DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 199

[Docket PS–150, Notice No. 6]

Control of Drug Use and Alcohol Misuse in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations Alcohol Misuse Prevention Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of lower random drug testing rate.

SUMMARY: RSPA has received and evaluated the 1995 Management Information System(MIS) Data Collection forms for the drug testing of pipeline industry personnel. The RSPA determined that the random positive drug testing rate for pipeline industry for the period of January 1, 1995, through December 31, 1995, was 0.8 percent. Since this is the second year that data has been collected and the random positive rate for the second year is less than 1 percent, the random testing rate for RSPA is being reduced from 50 percent to 25 percent for calendar year 1997. This means that for calendar year 1997, the operator must randomly select a minimum 25 percent of their covered employees to be tested.

EFFECTIVE DATE: January 1, 1997, through December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Catrina M. Pavlik, Office of Pipeline Safety, Compliance and State Programs, (DPS–23), Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590, telephone (202) 366–6199.

SUPPLEMENTARY INFORMATION: In a final rule published on December 23, 1993 (58 FR 68257), RSPA announced that it would require operators of gas, hazardous liquid and carbon dioxide pipelines and liquefied natural gas facilities, who are subject to 49 CFR parts 192, 193, and 195, to implement, maintain, and submit an annual report on drug testing program data. Any operator with 51 or more covered employees must submit this information on an annual basis. Operators with 50 or fewer covered employees must maintain this information, and RSPA randomly selected 100 operators in this category to submit their data. The drug testing statistical data is essential for RSPA to analyze its current approach to deterring and detecting illegal drug abuse in the pipeline industry, and, as appropriate, to plan a more efficient and effective approach. The data collected in 1995 was the second year that the data was submitted. Now that RSPA has received two consecutive years of MIS Data Collection forms and the positive random testing rate has been less than 1 percent industry-wide, RSPA announces that in accordance with § 199.11(c)(3) the minimum random drug testing rate is lowered to 25 percent of covered pipeline employees for the period of January 1, 1997, through December 31, 1997.

MIS reports must be submitted to the Office of Pipeline Safety, Research and Special Programs Administration, DPS–23, Room 2335, 400 7th Street SW., Washington, DC 20590, not later than March 15 of each calendar year. A notice of statistical data will be published in the future to report results of each calendar year's MIS Data Collection results. RSPA will also publish whether or not the random rate will be reduced or increased for the pipeline industry pursuant to § 199.11.

Issued in Washington, DC on November 21, 1996.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 96–30317 Filed 11–26–96; 8:45 am]

BILLING CODE 4910–60–P

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 103]

RIN 2127–AG14

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: As one method of reducing the adverse effects of air bags, especially for children, NHTSA is requiring new, attention getting labels. This rule requires vehicles with air bags to bear three new warning labels. Two of the labels replace existing labels on the sun visor. The third is a temporary label on the dash. These new labels would not be required on vehicles having a ''smart'' passenger-side air bag, i.e., an air bag that would automatically shut off or adjust its deployment so as not to adversely affect children. This rule also requires rear-facing child seats to bear a new, enhanced warning label to replace the existing label. The labels will help reduce the adverse effects by increasing the number of people who read and understand the message of the warning labels.

DATES: Effective Date: The amendments made in this rule are effective December 27, 1996.

Compliance Dates: Passenger cars, light trucks, and vans that are equipped with passenger air bags that do not qualify as ''smart'' air bags that are manufactured on or after February 25, 1997 must include the new, attention-getting labels specified in this rule.

Child restraint systems that can be used in a rear-facing position and are manufactured on or after May 27, 1997 must include the new, attention-getting label specified in this rule.

Manufacturers may voluntarily substitute the new labels for the currently required labels prior to these dates.

Petition Date: Any petitions for reconsideration must be received by NHTSA no later than Janaury 13, 1997.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590:

For non-legal issues: Mary Versailles, Office of Safety Performance Standards, NPS–31, telephone (202) 366–2057, facsimile (202) 366–4329, electronic mail ''mversailles@nhtsa.dot.gov''.

For legal issues: J. Edward Glancy, Office of Chief Counsel, NCC–20, telephone (202) 366–2992, facsimile (202) 366–3820, electronic mail ''eglancy@nhtsa.dot.gov''.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Currently Required and Proposed Vehicle Labels
  A. Labels on Sun Visor
  B. Label on Passenger-Side End of Vehicle Dash or on Door Panel
  C. Label in the Middle of the Dash Panel
III. Current and Proposed Labels for Rear-Facing Child Seats
IV. Summary of Comments on Proposal
V. Focus Groups
VI. General Issues Applicable to All Labels
  A. Vehicles with Smart Passenger-Side Air Bags or Manual Cutoff Switches for Passenger-Side Air Bags
  B. Flexibility
  C. Headings
  D. Color
  E. Pictogram
VII. Sun Visor Alert Label
VIII. Sun Visor Warning Label

IX. Label on Passenger-Side End of Vehicle Dash or on Door Panel
X. Label in the Middle of the Dash Panel
XI. Child Seat Label
XII. Letters to Owners of Existing Vehicles
XIII. Leadtime and Costs
XIV. Rulemaking Analyses and Notices
A. Executive Order 12866 and DOT Regulatory Policies and Procedures
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. National Environmental Policy Act
E. Executive Order 12612 (Federalism)
F. Civil Justice Reform

I. Background

On August 6, 1996, NHTSA published a notice of proposed rulemaking (NPRM) on Standard No. 208, ''Occupant Crash Protection,'' (49 CFR 571.208) and Standard No. 213, ''Child Restraint Systems,'' (49 CFR 571.213). The NPRM proposed several amendments to these standards to reduce the adverse effects of air bags, especially those on children. One of the proposed steps involved new, attention-getting warning labels for vehicles without smart passenger-side air bags [1] and for rear-facing child seats.

II. Current and Proposed Vehicle Labels

NHTSA's current vehicle labeling requirements for vehicles with air bags require the following information, coupled with the signal phrase ''CAUTION, TO AVOID SERIOUS INJURY:,'' to be labeled on the sun visors:

For maximum safety protection in all types of crashes, you must always wear your safety belt.

Do not install rearward-facing child restraints in any front passenger seat position.

Do not sit or lean unnecessarily close to the air bag.

Do not place any objects over the air bag or between the air bag and yourself.

See the owner's manual for further information and explanations.

The standard allows the word ''WARNING'' to be used in lieu of ''CAUTION.'' In addition, the owner's manual must include appropriate additional information in each of these areas. The coloring of the lettering must contrast with the background of the label. No minimum size dimensions are specified.

[1] The NPRM identified three types of smart passenger-side air bags: (1) systems that provide an automatic means to ensure that the air bag does not deploy when a child seat or a child with a total mass of 30 kg or less is present on the front outboard passenger seat, (2) systems using sensors, other than or in addition to weight sensors, which automatically prevent the air bag from deploying in situations where it might have an adverse effect on children, and (3) systems designed to deploy in a manner that does not create a risk of serious injury to children very near the bag.

In addition, NHTSA requires an ''air bag alert label'' if the sun visor warning label is not visible when the sun visor is in its stowed position. The air bag alert label can either be on the air bag cover or on the side of the sun visor visible when the visor is in the stowed position. To the best of the agency's knowledge, to date, all manufacturers have placed the alert label on the visible side of the sun visor. This alert label must read, ''Air bag. See other side.'' Again, the coloring of the lettering must contrast with the background of the label. No minimum size dimensions are specified.

NHTSA proposed four new labels for vehicles without smart passenger-side air bags. Two of the proposed labels would replace the currently required labels. One of the new labels would be a permanent label on the passenger-side end of the vehicle dash or on the adjacent area of the door panel. The other new label would be a temporary label on the middle of the vehicle dash.

A. Labels on Sun Visor

NHTSA proposed to enhance the warning labels currently required on sun visors for vehicles which lack smart passenger-side air bags. The current warning labels on sun visors would no longer be required. In their place, enhanced alert labels and warning labels would be required. Manufacturers would continue to be permitted to provide a warning label only, if that label is visible when the sun visor is in its stowed position.

For the alert label, NHTSA proposed to require that a new permanent label be affixed to the side of the visor that is visible when the visor is in its stowed position. The label would be required on that side of the visor above every seating position equipped with an air bag. The label would have a black background. On the left side of the proposed alert label would be a pictogram showing an inflating air bag striking a rear-facing child seat, with a red slash through that. On the right side of the proposed alert label would be yellow letters reading ''AIR BAG WARNING.'' Underneath that warning, in much smaller yellow letters, would appear text reading ''FLIP VISOR OVER.'' The agency proposed that all the new labels, including the alert label, be at least at least 140 mm long and 65 mm high. However, NHTSA asked for comments on labels that were 75 percent, 50 percent, and 25 percent of the proposed size.

