

amended by suspending paragraph (b) and adding a temporary paragraph (d) to read as follows:

**§ 117.795 Jamaica Bay and Connecting Waterways.**

\* \* \* \* \*

(d) The New York City Highway Bridge (Belt Parkway), mile 0.8, across Mill Basin, need only open one moveable span for the passage of vessel traffic from March 1, 2006 through September 7, 2006. The draw need not be opened for the passage of vessel traffic from 12 p.m. to 9 p.m. on Sundays from May 15 through September 30, and on Memorial Day, Independence Day, and Labor Day. However, on these days the draw shall open on signal from the time two hours before to one hour after the predicted high tide(s). For the purpose of this section, predicted high tide(s) occur 15 minutes later than that predicted for Sandy Hook, as documented in the tidal current data, which is updated, generated and published by the National Oceanic and Atmospheric Administration/National Ocean Service.

Dated: January 22, 2006.

**David P. Pekoske,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 06-855 Filed 1-25-06; 4:03 pm]

BILLING CODE 4910-15-M

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 16 and 39**

[FAR Case 2003-008]

RIN 9000-AJ74; Docket 2006-0015

**Federal Acquisition Regulation; FAR Case 2003-008, Share-in-Savings Contracting**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed to withdraw the proposed rule, FAR case 2003-008, Share-in-Savings Contracting, which was published in the **Federal Register** on July 2, 2004. The rule proposed amending the Federal Acquisition

Regulation (FAR) as it pertains to types of contracts and acquisition of information technology to address the inclusion of Share-in-Savings (SIS) contracting. However, the SIS concept was not reauthorized by Congress.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Mr. Kenneth Buck at (202) 219-0311. Please cite FAR case 2003-008. For information pertaining to status or publication schedules, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755.

Dated: January 24, 2006.

**Gerald Zaffos,**

*Director, Contract Policy Division.*

[FR Doc. 06-816 Filed 1-27-06; 8:45 am]

BILLING CODE 6820-EP-S

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 575**

[Docket No. NHTSA-2005-23216]

RIN 2127-AJ76

**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:** One of the provisions of the recently enacted Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requires new passenger vehicles to be labeled with safety rating information published by the National Highway Traffic Safety Administration's New Car Assessment Program. This document proposes a regulation to implement that new labeling requirement beginning September 1, 2007.

**DATES:** You should submit your comments early enough to ensure that Docket Management receives them not later than March 31, 2006.

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

- Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site. Please note, if you are submitting petitions 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, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., 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 Comment heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided.

**Privacy Act:** Anyone is able to search the electronic form of all petitions received into any of our dockets by the name of the individual submitting the petition (or signing the petition, 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://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For technical issues regarding the information in this document, please contact Mr. Nathaniel Beuse at (202) 366-1740. For legal issues, please contact Ms. Dorothy Nakama (202) 366-2992. Both of these individuals may be reached by mail at the National Highway Traffic Safety Administration, 400 Seventh St. SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

**I. Overview**

Section 10307 of the recently enacted Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59 (August 10, 2005; 119 Stat. 1144), requires new passenger vehicles to be labeled with the National Highway Traffic Safety Administration's (NHTSA) New Car Assessment Program (NCAP) ratings. The Act specifies a number of detailed requirements for the label, including content, format, and

location.<sup>1</sup> It also requires the Department of Transportation to issue regulations to ensure that the new labeling requirements are implemented by September 1, 2007.

This document proposes a regulation to implement the new labeling requirement. Under the proposal:

(1) New passenger vehicles must include specified NCAP information on the label required by the Automobile Information Disclosure Act (the "Monroney label" or price sticker);

(2) The specified information includes a graphical depiction of the number of stars achieved for each assigned safety test;

(3) Information describing the nature and meaning of the test data, and a reference to <http://www.safercar.gov> for additional vehicle safety information, is also required on the label;

(4) The label must be legible and cover at least eight percent of the price sticker label or an area with a minimum length of 4½ inches and a minimum height of 3½ inches;

(5) If a vehicle has not been tested by the agency or safety ratings have not been assigned, a statement to that effect in the appropriate rating category must be included; and

(6) Ratings must be placed on new vehicles manufactured 30 or more days after notification to the manufacturer by NHTSA of ratings for those vehicles.

## II. Proposed Label

For each of the sections described herein, NHTSA will discuss the proposed safety label requirement and the corresponding rationale. However, the agency notes that given the specificity set forth by the Congress in SAFETEA-LU, there is little discretion with most aspects of the proposed label.

### A. Location

The Automobile Information Disclosure Act of 1958 (AIDA), 15 U.S.C. 1231–1233, requires the affixing of a retail price sticker to the windshield or side window of new automobiles. This label, also known as the "Monroney" label, may also include other information, such as information about fuel economy and vehicle content. SAFETEA-LU amended section 3 of AIDA to require the label to include NCAP vehicle safety ratings published by NHTSA.

NHTSA has examined several existing Monroney labels, and recognizes that there is a limited amount of free or open space to accommodate additional

information, and that not all automobile manufacturers use the same layout for the Monroney label. Therefore, to allow manufacturers continued flexibility in designing their Monroney labels, we are not proposing a specific location on the Monroney label where the safety information (i.e., NCAP vehicle information) must be located.

