DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 575

[Docket No. NHTSA–98–3381, Notice 2]

RIN 2127–AG53

Consumer Information Regulations; Utility Vehicle Label

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

ACTION: Final rule.

SUMMARY: This final rule modifies the rollover warning currently required for small and mid-sized utility vehicles. Utility vehicles, which have features for off-road use, are often referred to in the media as sport utility vehicles. In place of the current, text-only warning label containing a paragraph of information, this rule requires a new label that uses graphics, bright colors, and short bulleted text messages. This rule also requires that additional information related to rollover risks be included in the owners' manuals of these vehicles. These changes make the rollover warning more attention-getting and understandable to consumers. They will thereby increase the chance that the warning will persuade drivers to modify their behavior and reduce the likelihood of rollovers.

DATES: This final rule is effective September 1, 1999. Petitions for reconsideration must be received by April 23, 1999.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice number of this final rule 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 labeling issues: Mary Versailles, Office of Planning and Consumer Programs, NPS–31, telephone (202) 366–2057, facsimile (202) 366–4329.

For general rollover issues: Gayle Dalrymple, Office of Crash Avoidance Standards, NPS–20, telephone (202) 366–5559, facsimile (202) 366–4329.

For legal issues: Nicole Fradette, Office of Chief Counsel, NCC–20, telephone (202) 366–2992, facsimile (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. Summary of Today's Rule

In an effort to reduce the rollover rate of utility vehicles [1], today's rule modifies the existing requirements for rollover warning labels for those vehicles. The new labels will more effectively alert their drivers to the risk the vehicles will roll over, the steps they can take to avoid that risk, and the steps they can take to reduce the chance of injury in the event of a rollover. The new label uses bright colors, graphics, and short bulleted text messages in lieu of the current text-only format. The rule requires the label's header to have an alert symbol (a triangle containing an exclamation point) followed by the statement ''WARNING: Higher Rollover Risk'' in black text on a yellow background. The following three statements must appear below the header in the center of the label: ''Avoid Abrupt Maneuvers and Excessive Speed,'' ''Always Buckle Up,'' and ''See Owner's Manual For Further Information.'' The rule specifies that the label must contain two pictograms: one showing a tilting utility vehicle on the left of the label, and the other showing a seated vehicle occupant with a secured three-point belt system on the right. The pictograms and the statement must be in black on a white background. The rule requires the label to be placed on either the driver's sun visor or the driver's side window. If the label is placed on the back of the driver's sun visor, the rule requires an alert label to be placed on the front of the visor urging the person to flip the visor over and read the information on the other side. The new label is required on utility vehicles with a wheelbase of 110 inches or less. The rule also requires additional information on rollover be included in the owner's manuals of these vehicles. The new requirements are effective September 1, 1999.

II. Background

A. The Rollover Crash Problem [2]

The agency has focused its rollover consumer information efforts on utility vehicles because this type of vehicle is involved in rollover-related occupant deaths more often (on a per-vehicle basis) than other vehicle types. Utility vehicles experience 98 rollover fatalities for every million vehicles registered.[3] This is more than twice the rate of all other light vehicle types combined—44 deaths per million registered vehicles (although small pickup trucks have a similar fatal rollover rate—93 deaths per million registered vehicles).[4]

This does not mean, however, that utility vehicles are unsafe overall compared to other vehicle types. The *overall* fatality rate (for crashes of all types, i.e., front, rear, side and rollover crashes) for utility vehicles is 163 fatalities per million registered vehicles, compared to 169 for all light duty vehicles combined. Small pickup trucks have the highest overall fatality rate, at 217 fatalities per million registered vehicles, followed by small cars, at 200.

B. Existing Utility Vehicle Rollover Warning Label

Currently, utility vehicles are required to have a label advising drivers that the handling and maneuvering characteristics of these vehicles require special driving practices (49 CFR 575.105). The label must be permanently affixed in a location in the vehicle which is ''prominent and visible to the driver.'' A common location used by manufacturers is the sun visor. No minimum size requirements are specified for the label or lettering. The label must be ''printed in a typeface and color which are clear and conspicuous.'' The label must include the following or similar language:

> This is a multipurpose passenger vehicle which will handle and maneuver differently from an ordinary passenger car, in driving conditions which may occur on streets and highways and off road. As with other vehicles of this type, if you make sharp turns or abrupt maneuvers, the vehicle may roll over or may go out of control and crash. You should read driving guidelines and instructions in the Owner's Manual, and WEAR YOUR SEAT BELTS AT ALL TIMES.

Utility vehicles are also required to have information in the vehicle owner's

[1] ''Utility vehicles'' are defined in 49 CFR Part 575 as multipurpose passenger vehicles (other than those which are passenger car derivatives) with a wheelbase of 110 inches or less and with special features for off-road operation. 49 CFR Part 575.105. These vehicles are commonly referred to as sport utility vehicles in the media.

[2] A complete summary of the statistics used in this section can be found in the document titled ''Status Report for Rollover Prevention and Injury Mitigation, May 1996,'' in Docket 91–68–N05.

[3] Fatality rates given are averages of 1991–1994 rates, using fatality data from FARS and vehicle registration data from R.L. Polk and Company, which was limited to the 14 most recent model years at the time of the Status Report.

[4] According to a review of the National Automotive Sampling System (NASS), rollover crashes accounted for over 28 percent of all light duty vehicles fatalities in 1997. Light duty vehicles are passenger cars, pickup trucks, vans, and sport utility vehicles with a gross vehicle weight rating of 10,000 pounds or less. Vans and sport utility vehicles are both considered multipurpose passenger vehicles for purposes of NHTSA regulations. From 1991 through 1994, an average of 8,857 occupants of light duty vehicles died in rollover crashes annually. (1991–1994 average from Fatality Analysis Reporting System (FARS)) These fatal rollover crashes occurred with all types of vehicles; the greatest number occurred in small passenger cars, followed by small pickup trucks.

manual. The current requirement specifies the following or similar language:

Utility vehicles have higher ground clearance and a narrower track to make them capable of performing in a wide variety of off-road applications. Specific design characteristics give them a higher center of gravity than ordinary cars. An advantage of the higher ground clearance is a better view of the road allowing you to anticipate problems. They are not designed for cornering at the same speeds as conventional 2-wheel drive vehicles any more than low-slung sports cars are designed to perform satisfactorily under off-road conditions. If at all possible, avoid sharp turns or abrupt maneuvers. As with other vehicles of this type, failure to operate this vehicle correctly may result in loss of control or vehicle rollover.