For the warning label to be permanently affixed on the side of the visor visible when the visor was turned down in the deployed position (unless the manufacturer chooses to place the warning label on the side of the visor visible in its stowed position), NHTSA proposed there would be a white pictogram on a black background in the lower left corner of this label. The pictogram would be a representation of a belted adult occupant in front of a deploying air bag. The background for the rest of the proposed label would be yellow. In red across the top of the label would appear a triangle with an exclamation mark inside it followed by the word ''WARNING'' in large type. In smaller red type beneath that heading, the phrase ''Severe injury or death can occur'' would appear. Beneath that, in black type, would appear the phrase ''Air bags need room to inflate.'' Beneath that, the proposed label would have had four bullets in black type reading:

- Never put a rear-facing child seat in the front.
- Unbelted children can be killed by the air bag.
- Don't sit close to the air bag.
- Always use seat belts.

For vehicles with a manual cutoff switch, the first bullet on the label for the stowed side of the sun visor would be modified to read ''Never put a rear-facing child seat in the front UNLESS the air bag is off.''

The agency also proposed to carry forward the current prohibition against sun visors showing any other information about air bags or the need to wear seat belts, except for air bag maintenance information and the utility vehicle label required by NHTSA's consumer information regulations. Finally, the agency asked whether a sun visor label should be required for vehicles with smart passenger-side air bags.

B. Label on Passenger-Side End of Vehicle Dash or on Door Panel

NHTSA currently has no requirements for any safety labels in these locations. However, the International Organization for Standardization (ISO) has a proposed label featuring a pictogram showing a rear-facing child seat positioned in front of an air bag, with a red slash through the visual. The proposed location is on the passenger-side end of the dash, which is visible only when the passenger door is opened. An alternative location is on the door panel in a location that is also visible only when the door is opened.

NHTSA proposed to require a label either on the passenger-side end of the dash or on the door panel, for vehicles which lack smart passenger-side air bags. The proposed label would have

been identical to the label proposed for child seats (see below in section III). It would be a permanent label with the same minimum dimensions, the same yellow and red colors, and the same content, including the visual with the red slash through it. If the vehicle had a manual cutoff switch for the passenger air bag, the label would be modified to read ''Danger! Do not place rear-facing child seat on front seat with air bag UNLESS the air bag is off.''

C. Label in the Middle of the Dash Panel

NHTSA currently has no requirements for a safety label in this location. The label NHTSA proposed was a very visible label to be placed in the middle of the dash of all new vehicles equipped with air bags, if they lack smart passenger-side air bags. However, this label would have been permitted to be readily removable. If removable, the label would have been required on new vehicles when they are delivered to consumers, but could have then been removed by consumers after they have had a chance to read it. As proposed, the top half of this label would have a yellow background with the phrase ''Make sure all children wear seat belts'' in red type. The bottom half of this label would have a white background. In black type, the bottom half of the proposed label would say, ''Unbelted children and children in rear-facing child seats may be KILLED or INJURED by passenger-side air bag.'' To make the proposed label as effective as possible, the signal word ''WARNING'' would be placed at the beginning of the label to highlight the importance of the message.

III. Current and Proposed Labels on Rear-Facing Child Seats

NHTSA currently requires a warning to be labeled on each child restraint that can be used in a rear-facing position. Specifically, S5.5.2(k)(ii) of Standard No. 213, *Child Restraint Systems* (49 CFR 571.213) requires:

> Either of the following statements, as appropriate, on a red, orange, or yellow contrasting background, and placed on the restraint so that it is on the side of the restraint designed to be adjacent to the front passenger door of a vehicle and is visible to a person installing the rear-facing child restraint system in the front passenger seat:
>
> *WARNING:* WHEN YOUR BABY'S SIZE REQUIRES THAT THIS RESTRAINT BE USED SO THAT YOUR BABY FACES THE REAR OF THE VEHICLE, PLACE THE RESTRAINT IN A VEHICLE SEAT THAT DOES *NOT* HAVE AN AIR BAG, or
>
> *WARNING:* PLACE THIS RESTRAINT IN A VEHICLE SEAT THAT DOES *NOT* HAVE AN AIR BAG.

NHTSA proposed to move and enhance the warning label currently required on child restraint systems that can be used in a rear-facing position. As proposed, a new permanent label would be affixed to each child restraint system that can be used in a rear-facing position. The label would be located in the area where a child's head would rest. This new label would have a yellow background for the text portion. On that yellow background, there would first appear a heading in red that said ''DANGER!'' Under that heading, the text of the proposed label would appear in black as:

> DO NOT place rear-facing child seat on a vehicle seat with air bag.
>
> DEATH or SERIOUS INJURY can occur.

Opposite the text, this warning label would have a pictogram showing an inflating air bag striking a rear-facing child seat, with a red slash through that.

IV. Summary of Comments on Proposal

Over 50 of the comments received in response to the NPRM addressed labeling issues. Except for General Motors (GM), vehicle manufacturers were not strongly opposed to the concept of labels. However, nearly all manufacturers asked NHTSA to specify the exact language and content of labels, but to allow flexibility in other areas. Manufacturers also raised concerns about adhesive residue from the temporary label and leadtime.

In general, child seat manufacturers had stronger objections to the labeling proposal, feeling that they and child seat purchasers would bear a disproportionate share of the economic burden when the air bag, not the child seat, was the hazard. Some child seat manufacturers expressed concerns with the proposed location for the label, citing visibility, durability, and child comfort concerns. Some child seat manufacturers also were concerned that the proposed format and location might falsely lead users to conclude that this warning was more important than other warnings.

Insurance groups, consumer advocacy groups, and parents generally supported more conspicuous labels. Some of these commenters felt the proposed labels were not conspicuous enough. Some of these commenters also were concerned that proposed labels did not make it clear that all children should be in the rear seat.

Finally, comments were received concerning harmonization with a proposed symbol from the International Organization for Standardization (ISO) and with the series of Z535 standards from the American National Standards Institute (ANSI).

V. Focus Groups

The labels proposed in the NPRM were developed in part based on the results of six focus groups the agency conducted in March 1996. GM in particular criticized the agency's reliance on the results of focus groups. GM requested an analysis of the proposed labels from Dr. Jane T. Welch, a human factors and communications consultant, and attached a copy of her report to the GM comment. The report states, ''NHTSA has seen fit to toss aside 20 years of research in favor of the opinions of 54 naive lay people.''

Much of GM's criticism of the labeling proposal is an incorrect impression that NHTSA believes improved labels guarantee that all people would act correctly in response to the warning. Dr. Welch referred to 20 years of human factors studies reportedly demonstrating that warning labels on products have produced ''very little reduction in accident rates.'' NHTSA does not believe that labels by themselves will solve the adverse effects of air bags. In its August 6 proposal, NHTSA acknowledged that no label works perfectly for all people and that different people prefer different label concepts. However, even if GM and Dr. Welch are correct in their assertion that labels will produce only a ''very little'' reduction in fatalities and injuries, NHTSA believes it should do all it can to present a ''warning'' message frequently and prominently so as to achieve whatever reduction is possible.

Further, the agency stated in the August 6 proposal that it had used the ''focus groups with the aim of designing a label which would improve substantially the likelihood that people will read the label and understand its message.'' NHTSA recognized that even if motorists received the message, there was not any assurance that people would act on the message. GM and Dr. Welch concede that *some* people will act on the message. The agency has used focus groups to help ensure the label will be conspicuous enough to attract more people's attention and the message will be clear and powerful enough to increase the likelihood that more people will act in accordance with the message.

Finally, NHTSA appreciates the inputs from GM and other commenters about the content of the labels. The agency has used the public's inputs to help it modify and better define the message these labels will convey. NHTSA agrees that human factors knowledge is extremely valuable in deciding whether a label can be used to

help address a problem and what the message and purpose of the label should be. However, once these decisions have been made, NHTSA believes that focus groups are a valid and helpful technique to see if a proposed label design is effective; i.e., whether the label design succeeds in attracting the user's attention and whether the label clearly conveys the intended message.

Consistent with this belief, NHTSA has conducted six more focus groups in three cities to test consumer reaction to fine tuning changes suggested by the comments on the proposed labels. The contractor's final report on the second focus group study has been placed in the docket for this rulemaking. What follows is a brief overview of the second study.