### B. Covered Vehicles

Under AIDA, Monroney labels are required on new "automobiles." The Department of Justice (DOJ), which generally administers AIDA, has defined automobiles to include passenger vehicles and station wagons, and by extension passenger vans.<sup>2</sup> The new safety labeling requirements apply to these vehicles, whether or not the vehicles have been rated by the agency.

To provide consumers with the largest number of comparable vehicle ratings, the agency has been testing vehicles with a gross vehicle weight rating (GVWR) of 8,500 lbs. or less.<sup>3</sup> This is the limit in our frontal protection standard, so it has become the limit for our NCAP. Under SAFETEA-LU, the agency was also directed to provide rollover ratings for 15-passenger vans, which have a GVWR of more than 8,500 lbs. We also note that as to Federal Motor Vehicle Safety Standard (FMVSS) No. 214, the safety standard that the side NCAP test procedure is based on, the agency has proposed an upgrade that would include vehicles up to 10,000 lbs. GVWR; FMVSS No. 214 is now applicable only to vehicles up to 6,000 lbs. GVWR. While NHTSA has not yet changed its selection criteria, as test procedures are upgraded the agency could potentially test vehicles up to 10,000 lbs for side impact. Additionally, the agency posts information about the safety features of these vehicles on its Web site. As such, the agency is proposing to require all new passenger cars, multipurpose passenger vehicles (sport utility vehicles and vans) and buses with a GVWR of 10,000 lbs or less to have a section for NCAP ratings on the Monroney label, whether or not the vehicle has been tested by NHTSA.

AIDA does not require Monroney labels for pickup trucks. We note, however, that manufacturers routinely include Monroney stickers on this class of vehicle, and we anticipate that manufacturers will voluntarily include the NCAP information as well. However, since Congress did not explicitly require information to be

provided for vehicles not required to provide a Monroney Label, this notice does not propose any requirement either.

### C. Content

SAFETEA-LU requires that the safety label include "a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion indicating the maximum possible safety rating" for front, side, and rollover testing conducted by the agency. The statute further specifies that the label must be legible, visible, and prominent and that it contain "information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including <http://www.safercar.gov>," the NHTSA safety rating Web site. Finally, with regard to content, SAFETEA-LU specifies that "if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect" must appear.

As will be more thoroughly discussed later, SAFETEA-LU limits the space for the NCAP label to 8 percent of the total area of the existing label or to an area with a minimum length of 4½ inches and a minimum height of 3½ inches. NHTSA believes it is Congress' intent to also limit the NCAP label information to only that specified in SAFETEA-LU. NHTSA thus proposes that no additional information of any kind, other than the same information provided in a language other than English, may be voluntarily provided in the NCAP label area. NHTSA does not construe the same information provided in a language other than English to be additional information.

Since 1994 the agency has used solid stars to translate vehicle test results in a format that consumers can understand, and the vehicles' rating has been displayed using a graphical depiction of the number of stars as opposed to some other method. NHTSA has conducted a substantial amount of research, and has found that consumers easily understand the graphical depiction stars.

NHTSA has also investigated various graphical displays, such as struck stars, hollow stars, and multi-colored stars, to further improve how information is displayed to consumers. The research has shown that consumers can become confused when solid stars are intermingled with different

<sup>1</sup> The text of the legislation can be found in Appendix A, following the proposed regulatory text.

<sup>2</sup> See <http://www.usdoj.gov/civil/ocl/monograph> and click on "Automobile Information Disclosure."

<sup>3</sup> Additional information with regard to NHTSA's testing practice can be found in Appendix B.

representations such as struck stars, hollow stars, and the like.<sup>4</sup> NHTSA is aware that both the European and Japanese consumer information programs have used shading while intermingling solid stars with grayed out stars, on a single line, to display a vehicle's achieved star rating and the maximum possible rating. However, NHTSA is not aware of any consumer research to support this methodology.

As such, based on its previous research, NHTSA believes that the use of solid stars, by themselves, is the most effective way to display a vehicle's star rating to consumers. Therefore, the agency is proposing that the label use solid stars, in the appropriate rating category to represent a vehicle's star rating. As discussed later in this document, we are also proposing to require the label to include a statement that "Star ratings range from 1 to 5 stars (★ ★ ★ ★ ★) with 5 being the highest". This proposed approach would fulfill the statutory requirement that the graphic depiction of the vehicle rating be displayed in a clearly differentiated fashion while also indicating the maximum possible rating.

Because of workload limits at the available laboratories, new models selected for testing by NHTSA cannot be tested simultaneously and not all ratings can be available at the same time. As such, the agency relies on <http://www.safercar.gov> to keep consumers informed on the current status of vehicles that will be tested and availability of new ratings as soon as they are available. The agency understands that manufacturers will not be able to keep the safety label as up to date as NHTSA can on a Web site. Therefore, the agency is proposing that the term "Not Rated" be used in the appropriate category until such time that a rating has been released by the agency. The term "not rated" will be used rather than "not tested" to prevent any consumer misconception that a vehicle has not been tested to ensure compliance with NHTSA's Federal Motor Vehicle Safety Standards; all applicable new vehicles must conform and certify compliance to these safety standards before they can be sold in the United States. Later in this notice, we discuss the timing for including new ratings on the Monroney label.