C. Summary of NPRM

On April 13, 1998, the agency published an NPRM proposing to modify this labeling requirement. The proposed changes were based on the results of a series of focus groups conducted in June 1996 as well as the agency's experience in the rulemaking to improve the air bag warning labels.[5] The proposed changes included use of bright colors, graphics, and short bulleted text messages, instead of the current text-only format. The rollover focus groups and other focus groups formed by the agency have consistently concluded that labels like the existing utility vehicle label (long unbroken passages of text and no graphics) are less likely to be read than labels with minimal wording and graphics.

NHTSA explained in the NPRM that the American National Standard Institute (ANSI) has a standard[6] for product safety signs and labels (ANSI Z535.4) that identifies a hierarchy of hazard levels ranging from extremely serious to moderately serious and specifies corresponding hierarchies of signal words, i.e., ''danger,'' ''warning,'' and ''caution,'' and of colors. For the header, the ANSI standard specifies a red background with white text for ''danger,'' an orange background with black text for ''warning,'' and a yellow background with black text for ''caution.''

ANSI REQUIREMENTS FOR COLOR CODED HEADER MESSAGES FOR THE DIFFERENT LEVELS OF HAZARD

[Listed in declining level of hazard]

Imminently hazardous situation which will result in death or serious injury if not avoided.	''Danger''	Red background with white text.
Potentially hazardous situation which could result in death or serious injury	''Warning''	Orange background with black text.
Potentially hazardous situation which could result in minor or moderate injury	''Caution''	Yellow background with black text.

The ANSI standard specifies that pictograms should be black on white, with occasional uses of color for emphasis, and that message text should be black on white.

The NPRM proposed three different labels for comment. Proposed label 1 used the ANSI color format with the heading background in orange with the words in black. The remainder of the label had a white background with black text and drawings. Proposed label 2 used a color scheme like the air bag warning labels, which is the same as the ANSI color format except that the background color for the heading in the label is yellow. Proposed label 3 employed the color scheme used in the focus groups—the heading area had a red background with white text. The graphic areas had a yellow background with black and white drawings. The text area had a black background with yellow text.

Proposed label 1 used two graphics to the left of the areas with heading and text. Proposed labels 2 and 3 had a heading area across the top of the label, with two graphics surrounding a text area below. All three proposed labels had a graphic of the area on a seat belt where the buckle is, with the belt not fully buckled. Proposed labels 1 and 2 had a graphic with a vehicle on a curved road that was tipping. Proposed label 3 had a graphic of a tipped vehicle with a curved arrow under it and a person being ejected from the vehicle.

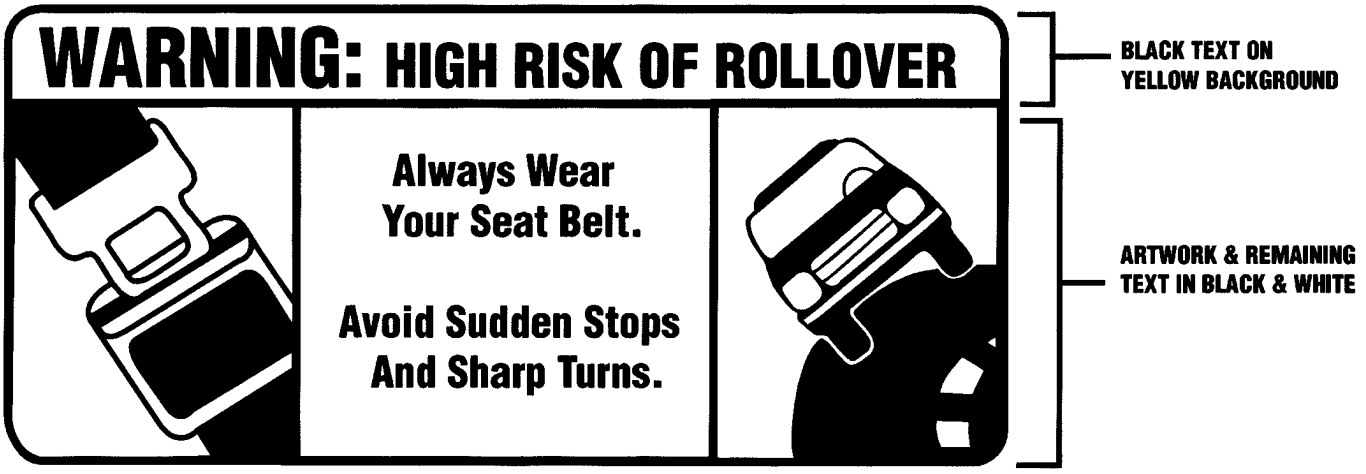
Despite focus group preference for the signal word ''danger,'' the agency proposed the use of the word ''warning'' as more appropriate to the level of risk. The agency also noted that the word ''warning'' is used in the air bag warning label. NHTSA sought comment on whether to use the phrases ''High Risk of Rollover'' or ''Higher Rollover Risk'' in the label. Proposed labels 1 and 2 used the phrase ''High Risk of Rollover'' in the text and heading areas respectively. Proposed label 3 used the phrase ''Higher Rollover Risk.'' Proposed label 3 also used the phrase ''Always Buckle Up.'' Proposed labels 1 and 2 included the phrase ''Avoid Sudden Stops and Sharp Turns.''