Focus groups were conducted in San Diego, CA on October 29, 1996, in Chicago, IL on October 30, 1996, and in Baltimore, MD on November 4, 1996. The study involved six focus groups. The Baltimore, MD groups each had eight participants, the San Diego groups each had nine participants, and the Chicago groups had nine and ten participants, for a total of 53 participants. The composition of the groups reflected the population as a whole in terms of gender, ethnic background, and level of education. All participants had at least one child under 13, made several trips per week with one or more children in the car, drove at least 7,500 miles per year, were 25–45 years of age, had no connection with the automotive industry or with market research, and had not participated in a focus group during the preceding six months.

The focus groups lasted approximately two hours. The first half-hour of each focus group was spent discussing their current actions and beliefs regarding children riding in cars, use of seat belts, air bags, and awareness of any warning labels currently in vehicles. Most of the remaining time was devoted to evaluating three different sets of prototype labels. The San Diego and Chicago groups evaluated a total of 12 labels, while the Baltimore groups evaluated a total of 15 labels.

For the sun visor warning label, the San Diego and Chicago groups evaluated the currently required label, the proposed label, and three new labels based on the comments. The new labels used the proposed pictogram, the ISO pictogram, and a pictogram included in Chrysler's comments. The colors tested were the colors specified in the ANSI standards (see below), except that both yellow and orange headings were tested. The text of the new labels was also revised from the proposal. The Baltimore group also evaluated two additional labels, based on results from the first two focus groups. One of the these labels had the heading in red on a yellow background. This color combination was preferred by both the San Diego and Chicago focus groups instead of the heading in black on the yellow background, as specified by ANSI labeling guidelines. Both of these additional labels had new, more specific text.

For the temporary label on the middle of the dash, the groups evaluated the proposed label and three new labels. The colors of the new labels were those specified in the ANSI standards, except that both yellow and orange headings were tested. The text of the new labels was also revised. The text of one of the new labels was further modified for the Baltimore group to give more specific advice concerning the age below which children are at special risk from deploying air bags.

For the child seat label, the San Diego and Chicago groups evaluated the proposed label and two new labels. The new labels include the new pictograms and the new color combinations of the previous labels, and revised text. The Baltimore group tested an additional new label with an all yellow background.

In general, there were not major differences among the six groups. Generally, the members were well-informed and very interested in automobile safety. Every group had heard that the rear seat was the safest place for children. Almost every participant had heard of the dangers to children from air bags. However, the groups did indicate that most of their information was from the media and that they were interested in obtaining information from the government and the motor vehicle industry. The participants indicated that they would be very interested in receiving clear, unambiguous statements of the risks from the government and industry, along with guidance on how to minimize those risks. The reactions of the focus groups to specific labels or label features are discussed later in this notice.

VI. General Issues Applicable to all Labels

A. Vehicles With Smart Passenger-Side Air Bags or Manual Cutoff Switches for Passenger-Side Air Bags

As an incentive for vehicle manufacturers to equip their vehicles with smart passenger-side air bags, the agency proposed to limit the requirement for the new labels to vehicles lacking such air bags.

The public comments focused on the proposed definition for ''smart passenger air bag.'' A definition is needed if the labeling requirement is to be limited to vehicles without smart bags. Many commenters argued that the proposed definition was not specific enough, and that test procedures should be specified. IIHS, however, stated that the agency should not develop a definition so as not to restrict developments in technology. Commenters raised a variety of concerns about the portion of the definition associated with weight suppression, which specified that the air bag be suppressed ''when a child seat or child with a total mass of 30 kg or less is present on the front outboard passenger seat.'' GM, for example, argued that the definition is ambiguous and does not provide sufficient information. That company stated that some child seats and booster seats with children would exceed the 30 kg minimum and that, assuming a 20 percent sensor error, a person with a standing weight of 152 pounds could suppress the air bag. Various commenters addressed the different levels of effectiveness that might occur for simpler versus more advanced smart systems, and limitations associated with simpler systems. AAMA expressed concern that use of the term ''smart air bag'' could mislead the public into believing they have no responsibility in the performance of restraint systems.

In the absence of significant adverse comments about excepting vehicles with smart passenger-side air bags from the requirements for new labels, the agency is adopting that exception. Absent any evidence that warnings are necessary for vehicles with smart air bags, or what those warnings would be, NHTSA is not specifying any warning labels for vehicles with smart passenger-side air bags. Manufacturers may provide any information or warnings that would be appropriate for their smart air bag designs. NHTSA recognizes that the term ''smart air bag'' is still very general. The issue of more specific criteria and other issues relating to smart air bags will be addressed in a rulemaking in the near future.

In recognition of the fact that some vehicles are currently permitted to have manual cutoff switches for the passenger-side air bag, NHTSA is specifying optional label language for those vehicles. The absolute language about never placing a rear-facing child restraint in the front seat is not necessary for a vehicle in which the passenger-side air bag can be turned off.

The optional language for those vehicles is as follows: ''NEVER put a rear-facing child seat in the front unless air bag is off.''

B. Flexibility

NHTSA's proposal would have required labels to conform in content, format, size, and color to the proposed labels. Manufacturers agreed that NHTSA should specify the label content and prohibit additional labels. However, they asked for more flexibility in the areas of format and size. Manufacturers also asked to be allowed to present the label text not only in English, but also in other languages.

Generally, manufacturers asked for flexibility to rearrange the information to fit tight spaces in the vehicle interior. For example, manufacturers asked to be able to make the label vertical rather than horizontal, with the pictogram above the message, or to round the corners and make the label oval.

The purpose of the enhanced labels is to make them more noticeable and more explicit. NHTSA believes that arrangement and shape of the labels is irrelevant to these purposes, and therefore, is amending the regulatory language to allow such changes.

The proposal specified rectangular labels with a minimum size of 140 × 65 mm. The NPRM asked for comments on labels that were 75%, 50%, and 25% of the proposed size. Most commenters said the proposed labels were larger than needed to be more conspicuous than existing labels, and larger than practicable, given space considerations at some locations. A visor supplier and some vehicle manufacturers asked NHTSA to specify a 75% label. One manufacturer asked for a 50% label. Other manufacturers asked NHTSA to specify a minimum area for the pictogram and a minimum area for text, to allow the manufacturer flexibility in the overall shape and layout of the label.

NHTSA has re-examined the labels, and the proposed vehicle locations for the labels, and agrees that there would be issues at some locations about the sufficiency of the space for the placement of labels of the proposed size. With the exception of the air bag alert label discussed below, NHTSA has decided to reduce the size of the labels to 75% of the proposed size because this size is still conspicuous. Consistent with the above decision on format, NHTSA has also decided to adopt the suggestion to specify the minimum areas of the message text and pictogram only. To determine the size, NHTSA measured the size of these areas on a label that was 75% of the proposed size. Based on these measurements, NHTSA is specifying that the pictogram must be a minimum of 30 mm in diameter, and the English text must be minimum of 30 square cm.

With respect to the size of the text, NHTSA learned from the focus groups that the public generally prefers larger fonts in label text because it is easier to read. This helps ensure the labels will effectively convey the message to the reader. NHTSA considered mandating a minimum font size for the text, but has not done so for two reasons. First, it is hard to specify a single font size that would assure ease of reading with all possible typefaces. Second, NHTSA does not think it is necessary to specify a regulatory requirement for font size to assure that manufacturers will make the message large enough to be easily read. The agency expects that manufacturers will ensure the English text of each label fills the 30 square cm text area, instead of using smaller font size and leaving most of the text area blank (white).

NHTSA did not intend to reverse its current policy of allowing a required message to be stated in additional languages once the required English language message was provided. In a March 10, 1994 notice, NHTSA stated:

> NHTSA interprets the labeling requirements * * * as requiring manufacturers to supply the information in English. Once this requirement is met, manufacturers may supply the same information in other languages, so long as it does not confuse consumers. As long as the non-English language label is a translation of the required information, NHTSA does not interpret it to be ''other information.'' (59 FR 11200, at 11201–202).

The proposed sun visor label language also included the prohibition about ''other information.'' NHTSA would again not consider translations of the required label message to be ''other information.'' However, all the requirements for the English label message must be met, including size. The proposed provisions regarding the other proposed labels did not include a prohibition against other information; therefore, it would be permitted.

C. Headings

As proposed, three of the labels would use the word ''warning,'' while two (the label for the child seat and the end of the dash) would use the word ''danger.'' Commenters pointed out that the labels should use only one of these words. Other commenters asked to be allowed the option to continue using either ''warning'' or ''caution.'' Two commenters also asked for the agency to harmonize the proposed labels with ANSI standards.