For the past several years, NHTSA has informed consumers of test occurrences resulting in safety concerns that are not included in the star rating. Examples of such safety concerns are high likelihoods of high injury, pelvic

injury, or head injury; fuel leakage; and door openings. NHTSA believes these events are significant and has conducted research on this topic to explore consumer perceptions, opinions, beliefs, and attitudes on these occurrences. When asked about how safety concerns would influence their decision, most respondents responded that "having information about crash test anomalies is important and they would use the information to assist them in making a decision to purchase one vehicle over another."<sup>5</sup> Furthermore, the agency believes that consumers would be misled if, when shopping for a vehicle, the NHTSA Web site indicated that there was a safety concern but none appeared on the label at the point of sale. Therefore, NHTSA is proposing that when a test occurrence indicates a safety concern, the following symbol



be placed in the appropriate rating category positioned as a superscript to the right of the right-most star in the rating category.<sup>6</sup>

#### D. Format

SAFETEA-LU specifies that the size or area of the NCAP label must be at least "8 percent of the total area of the existing label or an area with a minimum length of 4½ inches and a minimum height of 3½ inches."<sup>7</sup> We are proposing to include this requirement in the regulation.

We are also proposing to require that the text be legible and in English. We note that some manufacturers may wish to also use Spanish or other languages to convey this important safety information to consumers who do not speak English or for whom English is not their first language. NHTSA is not proposing to restrict in any way a manufacturer's ability to provide NCAP information in additional languages, given that the required information is first provided in English and that the additional information does not confuse or obscure the required information in English.

NHTSA has reviewed the literature and believes that there is no single "best" font type for readability; therefore we are not proposing a single font type. To ensure that the label is

readable, the agency is proposing that the text "Frontal Crash," "Side Crash," "Rollover," "Driver," "Passenger," "Front Seat," "Rear Seat" and "Not Rated," where applicable, the star graphic indicating each rating, as well as any text in the header and footer areas of the label have a minimum font size of 12 point. This would make the text consistent with NHTSA's Automobile Parts Content Label (49 CFR part 583), often contained on the Monroney label, which specifies a minimum font size of 12 point (see 49 CFR 583.5(d)). NHTSA is aware that the Automobile Parts Content Label also allows a minimum font size of 10 point for explanatory notes, however due to the minimum space requirements for this safety label, NHTSA is specifying that all other text or symbols on the label must have a minimum font size of 8 point. We are also proposing to require that, unless otherwise noted, the background be in a color that contrasts easily with dark text and that dark text be used. We believe that this would help to ensure a stark contrast so that the information can be easily read. From its experience in previous label rulemakings, NHTSA believes that backgrounds that are gray or are similar in contrast to black or dark text are difficult to read.

The agency is proposing to require that the safety label portion of the Monroney label be surrounded by a dark line and sub-divided into six areas described as a heading area, frontal crash area, side crash area, rollover area, general text area, and footer area. We are proposing to require that these areas be arranged such that the heading area is at the top, followed by the frontal, side, rollover, general, and footer area (at the bottom) and that the frontal, side, rollover, and general areas be separated from each other by a black line.

We believe that the dark line around the border of the label would help to distinguish the NHTSA safety information from the other information on the Monroney label. The purpose of specifying separate sub areas and separating them with a dark line would be to add clarity by grouping the applicable safety rating together with the applicable test information. We believe this would enable consumers to readily distinguish and decipher the various pieces of information being displayed on the safety label. The format of each sub area is outlined below.

#### Heading Area

The heading area would help consumers find and identify the NHTSA safety information on the Monroney

<sup>4</sup> "Focus Groups Regarding Presentations of Crash Test Anomalies" NHTSA-2004-19104-1.

<sup>5</sup> "Focus Groups Regarding Presentations of Crash Test Anomalies" NHTSA-2004-19104-1.

<sup>6</sup> Detailed information concerning the specific safety rating will be published in a NHTSA press release as well as posted on the [safercar.gov](http://safercar.gov) Web site.

<sup>7</sup> NHTSA believes the phrase "existing label" means the existing Monroney label as specified by 15 U.S.C. 1232.

label. The agency is proposing that the heading read "Government Safety Ratings" and to require that the heading area be printed with a dark background that easily contrasts with white lettering and that white lettering be used.

#### Frontal Area

Currently, NHTSA provides consumers with frontal crash ratings for two seating positions; the driver and the right front passenger. Ratings for each seating position are based on the combined chance of serious injury to the head and chest. On the Web site <http://www.safercar.gov>, in the agency's advertising guidelines for manufacturers, and in the agency's publication of "Buying A Safer Car," the term "Frontal Crash" and "Frontal Star Rating" are used interchangeably to describe the frontal crash test results, whereas the driver and the right front passenger test positions are only referred to as "Driver" and "Passenger," respectively.

In keeping with the existing terminology, NHTSA is proposing that "Frontal Crash" be used to describe the frontal crash test ratings and that "Driver" and "Passenger" be used to describe the seating positions and the applicable star rating. NHTSA believes it would be redundant to repeat the term "Rating" here since it is already used in the *header area*. We also believe that the term "Frontal Crash" is a more general term and more appropriate than "Frontal Star Rating". Additionally, the terms "Driver" and "Passenger" are easily understood, have been used in NHTSA publications for some time, and are used by manufacturers in their advertising.

