

Figure 1 to Sec. 577.14
Sample Safety Recall Information Label

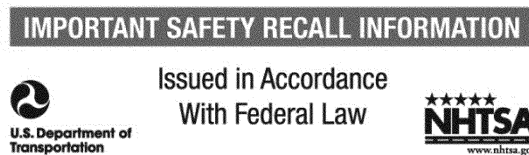
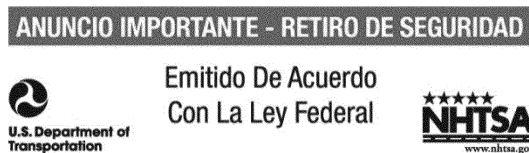


Figure 2 to Sec. 577.14
Sample Safety Recall Information Label, Spanish Version



[79 FR 43678, July 28, 2014]

**PART 578—CIVIL AND CRIMINAL
 PENALTIES**

Sec.

578.1 Scope.

578.2 Purpose.

578.3 Applicability.

578.4 Definitions.

578.5 Inflationary adjustment of civil penalties.

578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

578.7 Criminal safe harbor provision.

578.8 Civil penalty factors under 49 U.S.C. Chapter 301.

AUTHORITY: Pub. L. 92–513, Pub. L. 94–163, Pub. L. 98–547, Pub. L. 101–410, Pub. L. 102–388, Pub. L. 102–519, Pub. L. 104–134, Pub. L. 109–59, Pub. L. 110–140, Pub. L. 112–141, Pub. L. 114–74, Pub. L. 114–94 (49 U.S.C. 30165, 30170, 30505, 32308, 32309, 32507, 32709, 32710, 32902, 32912, 33114, and 33115); delegation of authority at 49 CFR 1.81, 1.95.

SOURCE: 62 FR 5169, Feb. 4, 1997, unless otherwise noted.

§ 578.1 Scope

This part specifies the civil penalties for violations of statutes and regulations administered by the National Highway Traffic Safety Administration (NHTSA), as adjusted for inflation. This part also sets forth NHTSA's interpretation of the civil penalty factors listed in 49 U.S.C. 30165(c). In addition, this part sets forth the requirements regarding the reasonable time and the manner of correction for a person seeking safe harbor protection from criminal liability under 49 U.S.C. 30170(a).

[81 FR 10527, Mar. 1, 2016]

§ 578.2 Purpose.

One purpose of this part is to effectuate the remedial impact of civil penalties and to foster compliance with the law by specifying the civil penalties for statutory and regulatory violations, as adjusted for inflation. Another purpose of this part is to set forth NHTSA's interpretation of the civil penalty factors listed in 49 U.S.C. 30165(c). A third purpose of this part is to set forth the requirements regarding

the reasonable time and the manner of correction for a person seeking safe harbor protection from criminal liability under 49 U.S.C. 30170(a).

[81 FR 10527, Mar. 1, 2016]

§ 578.3 Applicability.

This part applies to civil penalties for violations of Chapters 301, 305, 323, 325, 327, 329, and 331 of Title 49 of the United States Code or a regulation prescribed thereunder. This part applies to civil penalty factors under section 30165(c) of Title 49 of the United States Code. This part also applies to the criminal penalty safe harbor provision of section 30170 of Title 49 of the United States Code.

[81 FR 10527, Mar. 1, 2016]

§ 578.4 Definitions.

All terms used in this part that are defined in sections 30102, 30501, 32101, 32702, 32901, and 33101 of Title 49 of the United States Code are used as defined in the appropriate statute.

Administrator means the Administrator of the National Highway Traffic Safety Administration.

Civil penalty means any non-criminal penalty, fine, or other sanction that:

(1) Is for a specific monetary amount as provided by Federal law, or has a maximum amount provided for by Federal law; and

(2) Is assessed, compromised, collected, or enforced by NHTSA pursuant to Federal law.

NHTSA means the National Highway Traffic Safety Administration.

Person means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.

Respondent means any person charged with liability for a civil penalty for a violation of sections 30112, 30115, 30117 through 30122, 30123(a), 30125(c), 30127, 30141 through 30147, or 30166 of Title 49 of the United States Code or a regulation prescribed under any of those sections.

