure Act (15 U.S.C. 1232)."

In addition to the fuel economy information, Congress has expressly permitted one other type of required Federal information to appear on the Monroney label. 49 U.S.C. 32304 requires that passenger motor vehicle country of origin labeling be provided on new vehicles, and 49 U.S.C. 32304(g) provides that NHTSA "shall permit a manufacturer to comply with this section by allowing the manufacturer to disclose the information \* \* \* on the label required under \* \* \* the Automobile Information Disclosure Act (15 U.S.C. 1232)."

We are not aware of instances other than the fuel economy labeling and domestic content labeling where Congress has granted a Federal agency permission to specify that other information be provided on the Monroney label. Below is an example of a Monroney label as it appears in a new vehicle window.

**VEHICLE DESCRIPTION**

# ESCAPE

2009 XLT 4WD  
103" WHEELBASE  
3.0L IVCY DURATEC V6 ENGINE  
6-SPEED AUTO 6F MED RANGE

**EXTERIOR**  
SPORT BLUE CLEARCOAT

**INTERIOR**  
CHARCOAL PREM CLOTH BKT

www.fordvehicles.com

**STANDARD EQUIPMENT INCLUDED AT NO EXTRA CHARGE**

**EXTERIOR**

- 16" ALUMINUM WHEELS
- P235/70R16 OWL A/S TIRES
- SECURITYCODE KEYLESS ENTRY
- FRONT FOG LAMPS
- PRIVACY GLASS
- LIFTGATE W/FLIP-UP GLASS
- ROOF RAILS
- EASYFUEL CAPLESS FILLER

**INTERIOR**

- POWER 6-WAY DRIVERS SEAT
- PREM CLTH BUCKET FRONT STS
- PREM CLTH 60/40 REAR SEATS
- AIR CONDITIONING
- CRUISE CONTROL/TELE WHEEL
- AM/FM CD/MP3/SAT CAPABLE W/ AUDIO INPUT JACK
- MAP POCKETS- DRIVER & PASS
- TIP FOLD FLAT REAR SEATS
- 12V POWER OUTLETS (2)

**FUNCTIONAL**

- INTELLIGENT 4WD SYSTEM
- 18.5 GALLON FUEL TANK
- 4-WHL INDEPENDENT SUSP
- ELECTRONIC PWR ASST STEER
- AUTOMATIC HEADLAMPS
- PWR WIN, LDC, MIRRORS, RKE

**SAFETY/SECURITY**

- DRIVER/PASSENGER AIR BAGS
- SIDE AIRBAGS
- SAFETY CANOPY
- ADVANCETRAC W/RSC
- 4 WHEEL ANTI-LOCK BRAKES
- TIRE PRESSURE MONITOR SYS
- SECURITYLOCK PASS ANTI THEFT
- LATCH CHILD SAFETY SYSTEM

**WARRANTY**

- 3YR/36,000 BUMPER / BUMPER
- 5YR/60,000 POWERTRAIN
- 1YR/60,000 ROADSIDE ASSIST

**EPA Fuel Economy Estimates**

These estimates reflect new EPA methods beginning with 2008 models.

CITY MPG

# 17

Expected range for most drivers  
14 to 29 MPG

Estimated Annual Fuel Cost  
**\$1,425**  
based on 15,000 miles at \$1.90 per gallon

Combined Fuel Economy  
This Vehicle  
**20**  
12 to 32

HIGHWAY MPG

# 24

Expected range for most drivers  
19 to 29 MPG

Your actual mileage will vary depending on how you drive and maintain your vehicle.

**PRICE INFORMATION**

STANDARD VEHICLE PRICE **\$26,215.00**

**INCLUDED ON THIS VEHICLE**

- ORDER CODE 400A
- CONVENIENCE PACKAGE
- AUTOMATIC HEADLAMPS
- PRIVACY GLASS
- SAT RADIO/6 WOS SVC(NA AX/HI)

**OPTIONAL EQUIPMENT**

ESCAPE REGIONAL V6 DISC	NO CHARGE
FRONT LICENSE PLATE BRACKET	NO CHARGE
CARGO PACKAGE	295.00
• LOCKABLE HIDDEN WET TRUNK	
• ROOF RACK WITH CROSSBARS	
• RETRACTABLE CARGO COVER	
50 STATE EMISSIONS	NO CHARGE
TRAILER TOWING, CLASS II	345.00
TOTAL OPTIONS	640.00

TOTAL VEHICLE & OPTIONS **26,855.00**

DESTINATION & DELIVERY **725.00**

TOTAL BEFORE DISCOUNTS **27,580.00**

**ESCAPE REGIONAL V6 DISC - 500.00**

**TOTAL SAVINGS - 500.00**

\*RESIDENCY RESTRICTIONS APPLY TO DISCOUNTS/SAVINGS - BASED ON CUSTOMER ZIP CODE. SEE DEALER FOR DETAILS.\*

**TOTAL MSRP \$27,080.00**

**GOVERNMENT SAFETY RATINGS**

Frontal Crash	Driver	★★★★★
	Passenger	★★★★★

Star ratings based on the risk of injury in a frontal impact. Frontal ratings should ONLY be compared to other vehicles of similar size and weight.

Side Crash	Front seat	★★★★★
	Rear seat	★★★★★

Star ratings based on the risk of injury in a side impact.

Rollover	★★★★
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Star ratings based on the risk of rollover in a single vehicle crash.

Star ratings range from 1 to 5 stars (★★★★★), with 5 being the highest. Source: National Highway Traffic Safety Administration (NHTSA).

[www.safercar.gov](http://www.safercar.gov) or call 1-888-327-4236

See the FREE Fuel Economy Guide at dealers or [www.fueleconomy.gov](http://www.fueleconomy.gov)

SALE TO	ONE	DEALER NO	METHOD OF TRANS
	CJ79		CONVOY
SHIP TO (if other than SALES TO)	THRU		41-0111 OCT 2
SHIP THROUGH	FINAL ASSEMBLY POINT	<small>We intend to comply with the Federal Acquisition Information Disclosure Act. Questions, comments, and other information should be directed to the appropriate office. Other information, comments, or questions are not covered under this act.</small>	
	KANSAS CITY		

EXCLUDED SERVICE PLAN: Ford Extended Service Plan is the only service contract backed by Ford and licensed at all Ford and Lincoln Mercury Dealers. Ask your dealer for prices and additional details or see our website at [www.ford.com](http://www.ford.com).

**II. Overview of This Proposal**

Section 10307 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law 109-59 (August 10, 2005; 119 Stat. 1144), requires new passenger vehicles to be labeled with safety ratings from the National Highway Traffic Safety Administration's (NHTSA) New Car Assessment Program (NCAP).