For this section, NHTSA is also proposing to require that the statement "Star ratings based on the risk of injury in a frontal impact" be provided at the bottom of the frontal area to help explain to consumers the nature and meaning of the test. This generic statement would also provide the agency the flexibility to update the rating (for example with additional injury criteria) without conducting further rulemaking to update the label.

Lastly, due to the nature of NHTSA's frontal crash test, those ratings can only be compared to the vehicles in the same weight class. The agency believes that until such time as NHTSA's frontal ratings no longer require this additional information, that it would be inappropriate and misleading to not include this information at the point of sale. This is especially true given that consumers are generally familiar with the different classes of vehicles and could be comparing vehicles in different

classes on the same lot. As such, NHTSA is proposing that the statement "Frontal ratings should ONLY be compared to other vehicles of similar size and weight" be the second line in the general area.

#### Side Area

The agency currently conducts side impact tests that provide consumers with side ratings for the first and second row of a vehicle. For each of these positions, ratings are based on the chance of serious injury to the chest. On the Web site <http://www.safercar.gov>, in the agency's advertising guidelines for manufacturers, and in the agency's publication of "Buying A Safer Car," the term "Side Crash" and "Side Star Rating" are used interchangeably to describe the side crash test results. The first and second row test positions are referred to as "Front Seat" and "Rear Seat", and "Front Passenger" and "Rear Passenger" interchangeably.

In keeping with the existing terminology, NHTSA is proposing that "Side Crash" be used as opposed to "Side Star Rating" to describe the side crash test ratings, and that "Front Seat" and "Rear Seat" be used to describe the seating positions and the applicable star rating. For the side area, NHTSA is also proposing that the statement "Star ratings based on the risk of injury in a side impact" be used at the bottom of this section to help explain to consumers the nature and meaning of the test. As stated previously, this generic statement will also allow the agency the flexibility to update the label without conducting further rulemaking.

#### Rollover Area

The rollover tests currently conducted by the agency measure the chances that a vehicle will roll over in a single-vehicle crash. Ratings are based on the combined results of the static measurement of the vehicle and the results of a dynamic test. On the NHTSA Web site <http://www.safercar.gov>, in the agency's advertising guidelines for manufacturers and in the agency's publication of "Buying A Safer Car," the term "Rollover" and "Rollover Rating" are used interchangeably to describe the test results. As such, NHTSA is proposing that "Rollover" be used to describe the rollover test results.

Furthermore, some vehicles can have both a 4 x 2 and 4 x 4 version, each of which can have a different rollover rating. Therefore, the agency wants to make clear that the NCAP rollover rating that appears on a vehicle must be the rating that applies to the trim version of that vehicle, i.e., 4 x 2 or 4 x 4.

As discussed previously it would be redundant to include the term "rating" in the title. Furthermore, NHTSA is proposing that the statement "Star ratings based on the risk of rollover in a single-vehicle crash" be used at the bottom of the rollover area to help explain to consumers the nature and meaning of the rollover tests.

#### General Area

By their very nature, rating systems have a highest and lowest scale. For its five-star rating system, the agency has used wording such as "ratings range from one to five stars" to indicate to consumers that the maximum rating in each category is five stars.<sup>8</sup> As such, NHTSA believes that the safety label should also contain similar wording and that this wording should be the first line in the general area. Therefore, NHTSA is proposing that the text "Star ratings range from 1 to 5 stars (★ ★ ★ ★ ★) with 5 being the highest" be used to remind consumers that the maximum rating is five stars. We believe this fulfills 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.

As mentioned previously, when applicable, NHTSA is proposing that safety concerns be noted next to the appropriate rating category. On the NHTSA Web site, information describing the safety concern and any remedy taken by the manufacturer is described by clicking on the hypertext. Given the space constraints for safety information and in the Monroney label in general, NHTSA recognizes that requiring manufacturers to include the same level of safety information on the label as on the NHTSA Web site could easily make the text illegible. However, NHTSA does believe it is important that the label indicate to consumers where they can find additional information on the safety concern. As such, NHTSA proposes that when testing identifies a safety concern associated with a vehicle, the following symbol



be placed in the appropriate rating category positioned as a superscript to the right of the star rating, as well as the text "Safety Concern: Visit <http://www.safercar.gov>."

Finally, NHTSA is proposing that the text "Source: National Highway Traffic Safety Administration (NHTSA)" appear as the last line in the general area.

<sup>8</sup> <http://www.safercar.gov>, Agency Press Releases, "Buying a Safer Car Brochure".

NHTSA believes that placing this statement at the bottom of the general area would give consumers the added confidence that manufacturers are not supplying the ratings and that the ratings are from a government agency.

#### Footer Area

A footer area would help consumers identify the agency's Web site where additional NHTSA safety information can be found. The agency is proposing that the heading read "VISIT [www.safercar.gov](http://www.safercar.gov)" and that the footer area be printed with a dark background that easily contrasts with white lettering. This also would fulfill the mandate from Congress that the label contain reference to <http://www.safercar.gov> and additional vehicle safety resources, as the Web site provides other safety information.

#### E. Notification

In June of each year, NHTSA collects vehicle information from vehicle manufacturers to help the agency identify new vehicle models and redesigns, as well as which vehicles are carry-over models.<sup>9</sup> Once the agency performs its analysis of the information provided, the carry-over models, new models not being tested, and new models to be tested are then posted to the agency's Web site <http://www.safercar.gov>.<sup>10</sup> The agency also sends a letter to each manufacturer indicating which models are selected for NCAP testing.