[62 FR 5169, Feb. 4, 1997, as amended at 65 FR 81419, Dec. 26, 2000; 81 FR 10528, Mar. 1, 2016]

§ 578.5 Inflationary adjustment of civil penalties.

The civil penalties set forth in this part continue in effect until adjusted by the Administrator. The Administrator shall review the amount of these civil penalties annually and will, if appropriate, adjust them by rule.

[83 FR 60753, Nov. 27, 2018]

§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

(a) *Motor vehicle safety*—(1) *In general.* A person who violates any of sections 30112, 30115, 30117 through 30122, 30123(a), 30125(c), 30127, or 30141 through 30147 of Title 49 of the United States Code or a regulation in this chapter prescribed under any of those sections is liable to the United States Government for a civil penalty of not more than \$24,423 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum civil penalty under this paragraph (a)(1) for a related series of violations is \$122,106,996.

(2) *School buses.* (i) Notwithstanding paragraph (a)(1) of this section, a person who:

(A) Violates section 30112(a)(1) of Title 49 United States Code by the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in 49 U.S.C. 30125(a)); or

(B) Violates section 30112(a)(2) of Title 49 United States Code, shall be subject to a civil penalty of not more than \$13,885 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by this section. The maximum penalty under this paragraph (a)(2)(i)(B) for a related series of violations is \$20,827,441.

(3) *Section 30166.* A person who violates Section 30166 of Title 49 of the United States Code or a regulation in

this chapter prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph (a)(3) is \$24,423 per violation per day. The maximum penalty under this paragraph (a)(3) for a related series of daily violations is \$122,106,996.

(4) *False and misleading reports.* A person who knowingly and willfully submits materially false or misleading information to the Secretary, after certifying the same information as accurate under the certification process established pursuant to Section 30166(o) of Title 49 of the United States Code, shall be subject to a civil penalty of not more than \$5,978 per day. The maximum penalty under this paragraph (a)(4) for a related series of daily violations is \$1,195,707.

(b) *National Automobile Title Information System.* An individual or entity violating 49 U.S.C. Chapter 305 is liable to the United States Government for a civil penalty of not more than \$1,949 for each violation.

(c) *Bumper standards.* (1) A person that violates 49 U.S.C. 32506(a) is liable to the United States Government for a civil penalty of not more than \$3,198 for each violation. A separate violation occurs for each passenger motor vehicle or item of passenger motor vehicle equipment involved in a violation of 49 U.S.C. 32506(a)(1) or (4)—

(i) That does not comply with a standard prescribed under 49 U.S.C. 32502; or

(ii) For which a certificate is not provided, or for which a false or misleading certificate is provided, under 49 U.S.C. 32504.

(2) The maximum civil penalty under this paragraph (c) for a related series of violations is \$3,561,551.

(d) *Consumer information—(1) Crashworthiness and damage susceptibility.* A person who violates 49 U.S.C. 32308(a), regarding crashworthiness and damage susceptibility, is liable to the United States Government for a civil penalty of not more than \$3,198 for each violation. Each failure to provide information or comply with a regulation in violation of 49 U.S.C. 32308(a) is a separate violation. The maximum penalty

under this paragraph (d)(1) for a related series of violations is \$1,744,386.

(2) *Consumer tire information.* Any person who fails to comply with the national tire fuel efficiency program under 49 U.S.C. 32304A is liable to the United States Government for a civil penalty of not more than \$66,191 for each violation.

(e) *Country of origin content labeling.* A manufacturer of a passenger motor vehicle distributed in commerce for sale in the United States that willfully fails to attach the label required under 49 U.S.C. 32304 to a new passenger motor vehicle that the manufacturer manufactures or imports, or a dealer that fails to maintain that label as required under 49 U.S.C. 32304, is liable to the United States Government for a civil penalty of not more than \$1,949 for each violation. Each failure to attach or maintain that label for each vehicle is a separate violation.

(f) *Odometer tampering and disclosure.*

(1) A person that violates 49 U.S.C. Chapter 327 or a regulation in this chapter prescribed or order issued thereunder is liable to the United States Government for a civil penalty of not more than \$11,956 for each violation. A separate violation occurs for each motor vehicle or device involved in the violation. The maximum civil penalty under this paragraph (f)(1) for a related series of violations is \$1,195,707.