Pursuant to SAFETEA-LU, the agency published in the **Federal Register** (71 FR 53572) on September 12, 2006 a final rule<sup>1</sup> requiring manufacturers by September 1, 2007, to incorporate a

distinct safety rating label into the Monroney (automobile price sticker) label required by the Automobile Information Disclosure Act (AIDA), 15 U.S.C. 1231-1233. The September 12, 2006 final rule required that the safety rating label:

- Have the title "Government Safety Ratings" along its top,
- Be either 4½ inches wide by 3½ inches high or 8 percent of the area of the Monroney label, whichever is larger, and
- Include frontal crash (driver and passenger), side crash (front seat and rear seat) and rollover safety ratings that have been generated under NCAP or display the term "Not Rated" or "To Be Rated" in any areas of the safety rating label where ratings have not been

developed. (Vehicles for which no safety ratings at all have been developed may use a smaller safety rating label [4½ inches wide by 1½ inches high] indicating that the vehicle has not been rated by the government.)

The rule also required explanatory language for each of the areas of safety ratings and, near the bottom of the label, language briefly explaining the use of stars to communicate safety ratings (ratings are from 1 to 5 stars with 5 stars being the highest rating). Finally, the safety rating label must have "<http://www.safercar.gov> or 1-888-327-4236" along the bottom of the label to alert consumers as to where they may obtain further information.

On July 11, 2008, the agency published a final decision notice

<sup>1</sup> 49 CFR part 575, Docket No. NHTSA-2006-25772, RIN 2127-A576, "New Car Assessment Program; Safety Labeling", Final Rule.

announcing enhancements to the NCAP programs. These enhancements include:

- For the frontal crash program—modifying the frontal NCAP rating system to reflect updated test dummies, expanded injury criteria, and the inclusion of all body regions that are covered by Federal Motor Vehicle Safety Standard (FMVSS) No. 208;

- For the side crash program—modifying the side NCAP rating system to reflect new side impact test dummies, new injury criteria, the inclusion of nearly all of the body regions that are covered by FMVSS No. 214, as well as a new pole test using a small female crash test dummy;

- A new overall vehicle score that will be based on frontal crash, side crash, and rollover resistance test results; and

- A new program that will provide consumers with information concerning the availability of advanced crash avoidance technologies.

The final decision notice did not announce any changes to NCAP rollover resistance testing.

Beginning with model year 2011,<sup>2</sup> safety ratings for new passenger vehicles that must be in the safety rating label will be based on the updated approaches to frontal and side crash testing and ratings criteria.

Section 10307 of SAFETEA-LU specifies a number of detailed requirements for the safety rating label, including content, size, location, and applicability. The agency's September 2006 final rule was consistent with those requirements, and included a number of detailed requirements including ones related to format.

In today's document, we are proposing to revise our regulation on vehicle labeling of safety rating information to reflect the enhancements to the NCAP programs listed above. Under this proposal:

(1) Beginning with model year 2011, safety rating labels on new passenger vehicles that are manufactured on or after September 1, 2010, would be required to include, as the first item of safety information in the safety rating label, an overall vehicle score based on a vehicle's frontal crash, side crash, and rollover resistance ratings. The agency would allow early compliance for model year 2011 vehicles that are

manufactured before September 1, 2010.<sup>3</sup>

(2) Language describing the nature and meaning of the NCAP test data used to generate vehicle safety ratings and a reference to <http://www.safercar.gov> for additional vehicle safety information in the safety rating label would be revised slightly and, in some cases, relocated in the safety rating label; and

(3) Safety concerns identified as a result of NCAP testing would need to be displayed in the overall vehicle score area of the safety rating label in addition to the appropriate area of the safety rating label to which the safety concern applies (frontal, side, or rollover).

### III. Application

#### *Vehicle Weight*

In 2005, Congress modified the Automobile Information Disclosure Act (AIDA), 15 U.S.C. 1231–1233, which requires a Monroney label on all passenger vehicles, to require that passenger vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or less, manufactured on or after September 1, 2007, include on their Monroney labels safety information developed as part of NHTSA's New Car Assessment Program (NCAP). As a result, all changes to the safety rating label proposed in this notice would apply to safety rating labels in the Monroney labels of passenger vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or less. Vehicles that have a Monroney label and that have been rated in at least one area under NCAP would need to display those ratings as described in this notice. Vehicles that display a Monroney label and that have not been rated under NCAP would be required to include in their Monroney label the smaller vehicle safety rating label, which indicates that the vehicle has not been rated.

### IV. Proposed New Requirements for the Safety Rating Label

#### *A. Content and Graphic Details*

The agency is proposing to modify the safety rating label to add a new area of the label for the overall vehicle score. This area would be located immediately below the heading area and would be the first item of safety information. Persons who are interested in the details concerning the new overall vehicle score are encouraged to read the July 2008 final decision notice announcing enhancements to the NCAP programs.

<sup>3</sup> In other words, manufacturers would have the option to place the proposed safety rating labels on model year 2011 vehicles that are manufactured before September 1, 2010.

The format of the remainder of the safety rating label would be very similar to the current safety rating label, except that language explaining the five star rating system and other language indicating that NHTSA is the source of the safety information contained in the safety rating label would now be incorporated into the footer area of the label, rather than be displayed in its own area of the label, currently referred to as the general information area. Some minor modifications in other language would also occur.

The result would be that the modified safety rating label would consist of six sections, the same number of sections in the current safety rating label. The modified safety rating label would be subdivided into—the heading area, a new overall vehicle score area, the frontal crash area, the side crash area, the rollover area, and the footer area. The position of these areas, running from the top to the bottom of the label, would be as follows: heading area at the top, followed by the overall vehicle score area, the frontal area, the side area, the rollover area, and the footer area.

As is currently the case, the areas of the label whose background is light in color—overall vehicle score, frontal, side, and rollover—would continue to be required to be separated from each other by a dark line that is a minimum of 3 points in width. Also as is currently required, the entire safety rating label would be required to be surrounded by a solid dark line that is a minimum of 3 points in width. The format of each area of the safety rating label is described below.

#### *Heading Area*

The agency is proposing to change the language in the heading area to read “Government 5-Star Safety Ratings” rather than the existing heading “Government Safety Ratings”, as a result of consumer research conducted by NHTSA.<sup>4</sup> When asked which heading is most appropriate for the Federal Government motor vehicle safety rating system (which is based on a 5-Star rating system), approximately two-thirds of the interviewees preferred “Government 5-Star Safety Ratings”. Approximately two-thirds of the participants in the survey were aware that the Government posts safety ratings on a new vehicle's window sticker (the Monroney label), and the majority preferred the “Government 5-Star Safety Ratings” heading. Since it is critical that the heading area be easily recognizable

<sup>2</sup> On December 24, 2008, the agency published a notice announcing a postponement (for one model year) in the implementation of the new enhancements to the NCAP crash testing and safety rating program in Docket No. NHTSA–2006–26555. The agency will begin applying the enhanced NCAP testing and safety rating criteria to model year 2011 vehicles.

<sup>4</sup> The full study report is available at <http://www.regulations.gov> in Docket No. NHTSA–2006–25772.

to help consumers identify the NHTSA safety information on the Monroney label, the agency is proposing to require the words "Government 5-Star Safety Ratings" in centered boldface, light capital letters against a dark background.

#### Overall Vehicle Score Area

In NHTSA's July 11, 2008 final decision notice (which discusses how the agency plans to enhance its existing NCAP programs), the overall vehicle score is referred to as the Vehicle Safety Score. NHTSA's research found that most participants preferred the term "Overall Vehicle Score" as compared to "Vehicle Safety Score" to convey the overall safety rating of a vehicle.<sup>5</sup> Therefore, the agency is proposing that "Overall Vehicle Score" be used to describe the section of the safety rating label in which stars reflecting the overall vehicle score will be displayed.