The agency plans to maintain this current process. However, in addition to the letter sent to manufacturers indicating which models have been selected for testing, the agency now plans to send a separate letter to officially inform each manufacturer which models the agency has determined to be a carry-over and their NCAP star rating(s). NHTSA plans to provide these letters to the manufacturers as soon as a determination is made regarding the status of vehicles (carryover or non-carryover) to ensure that the manufacturers can place NCAP star ratings on these models as soon as they begin the new year of production.

For newly tested vehicles, the agency will maintain its current quality control process and posting of results to the Web site. Once NHTSA has completed the quality control process, the agency

plans to send a letter to the manufacturer of the tested vehicle, informing them of the rating that has been given to the vehicle. This letter will also inform the manufacturer the agency's determination as to which trim lines and corporate twins the ratings will be applied.<sup>11</sup>

#### F. Timing

In order for this labeling program to be effective and to provide timely NCAP information to consumers, vehicles should have their ratings displayed as soon as possible. Therefore, the agency is proposing to require vehicle manufacturers to place the NCAP ratings on the Monroney label of new vehicles manufactured 30 days or more after receipt of NHTSA notification of the test results. The agency believes that this is a reasonable time frame since the Monroney label will already have a section for the NCAP star rating (whether or not the vehicle has been rated). The only change that would need to be made on the label is placing the number of stars and safety concern (if applicable) that the vehicle received in the appropriate section. Consequently, the agency has tentatively concluded that 30 days after receipt of NHTSA notification is a sufficient amount of time for the manufacturer to begin labeling new vehicles, but requests specific comment on this issue.

NHTSA is not proposing to require manufacturers to reprint Monroney labels for vehicles that were produced prior to agency notification; the vehicles that are required to have the NCAP star rating will be determined by the vehicle manufacturing date. NHTSA has tentatively determined that the cost and burden on manufacturers of such a requirement would have little benefit in a large number of cases. This is especially true since some vehicles would have already been sold. However, under our proposal, we would allow manufacturers to voluntarily re-label vehicles, should they choose, by replacing the entire Monroney label (not just the section with the NCAP information).

Despite providing information on a significant portion of vehicles in the U.S. fleet, the agency does not rate every single vehicle nor is it able to retest vehicles that have undergone a significant safety improvement during the model year. Therefore, in 1987, the agency published a notice establishing

an optional test program.<sup>12</sup> The optional program serves to provide consumers with up-to-date safety information on new vehicles that have undergone a mid-model year production change, models with optional safety equipment that the agency had not selected for testing, or a make and model not selected for testing by the agency. The optional NCAP operates according to the same guidelines and procedures as the regular NCAP. To qualify for the optional NCAP, the manufacturer must submit evidence that a significant safety change has been made, and then the optional test must be approved by NHTSA.

Every year, a number of tests are conducted under this program, with many being mid-model year safety changes. For those vehicles that fall into this category, and whose ratings may no longer be accurate (because the production change has occurred prior to NHTSA granting the request), the agency is proposing that when the agency grants an optional NCAP request, a manufacturer may immediately begin to label those changed vehicles as "Not Rated." Upon completion of the optional NCAP quality control, the manufacturer would be notified of the results and then be required to display the ratings on the Monroney Label.

### III. 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 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 regulatory evaluation is not required.

This NPRM proposes a regulation to implement a statutory requirement for manufacturers to add NCAP rating information to the existing Monroney label. We have considered and concluded that the one-time design cost, the cost of redesign to replace "Not Rated" with stars each time a vehicle is rated, and the increase in cost of adding the NCAP safety information to the existing Monroney label all to be minor.

<sup>9</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>10</sup> Through carry-over and new testing, NCAP provides ratings for about 80 percent of the vehicle fleet each year.

<sup>11</sup> This determination will be based on the information submitted to the agency as part of its annual collection of information.

<sup>12</sup> Initial criteria published on August 21, 1987 (52 FR 31691), and then revised on February 5, 1988 (53 FR 3479).

No other NCAP procedures would be modified as a result of this rulemaking.

We estimate that the cost of a label about this size would be \$0.08 to \$0.14 per vehicle (in 2004 dollars). This assumes that the size of the Monroney label is made larger to include this information. If the label is kept the same size and this information is just added to the label, the cost would be about \$0.01 per vehicle. In either case, the costs are considered minimal.

#### *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 we do not believe that this proposal adds a significant economic cost (estimated to be less than \$0.15 per vehicle) to a motor vehicle.

#### *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 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 earlier described, this rule, if made final, would require vehicle manufacturers to include on Monroney labels, the safety rating information published by NCAP. This NPRM proposes how NHTSA will describe the appearance of the label, and specify to the manufacturers, in both individual letters to the manufacturers and on NHTSA's NCAP Web site (<http://www.safercar.gov>) the information specific to a particular motor vehicle model and make that the vehicle manufacturer must put on the Monroney label.

Because, if this rule is made final, NHTSA will specify the format of the label, and the information each manufacturer must include on the Monroney 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."

NCAP ratings are created by NHTSA. This rule, if made final, would require vehicle manufacturers to take NHTSA's NCAP ratings (which NHTSA will supply to each manufacturer) and report them on 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)*

Executive Order 13132 requires NHTSA to develop a process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, the agency may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not

required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA also may not issue a regulation with Federalism implications and that preempts State law unless the agency consults with State and local officials early in the process of developing the proposed regulation.