The ANSI standards specify the use of various words in the heading of a label based on the degree of hazard and risk (ANSI Z535.4–1991, section 4.15). The word ''danger'' should be used when there is an imminent hazard that could result in death or serious injury. The word ''warning'' should be used when there is a potential hazard that could result in death or serious injury. The word ''caution'' should be used when there is a potential hazard that could result in minor or moderate injury. The ANSI standards also specify that, when multiple hazards are being addressed by a label, the word for the highest level of hazard among those hazards should be used (ANSI Z535.4–1991, section 5.3). Finally, the ANSI standards allow the use of an ''alert symbol'' in the heading (ANSI Z535.4–1991, section 7.2). The symbol is a triangle with an exclamation point inside, as shown on the proposed sun visor warning label.

NHTSA originally allowed either ''warning'' or ''caution'' on the current label because either word would achieve the goal of attracting attention to the label (59 FR 11200, at 11202; March 10, 1994). NHTSA continues to believe that the word choice for the heading will not change the effectiveness of the label. However, a recent Federal law encourages agencies to harmonize their standards with existing standards (Pub.L. 104–113; March 7, 1996). One of the stated purposes of the ANSI standards is ''to achieve application of a national uniform system for the recognition of potential personal injury hazards for those persons using products'' (ANSI Z535.4–1991, section 2.2). Given the Federal law and this purpose, and absent strong evidence that argues against following the ANSI standards, NHTSA has decided to adhere to them with respect to the heading.

Under the ANSI standard, the hazards associated with air bags are appropriately classified as potential hazards, since they only exist if there is a crash of sufficient severity to cause the air bags to deploy. For children, the risk associated with the hazard is clearly death or serious injury. Therefore, NHTSA will require that all labels use the word ''warning.'' NHTSA will also specify the use of the alert symbol allowed by the ANSI standards (i.e., an exclamation mark inside a triangle, preceding the text of the heading). Participants in the recent focus groups noted that this symbol was very effective in drawing attention to the label, and also made the warning appear more official.

D. Color

Two commenters again asked NHTSA to harmonize the colors with the ANSI standards (ANSI Z535.4, section 7). Commenters also raised concerns about the readability of certain color combinations for persons with vision difficulties. In particular, commenters noted that black was easier to read than red on a yellow background, or that black was easier to read on white background rather than a yellow background. Other commenters, though, specifically stated that it was the colorfulness of the proposed labels that contributed to their effectiveness.

The ANSI standards specify that, when ''warning'' is used in the heading, the background color should be orange, the text black, and the alert symbol should be a black triangle with an orange exclamation point. Pictograms should be black on white, with occasional uses of color for emphasis. Message text should be black on white. The color yellow used in NHTSA's proposed labels is associated with the word ''caution'' in the ANSI standards.

Yellow was the overwhelming color preference of the participants in the focus groups. Only two of the 53 participants preferred orange. Participants generally stated that yellow was more eye-catching than orange. Participants also noted that red (stop) and yellow (caution) had meaning to them, but not orange. Participants in San Diego and Chicago preferred the red on yellow headings in some of the tested labels, because they were very eye-catching. However, the participants in Baltimore preferred the black headings, as recommended by ANSI, on a yellow background, stating that this color combination was easier to read. Participants in San Diego and Chicago also indicated that the all yellow labels were more eye-catching than labels in which the message text had a white background. However, the Baltimore participants thought the all yellow labels were ''too much'' and suggested that the color on the heading was sufficient to attract their attention.

NHTSA is requiring that all pictograms be black on a white background with a red circle and slash. While some of the proposed labels were white on black background, NHTSA believes that the two versions are equally visible, and therefore, is harmonizing with the ANSI standards. NHTSA is also requiring that the message text be black on white. This color combination is consistent with ANSI standards. NHTSA agrees this may be easier to read for some people.

However, NHTSA has decided not to follow the ANSI standards with respect to the background color for the heading ''Warning.'' Instead of the orange specified in the ANSI standards, NHTSA is requiring that yellow be used as the background for the heading. The focus group evidence overwhelmingly suggests that yellow would be a more effective color than orange for attracting attention to the label. As noted above, 51 participants said yellow was significantly more eye-catching and effective than orange, while only 2 participants said orange was more effective than yellow. NHTSA takes very seriously the importance of making sure these labels do all they can to help avoid preventable deaths. Given the importance of this task and the focus group results, NHTSA has concluded that it should specify that the background color for the header of these labels be yellow.

E. Pictogram

The proposed labels included two pictograms: one showing an adult and an inflating air bag, and the other showing a rear-facing child seat being impacted by an air bag surrounded by a red circle with a slash across it. Commenters criticized the first pictogram for representing an adult (instead of a child) and for the lack of a visible shoulder belt. Transport Canada asked if the agency had considered the proposed ISO pictogram for the child seat pictogram, and asked if the agency would consider proposing its pictogram to ISO for use internationally. Other commenters also asked the agency to harmonize with the proposed ISO pictogram. Commenters criticized the proposed child pictogram because there was too little of the vehicle to give a context for the picture, because there was no visible seat belt, and because the lines around the child's head looked like the rays of the sun. Chrysler's comment included some suggested labels which used a different, but similar, child pictogram. The Chrysler pictogram modifies the proposed pictogram by showing more of the vehicle seat for context, by having the child seat broken by the inflating air bag, and by having the air bag bending around the child seat. Finally, many commenters noted that the red slash went in different directions on different labels and asked the agency to specify the standard upper left-to-lower right orientation.

The participants in the second round of focus groups examined the proposed child pictogram, the ISO pictogram, and the Chrysler pictogram. The participants indicated that a pictogram was important to attract attention, and that even a bad pictogram would get them to read the label. The ISO pictogram was the least liked by these groups. Participants indicated that it was too peaceful, and didn't convey a sense of danger. One of the Chicago groups also indicated that the pictogram was misleading, as it suggested that a fully inflated air bag never touched a rear-facing child seat. Of the remaining two pictograms, the Chrysler pictogram was preferred. However, some participants found this pictogram too graphic and harsh. Others indicated that it was one of the most effective pictograms they had seen because it enabled the viewer to understand the harm without reading the text. The one change suggested by the focus groups was to increase the relative size of the child seat in the pictogram, similar to the proposed pictogram.

Because the most serious air bag side effects relate to infants and children, NHTSA is amending the labels to require a child (infant) pictogram on all labels. However, at least one participant in five of the six focus groups expressed concern that pictogram showing air bag danger to infants in rear-facing child seats might imply that an air bag poses no danger to children in forward-facing seats, booster seats, or children using vehicle belts. These participants were concerned that a pictogram focusing entirely on infants in rear-facing child seats would mislead the public with regard to the hazards of current air bag designs.

NHTSA agrees this is a legitimate concern. However, after further agency analysis of this area, NHTSA has decided to keep a pictogram showing an infant in a rear-facing child seat. First, it would place an extraordinary burden on a pictogram to rely exclusively on it to show all possible hazards instead of using the pictogram to communicate some hazards and the accompanying text to communicate others. For instance, the recognized symbol for ''no smoking'' shows a lit cigarette with a red slash through it. One might misinterpret this symbol to mean no cigarette smoking, but that smoking a cigar or a pipe is permitted by the symbol. One of the participants in a Chicago focus group commented that the concerns about the infant pictogram are demanding too much of a pictogram. According to this participant, the job of the pictogram is simply to attract the reader's interest and attention to the text of the warning label.

NHTSA agrees with the participant's judgment that one significant purpose of the pictogram is to attract the reader's attention. In addition to this, NHTSA

expects a good pictogram to identify a significant portion of the hazard and to depict that portion accurately. The agency concludes that the pictogram showing the hazard posed by an air bag to a child in a rear-facing child seat meets all of these purposes. While the pictogram does not depict the larger group at risk, the focus groups all found that the pictogram of the child in the rear-facing seat would be effective at attracting people's attention to the label and getting them to read the label. Again, based on the focus group results, NHTSA believes the language of the labels makes it very clear that a larger group of children are at risk.

NHTSA is not adopting the ISO pictogram for its label. NHTSA thoroughly examined the ISO pictogram when developing the proposed pictograms. NHTSA decided to propose its pictogram, which the agency believes represents a significant improvement to the ISO pictogram by making the diagram more dynamic and by depicting the harm more clearly. NHTSA tested the ISO pictogram in its second round of focus groups and found that only one out of 53 participants liked it. More significantly, most of the participants did not understand what it was attempting to show and most said it would not attract their attention to the label. Given these results, NHTSA does not believe it would be appropriate to use the ISO pictogram. NHTSA staff are involved with the ISO committee working on this pictogram. The agency representatives will suggest that the ISO committee consider replacing its current pictogram with the pictogram NHTSA is requiring on its labels.