NHTSA is also proposing to require the statement "Based on the combined ratings of frontal, side and rollover." at the bottom of this area of the safety rating label to explain to consumers how the overall vehicle score is determined. The words "Star rating," which are currently included in similar statements in other areas of the safety rating label, would be excluded from this statement. The agency believes consumers will readily understand that a star rating is involved because of the obvious use of stars in the safety rating label. (In other sections of this document, the agency is proposing to drop the use of the words "Star rating" from the other areas of the safety rating label where they are currently used.)

Finally, the agency is proposing that the words, "Should ONLY be compared to other vehicles of similar weight class." appear at the bottom of the overall vehicle score area of the safety rating label as well. The current safety rating label is required to include the statement, "Frontal ratings should ONLY be compared to other vehicles of similar weight class." at the bottom of the Frontal Crash area of the safety rating label. (As explained elsewhere in this notice, the agency is proposing to eliminate the words "Frontal ratings" so that the statement required in the Frontal Crash area would be identical to the one proposed above for the overall vehicle score area.) Since the overall vehicle score is based in part on the frontal crash rating, the agency believes it is appropriate to propose the same

language for both the Frontal Crash area and the Overall Vehicle Score area.

#### Frontal Area

In the current NCAP frontal crash test program, NHTSA provides consumers with frontal crash ratings for two seating positions, the driver and the right front passenger. The current rating for each seating position is based on the combined chance of serious injury to the head and chest. As mentioned previously, the new frontal program will include all of the FMVSS No. 208 body regions (head, neck, chest, and femur). The new program will also use a different crash test dummy in the right front passenger seating position. The seating positions will remain the same. Hence, the new frontal crash rating for each seating position will be based on the combined chance of serious injury to the head, neck, chest, and femur.

Nearly three-fourths of the participants in NHTSA's consumer research preferred a rating for each frontal seating position over an overall frontal rating.<sup>6</sup> NHTSA understands consumers' preference for having crash rating information by seating position readily available at the point of sale. Thus, the agency proposes to continue reporting frontal crash ratings on the Monroney label by seating position on the revised safety rating label. It is proposed that the term "Frontal Crash" continue to be used to refer to frontal crash test ratings and "Driver" and "Passenger" still be used to refer to the seating positions and the applicable star rating.

Currently the statement, "Star ratings based on the risk of injury in a frontal impact." is required at the bottom of the Frontal Crash area of the safety rating label. NHTSA is proposing that this statement be shortened to "Based on the risk of injury in a frontal impact." As explained previously, the term "Star ratings," would be excluded from this statement because the term "Government 5-Star Safety Ratings" would appear in the heading area of the modified safety rating label and should make clear to consumers that the stars in any area of the safety rating label reflect safety ratings. This generic statement would continue to provide the agency with the flexibility to update the ratings (due to additional injury criteria, an update to FMVSS No. 208, etc.) without conducting further rulemaking to update the label.

As explained above under Overall Vehicle Score Area, the statement,

"Frontal ratings should ONLY be compared to other vehicles of similar weight class." is currently required at the bottom of the Frontal Crash area of the safety rating label. NHTSA is proposing that this statement be shortened to "Should ONLY be compared to other vehicles of similar weight class." This shortened statement would be required, as the longer statement is currently required, at the bottom of the frontal crash area of the safety rating label. The words "Frontal ratings" would be deleted because we believe consumers would realize that the statement refers to Frontal ratings since the statement would appear in the Frontal Crash area of the safety rating label.

#### Side Area

In the current side NCAP program, NHTSA conducts side impact tests that provide consumers with side ratings for the first and second seating rows of a vehicle, specifically for the driver seating position and the rear outboard seating passenger position. In the current program, a moving deformable barrier (MDB) test is used to assess side impact protection. Currently, side impact ratings for each seating position are based on chest injury only.

Changes to the side NCAP program include (1) new test dummies for the two seating positions in the MDB test, (2) a new oblique pole test with a small female crash test dummy in the driver position, and (3) additional injury criteria for both the MDB and the new oblique pole tests. As previously mentioned, the enhanced side NCAP program will include nearly all of the FMVSS No. 214 body regions (except for the lower spine acceleration for the small female crash test dummy) for the calculation of the side NCAP rating. In other words, the new side program will include, for the MDB test, head, chest, abdomen, and pelvic injury criteria in the driver seating position and head and pelvic injury criteria in the rear passenger seating position. The new oblique pole test will include head and pelvic injury criteria in the driver seating position. In summary, ratings for the new side program will be based on (1) for the driver seating position, a combined chance of serious injury to the head, chest, abdomen, and pelvis in an MDB test as well as a combined chance of injury to the head and pelvis in a side oblique pole or narrow object test, and (2) for the rear passenger seating position, a combined chance of serious injury to the head and pelvis in an MDB test.

As discussed previously, an overwhelming proportion of

<sup>5</sup> The full study report is available at <http://www.regulation.gov> in Docket No. NHTSA-2006-25772.

<sup>6</sup> The full study report is available at <http://www.regulations.gov> in Docket No. NHTSA-2006-25772.

interviewees in a NHTSA consumer survey preferred that NHTSA provide crash test ratings by seating position on the revised safety rating label. Therefore, as with frontal crash ratings, it is proposed that side crash ratings continue to be presented by seating position.

“Side Crash” would still be used to describe the side crash test ratings, and “Front Seat” and “Rear Seat” would still be used to describe the seating positions and applicable star ratings for those seating positions. Furthermore, as in the Frontal Crash area, NHTSA is also proposing to shorten the statement required at the bottom of the Side Crash area to “Based on the risk of injury in side impact tests.” The words “Star ratings” currently required at the beginning of this statement would be excluded for the same reason these words would be excluded from a similar statement in the Frontal Crash area. Also, this generic statement would allow the agency the flexibility to update the ratings (*i.e.*, due to additional injury criteria, an update to FMVSS No. 214, etc.) on the label without conducting further rulemaking.

#### Rollover Area

As discussed in the July 11, 2008 final decision notice, the agency decided to not change its current rollover test program, which uses a vehicle’s Static Stability Factor (SSF) and the results of a dynamic rollover “fishhook” test, to determine the chance that a vehicle will roll over in a single-vehicle crash and the rollover resistance rating that results. It is proposed the term “Rollover” for the area of the safety rating label for the rollover rating remain the same in the revised safety rating label since the program is unchanged. However, NHTSA is proposing to shorten the statement required at the bottom of the rollover area to “Based on the risk of rollover in a single vehicle crash.” As with the Frontal Crash and Side Crash areas of the safety rating label, we are proposing to exclude the words “Star rating” from this statement for the same reason given for excluding these words from those two areas of the label.