BILLING CODE 4910–59–P

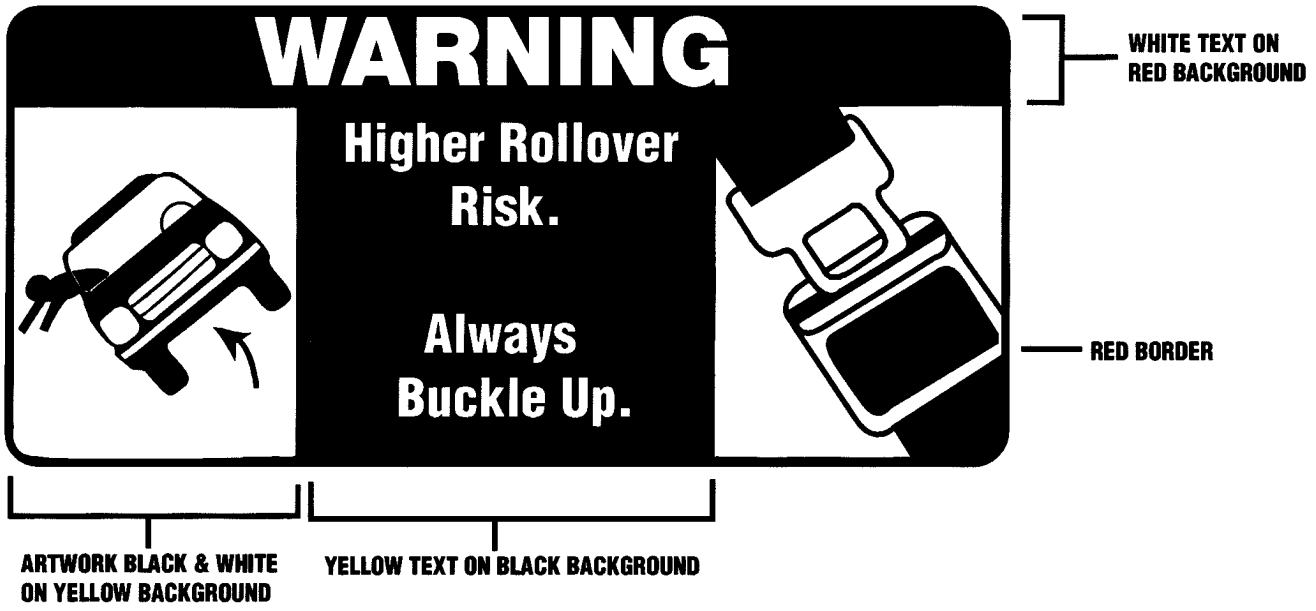
[5] Copies of the Focus Group Report, dated August 1996, as well as the three potential labels proposed in the NPRM are in docket NHTSA 98–3381.

[6] This standard was not considered by the June 1996 rollover focus groups in their deliberations, however the standard was considered in a series of air bag label focus groups in October 1996.

PROPOSED
LABEL 1



PROPOSED
LABEL 2



PROPOSED

LABEL 3

BILLING CODE 4910–59–C

Prior to publication of the NPRM, NHTSA had received a petition for reconsideration from the American Automobile Manufacturers Association (AAMA) of a provision in the air bag warning label requirements that prohibits the utility vehicle rollover warning label and the air bag label from being on the same side of the sun visor. Currently, the utility vehicle rollover warning label must be permanently affixed to the instrument panel, windshield frame, driver's side sun visor, or some other location on the vehicle interior visible from the driver's position. Under current requirements, if the utility vehicle rollover warning label is placed on the sun visor, it must be on the front side. Thus, a manufacturer which chooses this popular location must place the air bag warning label on the back side of the sun visor with the air bag alert label on the front. In the April 1998 NPRM, NHTSA sought comments on whether it should: (1) retain the current location requirements; (2) retain the current utility vehicle warning label location requirements and remove the prohibition from the air bag warning label location requirements; or (3) amend the utility vehicle rollover warning label requirements to prohibit its placement on the driver's side sun visor. As part of the last possibility, NHTSA sought comment on an additional possible location, i.e., the lower, rear corner of the driver's side door window visible from the vehicle exterior. NHTSA also sought comment on whether a size should be specified for the label.

NHTSA also asked for comments on possible changes to the owner's manual requirement. NHTSA proposed three possible approaches to an owner's manual information requirement: (1) retain the current owner's manual information requirement, (2) specify that information on design features which may make a vehicle more likely to rollover (e.g., higher center of gravity) and driving practices which can reduce the risk that a rollover will occur (e.g., avoiding sharp turns) or which can reduce the likelihood of death or serious injury if a rollover occurs (e.g., wearing seat belts) be included in the owner's manual without specifying the exact content of such information, or (3) specify the inclusion of information beyond what is now specified. The agency explained that this additional information could include: statistical information comparing the rollover risk of utility vehicles with other light passenger vehicles, statistical information demonstrating the lower risk of fatality or injury if seat belts are worn, information on the types of situations that can result in a rollover, and information on how to properly recover from a driving scenario that could result in rollover.

On May 15, 1997, American Suzuki Motor Corporation (Suzuki) petitioned NHTSA to modify the existing utility vehicle label to include additional language on the circumstances which may lead to rollovers and the specific actions a driver can take to reduce the risk of rollovers in those circumstances.[7] Suzuki also asked the agency to amend the requirement to require the label in all light trucks, not just utility vehicles. The agency explained that it considered the Suzuki petition moot, since the requested actions were under consideration in several open rulemakings, including this rulemaking, regarding consumer information on rollover prevention, and in other agency consumer information activities and sought comment on whether to extend the utility vehicle label requirement to all light trucks (trucks, buses, and MPVs) or to any subset of this category (e.g., all utility vehicles). The agency proposed a lead time of 180 days between the final rule and its implementation.

III. Summary of the Comments

NHTSA received 19 comments on the NPRM from six manufacturers, two consumer interest groups, three trade associations, six business students, and two other organizations.

[7] Suzuki suggested the following language in its petition:

If, for any reason, your vehicle slides sideways or spins out of control at highway speeds, the risk of rollover is greatly increased. This condition can be created when two or more wheels drop off onto the shoulder and the driver steers sharply in an attempt to reenter the roadway. To reduce the risk of rollover in these circumstances, if conditions permit, hold the steering wheel firmly and slow down before pulling back into the travel lanes with controlled steering movements.

A. Revision and Upgrade of the Label

Only one commenter, Exponent Failure Analysis, explicitly opposed the new label, based on a belief that it could lead consumers to purchase vehicles that are overall less safe.[8] Advocates for Highway and Auto Safety (Advocates) reiterated its long-standing belief that a rollover standard is needed and expressed skepticism about whether a new label can reduce rollovers. Consumers Union also stated that additional activities are needed to reduce rollovers. Mercedes-Benz, who currently does not produce any vehicles that are subject to the requirement, believes that the current label should be sufficient to inform its customers of the special driving characteristics of utility vehicles.[9] Honda Motor Corporation (Honda) agreed that the new label might be more effective, but stated that NHTSA should set performance requirements for labels instead of mandating specific designs. Honda did not, however, suggest any method that could be used to measure performance for a label. All other commenters either did not object to changing the label or explicitly supported the change.