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 will 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 us to use voluntary consensus standards in regulatory activities unless doing so would be inconsistent with applicable law or otherwise 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 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://dms.dot.gov>.

### IV. Public Comment

Comments are sought on the proposed requirements discussed herein and not on the usefulness of such a labeling requirement. To facilitate analysis of the comments, it is requested that responses be organized by the requirements listed above. Suggestions for additional requirements are also sought. NHTSA will consider all comments and suggestions in deciding what changes, if any, should be made to the label. Given the timeframe, NHTSA would request that other suggestions include any available data and supporting rationale, and research needed to implement them to assist the agency in evaluating their merit.

#### *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 be no longer than 15 pages long (49 CFR 553.21). We

establish this limit to encourage the preparation of comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit to the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given at the beginning of this document under **ADDRESSES**.

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

If you 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 under **FOR FURTHER INFORMATION CONTACT**. This submission must include the information that you are claiming to be private; that is, confidential business information. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. 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 (49 CFR part 512).

#### *Will the Agency Consider Late Comments?*

We will consider all comments that are received by Docket Management before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a proposal concerning this label, we will consider that comment as an informal suggestion for future rulemaking action.

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

Anyone is able to search the electronic form of all comments

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://dms.dot.gov>.

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also review the comments on the Internet. To access the comments on the Internet, take the following steps:

1. Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).
2. On that page, click on "Search."
3. On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-1998-1234," you would type "1234." After typing the docket number, click on "Search."
4. On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You can download the comments.

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

### V. Proposed Regulatory Text

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

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

In consideration of the foregoing, 49 CFR part 575 would be amended to read as follows:

#### **PART 575—CONSUMER INFORMATION**

1. The authority citation for part 575 would be revised to read as follows:

**Authority:** 49 U.S.C. 32302, 30111, 30115, 30117, 30166, and 30168, P.L. 104-414, 114 Stat. 1800, P.L. 109-59, 119 Stat. 1144, 15 U.S.C. 1232(g); delegation of authority at 49 CFR 1.50.

2. The heading for subpart A would be revised to read as follows:

### Subpart A—Regulations Issued Under Section 112(d) of the National Traffic and Motor Vehicle Safety Act; General

3. Subpart D would be added to read as follows:

#### Subpart D—Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU); Consumer Information

##### § 575.301 Vehicle Labeling of Safety Rating Information.

(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 passenger cars, multipurpose passenger vehicles (sport utility vehicles and vans), and buses with a GVWR of 10,000 pounds or less manufactured on or after September 1, 2007.

##### (c) *Definitions.*

The terms *bus*, *multipurpose passenger vehicle* and *passenger car* have the meanings assigned to them in 49 CFR part 571.3.

*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. sections 1231–1233.

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

(d) *Required Label.* (1) Each vehicle to which this section applies must have a safety rating label as part of the Monroney label, which meets the requirements specified in paragraph (e) of this section and which conforms in format and sequence to the sample label depicted in Figure 1 of this section.

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

(3) For vehicle tests for which NHTSA reports a safety concern as part of the star rating, the label must depict the

related symbol depicted in Figure 3 of this section and the wording "Safety Concern: Visit <http://www.safercar.gov> for more details."

(4) Whenever NHTSA reports a new safety rating to a manufacturer, including any safety concerns, the manufacturer must include the new information on vehicles manufactured on or after the date 30 days after receipt by the manufacturer of the information.

(5) If the agency grants a request for an optional NCAP test, the manufacturer may depict the vehicle as untested for that particular test.

(6) The text "Frontal Crash," "Side Crash," "Rollover," "Driver," "Passenger," "Front Seat," "Rear Seat" and "Not Rated," where applicable, 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 or symbols on the label including the star graphic specified in paragraph (d)(8)(ii) of this section, must have a minimum font size of 8 point.

##### (e) *Required information and format.*

(1) *Label Border.* The label must be surrounded by a solid dark line that is a minimum of 3 points in width.

(2) *Label Size and legibility.* The 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 or must cover an area with a minimum of 4½ inches in length and 3½ inches in height on the Monroney label.

(3) *Heading Area.* The text must read "Government Safety Ratings" in boldface, capital letters that are in a font that easily contrasts with a dark background, and be centered over the entire top length of the label.

(4) *Frontal Crash Area.* (i) The frontal crash area must be placed below the heading area, and must be of a dark text against a light background. Both the driver and the right front passenger frontal crash test ratings must be displayed with the maximum star ratings achieved.

(ii) The text "Frontal Crash" must be in boldface, cover two lines, and must be aligned along the left side of the label.

(iii) The text "Driver" must be on the same line as the text "Frontal Crash" and must be aligned in the center of the label. The achieved star rating for "Driver" must be on the same line, aligned to the right 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.

(v) The text "Passenger" must be on the same line as the text "Frontal

Crash", below the text "Driver", and aligned in the center of the label. The achieved star rating for "Passenger" must be on the same line, aligned to the right of the label.

(vi) If NHTSA has not released the star rating for "Passenger", the text "Not Rated" in boldface must be used.

(vii) The text: "Star ratings based on the risk of injury in a frontal impact" must be placed at the bottom of the frontal crash area.