#### Footer Area

The agency has required the phrase “Star ratings range from 1 to 5 stars (★★★★★) with 5 being the highest.” in the current *general information area* of the safety rating label.<sup>7</sup> This statement is

<sup>7</sup> The current regulatory text has a comma between the “parenthesis” and the word “with” whereas the text in the sample label does not. The agency is proposing to revise the text as stated in

used not only to remind consumers that the maximum rating is 5 stars but also to fulfill the Congressional requirement that the graphic depiction of the vehicle rating be displayed in a clearly differentiated fashion while also indicating the maximum possible rating. Additionally, the text “Source: National Highway Traffic Safety Administration (NHTSA)” is required to appear as the last line in the general information area of the existing safety rating label. This statement is used to inform consumers that the ratings are from a government agency.

Also on the existing safety rating label, the text “www.safercar.gov or 1–888–327–4236” is required to be placed in the footer area. This information is provided not only to help consumers identify the agency’s Web site, where additional NHTSA safety information can be found, but also to fulfill the mandate from Congress that the safety rating label contain a reference to <http://www.safercar.gov> and additional vehicle safety resources.

Due to the proposed addition of an overall vehicle score area in the modified safety rating label, the agency believes that for the label to be presented in a legible, visible, and prominent fashion that covers at least 8 percent of the total area of the Monroney label or an area with a minimum of 4½ inches in length and 3½ inches in height on the Monroney label, only the required rating information should be provided in designated relevant areas (*i.e.*, overall vehicle score area, frontal crash area, side crash area, and rollover area). In other words, the agency is proposing that the texts “Star ratings range from 1 to 5 stars (★★★★★) with 5 being the highest.” and “Source: National Highway Traffic Safety Administration (NHTSA)”<sup>8</sup> be shown in the footer area (instead of in the current general information area) along with the agency’s Web site information.<sup>9</sup>

More than half of the respondents who participated in NHTSA’s consumer survey preferred that the agency’s Web address, hotline number, and source information be included in the footer area.<sup>10</sup> Under this proposal, the general

this notice to reflect the text shown in the sample label.

<sup>8</sup> The current regulatory text does not include a period at the end of the Source text whereas the text in the sample labels does. The agency is proposing to revise the text shown in the sample labels to reflect the text stated in the regulation.

<sup>9</sup> The Web site information “<http://www.safercar.gov>” will not be shown italicized to reflect the sample label.

<sup>10</sup> The full study report is available at <http://www.regulations.gov> in Docket No. NHTSA–2006–25772.

information area where this information is currently displayed would be eliminated as a separate area of the safety rating label.

#### Safety Concerns

For vehicle tests for which NHTSA reports a safety concern as part of the star rating, the regulation currently requires a symbol consisting of an exclamation point inside a triangle (safety concern symbol) to be depicted as a superscript to the star rating, and the same symbol to be depicted at the bottom of the relevant area along with the words “Safety Concern: Visit <http://www.safercar.gov> or call 1–888–327–4236 for more details.” Examples of such safety concerns are high likelihoods of thigh injury, pelvic injury, or head injury; fuel leakage; and door openings.

NHTSA believes the inclusion of all of the FMVSS No. 208 body regions in the calculation of the frontal NCAP rating and nearly all of the FMVSS No. 214 body regions (except for the lower spine acceleration for the small female crash test dummy) in the calculation of the side NCAP rating will lead to more robust ratings and significantly reduce the need to use the safety concern symbol to highlight injury related occurrences during testing. For those injury related safety concerns and safety concerns relating to the physical structure of a vehicle (*i.e.*, fuel leakage, door openings, etc.) that continue to arise, the agency would continue to require depiction of the symbol and related statement in the appropriate area of the safety rating label.

We are proposing to also require, whenever a safety concern arises in any rating category, that the safety concern symbol and related statement be included in the overall vehicle score area of the safety rating label as well. We believe that to not require the symbol in this location as well as in the location containing the rating for the testing in which the safety concern arose could diminish the effect of having the symbol in the applicable rating category by suggesting that the safety concern was not sufficient to have an impact on the overall safety of the vehicle. The agency’s view is that any safety concern that arises during NCAP testing is a necessary part of the overall picture of a vehicle’s relative safety, even though the concern does not have an impact on the rating derived from the specific testing in which the concern arose. Since the overall vehicle score is based on the combined ratings of the frontal crash, side crash, and rollover tests, the agency believes that a safety concern relating to one of these NCAP

tests should be noted in the area where the overall vehicle score is displayed.

NHTSA continues to believe that the types of events that trigger a safety concern and the use of the safety concern symbol are significant and should be communicated to consumers. Agency consumer research indicates that consumers welcome having this information so that they may use it in making vehicle purchasing decisions. Depiction of the safety symbol to flag safety concerns is therefore consistent with the overall goal of NCAP, which is to create market forces to drive manufacturers to continually enhance the safety of the vehicles they produce. Furthermore, the agency believes it would be inconsistent and misleading to consumers to have a safety concern for a vehicle noted on the agency Web site, <http://www.safercar.gov>, and not on the vehicle safety label in the Monroney label.

The agency is seeking comments and plans to conduct consumer research into the extent to which consumers understand this approach, or other approaches, to communicating safety concerns. Since consumers may rely on some or all of the sections of the Monroney label to make purchasing decisions, we seek comment on whether NHTSA's planned follow-up consumer testing for the safety section of the label should include all four items that might appear on the Monroney label (price, safety, fuel economy, and domestic content) to help the agency better understand any potential tradeoffs consumers may make among those items and whether the amount of space dedicated to each of the four items affects the attention consumers give the items. NHTSA also solicits public comments on the benefits the public would receive from a coordinated approach to any revisions of the Monroney label among the three agencies with authority over the different sections (the Department of Justice for price information, the Environmental Protection Agency for fuel economy, and NHTSA for safety and domestic content), and whether those benefits would outweigh any delays that might occur to achieve comprehensive and coordinated revisions to parts of the Monroney label.

The agency is currently developing communications materials to educate consumers about the safety ratings label, including detailed explanations of the individual safety ratings and how those ratings indicate the percent chance of serious injury to the occupant(s) traveling in a vehicle that is involved in a crash. However, the agency is seeking comments on key components of

effective approaches of communicating the safety ratings to consumers. NHTSA is particularly interested in data to substantiate the effectiveness of recommended approaches. The agency is also seeking comments on the current consumer understanding of the NCAP star safety ratings and the difference between those ratings, which range from 1 to 5 stars, and whether other presentation formats could more effectively communicate that information to consumers. As above, NHTSA is especially interested in reviewing the data to support commenters' suggested alternative approaches.

#### B. Crash Avoidance Technologies

Enhancements to the existing NCAP testing programs also include the establishment of a crash avoidance technology information program under which the agency will indicate on the <http://www.safercar.gov> Web site those vehicles equipped with certain technologies either available or as standard equipment. To be so noted, the crash avoidance technology of the vehicle will need to meet NHTSA performance requirements for the technology involved.

The agency selected three technologies that are mature enough to include in a crash avoidance ratings program at this time. The three technologies are electronic stability control (ESC), forward collision warning (FCW), and lane departure warning (LDW). The agency plans to use text and simple graphics on <http://www.safercar.gov> to communicate (1) the fact that ESC, LDW, and/or FCW is available as optional or standard equipment on vehicles and (2) that the equipment involved meets the appropriate agency performance requirements.