Most of the commenters who expressed a particular preference for one of the proposed labels supported label number 2, citing as bases for their support both the color scheme and layout. With respect to the color of the label's header, commenters expressed strong support for a yellow background. The Association of International Automobile Manufacturers (AIAM) and AAMA stated that NHTSA should allow the choice of yellow or orange.

Except for Consumers Union which supports any message encouraging belt use, most commenters objected to the graphic depicting the rider being thrown from the vehicle. They believed this graphic shifted emphasis away from rollover prevention to belt use. Commenters also objected to graphics showing a curved road as implying that rollovers only occur on curves. AIAM disliked the arrow in the graphic without a road because it believed it was redundant of the depicted vehicle attitude. AIAM, AAMA, and Honda all preferred the standard belt use graphic, the three-point seat belt symbol (see 49 CFR 571.101), to the graphic used on the proposed labels. Honda also suggested retesting the graphics using ANSI's protocol for safety symbols (ANSI Z535.3–1991, *Criteria for Safety Symbols).*

Overall, commenters expressed strong support for the word ''warning.'' Only one comment supported using the word ''danger'' for the warning label. Three business students, Felix Bonet, Jeana Jewett and Yuladys Sanchez, submitted a survey they conducted in which 70 percent of respondents said that the word ''danger'' would attract attention more. AAMA stated that either ''Warning'' or ''Caution'' should be allowed since there is no evidence that consumers would react differently to the two words. Some of the commenters preferred label 2 because the reason for the warning (rollover) was stated on the same line as the word ''warning.'' Finally, AAMA, AIAM, and Honda asked that the use of the safety alert symbol (triangle with an exclamation point) be allowed on the label.

None of the commenters expressed explicit support for or opposition to using either the phrase ''High Rollover Risk'' or the phrase ''Higher Risk of Rollover.'' Instead, commenters suggested other alternative statements such as: ''Reduce Rollover Risk,'' ''To Avoid Rollovers . . .,'' and ''This vehicle handles differently than a car.''

Those commenters who addressed the issue of what seat belt phrase to use preferred the phrase ''Always Buckle Up,'' which was used on proposed label 3. Honda stated that any belt use message should be secondary since there are already numerous belt use messages. With respect to the phrase ''Avoid Sudden Stops and Sharp Turns,'' which was included on proposed labels 1 and 2, commenters stated that they disliked both maneuver statements because these maneuvers are often used to avoid crashes. The commenters suggested adding a statement regarding speed and alcohol use since these are common factors in rollover crashes. Commenters also suggested adding a statement to the label to see the owner's manual and allowing foreign language translations of the label.

B. Location and Size of the Label in the Vehicle

With respect to the label's location, only one commenter, the Insurance Institute for Highway (IIHS), stated that NHTSA should prohibit the utility vehicle label from being placed on the sun visor. IIHS believed that the utility label's presence on the sun visor would diminish the effect of the air bag label. IIHS, along with Consumers Union, preferred the location of the driver's side window. Advocates stated that it did not have a strong position on the location of the label, except that it believed that safety labels (including air bag labels) should be visible at all times and should not be located on the back of the sun visor. Many commenters believe the agency should allow flexibility on the label's location, including allowing both the air bag label and the utility vehicle label to be on the same side of the sun visor.

In general, commenters supported giving manufacturers flexibility on the size of the label. One commenter suggested specifying a specific minimum font size so that manufacturers would not be tempted to make the labels too small. Other commenters opposed specifying a minimum size and supported maintaining the current ''prominent and visible to the driver'' language.

C. Inclusion of New Rollover Statement in the Owner's Manual

AIAM believes that NHTSA should specify the exact wording of the discussion in the owner's manual, but that it should not be the currently required discussion. Several of the commenters stated that the current requirement should be changed. Advocates stated that statistical information should not be required because it can change from year to year. Finally, several commenters expressed support for option two (specifying topics to cover but not exact language) because it provides manufacturers with more flexibility.

D. Vehicle Applicability and Effective Date

In the April 1998 NPRM, NHTSA asked for comments on extending the utility vehicle rollover requirement to all light trucks (trucks, buses, and MPVs) or to any subset of this category (such as all utility vehicles). The commenters were split on whether NHTSA should extend this requirement to other vehicles. Some commenters stated that this should be the subject of a separate rulemaking, while others said that the agency should wait to determine the effectiveness of a new label before extending the requirement to other vehicles. There were no comments on extending the labeling requirement to all utility vehicles.

With regard to the issue of leadtime, all commenters said 180 days was adequate for label changes. However, commenters said that they would need at least one year if changes were made to the owner's manual, as these manuals are often ordered at one time for the entire model year.

E. Additional Issues

In its comments on the NPRM, AAMA asked NHTSA to write the rule so that

[8] NHTSA notes that the rationale given for this opposition applies equally to the current label.

[9] NHTSA notes that any voluntary label would not have to comply with the Federal requirement.

individual manufacturers could change the language and graphics on the label upon seeking and receiving the Administrator's permission to allow for changes in technology without the need for rulemaking.

IV. Agency's Decision and Response to Comments

A. Revision and Upgrade of the Label

NHTSA has decided to amend the existing utility vehicle rollover warning labeling requirement. The agency believes the modifications made by this final rule will make the information more noticeable and understandable to consumers and, therefore, increase the chance that the labels can affect driver behavior to reduce rollovers and thus reduce fatalities and injuries. NHTSA has decided to use the format in label 2 with two graphics surrounding the label's text and a heading above. The rule requires the graphic depicting the use of a seat belt to be on the right and the rollover graphic to be on the left.

The agency has decided to use the color yellow in the header. The agency recognizes that the use of the color yellow is inconsistent with the ANSI standard, which specifies the use of orange for headers relating to potentially hazardous situations, such as the ones addressed by this final rule, which could result in death or serious injury. However, the use of yellow is consistent with the color chosen by the agency for the header of the air bag label. NHTSA specified the use of yellow for air bag warning labels because of an overwhelming focus group preference for that color and the meaning associated with that color (focus groups associated the word ''caution'' with yellow and associated no meaning with the word orange).[10] The agency believes that the use of orange for rollover warning labels and yellow for air bar warning labels could create confusion. In addition, commenters expressed strong support for the color yellow. The rule does not allow the use of orange in the header. This prohibition is consistent with the air bag warning label.