NHTSA was impressed by the pictogram included with the comment from Chrysler, as were the recent focus groups. Participants in the focus groups preferred the Chrysler pictogram by a substantial margin. Some participants even said the Chrysler pictogram was ''perfect,'' and that ''you understand the problem before you've read one word of the label.'' This was not a universally shared sentiment. Some participants said the Chrysler pictogram was ''too harsh,'' ''too violent,'' and ''too scary.'' However, even those participants who said it was too graphic agreed that it was very effective at drawing attention to the label. Therefore, NHTSA is specifying this pictogram for use on the air bag warning labels. In addition, this rule corrects the slash on the air bag alert label pictogram so that it follows the standard convention.

VII. Sun Visor Alert Label

NHTSA proposed an alert label for the side of the sun visor visible when the visor is in the stowed position. A manufacturer did not have to provide this label if the other proposed sun visor warning label were placed by the manufacturer so that is visible when the visor is in the stowed position. Ford commented that manufacturers would only use one sun visor label unless the alert label were smaller than the warning label. Manufacturers also pointed out that there were additional size concerns with this side of the visor as it was the most common location used for another mandatory warning label in utility vehicles. Some manufacturers wanted to keep the current alert label.

NHTSA has decided that the alert label can be reduced to 50% of the proposed size, rather than to 75% as for other labels. Because this label has fewer words than other labels, it will still be very visible. This should alleviate some of the concerns about space for other required labels. In addition, because the new labels are so colorful, NHTSA is concerned about public objections if manufacturers were to place the warning label so that it was visible for extended periods of time. To be consistent with other size changes, NHTSA is specifying that the pictogram have a minimum diameter of 20 mm, and the text area be no smaller than 20 square cm.

The new alert label replaces the current alert label. NHTSA believes that the addition of the pictogram and the word ''warning,'' are more likely to attract the attention of vehicle occupants and induce them to look for the label on the other side of the visor.

VIII. Sun Visor Warning Label

The proposed sun visor warning label stated, ''Unbelted children can be killed by the air bag.'' Commenters said that this statement was too narrow, since improperly belted, and perhaps even some properly belted, children can be injured or killed by the air bag. The proposed label stated, ''Never put a rear-facing child seat in the front.'' Again, commenters said this statement was too narrow, that all children should be in the rear seat. The proposed label stated, ''Don't sit close to the air bag.'' Commenters preferred the current statement, ''Do not sit or lean unnecessarily close to the air bag,'' because people may believe that it is unnecessary to worry about leaning or being thrown forward so long as their seat is moved back from the air bag. Finally, some commenters said that air bags have adverse effects for adults and that the label placed too much emphasis on children.

NHTSA believes that many of the suggestions regarding wording changes have merit, and is making some changes to the labels. NHTSA tested some of the recommendations in the focus groups. After reviewing the comments and the focus group results, NHTSA has decided that the message of the new label will read:

DEATH or SERIOUS INJURY can occur.

- Children 12 and under can be killed by the air bag.
- The BACK SEAT is the SAFEST place for children.
- NEVER put a rear-facing child seat in the front.
- Sit as far back as possible from the air bag.
- ALWAYS use SEAT BELTS and CHILD RESTRAINTS.

The addition of the sentence that all children are safest in the back reflects the emphasis of the agency's public education campaign. NHTSA has removed the modifier ''unbelted'' in front of children. NHTSA agrees that this statement was too narrow. Focus group participants generally asked for guidance about when occupants are no longer to be regarded as ''children.'' This rule responds to this concern by adding the age range ''12 and under.'' Finally, focus group participants found the statement ''don't sit close to the air bag'' vague and asked for more guidance about how close was too close. In response to these concerns, NHTSA provided the Baltimore focus groups with labels containing the following guidance: ''sit as far back as possible from the air bag.'' The participants found this much more helpful. Accordingly, this rule makes the same change to the sun visor warning label.

NHTSA is not changing the emphasis on children. The primary thrust of the proposed changes was the adverse effects on children. NHTSA believes this focus is necessary as long as the current threat to children remains as serious as it is now. Both the first and second rounds of focus groups indicated that they were much more likely to read *and* heed a label that tells them of a hazard to children and how to protect children than they would be to read a general hazard warning. Thus, the focus on children helps make the label more effective in communicating warnings relevant to adults as well as children. NHTSA notes that the advice in the last two bullets of this label is applicable to anyone, and would reduce the risk for those occupants. The focus groups correctly understood that these last two bullets applied to all occupants, not just children. Thus, there was no indication in the focus groups that the label's

emphasis on children leaves the public with the erroneous impression that only children face risks from air bags or that the general occupant safety messages in the last two bullets are limited to children.

IX. Label on Passenger-Side End of Vehicle Dash or on Door Panel

As discussed in the NPRM, none of the 66 participants in the original focus groups noticed this label on the vehicle they were shown. This was the proposed label that generated the most comments on size concerns from manufacturers. Manufacturers noted that the available space was very small on some vehicles, and that the area sometimes has vents or access panels. Manufacturers also asked that the label be harmonized with the proposed ISO label. General Motors stated that the agency should only require one new label. Finally, Advocates for Highway and Auto Safety stated that the label was likely to be ineffective and should not be required.

NHTSA has decided not to require this label. The agency's focus groups provided no indications that a label in this location would be effective. In addition, NHTSA agrees that too many labels can reduce the impact of all the labels. Not including the end-of-dash label in the final rule will help address concerns expressed in the comments about the number of new labels NHTSA is requiring and the potential conflict if ISO adopts its proposed end-of-dash label.

X. Label in the Middle of the Dash Panel

As proposed, this label was to be a temporary label. Many advocacy groups and individuals stated that this should be a permanent label. Manufacturers expressed concerns with adhesive residue marring the vehicle surface, and asked for alternatives such as hang tags from the mirror or other non-adhesive labels. Manufacturers also stated that the middle of the dash could have instruments which would make it difficult to place even a temporary label there, and asked if the label could be placed on other areas of the dash such as the glove compartment door.

NHTSA is not making this label permanent. NHTSA does not want the labels to become a source of irritation to consumers. The label in the middle of the dash is an additional means to reach a new vehicle buyer and ensure that the buyer knows that the vehicle has air bags and that there are warnings associated with this equipment. Since air bags are still a new feature for many buyers, NHTSA believes this additional reminder will be useful. However, this is not the only, or even the primary, means to warn consumers about the adverse effects of air bags. Indeed, the permanent sun visor warning label contains the warning that ''Children 12 and under can be killed by air bag.''

NHTSA is relaxing the location requirements for this label. NHTSA proposed the middle of the dash to ensure the label was in a highly visible location. NHTSA agrees that there are other very conspicuous locations in a vehicle, and will allow the label to be anywhere on the dash or the steering wheel hub where the label will be clearly visible to the driver. NHTSA is not allowing the label to be a hang tag from the rearview mirror, however. NHTSA is concerned that this location would cause visibility concerns during a test drive and the label would very likely be removed from the vehicle before it reaches the purchaser.

NHTSA is also relaxing the requirement that the label be ''affixed,'' so that manufacturers do not need to use adhesives. Manufacturers would be allowed to use other means of attaching the label to the dash, such as clips in available openings.

After reviewing the comments and the second round of focus group results, the agency has decided that the text of the new removable label will read:

Children Can be KILLED or INJURED by Passenger Air Bag.

The back seat is the safest place for children 12 and under.

Make sure all children use seat belts or child seats.

The second round of focus groups examined three alternative versions of removable labels that differed in some respect from the text of the proposed label. For two of the new alternatives, the changes moved the statement ''make sure all children wear seat belts'' to the end of the label and added the phrase ''or child seats.'' Some commenters indicated that the original statement might lead people to use seat belts for children that should be in child seats. The message was changed so that the warning about the possibility of death or injury is not limited to unbelted children or children in rear-facing child seats. Finally, a statement that the back seat is safest was added. The third alternative removable label tested in these focus groups used the language suggested by the Parent's Coalition for Air Bag Warnings (''WARNING. Do not seat children in the front passenger seat. Air bag deployment can cause serious injury or death to children.'').

The focus groups preferred the label design that began, ''WARNING—Children can be KILLED or INJURED by Passenger Air Bag.'' The participants indicated that this was ''more informative'' than the proposed removable label and that the message was ''quick and to the point.'' Again, some participants thought this language was ''strident'' and ''scary,'' but the participants nearly unanimously agreed that this opening would induce people to read the rest of the label to learn more about the problem. NHTSA is adopting this as the first line of the removable label required by this rule.

The next line of this removable label explains that ''The back seat is the safest place for children 12 and under.'' This language was suggested in the comments of National Safe Kids Campaign. NHTSA has added an age definition to more clearly explain the meaning of the word ''children,'' as suggested by the focus groups in San Diego and Chicago. The final line in the label advises ''Make sure all children use seat belts or child seats.''