The agency has decided at this time to not include advanced technology information in the safety rating label for the following reasons:

- Including advanced crash avoidance technologies in the safety rating label of the Monroney label would require that the agency conduct a rulemaking to update the safety rating label each time that the list of crash avoidance technologies changed.
- Available Monroney label space is limited. If information on crash avoidance technologies were included in the new safety rating label, the information on the safety rating label as a whole might not be legible.

The agency is seeking comments from the public on the approach the agency is taking to communicate the availability of these advanced

technologies and on how these and other technologies that may arise should be communicated in the future.

#### C. Notification

##### Current Process

In May/June of each year, NHTSA collects information from vehicle manufacturers to help the agency identify new vehicle models, redesigned vehicles, and models whose design will carry-over from the previous model year.<sup>11</sup> Once the agency analyzes the information provided, the carry-over models, new and redesigned models not being tested, and new and redesigned models to be tested are posted on the agency's Web site, <http://www.safercar.gov>.<sup>12</sup>

At about the same time, the agency sends a letter to officially inform each vehicle manufacturer which models the agency has determined to be carry-over vehicles and their respective NCAP star rating(s). NHTSA provides these letters to manufacturers as soon as a determination is made regarding the status of the vehicles (carryover or non-carryover) to ensure that manufacturers have the opportunity to place NCAP star ratings on the Monroney labels of these models as soon as they begin the new year of production.

The agency also sends a separate letter to each vehicle manufacturer indicating which models have been selected for NCAP testing. Once a selected vehicle has been tested and NHTSA completes the process of thoroughly reviewing the data generated during NCAP testing, the agency sends a letter informing the manufacturer of the rating(s) of the tested vehicle. The letter also informs the manufacturer which vehicle trim lines and corporate twins will be rated based on the results from the tested vehicle.

Vehicles for which ratings have not been provided in one or more of the ratings areas must have "Not Rated" in those areas of the safety rating label. Vehicles that have not been tested in any of the ratings areas and therefore do not have ratings in any ratings area may use a smaller safety rating label described in 49 CFR 575.301. Vehicles that are slated to be tested by NHTSA, but have not yet been tested may have "To Be Rated" in the various ratings areas of the safety rating label for which testing is slated.

<sup>11</sup> Carry-over models are vehicles that have been tested under the NCAP in previous years, and whose design has not changed, therefore retaining the previous safety rating.

<sup>12</sup> Through carry-over and new testing, NCAP provides ratings for approximately 85 percent of the vehicle fleet each year.

### Model Year 2011 Process

Due to the enhancements to the NCAP frontal and side crash test programs, no frontal and side safety ratings of the current NCAP crash test programs will carry-over to model year 2011 vehicles. To help address this, the agency plans to modify its current notification process for 2011 model year vehicles. NHTSA began collecting basic model year 2011 vehicle information from vehicle manufacturers in September 2009. Based on information provided by the manufacturers, the agency will devise a preliminary model year 2011 testing schedule. NHTSA also plans to contact vehicle manufacturers again in March 2010 and in June 2010 to help the agency to continue to identify and verify vehicles to be tested with the upgraded frontal and side crash tests and to ensure that initial projections of vehicle availability provided by manufacturers still align with the agency's testing schedule.

Once NHTSA has determined that a 2011 model year vehicle will be tested, which could occur as early as after the initial contact with manufacturers or as late as the last contact with manufacturers, the agency will send a letter to officially inform each vehicle manufacturer which 2011 model year vehicles the agency has selected for the updated tests. Additional letters may be required to notify vehicle manufacturers of vehicles selected for NCAP testing later in the vehicle selection process. Once vehicles have been tested and the data generated during the NCAP tests has been thoroughly reviewed, the agency will send letters to manufacturers of the tested vehicles informing them of the ratings achieved by those vehicles. As with the current process, the letter will also inform manufacturers which trim lines and corporate twins will get the same ratings as the vehicle actually tested. Additionally, the ratings will be announced in a press release and posted on the agency's Web site <http://www.safercar.gov>.

The rollover NCAP program has not changed. Therefore, rollover resistance ratings for some model year 2010 vehicles will carryover to model year 2011 vehicles. Carryover rollover resistance ratings for vehicles slated to be crash tested under the revised NCAP will be posted on <http://www.safercar.gov> as soon as they are confirmed as carryover ratings. This will allow consumers to continue to have access to this information while the revised NCAP crash testing and rating program is being rolled out. Official notification of carryover rollover

resistance ratings for these vehicles, as well as notification of the rollover resistance ratings for non-carryover vehicles that are selected for rollover testing, will occur at the same time manufacturers are notified of crash ratings under the revised NCAP crash program.

Once the first year of testing using the revised frontal and side crash tests is completed, the agency will resume the notification process that the agency has followed prior to the implementation of the enhanced crash test programs. Specifically, the vehicle information collection process will again begin in May/June of each year. The agency will continue to send letters to each vehicle manufacturer indicating which models have been selected for the NCAP crash test and other programs. The agency will send a separate letter to officially inform each manufacturer which models the agency has determined to be carry-over vehicles and the safety ratings that apply to those vehicles. Letters informing manufacturers of the ratings assigned to vehicles tested will be sent when testing and quality control of test data has been completed.

Since the frontal and side safety ratings of the current NCAP crash test programs will not be carried-over to model year 2011 vehicles and beyond, manufacturers will be required to either post "Not Rated" on the Monroney label for the frontal and side crash categories until the agency informs the manufacturer of the rating(s) that apply or post "To Be Rated" if the vehicle involved is slated to be tested. If NHTSA has not released a safety rating for any category for a vehicle and will not be performing any NCAP tests on the vehicle, the manufacturer may use a smaller safety rating label as illustrated in Figure 2.

### D. Timing

As in the current labeling program, the agency will require vehicle manufacturers to place the new Government 5-Star safety ratings on the safety rating label of the Monroney label of new vehicles manufactured 30 days after receiving from NHTSA notification of the test results. The agency does not and will not require manufacturers to reprint Monroney labels for vehicles that were produced prior to the agency's notification.<sup>13</sup> However, manufacturers are allowed to voluntarily re-label vehicles, should they choose, by replacing the entire Monroney label (not

just the safety rating label with the NCAP information).

### E. Consumer Education

As discussed previously, new model year 2011 and later vehicles will be subjected to the enhanced NCAP program. NHTSA realizes that consumers could misinterpret or be confused by differences between ratings for model year 2010 and 2011 vehicles. Even when model year 2010 and 2011 vehicles achieve the same rating, consumers may not fully understand what this means. To address this, the agency plans to develop an educational toolkit and work with various partners to educate consumers about its new Government 5-Star Safety Ratings program.

### F. Compliance Date

Under our proposal, beginning with model year 2011, passenger vehicles that are manufactured on or after September 1, 2010, would be required to have the new safety rating labels. The agency would allow early compliance for model year 2011 vehicles that are manufactured before September 1, 2010, provided the ratings placed on the safety rating label were derived from vehicle testing conducted by the National Highway Traffic Safety Administration that is appropriate for model year 2011 or later vehicles.