The agency agrees with the comments of AIAM, AAMA, and Honda and has decided to adopt the standard belt use graphic, the three-point seat belt symbol (see 49 CFR 571.101), instead of the buckle graphic used on the three proposed labels. NHTSA believes that consistency in graphics will prevent any confusion about the meaning of a particular pictogram. NHTSA understands the commenters' belief that a curved road in the vehicle graphic might lead consumers to believe that rollovers can only occur on a curved road and should be removed. In addition, the agency agrees that the arrow underneath the tilting vehicle clutters the graphic and should also be removed. The agency believes, however, that some frame of reference is needed so that people will not be confused and conclude either that the graphic was misprinted on the label or that the label was placed on the vehicle crooked. NHTSA has, therefore, decided to change the vehicle graphic to show a tilting vehicle on a horizontal plane.

In response to Honda's comment and to determine which graphics would be most effective, NHTSA conducted additional consumer testing of the recommended graphics in accordance with the ANSI protocol for evaluating symbol comprehension. Focus group testing was done on the tilting vehicle graphic and on the two alternate seat belt graphics (the graphic used in Standard No. 101, *Controls and displays*, and a graphic like the one used in the NPRM except depicting a 3-point belt instead of a lap belt). In addition, to test the overall comprehension of the graphics, NHTSA tested the label with all text deleted except the word ''warning''.

Participants were shown the three graphics (the tilting vehicle graphic and the two seat belt graphics), asked to identify what the graphic meant or was trying to tell them, and asked to choose from four possible responses. Of the four responses provided, one was correct, two were incorrect, and one indicated ''critical confusion.'' [11] With respect to the two seat belt graphics, 95 percent of the participants chose the correct response for the seat belt graphic used in Standard No. 101, *Controls and displays*, 1 percent chose the incorrect response and 4 percent chose the critical confusion response. For the 3-point seat belt graphic, 86 percent chose the correct response, 5 percent chose incorrectly and 7 percent chose the critical confusion response. With respect to the tilting vehicle graphic, 81 percent of the participants chose the correct response, 18 percent chose the incorrect response and 1 percent chose the critical confusion response. Participants were also shown the new label with all text deleted except the word ''warning'' and asked to identify what the label as a whole meant or was trying to tell them. Ninety-four percent of the participants chose the correct meaning of the label (5 percent chose the incorrect meaning and 1 percent chose the critical confusion response). NHTSA believes the addition of the seat belt graphic along with the word ''warning'' provided a context for the tilting vehicle graphic so that participants understood the overall meaning of the label.

NHTSA believes that these results demonstrate that the label is readily understandable to the vast majority of people. The ANSI standard calls for at least 85 percent of correct responses and not more than 5 percent critical confusion. The seat belt graphic used in Standard No. 101, *Controls and displays*, (with 95 percent of the responses correct and only 1 percent critical confusion) is well within the requirements of ANSI's standard. While the tilting vehicle graphic did not receive a correct response of 85 percent when it was viewed in isolation, the ANSI standard indicates that a label's graphic judged unacceptable when so viewed may nevertheless become acceptable if explanatory text is added. The new rollover label has such explanatory text. In addition, the tilting vehicle graphic had a critical confusion response of only 1 percent. Further, the overall recognition level of the label as a whole was high, with 94 percent of the participants correctly identifying the meaning of the label.

The agency does not have any evidence that any of the suggested signal words, i.e., ''danger'', ''warning'' or ''caution,'' would be more effective than the others. It also does not have any information showing that ''danger'' would be more appropriate than ''warning'' for labels regarding the particular hazard addressed by this rulemaking. The agency, therefore, sees no reason to depart from the voluntary industry standard and has decided to use the word ''warning'' to comply with the ANSI standard. The final rule also mandates the use of the safety alert symbol. Manufacturers asked that the use of the alert symbol be permitted instead of required. The agency believes that this requirement will make the label more attention getting and will, therefore, increase the effectiveness of the label. In addition, requiring the safety alert symbol will also make the label's appearance uniform with that of the air bag label.

With respect to the use of the phrases ''Higher Rollover Risk'' and ''High Risk of Rollover,'' NHTSA believes that the alternatives suggested by the

[10] Only two of the 53 focus group 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.

[11] ''Critical confusion'' is the term used to describe the situation in which a participant concludes that the meaning of the graphic is the opposite of the meaning intended by the graphic's designer.

commenters, ''Reduce Rollover Risk * * *'' and ''To Avoid Rollovers * * *'', are less appropriate. While the proposed phrases invite the reader to respond by taking both crash avoidance measures (i.e., more careful driving) and injury reduction measures (i.e., seat belt use), the alternative phrases invite crash avoidance measures only. Further, the agency believes the phrase ''This vehicle handles differently than a car'' is too wordy. One of the reasons the agency is modifying the label is because the current one is too wordy. NHTSA also notes that focus groups emphasized that statements should be short.

NHTSA is aware that the rollover risk is not ''high'' in absolute terms, but it is higher for SUVs than other vehicle types. Consequently, the final rule requires the label to include the phrase ''Higher Rollover Risk.'' In addition, the rule requires that this phrase be placed on the first line of the label following the signal word ''Warning.'' NHTSA believes that the placement of this phrase at the top of the label is important to highlight the purpose of the label and to help alert the driver to the importance of heeding its warnings.

NHTSA chose to delete the ''sudden stops'' statement from the label since both the focus group and the commenters expressed concern that these maneuvers are often used to avoid crashes. The final rule requires the statement: AVOID ABRUPT MANEUVERS AND EXCESSIVE SPEED. NHTSA believes that this statement makes the driver aware of particular practices that should be avoided. The final rule also requires the use of the phrase ''Always Buckle Up'', which was preferred by commenters, and specifies that it be placed as the second statement on the label. The agency believes that this message is easily understood and effectively conveys the importance of wearing a seat belt. The agency has decided not to adopt an alcohol use statement as suggested by the commenters as it believes this issue is better addressed in other ways.