The label suggested by the Parents' Coalition was the second choice of the focus group participants. It was the preferred choice for those participants who found the ''children can be killed'' message too strident. However, a number of participants reacted by saying the opening ''Do not seat children in the front passenger seat'' was ''too preachy'' and that they ''didn't like someone telling them what to do.'' Others observed that they might not even read the second sentence about air bags causing serious injury or death, because the opening sentence here does not ''draw you into'' the label. The participants agreed that both the Parents' Coalition label and the label required in this rule convey essentially the same message. However, the focus group participants found the required label conveyed the message more effectively for them.

XI. Child Seat Label

NHTSA proposed to require the enhanced warning label on a rear-facing child seat to be affixed in the area where a child's head would rest. Many commenters stated that this location would not be so visible as the area on the cushion adjacent to where the head would rest. Commenters noted that many parents place the child in the seat before placing the seat in a vehicle, and therefore the warning would not be visible when placing the seat in the vehicle. Commenters also expressed concern with durability in this area or with the possibility that the label could irritate a child's head. Child seat manufacturers were also concerned that the prominence of this label would lead

users to conclude ''falsely'' that this warning was more important than other warnings.

NHTSA is requiring that an enhanced child seat warning label be placed on the upper portion of the child seat cushion. While NHTSA agrees that other issues are important, at this time, the air bag warning is the most important issue to communicate to consumers. However, NHTSA will allow some flexibility in the location on the cushion. The label can be either where the child's head rests or adjacent to that area. The purpose of the new location is to ensure that parents see the label each time they place the seat in a vehicle. This modification may make the label more visible and will ease some of the burden on child seat manufacturers.

The recent focus groups tested new versions of this label. The focus groups tested two new labels: (1) a label with the ISO pictogram, and the ANSI color scheme, except that the heading had a yellow background, and (2) a label with the Chrysler pictogram, the ANSI color scheme, and an additional line of text that the back seat is the safest place for children. The focus groups preferred the latter version of the label, if the heading were yellow instead of orange.

Based on the comments and focus groups results, the message of the new label will read:

WARNING:
DO NOT place rear-facing child seat on front seat with air bag.
DEATH OR SERIOUS INJURY can occur.
The back seat is the safest place for children 12 and under.

XII. Letters to Owners of Existing Vehicles

NHTSA is aware that some manufacturers intend to send letters to current owners of vehicles with passenger-side air bags. These letters may include copies of the new warning labels. NHTSA encourages manufacturers to do this.

The warning labels now on vehicles were put on in compliance with Standard No. 208. Thus, vehicle owners or others might wonder whether placing a new warning label over the existing warning label would be a violation of the statutory prohibition against ''making inoperative'' items, including labels, installed in compliance with a safety standard. NHTSA would like to assure the public that no statutory prohibition would be violated by placing a new warning label over an existing warning label. Obviously, there is no violation if a person decides to do this to his or her own vehicle, because the Federal prohibition does not apply to owners of vehicles, but only to commercial businesses like manufacturers, dealers, and repair businesses. If a manufacturer, dealer, or repair shop were to place a new warning label over the existing warning labels, that act would not constitute a ''making inoperative'' violation. NHTSA has long said that, with respect to a safety standard requirement that has changed since a vehicle was manufactured, modifying the vehicle so that it no longer complies with the requirement in effect when the vehicle was manufactured is not a violation of this prohibition if the modification brings the vehicle into compliance with the requirement currently in effect. Thus, commercial businesses do not need to be concerned about potential violations of this prohibition.

The NHTSA focus groups indicated that the inclusion of a label in a letter from a vehicle manufacturer would increase significantly the likelihood that they would read the letter. Based on this, NHTSA strongly encourages manufacturers to consider including labels with any letters they may send existing owners. The letter will give the manufacturers an additional opportunity to inform the public about this problem and to offer more detailed advice than can be expressed on a label.

XIII. Leadtime and Costs

NHTSA proposed to require the new or enhanced vehicle labels for vehicles manufactured on or after a date 60 days after publication of the final rule. The agency also proposed that enhanced labels be affixed to all child restraints that can be used in a rear-facing position and that are manufactured on or after a date 180 days after publication of the final rule. This longer lead time for child seat manufacturers was an acknowledgment that these manufacturers will have to change their manufacturing process to include some means of permanently labeling the padding or cushion, something they do not do presently, to the best of the agency's knowledge.

No child seat manufacturers asked for longer leadtime. Therefore, NHTSA is adopting the proposed leadtime of 180 days after publication of this final rule.

Most vehicle manufacturers asked for longer leadtime, ranging from 90 to 180 days. NHTSA has decided to allow 90 days leadtime for vehicle labels. The proposed 60 day leadtime reflected NHTSA's desire for expedited action on this issue. Both suppliers and manufacturers have said that 60 days is not feasible. The adopted leadtime is at the low end of the estimates of feasible leadtime from the commenters. Because NHTSA has decided not to adopt one of the proposed labels, the leadtime needed by manufacturers should be reduced. In view of the immediate need to alert the public to the adverse effects of air bags on children, NHTSA finds that a lead time of less than 180 days is in the public interest.

Finally, to encourage the earliest possible installation of the new enhanced labels, NHTSA is allowing manufacturers to install the new labels before the required date.

NHTSA estimates that the total incremental costs of the vehicle labels will be $0.11 to $0.35 per vehicle. Based on an estimated 15 million passenger cars and light trucks sold annually, the cost of this rule will be $1.65 to $5.25 million. For the child seat label, NHTSA estimates that the total incremental costs will be $0.30 to $0.60 per child seat. Based on an estimate that 3.9 million of the 5.1 million child restraints sold annually are capable of being used rear-facing, the annual cost of this rule will be $1.17 to $2.34 million. Thus, the total cost of this rule is estimated to be $2.82 to $7.59 million annually. A complete discussion of the agency's cost estimate can be found in the Final Regulatory Evaluation placed in the docket for this rulemaking.

XIV. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be ''significant'' under the Department of Transportation's regulatory policies and procedures. This action is considered significant because of the degree of public interest in this subject. This action is not economically significant. The total cost of this rule is estimated to be $2.82 to $7.59 million annually. A complete discussion of the agency's cost estimate can be found in the Final Regulatory Evaluation placed in the docket for this rulemaking.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This final rule affects motor vehicle manufacturers and child seat manufacturers. Almost all motor vehicle manufacturers do not qualify as small

businesses. The agency knows of eight manufacturers of child seats, two of which NHTSA considers to be small business. However, since this rule involves only labeling changes, the rule will not have any significant economic impact.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this final rule.

D. National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

E. Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

F. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by redesignating S4.5.1(e) as S4.5.1(f), by revising S4.5.1, S4.5.1(b) and S4.5.1(c), and by adding a new S4.5.1(e) and a new S4.5.5, to read as follows:

§ 571.208 Standard No. 208, Occupant Crash Protection.

* * * * *

S4.5.1 *Labeling and owner's manual information.* The labels specified in S4.5.1(b), (c), and (e) of this standard are not required for vehicles that have a smart passenger air bag meeting the criteria specified in S4.5.5 of this standard.

(a) * * *

(b) *Sun visor warning label.*

(1) *Vehicles manufactured before February 25, 1997.* Each vehicle shall comply with either S4.5.1(b)(1)(i) or S4.5.1(b)(1)(ii), and with S4.5.1(b)(1)(iii). At the manufacturer's option, the vehicle may comply with the requirements of S4.5.1(b)(2), instead of the requirements of S4.5.1(b)(1).

(i) Each front outboard seating position that provides an inflatable restraint shall have a label permanently affixed to the sun visor for that seating position on either side of the sun visor, at the manufacturer's option. Except as provided in S4.5.1(b)(1)(v), this label shall read:

CAUTION—TO AVOID SERIOUS INJURY:
For maximum safety protection in all types of crashes, you must always wear your safety belt.
Do not install rearward-facing child seats in any front passenger seat position.
Do not sit or lean unnecessarily close to the air bag.
Do not place any objects over the air bag or between the air bag and yourself.
See the owner's manual for further information and explanations.

(ii) If the vehicle is equipped with a cutoff device permitted by S4.5.4 of this standard, each front outboard seating position that provides an inflatable restraint shall have a label permanently affixed to the sun visor for such seating position on either side of the sun visor, at the manufacturer's option. Except as provided in S4.5.1(b)(1)(v), this label shall read:

CAUTION—TO AVOID SERIOUS INJURY:
For maximum safety protection in all types of crashes, you must always wear your safety belt.
Do not install rearward-facing child seats in any front passenger seat position, unless the air bag is off.
Do not sit or lean unnecessarily close to the air bag.
Do not place any objects over the air bag or between the air bag and yourself.
See the owner's manual for further information and explanations.