(viii) "Frontal ratings should ONLY be compared to other vehicles of similar size and weight."

(5) *Side Crash Area.* (i) The side crash area must be 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 text "Side Crash" must cover two lines, and be aligned along the left side of the label in boldface.

(iii) The text "Front Seat" must be on the same line as the text "Side Crash" and be aligned in the center of the label. The achieved star rating for "Front Seat" must be on the same line and aligned to the right of the label.

(iv) If NHTSA has not released the star rating for "Front Seat", the text "Not Rated" in boldface must be used.

(v) The text "Rear Seat" must be on the same line as the text "Side Crash", below the text "Front Seat", and aligned in the center of the label. The achieved star rating for "Rear Seat" must be on the same line, aligned to the right of the label.

(vi) If NHTSA has not released the star rating for "Rear Seat", the text "Not Rated" in boldface must be used.

(vii) The text: "Star ratings based on the risk of injury in a side impact" must be placed at the bottom of the side crash area.

(6) *Rollover Area.* (i) The rollover area must be 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 text "Rollover" must be aligned along the left side of the label in boldface. The achieved star rating must be on the same line, aligned to the right of the label.

(iii) If NHTSA has not tested the vehicle, the text "Not Rated" in boldface must be used.

(iv) The text: "Star ratings based on the risk of rollover in a single vehicle



crash” must be placed at the bottom of the rollover area.

(7) *Graphics.* The star graphic is depicted in Figure 2 of this section and the safety concern graphic is depicted in Figure 3 of this section.

(8) *General Information.* (i) This information must be below the rollover area, separated by a black line that is a minimum of three points in width. The text must be dark against a light

background. The text must state the following, in the specified order:

(ii) “Star ratings range from 1 to 5 stars, with 5 stars being the highest.”

(iii) “If there is a safety concern, provide the graphic in Figure 3 followed by the words “Visit [www.safercar.gov](http://www.safercar.gov) for more details”.

(iv) “Source: National Highway Traffic Safety Administration (NHTSA)”.

(9) *Footer Area.* (i) The footer area must be below the rollover area,

separated by a black line that is a minimum of three points in width.

(ii) The footer area must be printed in a dark color that contrasts with the background of the label.

(iii) The footer area must contain the text: “VISIT [www.safercar.gov](http://www.safercar.gov)” in boldface letters that are in white font.

(iv) The footer area must be centered over the entire bottom length of the label.

Figure 1 to Sec. 575.301  
**Sample Label for Sec. 575.301**

**GOVERNMENT SAFETY RATINGS**

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**Frontal Driver** ★★★★★

**Crash 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.

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**Side Front seat** ★★★★★▲

**Crash Rear seat** **Not Rated**

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

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**Rollover** ★★★★★

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.

▲ Safety concern: Visit [www.safercar.gov](http://www.safercar.gov) for more details.

Source: National Highway Traffic Safety Administration (NHTSA)

**VISIT [www.safercar.gov](http://www.safercar.gov)**

Figure 2 to Sec. 575.301  
**Sample Star Rating Graphic for Sec. 575.301**



Figure 3 to Sec. 575.301  
**Sample Safety Concern Graphic for Sec. 575.301**



**Editorial Note:** The following appendices will not appear in the Code of Federal Regulations.

**Appendix A—Relevant Statutory Language (For Explanatory Purposes—Not Part of the Proposed Regulatory Text)**

On August 10, 2005, the President of the United States signed H.R. 3 into law (SAFETEA-LU) which requires the Secretary of Transportation to issue regulations to ensure that the section's labeling requirements, which amend section 3 of the Automobile Information Disclosure (AID) Act (15 U.S.C. 1232), are implemented by September 1, 2007. These labeling requirements concern the safety rating information published by NHTSA's NCAP. Section 10307 reads as follows:

**“AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.**

(a) Safety Labeling Requirement—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended—

(1) by striking “and” after the semicolon in subsection (e);

(2) by inserting “and” after the semicolon in subsection (f)(3);

(3) by striking “(3).” in subsection (f)(4) and inserting “(3);”;

(4) by adding at the end the following:

(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

(1) includes a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated

fashion indicating the maximum possible safety rating;

(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests);

(3) contains information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including <http://www.safercar.gov>; and

(4) is presented in a legible, visible, and prominent fashion and covers at least—

(A) 8 percent of the total area of the label; or

(B) an area with a minimum length of 4½ inches and a minimum height of 3½ inches; and

(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.

(b) Regulations—The Secretary of Transportation shall issue regulations to ensure that the labeling requirements under subsections (g) and (h) of section 3 of the Automobile Information Disclosure Act, as added by subsection (a), are implemented by September 1, 2007.”

**Appendix B—Background Information About NCAP (For Explanatory Purposes, Not Part of the Proposed Regulatory Text)**

Both the frontal and side NCAP test programs are based on FMVSS No. 208 and No. 214 respectively. For FMVSS No. 208 the weight limit is a GVWR of 8,500 lbs. and for FMVSS No. 214 that weight limit is a GVWR of 6,000 lbs. Additionally, these standards

apply to passenger vehicles, sport utility vehicles (SUV's), vans, and pickups. For rollover, there is no associated FMVSS and the agency established in its final decision notice establishing the program, that it has the ability to test vehicles with a GVWR of up to 10,000 lbs.