NHTSA agrees with the commenters that the label should include a statement urging the driver to look in the vehicle owner's manual for further information. NHTSA recognizes that it did not adopt a similar statement proposed for the air bag warning labels. It did not do so because some members of the air bag focus groups expressly objected to it, and indicated they wanted the label itself to tell them what they need to know about air bag dangers and how to avoid them. The agency believes that it is harder, within the practical limitations imposed by a relatively small warning label, to provide the basic information necessary for avoiding rollover dangers than it is to provide information necessary for avoiding air bag dangers. These limitations make it necessary to place much of the basic information about rollover dangers in the owner's manual. The owner's manual will include a discussion of the vehicle design features which cause this type of vehicle to be more likely to rollover (e.g., higher center of gravity), a discussion of the driving practices that can reduce the risk of a rollover (e.g., avoiding sharp turns at excessive speed), and an explanation of why it is important to wear a seat belt (i.e., that unbelted occupants are significantly more likely to die in a rollover crash than belted occupants). The agency believes that it is both important and appropriate to have a statement on the label reminding the driver to read the information in the owner's manual and is requiring that it be included.

B. Location and Size of the Label in the Vehicle

NHTSA conducted a literature search for information on warning placement to assist the agency in determining the most appropriate location for the label. The agency found a number of sources of guidance. ANSI Z535.4 (1991) permits multiple hazard warnings in the same location if more than one hazard exists for a product and either the sources of the hazards are in close proximity to each other or the hazards are preventable from a common location. However, the standard recommends that individual messages have sufficient space around them to prevent them from visually blending together. The Westinghouse Electric Corporation (1981) guidelines recommend against placing multiple hazard warnings in the same location. In cases in which multiple warnings are provided, the guidelines prohibit placing warnings concerning hazards with different levels of seriousness in close proximity to each other. Further, according to a study done for the Consumer Product Safety Commission, label recognition decreases as the number of labels increases. This was a limited study (10 subjects for each condition) done on all terrain vehicles (ATV) warnings. It tested label recognition when there were different numbers (4, 7, 9, or 11) of warning labels present.

In response to comments and in light of the results of its literature review, the agency is allowing the utility vehicle label to be placed on either (1) the driver's sun visor (either side) or (2) the driver's side window. The agency believes that this will allow manufacturers two alternatives if it is not possible to place both the air bag label and the utility vehicle label on the same side of the sun visor. Allowing manufacturers to put the utility vehicle label on either side of the sun visor, they could choose to put the air bag label on the front, increasing its prominence, if it is not possible to put both labels on the front. Based on the research, allowing both labels on the sun visor should not result in information overload because: (1) There are only 2 hazards being warned about; (2) actions that would avoid both rollover and air bag hazards can be avoided from the driver's seating position; and (3) both hazards have the same degree of seriousness.

However, to maintain the separateness of the labels and their messages, the agency is specifying that the labels cannot be contiguous. Further, to keep the pictograms of the two labels from running together visually, the final rule also specifies that the air bag warning label must be to the left of the utility vehicle rollover warning label when both labels are placed on the same side of the sun visor. Since the pictogram on the air bag warning label is on its left side, placing that label to the left of the rollover warning label puts that pictogram far from the pictograms on the rollover warning label. Finally, the final rule requires that a rollover alert label, similar to the air bag alert label, must be placed on the front of the sun visor if the utility vehicle label is put on the back of the sun visor.

With respect to specifying a particular size for the label, NHTSA believes that concerns over liability make it unlikely that manufacturers would make the label, or its contents, too small. Further, despite the absence of any current requirement about label size, no commenter gave an example of a rollover warning label that the commenter regarded as too small. As to lettering size, NHTSA believes that specifying a minimum font size is unnecessary at this time. NHTSA has not required any particular font face or size for the air bag warning label. Manufacturers, particularly those which choose to place both the air bag warning label and the rollover warning label on the same side of the sunvisor, may wish to use the same font face and size in both labels. Today's rule allows them the flexibility to do so. NHTSA, therefore, decided not to specify either a particular font face or font size for the rollover label. As the label size has not been a problem in the past, the final rule retains the current requirement that the

label be ''legible, visible and prominent'' to the driver. If the agency becomes aware of cases in which the size of the label or label's text is too small, we will revise the rule to specify label and font size.

C. Inclusion of New Rollover Statement in the Owner's Manual

Today's rule requires owner's manuals to include the following statements and information:

(1) The statement ''Utility vehicles have a significantly higher rollover rate than other types of vehicles.''

(2) A discussion of the vehicle design features which cause this type of vehicles to be more likely to rollover (e.g., higher center of gravity);

(3) A discussion of the driving practices that can reduce the risk of a rollover (e.g., avoiding sharp turns at excessive speed); and

(4) The statement: ''In a rollover crash, an unbelted person is significantly more likely to die than a person wearing a seat belt.''

The agency believes that the general nature of the requirements about discussions of design features and driving practices will allow manufacturers to tailor language to their specific vehicles. At the same time, the requirements are specific enough to ensure that critical topics are included. NHTSA believes that uniformity in the two required statements is important in order to underscore the message contained on the label. The agency believes that uniformity is not needed with respect to the discussion of vehicle design features which make these vehicles more prone to rollover or the driving practices that can reduce the risk of rollover. The agency believes that manufacturers are in a better position to advise drivers as to which particular features of their vehicles are most relevant.

D. Vehicle Applicability and Effective Date

In light of the lack of comments on the issue of extending the requirement to all utility vehicles, NHTSA analyzed the statistics for percent rollovers per single vehicle crashes (%RO/SVC) for vehicles with a wheelbase of ≤110 inches compared to the %RO/SVC for vehicles with a wheelbase of >110 inches to determine the rollover rate for different vehicle types. The rollover rate for utility vehicles with a wheelbase of ≤110 inches was 57.5 percent, the highest of all the types. The rollover rate was 9.5 percent for utility vehicles with a wheelbase of >110 inches and 48.9 percent for all utility vehicles.[12] Small pickup trucks (those with a wheelbase of ≤110 inches) had the next highest rollover rate, with 41.4 percent. The results are summarized in Table 1.

In light of these numbers, NHTSA has decided not to extend the requirement to other vehicles at this time. The vehicles with the highest rollover rate are already required to have a rollover warning label. Therefore, the costs associated with the new labeling requirement should be minimal.

The agency notes that it is undertaking a research program to examine various measurements to determine susceptibility to rollover on an individual vehicle basis instead of on a vehicle type basis. Depending on the results of this research, NHTSA may revisit the issue of what vehicles should be required to have a rollover warning label.