(iii) The coloring of the label shall contrast with the background of the label.

(iv) If the vehicle does not have an inflatable restraint at any front seating position other than that for the driver, the statement ''Do not install rearward-facing child seats in any front passenger seat position'' may be omitted from the label.

(v) At the manufacturer's option, the word ''warning'' may replace the word ''caution'' in the labels specified in S4.5.1(b)(1)(i) and S4.5.1(b)(1)(ii).

(2) Vehicles manufactured on or after February 25, 1997. Each vehicle shall have a label permanently affixed to either side of the sun visor, at the manufacturer's option, at each front outboard seating position that is equipped with an inflatable restraint. The label shall conform in content to the label shown in either Figure 6a or 6b of this standard, as appropriate, and shall comply with the requirements of S4.5.1(b)(2)(i) through S4.5.1(b)(2)(iii).

(i) The heading area shall be yellow with the word ''warning'' and the alert symbol in black.

(ii) The message area shall be white with black text. The message area shall be no less than 30 square cm.

(iii) The pictogram shall be black with a red circle and slash on a white background. The pictogram shall be no less than 30 mm in diameter.

(3) Except for the information on an air bag maintenance label placed on the visor pursuant to S4.5.1(a) of this standard, no other information shall appear on the same side of the sun visor to which the sun visor warning label is affixed. Except for the information in an air bag alert label placed on the visor pursuant to S4.5.1(c) of this standard, or in a utility vehicle label that contains the language required by 49 CFR 575.105(c)(1), no other information about air bags or the need to wear seat belts shall appear anywhere on the sun visor.

(c) *Air bag alert label*—(1) Vehicles manufactured before February 25, 1997. If the label required by S4.5.1(b)(1) for a sun visor (other than the sun visor for the driver seating position) is not visible when the sun visor is in the stowed position, an air bag alert label shall be permanently affixed either to that visor so that the label is visible when the visor is in that position or to the cover of the air bag for that seating position, at the option of the manufacturer. An air bag alert label affixed to an air bag cover pursuant to this paragraph shall read ''Air Bag. See Sun Visor.'' An air bag alert label affixed to a sun visor pursuant to this paragraph shall read ''Air Bag. See Other Side.'' The color of the label shall contrast with the background of the label. If a manufacturer chooses to comply with

the requirements of S4.5.1(b)(2) rather than the requirements of S4.5.1(b)(1), the air bag alert label shall comply with the requirements of S4.5.1(c)(2).

(2) Vehicles manufactured on or after February 25, 1997. If the label required by S4.5.1(b)(2) is not visible when the sun visor is in the stowed position, an air bag alert label shall be permanently affixed to that visor so that the label is visible when the visor is in that position. The label shall conform in content to the sun visor label shown in Figure 6c of this standard, and shall comply with the requirements of S4.5.1(c)(2)(i) and S4.5.1(c)(2)(ii).

(i) The message area shall be black with yellow text. The message area shall be no less than 20 square cm.

(ii) The pictogram shall be black with a red circle and slash on a white background. The pictogram shall be no less than 20 mm in diameter.

* * * * *

(e) *Label on the dash*. Each vehicle manufactured on or after February 25, 1997 that is equipped with an inflatable restraint for the passenger position shall have a label attached to a location on the dashboard or the steering wheel hub that is clearly visible from all front seating positions. The label need not be permanently affixed to the vehicle. This label shall conform in content to the label shown in Figure 7 of this standard, and shall comply with the requirements of S4.5.1(e)(2)(i) and S4.5.1(e)(2)(ii).

(i) The heading area shall be yellow with the word ''warning'' and the alert symbol in black.

(ii) The message area shall be white with black text. The message area shall be no less than 30 square cm.

* * * * *

S4.5.5 *Smart passenger air bags*. For purposes of this standard, a smart passenger air bag is a passenger air bag that:

(a) Provides an automatic means to ensure that the air bag does not deploy when a child seat or child with a total mass of 30 kg or less is present on the front outboard passenger seat, or

(b) Incorporates sensors, other than or in addition to weight sensors, which automatically prevent the air bag from deploying in situations in which it might have an adverse effect on infants in rear-facing child seats, and unbelted or improperly belted children, or

(c) Is designed to deploy in a manner that does not create a risk of serious injury to infants in rear-facing child seats, and unbelted or improperly belted children.

* * * * *

3. Section 571.208 is amended by adding new figures 6a, 6b, 6c, and 7 at the end of the section as follows:

BILLING CODE 4910–59–P

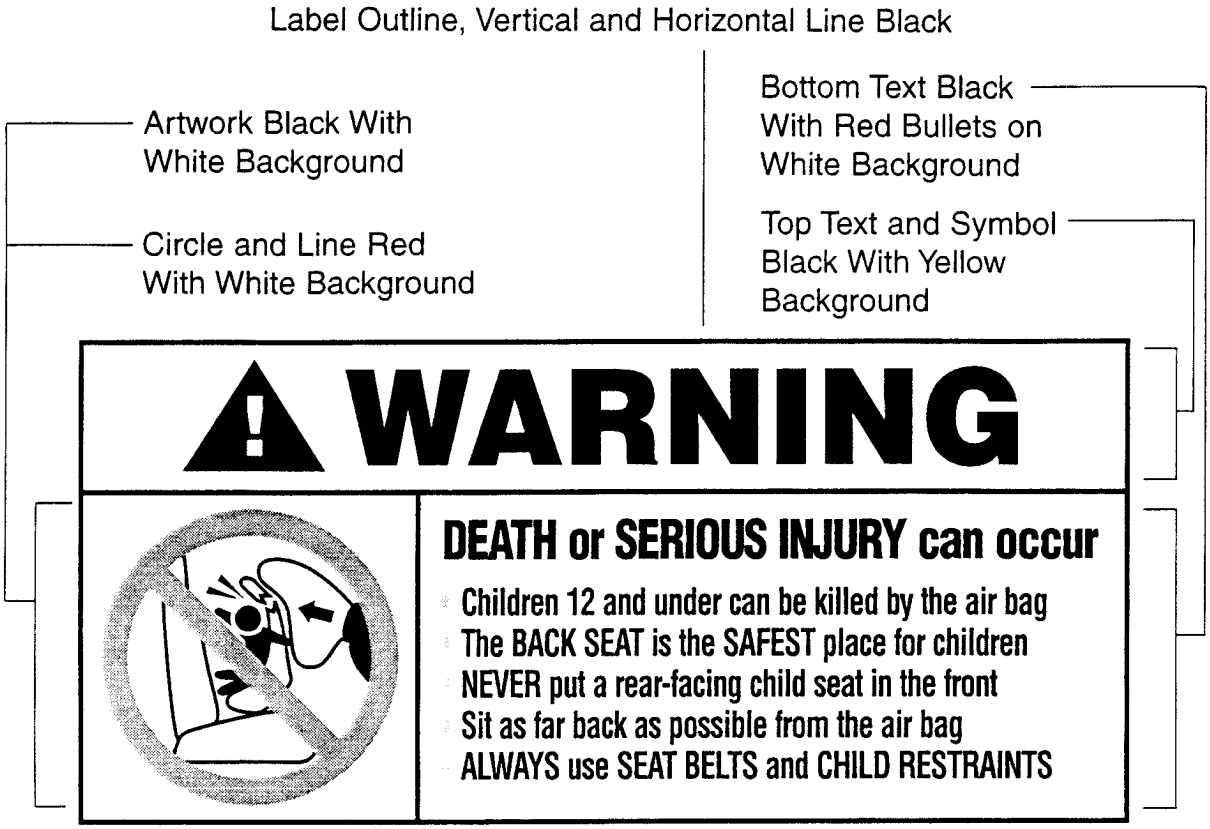

Figure 6a. Sun Visor Label Visible When Visor is in Down Position.

Figure 6b. Sun Visor Label Visible When Visor is in Down Position.