Some model year 2010 vehicles may continue to be manufactured after September 1, 2010. The requirements of the existing regulation would apply to these vehicles.

Under our proposal, the new regulation that would apply to model year 2011 and later vehicles manufactured on or after September 1, 2010 would be designated as § 575.302. The existing regulation, with minor conforming amendments, would continue to be at § 575.301.

## V. Rulemaking Analyses and Notices

### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this proposed rule under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This proposed rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be "non-significant" under the Department of Transportation's regulatory policies and procedures. The agency concludes that if this rule were made final, the impacts of the amendments would be so minimal that preparation of a full

<sup>13</sup> The vehicle manufacturing date will be used to determine which vehicles will be required to have the new NCAP star rating(s).



regulatory evaluation would not be required.

This NPRM proposes to require vehicle manufacturers to add to the existing safety rating label the new overall vehicle score rating the agency has added to the NCAP program, and to make minor modifications to the safety rating label. The agency has considered and concluded that the one-time redesign cost and the cost of redesign to replace “Not Rated” or “To Be Rated” with stars each time a vehicle is rated, all to be minor. The cost of the existing label is estimated to be less than \$0.15 per vehicle, and, under our proposal, the label would remain the same size. Given these considerations, any effects on costs would be trivial.

#### B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration’s regulations at 13 CFR part 121 define a small business, in part, as a business entity “which operates primarily within the United States.” (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this proposed rule under the Regulatory Flexibility Act. There are four small motor vehicle manufacturers in the United States building vehicles that would be affected by this rule. I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that the agency does not believe that this proposal adds a significant economic cost to a motor vehicle. The cost of the existing label is estimated to be less than \$0.15 per vehicle. The requirements proposed by today’s document would result in minor costs,

as it would merely require redesign of that label.

#### C. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid Office of Management and Budget (OMB) control number. For the following reasons, NHTSA concludes that if made final, this rulemaking would not impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained. As described previously, this rule, if made final, would require vehicle manufacturers to include on the existing safety rating labels, the overall vehicle score rating information by NCAP. This NPRM proposes how NHTSA will describe the appearance of the label, and specify to the vehicle manufacturers, in both individual letters to the manufacturers and on the NHTSA’s 5-Star safety ratings Web site (<http://www.safercar.gov>), the information specific to a particular motor vehicle make and model that the vehicle manufacturer must place on the Monroney label.

Because, if this rule is made final, NHTSA will specify the format of the safety rating label, and the information each vehicle manufacturer must include on the label, this “collection of information” falls within the exception described in 5 CFR 1320.3(c)(2) which states in part: “The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within this definition.”

The Government 5-Star safety ratings are created by NHTSA. This rule, if made final, would require vehicle manufacturers to take the Government 5-Star safety ratings (which NHTSA will provide to each manufacturer) and report them on the Monroney labels, thus disclosing them to potential customers (*i.e.*, the public). For this reason, this proposed rule, if made final, would impose a “collection of information” requirement for which 5 CFR part 1320 approval need not be obtained.

#### D. National Environmental Policy Act

NHTSA has analyzed this proposed rule for the purposes of the National Environmental Policy Act and has determined that if made final, the rule will not have any significant impact on the quality of the human environment.

#### E. Executive Order 13132 (Federalism)

The agency has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. If made final, this rule will have no substantial effects on the States, on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

#### F. Civil Justice Reform

This proposed rule would not have any retroactive effect. Parties are not required to exhaust administrative remedies before filing suit in court.

#### G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in regulatory activities unless doing so would be inconsistent with applicable law or would otherwise be impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The agency searched for, but did not find any voluntary consensus standards relevant to this proposed rule.

#### H. Unfunded Mandates Reform Act

This proposed rule will not impose any unfunded mandates under the Unfunded Mandates Reform Act (UMRA) of 1995. This rule will not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### I. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public’s needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?

- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
  - Would more (but shorter) sections be better?
  - Could we improve clarity by adding tables, lists, or diagrams?
  - What else could we do to make this rulemaking easier to understand?
- If you have any responses to these questions, please include them in your comments on this NPRM.

#### J. Privacy Act Statement

Anyone is able to search the electronic form of all comments or petitions received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://www.regulations.gov>.

#### VI. Public Participation

We invite comments on today's proposal. We are providing a 30-day comment period. We are not providing a longer period because there is a need to complete rulemaking in time to allow manufacturers to make any necessary changes in the labels for MY 2011 vehicles manufactured on or after September 1, 2010. Moreover, we believe 30 days is sufficient, given that the rulemaking addresses changes in an existing label to reflect already announced changes in the NCAP Program.

#### How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long.<sup>14</sup> We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit your comments by any of the following methods:

- **Federal eRulemaking Portal:** go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- **Mail:** Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- **Hand Delivery or Courier:** West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- **Fax:** (202) 493–2251.

If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.<sup>15</sup>

#### How Can I Be Sure That My Comments Were Received?

If you submit your comments by mail and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

#### How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation.<sup>16</sup>

In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket by one of the methods set forth above.

#### Will the Agency Consider Late Comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments received after that date. If a comment is received too late for us to consider in developing a final rule (assuming that one is issued), we will

<sup>15</sup> Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

<sup>16</sup> See 49 CFR 512.

consider that comment as an informal suggestion for future rulemaking action.

#### How Can I Read the Comments Submitted by Other People?

You may read the materials placed in the docket for this document (*e.g.*, the comments submitted in response to this document by other interested persons) at any time by going to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES**. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Furthermore, some people may submit late comments. Thus, we recommend that you periodically check the Docket for new material.

#### List of Subjects in 49 CFR Part 575

Consumer protection, Motor vehicle safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 575 as set forth below:

#### PART 575—CONSUMER INFORMATION

1. The authority citation for part 575 continues to read as follows:

**Authority:** 49 U.S.C. 32302, 30111, 30115, 30117, 30166 and 30168, Pub. L. 104–414, 114 Stat. 1800, Pub. L. 109–59, Stat. 1144, 15 U.S.C. 1232(g); delegation of authority at 49 CFR 1.50.

2. Section 575.301 is amended by revising the section heading and paragraph (b) to read as follows:

#### § 575.301 Vehicle labeling of safety rating information (applicable unless a vehicle is subject to § 575.302).

\* \* \* \* \*

(b) *Application.* This section applies to automobiles with a GVWR of 10,000 pounds or less, manufactured on or after September 1, 2007, that are required by the Automobile Information Disclosure Act, 15 U.S.C. 1231–1233, to have price sticker labels (Monroney labels), *e.g.* passenger vehicles, station wagons, passenger vans, and sport utility vehicles, except for vehicles that are subject to § 575.302. Model Year 2011 or later vehicles manufactured prior to September 1, 2010 may, at the manufacturer's option, be labeled according to the provisions of § 575.302

<sup>14</sup> See 49 CFR 553.21.

instead of this section provided the ratings placed on the safety rating label are derived from vehicle testing conducted by the National Highway Traffic Safety Administration that is appropriate for Model Year 2011 or later vehicles.