Many vehicle manufacturers offer optional equipment, like side air bags and electronic stability control, on their vehicles that could affect the vehicles' test results. Similarly, the agency recognizes that many vehicles come in two-door or four-door versions, and/or 4x4 or 4x2 version. Pickup trucks are also often available in regular cab, extended cab, and four-door cab versions. To alleviate test burden, the agency tests 4x2 pickup trucks and 4x4 sport utility vehicles in the frontal and side NCAP tests. These ratings are then applicable to all versions of 4x4 pickup trucks and 4x2 sport utility vehicles respectively. For rollover, both 4x4 and 4x2 pickups and sport utility vehicles are tested due to the differences in performance in rollover NCAP. Under most circumstances, only extended cab pickup trucks are tested. The resulting ratings are applied to regular cab and four-door pickup trucks as well.

Manufacturers will always have an opportunity to provide data showing that the 4x2/4x4, or the regular cab/extended cab models perform differently. Optional tests on these vehicles will then be available to the manufacturers who wish to perform them. For both the crash and rollover programs, the agency will consider 2- and 4-door models to be separate vehicles unless the manufacturer provides data showing that the two perform the same.

Issued on: January 24, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 06-827 Filed 1-27-06; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### 49 CFR Part 611

[Docket No. FTA-2005-22841]

RIN 2132-AA81

#### Major Capital Investment Projects

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Advance Notice of Proposed Rulemaking.

**SUMMARY:** This advance notice of proposed rulemaking provides interested parties with the opportunity to comment on the characteristics and requirements proposed by the Federal Transit Administration (FTA) for a new capital investment program. This new program, "Small Starts", is a discretionary grant program for public transportation capital projects that run along a dedicated corridor or a fixed guideway, have a total project cost of less than \$250 million, and are seeking less than \$75 million in Small Starts program funding.

This Small Starts program is a component of the existing New Starts program, but will offer project sponsors an expedited and streamlined application and review process.

Consistent with the intent and provisions of the new public transit statute, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU), FTA hopes to simplify the planning and project development process for proposed Small Starts projects in a number of ways. In addition to the reduced number of evaluation measures specified in SAFETEA-LU, the process may be further simplified by allowing small projects to conduct alternatives analysis with a reduced set of alternatives, allowing evaluation measures for mobility and cost-effectiveness to be developed without having to rely on complicated travel demand modeling procedures in some cases, and possibly defining some classes of low-cost improvements that are pre-approved as effective and cost-effective in certain contexts.

**DATES:** Comments must be received by March 10, 2006.

**ADDRESSES:** *Written Comments:* Submit written comments to the Dockets Management System, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001.

*Comments.* You may submit comments identified by the docket number (FTA-2005-22841) by any of the following methods:

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

- *Web Site:* <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2478.

- *Mail:* Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- *Hand Delivery:* To the Docket Management System; Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

*Instructions:* All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this notice. 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. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading under

#### SUPPLEMENTARY INFORMATION.

*Docket:* For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to the Docket Management System (see **ADDRESSES**).

**FOR FURTHER INFORMATION CONTACT:** Ron Fisher, Office of Planning and Environment, telephone (202) 366-4033, Federal Transit Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 9 a.m. to 5:30 p.m. for FTA, Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On August 10, 2005, President Bush signed the Safe, Accountable, Flexible, and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU). Section 3011 of SAFETEA-LU made a number of changes to 49 U.S.C.

5309, which authorizes the Federal Transit Administration's (FTA's) fixed guideway capital investment program known as "New Starts". In addition to the changes made to the New Starts program, for which FTA intends to issue separate policy guidance and a revised regulation, section 5309 has been amended to add a new subsection (3) containing a new capital investment program category for projects requesting federal funding of less than \$75,000,000 with a total project cost of less than \$250,000,000. That new capital investment program, which will be referred to as the "Small Starts" program, is the subject of this ANPRM. FTA plans to issue a Notice of Proposed Rulemaking (NPRM) in the near future that will address changes to the existing New Starts program made by section 3011 of SAFETEA-LU, as well as a proposal for the Small Starts program based on comments received in response to this ANPRM.

SAFETEA-LU created the new Small Starts program category by amending section 5309(e) of Chapter 53 of Title 49, United States Code. At the same time, the current process for larger new fixed guideway and extension ("New Starts") projects was continued (with some modifications) under section 5309(d). The conference report accompanying SAFETEA-LU indicates the expectation that projects in this new "Small Starts" category would be "advanced through an expedited and streamlined evaluation and rating process."

The New Starts process now required under section 5309(d) for larger new fixed guideway and extension projects has been in place for some time and we believe represents the point of departure from which the new Small Starts category should be developed. The New Starts process was first outlined by a Statement of Policy in 1976 and was refined in subsequent Statements of Policy in 1978, 1980, and 1984. In the Surface Transportation and Uniform Relocation Assistance Act of 1987, the process called for in the Statements of Policy was enacted into law, and was subsequently modified by the Intermodal Surface Transportation Efficiency Act of 1991. A Statement of Policy in 1997 and further amendments in the Transportation Equity Act for the 21st Century, enacted in 1998, culminated in the current Final rule on Major Capital Investments (Title 49; Vol. 6 CFR611.1), issued in December 2000 and went into effect in April 2001.

Under the process laid out in statute and in the December 2000 Final Rule, New Starts projects, like all transportation investments in metropolitan areas, must emerge from a