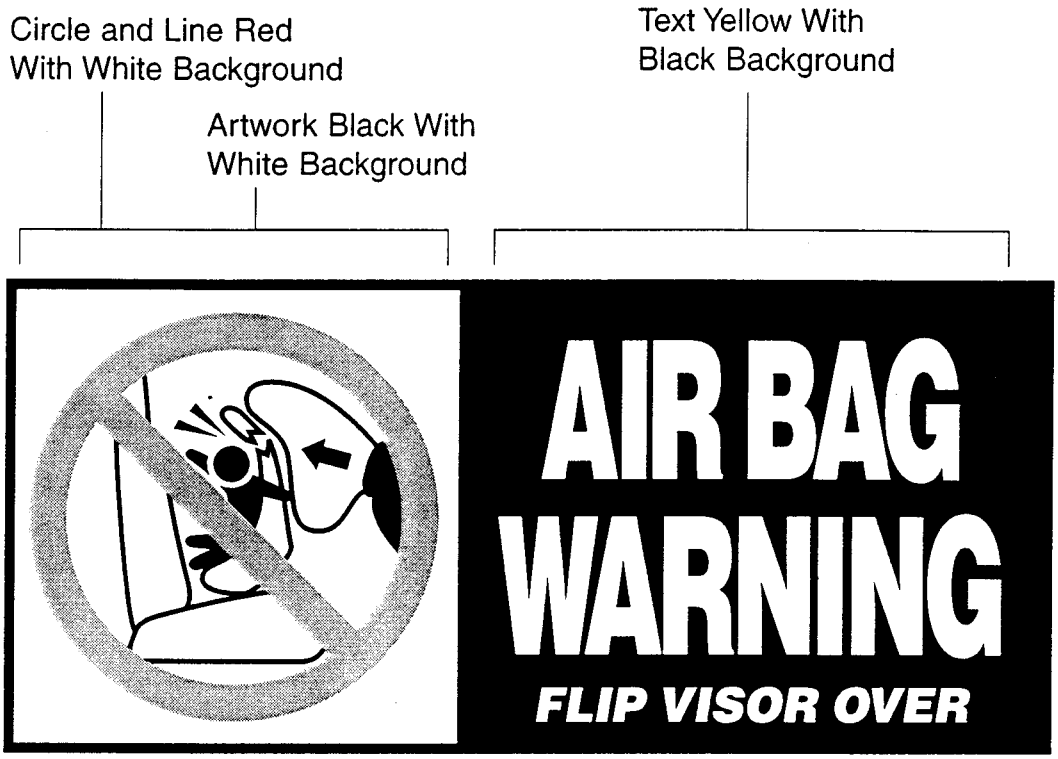

Figure 6c. Sun Visor Label Visible When Visor is in Up Position.

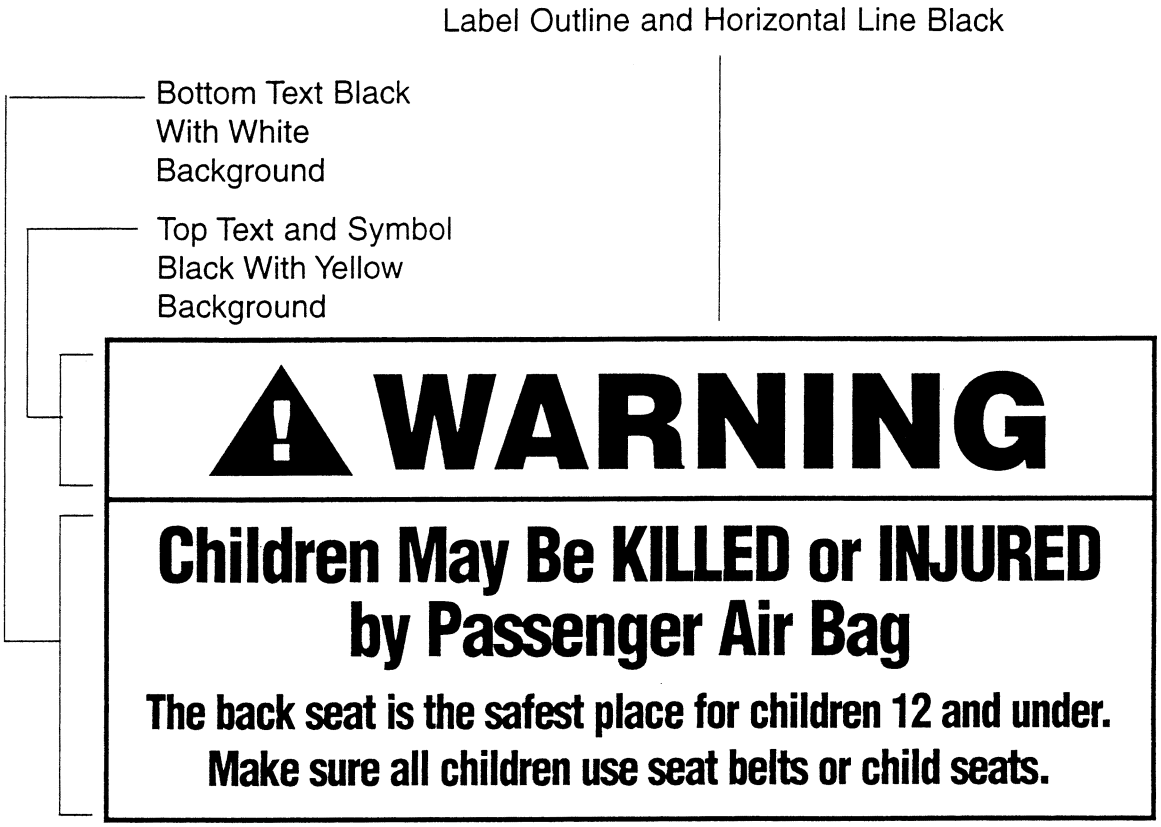

Figure 7. Removable Label on Dash.

BILLING CODE 4910–59–C

4. Section 571.213 is amended by adding S5.5.2(k) introductory text' and adding a new section S5.5.2(k)(4) to read as follows:

§ 571.213 Standard No. 213, Child restraint systems.

* * * * *

S5.5.2

* * * * *

(k) At the manufacturer's option, child restraint systems that can be used in a rear-facing position may comply with the requirements of S5.5.2(k)(4), instead of the requirements of S5.5.2(k)(1)(ii) or S5.5.2(k)(2)(ii).

(1) * * *

* * * * *

(4) In the case of each child restraint system that can be used in a rear-facing position and is manufactured on or after May 27, 1997, instead of the warning specified in S5.5.2(k)(1)(ii) or S5.5.2(k)(2)(ii) of this standard, a label that conforms in content to Figure 10 and to the requirements of S5.5.2(k)(4)(i) through S5.5.2(k)(4)(iii) of this standard shall be permanently affixed to the outer surface of the cushion or padding in or adjacent to the area where a child's head would rest, so that the label is plainly visible and easily readable.

(i) The heading area shall be yellow with the word ''warning'' and the alert symbol in black.

(ii) The message area shall be white with black text. The message area shall be no less than 30 square cm.

(iii) The pictogram shall be black with a red circle and slash on a white background. The pictogram shall be no less than 30 mm in diameter.

* * * * *

5. Section 571.213 is amended by adding a new figure 10 at the end of the section as follows:

BILLING CODE 4910–59–P

Figure 10. Label on Child Seat Where Child's Head Rests.

Issued on November 22, 1996.

Ricardo Martinez,

Administrator.

[FR Doc. 96–30362 Filed 11–22–96; 4:01 pm]

BILLING CODE 4910–59–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 111996A]

Atlantic Tuna Fisheries; Fishery Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Quota transfer; closure.

SUMMARY: NMFS has projected that the Atlantic bluefin tuna (ABT) Incidental category quota, as previously adjusted, will be attained shortly. Therefore, NMFS further adjusts the quota for the Incidental category by transferring 20 metric tons (mt) from the General category. Consequently, the General category fishery will be closed effective at 11:30 p.m. on November 26, 1996. This action is being taken to prevent overharvest of the total U.S. ABT quota.

EFFECTIVE DATES: The quota adjustment for the Incidental category is effective November 22, 1996 until December 31, 1996. The General category closure is effective 11:30 p.m. local time on November 26, 1996, until June 1, 1997.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301–713–2347, or Mark Murray-Brown, 508–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Section 285.22 subdivides the U.S. quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories.

NMFS is required, under 285.20(b)(1), to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of ABT will equal the quota and publish a Federal Register announcement to close the applicable fishery.

Incidental Category Transfer

Implementing regulations for the Atlantic tuna fisheries at § 285.22 provide for a quota of 110 mt of large medium and giant ABT to be harvested from the regulatory area by vessels fishing under the Incidental category quota during calendar year 1996. Inseason actions decreased the quota to 69 mt (61 FR 48640, September 16, 1996; 61 FR 53677, October 15, 1996). In making such inseason reallocations, NMFS is required under the regulations to consider the following factors:

(1) The usefulness of information obtained from catches of the particular category of the fishery for biological sampling and monitoring the status of the stock;

(2) The catches of the particular gear segment to date and the likelihood of closure of that segment of the fishery if no allocation is made;

(3) The projected ability of the particular gear segment to harvest the additional amount of Atlantic bluefin