\* \* \* \* \*

3. Section 575.302 is added to read as follows:

**§ 575.302 Vehicle labeling of safety rating information (compliance required for model year 2011 and later vehicles manufactured on or after September 1, 2010).**

(a) *Purpose and Scope.* The purpose of this section is to aid potential purchasers in the selection of new passenger motor vehicles by providing them with safety rating information developed by NHTSA in its New Car Assessment Program (NCAP) testing. Manufacturers of passenger motor vehicles described in paragraph (b) of this section are required to include this information on the Monroney label. Although NHTSA also makes the information available through means such as postings at <http://www.safercar.gov> and <http://www.nhtsa.dot.gov>, the additional Monroney label information is intended to provide consumers with relevant information at the point of sale.

(b) *Application.* This section applies to automobiles with a GVWR of 10,000 pounds or less, manufactured on or after September 1, 2010 that are declared by their manufacturer to be model year 2011 or later vehicles and that are required by the Automobile Information Disclosure Act, 15 U.S.C. 1231–1233, to have price sticker labels (Monroney labels), e.g. passenger vehicles, station wagons, passenger vans, and sport utility vehicles. Model Year 2011 or later vehicles manufactured prior to September 1, 2010 may, at the manufacturer's option, be labeled according to the provisions of this § 575.302 provided the ratings placed on the safety rating label are derived from vehicle testing conducted by the National Highway Traffic Safety Administration that is appropriate for Model Year 2011 or later vehicles.

(c) *Definitions*—(1) *Monroney label* means the label placed on new automobiles with the manufacturer's suggested retail price and other consumer information, as specified at 15 U.S.C. 1231–1233.

(2) *Safety rating label* means the label with NCAP safety rating information, as specified at 15 U.S.C. 1232(g). The safety rating label is part of the Monroney label.

(d) *Required Label*—(1) Except as specified in paragraph (f) of this section,

each vehicle must have a safety rating label that is part of its Monroney label, meets the requirements specified in paragraph (e) of this section, and conforms in content, format and sequence to the sample label depicted in Figure 1 of this section. If NHTSA has not provided a safety rating for any category of vehicle performance for a vehicle, the manufacturer may use the smaller label specified in paragraph (f) of this section.

(2) The label must depict the star ratings for that vehicle as reported to the vehicle manufacturer by NHTSA.

(3) Whenever NHTSA informs a manufacturer in writing of a new safety rating for a specified vehicle or the continued applicability of an existing safety rating for a new model year, including any safety concerns, the manufacturer shall include the new or continued safety rating on vehicles manufactured on or after the date 30 calendar days after receipt by the manufacturer of the information.

(4) If, for a vehicle that has an existing safety rating for a category, NHTSA informs the manufacturer in writing that it has approved an optional NCAP test that will cover that category, the manufacturer may depict vehicles manufactured on or after the date of receipt of the information as “Not Rated” or “To Be Rated” for that category.

(5) The text “Overall Vehicle Score,” “Frontal Crash,” “Side Crash,” “Rollover,” “Driver,” “Passenger,” “Front Seat,” “Rear Seat” and where applicable, “Not Rated” or “To Be Rated,” the star graphic indicating each rating, as well as any text in the header and footer areas of the label, must have a minimum font size of 12 point. All remaining text and symbols on the label (including the star graphic specified in paragraph (e)(9)(i)(A) of this section), must have a minimum font size of 8 point.

(e) *Required Information and Format*—(1) *Safety Rating Label Border.* The safety rating label must be surrounded by a solid dark line that is a minimum of 3 points in width.

(2) *Safety Rating Label Size and Legibility.* The safety rating label must be presented in a legible, visible, and prominent fashion that covers at least 8 percent of the total area of the Monroney label (*i.e.*, including the safety rating label) or an area with a minimum of 4½ inches in length and 3½ inches in height on the Monroney label, whichever is larger.

(3) *Heading Area.* The words “Government 5-Star Safety Ratings” must be in boldface, capital letters that are light in color and centered. The background must be dark.

(4) *Overall Vehicle Score Area.* (i) The overall vehicle score area must be placed immediately below the heading area and must have dark text and a light background. The overall vehicle score rating must be displayed with the maximum star rating achieved.

(ii) The words “Overall Vehicle Score” must be in boldface aligned to the left side of the label. The achieved star rating must be on the same line, aligned to the right side of the label.

(iii) The words “Based on the combined ratings of frontal, side and rollover.”, followed (on the next line) by the statement “Should ONLY be compared to other vehicles of similar weight class.” must be placed at the bottom of the overall vehicle score area.

(iv) If NHTSA has not released the star rating for the “Frontal Crash,” “Side Crash,” or “Rollover” area, the text “Not Rated” must be used in boldface. However, as an alternative, the words “To Be Rated” (in boldface) may be used if the manufacturer has received written notification from NHTSA that the vehicle has been chosen for the NCAP frontal, side, and/or rollover testing such that there will be ratings in all three areas.

(5) *Frontal Crash Area.* (i) The frontal crash area must be placed immediately below the overall vehicle score area, separated by a dark line that is a minimum of three points in width. The text must be dark against a light background. Both the driver and the right front seat passenger frontal crash test ratings must be displayed with the maximum star ratings achieved.

(ii) The words “Frontal Crash” must be in boldface, cover two lines, and be aligned to the left side of the label.

(iii) The word “Driver” must be on the same line as the word “Frontal” in “Frontal Crash,” and be left justified, horizontally centered and vertically aligned at the top of the label. The achieved star rating for “Driver” must be on the same line, left justified, and aligned to the right side of the label.

(iv) If NHTSA has not released the star rating for the “Driver” position, the text “Not Rated” must be used in boldface. However, as an alternative, the words “To Be Rated” (in boldface) may be used if the manufacturer has received written notification from NHTSA that the vehicle has been chosen for NCAP testing. Both texts must be on the same line as the text “Driver”, left justified, and aligned to the right side of the label.

(v) The word “Passenger” must be on the same line as the word “Crash” in “Frontal Crash,” below the word “Driver,” and be left justified, horizontally centered and vertically aligned at the top of the label. The

achieved star rating for "Passenger" must be on the same line, left justified, and aligned to the right side of the label.

(vi) If NHTSA has not released the star rating for "Passenger," the words "Not Rated" must be used in boldface. However, as an alternative, the words "To Be Rated" (in boldface) may be used if the manufacturer has received written notification from NHTSA that the vehicle has been chosen for NCAP testing. Both texts must be on the same line as the text "Passenger", left justified, and aligned to the right side of the label.

(vii) The words "Based on the risk of injury in a frontal impact.", followed (on the next line) by the statement "Should ONLY be compared to other vehicles of similar weight class." must be placed at the bottom of the frontal crash area.

(6) *Side Crash Area.* (i) The side crash area must be immediately below the frontal crash area, separated by a dark line that is a minimum of three points in width. The text must be dark against a light background. Both the driver and the rear seat passenger side crash test rating must be displayed with the maximum star rating achieved.

(ii) The words "Side Crash" must cover two lines, and be aligned to the left side of the label in boldface.

(iii) The words "Front seat" must be on the same line as the word "Side" in "Side Crash" and be left justified, horizontally centered and vertically aligned in the middle of the label. The achieved star rating for "Front seat" must be on the same line, left justified, and aligned to the right side of the label.