TABLE 1.—PERCENT ROLLOVER PER SINGLE VEHICLE CRASHES (% RO/SVC)

	All	≤110″ wheelbase	>110″ wheelbase
Car	17.4	20.1	11.0
Utility Vehicle	48.9	57.5	9.5
Van	22.2	[1] 8.3	30.4
Pickup	37.5	41.4	25.6

[1] This number may not be reliable. It reflects a very small number of vans with wheelbases ≤110 inches. This is because the most popular minivans have wheelbases longer than 110 inches.

The new label and owner's manual requirements contain important information that more effectively alerts drivers to the risk the vehicles will roll over, the steps to take to avoid that risk, and the steps to take to reduce the chance of injury in the event of a rollover. NHTSA, therefore, believes that a September 1, 1999 effective date for the label and owner's manual requirements is appropriate. NHTSA believes that manufacturers will have sufficient leadtime to design new labels and revise owner's manuals to include the information required by today's rule. With respect to the labeling requirement, all of the commenters agreed that a leadtime of 180 days was sufficient to design, produce and install a new label. In addition, the new label directs the driver to consult the owner's manual for further information, as the agency believes that drivers and passengers should be aware of the information contained in the owner's manual. Although commenters said that they would need at least one year to make any changes to the owner's manual as these manuals are often ordered at one time for the entire model year, the agency believes that any changes can be made within 180 days. Manufacturers generally order owner's manuals three to four months (in June or July) before the start of the new model year of production. NHTSA believes that a September 1, 1999, effective date will provide manufacturers with sufficient lead time to make all the changes required by today's rule prior to publication of the new owner's manuals. Further, the agency notes that if for any reason a manufacturer is unable to make the changes before the new manual is published, the manufacturer may place an insert with the required information in the owner's manual.

E. Additional Issues

Today's rule does not permit manufacturers to make changes to the label upon seeking and receiving special permission from the Administrator. NHTSA believes it is important that people see the same message in all utility vehicles subject to this final rule. The agency believes that inconsistency in the content of the label could cause confusion and undermine the

[12] Utility vehicles with a wheelbase ≤110 inches had a rollover rate of only 9.5 percent. These statistics were generated from 1997 National Automotive Sampling System data.

effectiveness of the label's safety message.

V. Policy on Use of Standards vs. Focus Groups

In the NPRM, NHTSA also raised the issue of the circumstances in which it is appropriate in its rulemaking not to follow standards established by voluntary consensus standards organizations. The agency explained that under the National Technology Transfer and Advancement Act of 1995 (NTTAA), Federal agencies must consider and adopt the use of ''voluntary consensus standards'' to implement their ''policy objectives or activities,'' unless doing so would be ''inconsistent with applicable law or otherwise impractical.'' A ''voluntary consensus standard'' is defined as a technical standard developed or adopted by a legitimate standards-developing organization (''voluntary consensus standards body''). According to NTTAA's legislative history, a ''technical standard'' pertains to ''products and processes, such as the size, strength, or technical performance of a product, process or material.'' Further, a voluntary consensus standards organization under the NTTAA is one that produces standards by consensus and observes the principles of due process, openness, and balance of interests.

Consistent with the NTTAA, NHTSA requested comments on the extent to which any final choice regarding colors and signal words should be guided by the focus group preferences instead of the ANSI standard. NHTSA also requested comments on the broader issue of the circumstances in which it would be appropriate for agency rulemaking decisions to be guided by focus group results or other information when such information is contrary to a voluntary consensus standard such as the ANSI standard.

The agency received little comment on this issue. In general, both manufacturers and consumer groups stated that while NHTSA should seek and consider input from focus groups and voluntary standards, the agency should rely on its own expertise and judgment when making any regulatory or policy decisions. Advocates and Honda were concerned that focus groups preferences were unscientific and unreliable and therefore, did not believe too much emphasis should be placed upon them.

NHTSA recognizes that the ANSI's mission in developing and issuing its standard for communicating information about a comprehensive hierarchy of hazards differs somewhat from that of the agency's focus groups in designing an effective label for a specific hazard and that their conclusions about the manner of communication may therefore differ. Given that agency labeling decisions are highly dependent on the facts regarding the specific hazard being addressed, the agency will make case-by-case determinations of the extent to which NHTSA should follow voluntary standards versus information from focus groups and other sources. As it has in this rulemaking, NHTSA will rely on its own expertise and judgement in making its determinations under the NTTAA and the statutory provisions regarding vehicle safety standards.

VI. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

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 not reviewed under E.O. 12866. Further, this action has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures.

NHTSA believes that this rule will result in a minimal cost to manufacturers and consumers of utility vehicles with a wheel base of less than 110 inches since this rule only changes the format of an existing label and involves a minor modification of existing text in the owner's manual.

The consumer cost of the new modified rollover warning label with two pictograms, short bulleted text and bright colors is dependent upon the type of label used, the size of the label and the number of colors used. The agency did not specify a print font face or size requirement for the new label, but instead retained the current requirement that the label be ''legible, visible and prominent'' to the driver. Thus, the agency believes that manufacturer changes in label size will not add an incremental cost to the present label. However, the requirement for the new label to have black text on a yellow background and two black pictograms on a white background requires the use of three colors, and will add an incremental cost to the present requirement dependent upon the type of label used by the manufacturer. The agency estimates that incremental cost of the additional label colors could be as little as $0.01 and as much as $0.10 per label, dependent upon the type of label applied by the manufacturer.

Since new owner's manuals are printed for each production year, the agency believes minor changes to the manual text will not increase its cost.

Therefore, the total annual incremental cost of the new warning rollover labels is estimated to be between $15,000 to $200,000. These figures are based on the assumption that average number of utility vehicles with wheelbases less than 110 inches sold per year in the U.S. will continue to be between 1.5 and 2 million per year. Since these costs are so minimal, a separate regulatory evaluation has not been prepared.

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). However, 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 impacts of this 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. As explained above, NHTSA believes this rule will have minimal economic impact.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, 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. The OMB Clearance number for the utility vehicle label (49 CFR 575.105) is 2127–0049. NHTSA has considered the impact of the changes required by today's rule and determined that they will not have any affect on the total burden hours imposed on the public by 49 CFR 575.105.

National Environmental Policy Act

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

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.

Civil Justice Reform

This rule will 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.

Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866, and does not have a disproportionate effect on children.

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 its 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 NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

We reviewed all relevant American National Standards Institute (ANSI) standards as part of developing the labeling and information requirements that are the subject of this document. To the extent consistent with our authorizing legislation, we used the following voluntary consensus standard in developing the labeling and information requirements:

- American National Standard Institute (ANSI) standard for product safety signs and labels (ANSI Z535.4).

List of Subjects

49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

49 CFR Part 575

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

In consideration of the foregoing, NHTSA amends chapter V of Title 49 of the Code of Federal Regulations as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 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. In § 571.208, in S4.5.1, revise the heading for paragraph (b) and revise paragraph (b)(3) to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S4.5.1 * * *

(b) *Sun visor air bag warning label.*

* * * * *

(3) Except for the information on an air bag maintenance label placed on the visor pursuant to S4.5.1(a) of this standard, or on a utility vehicle label placed on the visor pursuant to 49 CFR 575.105(d)(1), no other information shall appear on the same side of the sun visor to which the sun visor air bag 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, no other information about air bags or the need to wear seat belts shall appear anywhere on the sun visor.

* * * * *

PART 575—CONSUMER INFORMATION REGULATIONS

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

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

4. Section 575.105 is revised to read as follows:

§ 575.105 Vehicle rollover.

(a) *Purpose and scope.* This section requires manufacturers of utility vehicles to alert the drivers of those vehicles that they have a higher possibility of rollover than other vehicle types and to advise them of steps that can be taken to reduce the possibility of rollover and/or to reduce the likelihood of injury in a rollover.

(b) *Application.* This section applies to utility vehicles.

(c) *Definitions.*

Utility vehicles means multipurpose passenger vehicles (other than those which are passenger car derivatives) which have a wheelbase of 110 inches or less and special features for occasional off-road operation.

(d) *Required information.* (1) *Rollover Warning Label.* (i) Except as provided in paragraph (d)(2) of this section, each

vehicle must have a label permanently affixed to either side of the sun visor, at the manufacturer's option, at the driver's seating position. The label must conform in content, form and sequence to the label shown in Figure 1 of this section, and must comply with the following requirements:

(A) The heading area must be yellow, with the text and the alert symbol in black.

(B) The message area must be white with black text.

(C) The pictograms must be black with a white background.

(D) The label must be appropriately sized so that it is legible, visible and prominent to the driver.

(ii) When the rollover warning label required by paragraph (d)(1)(i) of this section and the air bag warning label required by paragraph S4.5.1(b) of 49 CFR 571.208 are affixed to the same side of the driver side sun visor, the rollover warning label must be affixed to the right (as viewed from the driver's seat) of the air bag warning label and the labels may not be contiguous.

(2) *Alternate location for warning label.* As an alternative to affixing the warning label required by paragraph (d)(1)(i) of this section to the driver's sun visor, a manufacturer may permanently affix the label to the lower rear corner of the forwardmost driver's side window. The label must be legible, visible and prominent to a person next to the exterior of the driver's door.

(3) *Rollover Alert Label.* If the label required by paragraph (d)(1) of this section and affixed to the driver side sun visor is not visible when the sun visor is in the stowed position, an alert label must be permanently affixed to that visor so that the label is visible when the visor is in that position. The alert label must comply with the following requirements:

(i) The label must read:

ROLLOVER WARNING

Flip Visor Over

(ii) The label must be black with yellow text.

(iii) The label must be no less than 20 square cm.

(4) *Owner's Manual.* The owner's manual must include the following statements and discussions:

(i) The statement ''Utility vehicles have a significantly higher rollover rate than other types of vehicles.''

(ii) A discussion of the vehicle design features which cause this type of vehicles to be more likely to rollover (e.g., higher center of gravity);

(iii) A discussion of the driving practices that can reduce the risk of a rollover (e.g., avoiding sharp turns at excessive speed); and

(iv) The statement: ''In a rollover crash, an unbelted person is significantly more likely to die than a person wearing a seat belt.''

BILLING CODE 4910–59–P

Figure 1 to § 575.105

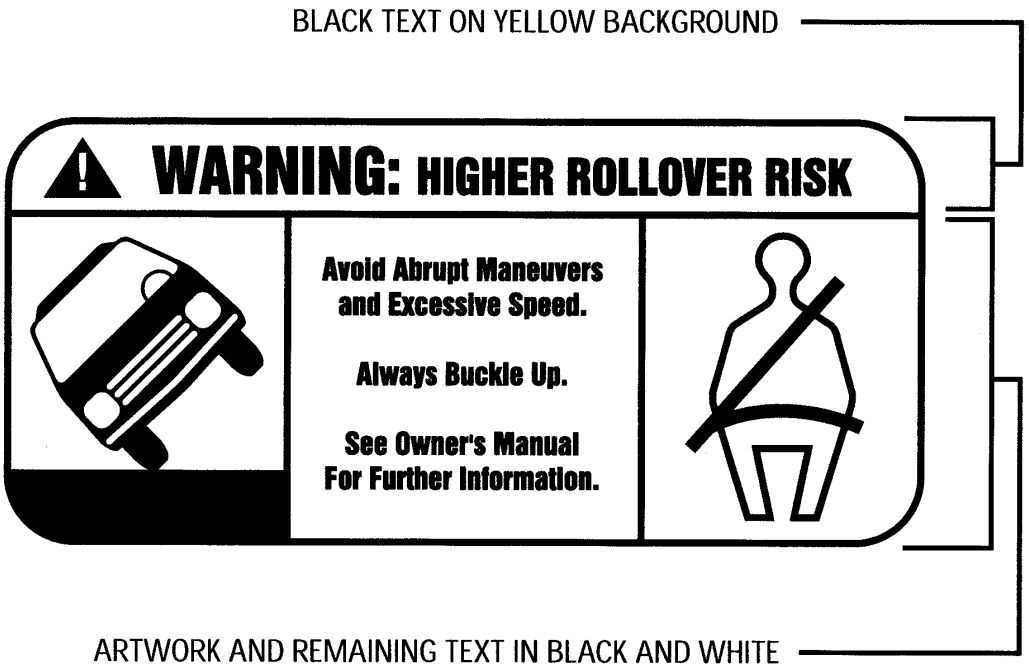


FIGURE 1

Issued: March 3, 1999.

Ricardo Martinez,

Administrator.

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