(iv) If NHTSA has not released the star rating for "Front Seat," the words "Not Rated" must be used in boldface. However, as an alternative, the words "To Be Rated" (in boldface) may be used if the manufacturer has received written notification from NHTSA that the vehicle has been chosen for NCAP testing. Both texts must be on the same line as the text "Front seat", left justified, and aligned to the right side of the label.

(v) The words "Rear seat" must be on the same line as the word "Crash" in "Side Crash," below the word "Front seat," and be left justified, horizontally centered and vertically aligned in the middle of the label. The achieved star rating for "Rear seat" must be on the same line, left justified, and aligned to the right side of the label.

(vi) If NHTSA has not released the star rating for "Rear Seat," the text "Not Rated" must be used in boldface. However, as an alternative, the text "To Be Rated" (in boldface) may be used if the manufacturer has received written notification from NHTSA that the vehicle has been chosen for NCAP

testing. Both texts must be on the same line as the text "Rear seat", left justified, and aligned to the right side of the label.

(vii) The words "Based on the risk of injury in side impact tests." must be placed at the bottom of the side crash area.

(7) *Rollover Area.* (i) The rollover area must be immediately below the side crash area, separated by a dark line that is a minimum of three points in width. The text must be dark against a light background. The rollover test rating must be displayed with the maximum star rating achieved.

(ii) The word "Rollover" must be aligned to the left side of the label in boldface. The achieved star rating must be on the same line, aligned to the right side of the label.

(iii) If NHTSA has not tested the vehicle, the words "Not Rated" must be used in boldface. However, as an alternative, the words "To Be Rated" (in boldface) may be used if the manufacturer has received written notification from NHTSA that the vehicle has been chosen for NCAP testing. Both texts must be on the same line as the text "Rollover", left justified, and aligned to the right side of the label.

(iv) The words "Based on the risk of rollover in a single vehicle crash." must be placed at the bottom of the rollover area.

(8) *Graphics.* The star graphic is depicted in Figure 3 and the safety concern graphic is depicted in Figure 4.

(9) *Footer Area.* The footer area must be placed at the bottom of the label; the text must be in boldface letters that are light in color, and be centered. The background must be dark. The text must state the following, in the specified order, on separate lines:

(i) "Star ratings range from 1 to 5 stars (★★★★★) with 5 being the highest."

(ii) "Source: National Highway Traffic Safety Administration (NHTSA)"

(iii) "www.safercar.gov or 1-888-327-4236"

(10) *Safety Concern.* For vehicle tests for which NHTSA reports a safety concern as part of the safety rating, and for overall vehicle scores that are derived from vehicle tests for at least one of which NHTSA reports a safety concern as part of the safety rating, the label must:

(i) Depict, as a superscript to the star rating, the related symbol, as depicted in Figure 4 of this section, at  $\frac{2}{3}$  the font size of the base star, and

(ii) Include at the bottom of the relevant area (*i.e.*, overall vehicle score area, frontal crash area, side crash area, rollover area) as the last line of that area, in no smaller than 8 point type, the related symbol, as depicted in Figure 4

of this section, as a superscript of the rest of the line, and the text "Safety Concern: Visit <http://www.safercar.gov> or call 1-888-327-4236 for more details."

(11) No additional information may be provided in the safety rating label area. The specified information provided in a language other than English is not considered to be additional information.

(f) *Smaller Safety Rating Label for Vehicles With No Ratings.* (1) If NHTSA has not released a safety rating for any category for a vehicle, the manufacturer may use a smaller safety rating label that meets paragraphs (f)(2) through (f)(5) of this section. A sample label is depicted in Figure 2.

(2) The label must be at least 4½ inches in width and 1½ inches in height, and must be surrounded by a solid dark line that is a minimum of 3 points in width.

(3) *Heading Area.* The text must read "Government 5-Star Safety Ratings" and be in 14-point boldface, capital letters that are light in color, and be centered. The background must be dark.

(4) *General Information.* The general information area must be below the header area. The text must be dark and the background must be light. The text must state the following, in at least 12-point font, be left-justified, and aligned to the left side of the label: "This vehicle has not been rated by the government for overall vehicle score, frontal crash, side crash, or rollover risk."

(5) *Footer Area.* The footer area must be placed at the bottom of the label; the text must be in 12-point boldface letters that are light in color, and be centered. The background must be dark. The text must state the following, in the specified order, on separate lines:

(i) "Source: National Highway Traffic Safety Administration (NHTSA)" and

(ii) "<http://www.safercar.gov> or 1-888-327-4236".

(6) No additional information may be provided in the smaller safety rating label area. The specified information provided in a language other than English is not considered to be additional information.

(g) *Labels for alterers.* (1) If, pursuant to 49 CFR 567.7, a person is required to affix a certification label to a vehicle, and the vehicle has a safety rating label with one or more safety ratings, the alterer must also place another label on that vehicle as specified in this paragraph.

(2) The additional label (which does not replace the one required by 49 CFR 567.7) must read: "This vehicle has been altered. The stated star ratings on the safety rating label may no longer be applicable."

(3) The label must be placed adjacent to the Monroney label or as close to it as physically possible.

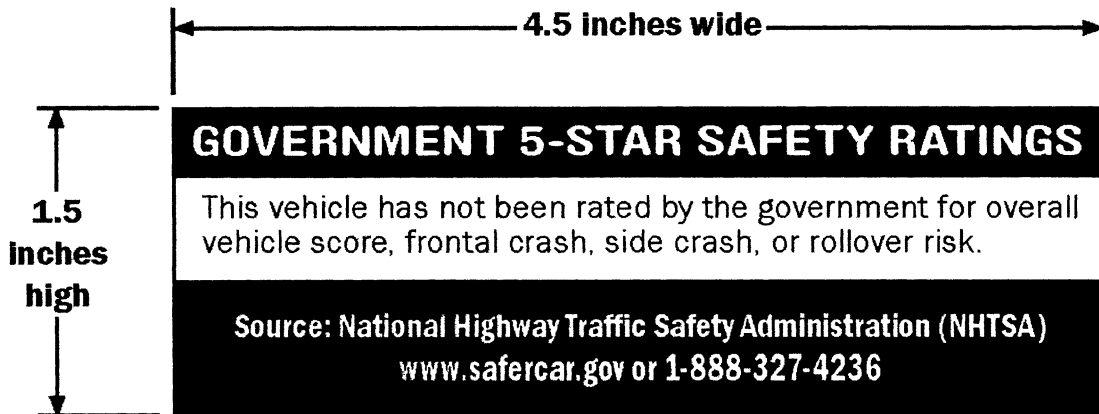
Figure 1 to § 575.302

Sample Label for a Vehicle with At Least One Government 5-Star Safety Rating



Figure 2 to § 575.302

Sample Label for a Vehicle with No Government 5-Star Safety Ratings



**Figure 3 to § 575.302**

**Sample Star Rating Graphic for § 575.302**



**Figure 4 to § 575.302**

**Sample Safety Concern Graphic for § 575.302**



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**Stephen R. Kratzke,**

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