(2) A person that violates 49 U.S.C. Chapter 327 or a regulation in this chapter prescribed or order issued thereunder, with intent to defraud, is liable for three times the actual damages or \$11,956, whichever is greater.

(g) *Vehicle theft protection.* (1) A person that violates 49 U.S.C. 33114(a)(1)–(4) is liable to the United States Government for a civil penalty of not more than \$2,627 for each violation. The failure of more than one part of a single motor vehicle to conform to an applicable standard under 49 U.S.C. 33102 or 33103 is only a single violation. The maximum penalty under this paragraph (g)(1) for a related series of violations is \$656,665.

(2) A person that violates 49 U.S.C. 33114(a)(5) is liable to the United States Government for a civil penalty of not

more than \$195,054 a day for each violation.

(h) *Automobile fuel economy.* (1) A person that violates 49 U.S.C. 32911(a) is liable to the United States Government for a civil penalty of not more than \$45,973 for each violation. A separate violation occurs for each day the violation continues.

(2) Except as provided in 49 U.S.C. 32912(c), a manufacturer that violates a standard prescribed for a model year under 49 U.S.C. 32902 is liable to the United States Government for a civil penalty of \$15 (for model years before model year 2019, the civil penalty is \$5.50; for model years 2019 through 2021, the civil penalty is \$14), multiplied by each .1 of a mile a gallon by which the applicable average fuel economy standard under that section exceeds the average fuel economy—

(i) Calculated under 49 U.S.C. 32904(a)(1)(A) or (B) for automobiles to which the standard applies produced by the manufacturer during the model year;

(ii) Multiplied by the number of those automobiles; and

(iii) Reduced by the credits available to the manufacturer under 49 U.S.C. 32903 for the model year.

(3) If a higher amount for each .1 of a mile a gallon to be used in calculating a civil penalty under paragraph (h)(2) of this section is prescribed pursuant to the process provided in 49 U.S.C. 32912(c), the amount prescribed may not be more than \$29 for each .1 of a mile a gallon.

[81 FR 43528, July 5, 2016, as amended at 83 FR 60753, Nov. 27, 2018; 84 FR 36034, July 26, 2019; 84 FR 37078, July 31, 2019; 86 FR 1763, Jan. 11, 2021; 86 FR 3026, Jan. 14, 2021; 86 FR 23259, May 3, 2021; 87 FR 15872, Mar. 21, 2022; 87 FR 19007, Apr. 1, 2022]

§ 578.7 Criminal safe harbor provision.

(a) *Scope.* This section sets forth the requirements regarding the reasonable time and the manner of correction for a person seeking safe harbor protection from criminal liability under 49 U.S.C. 30170(a)(2), which provides that a person described in 49 U.S.C. 30170(a)(1) is not subject to criminal penalties thereunder if:

(1) At the time of the violation, such person does not know that the viola-

tion would result in an accident causing death or serious bodily injury; and

(2) The person corrects any improper reports or failure to report, with respect to reporting requirements of 49 U.S.C. 30166, within a reasonable time.

(b) *Reasonable time.* A correction is considered to have been performed within a reasonable time if the person seeking protection from criminal liability makes the correction to any improper (i.e., incorrect, incomplete, or misleading) report not more than thirty (30) calendar days after the date of the report to the agency and corrects any failure to report not more than thirty (30) calendar days after the report was due to be sent to or received by the agency, as the case may be, pursuant to 49 U.S.C. 30166, including a regulation, requirement, request or order issued thereunder. In order to meet these reasonable time requirements, all submissions required by this section must be received by NHTSA within the time period specified in this paragraph, and not merely mailed or otherwise sent within that time period.

(c) *Sufficient manner of correction.* Each person seeking safe harbor protection from criminal penalties under 49 U.S.C. 30170(a)(2) must comply with the following with respect to each improper report and failure to report for which safe harbor protection is sought:

(1) Sign and submit to NHTSA a dated document identifying:

(i) Each previous improper report (e.g., informational statement and document submission), and each failure to report as required under 49 U.S.C. 30166, including a regulation, requirement, request or order issued thereunder, for which protection is sought, and

(ii) The specific predicate under which the improper or omitted report should have been provided (e.g., the report was required by a specified regulation, NHTSA Information Request, or NHTSA Special Order).

(2) Submit the complete and correct information that was required to be submitted but was improperly submitted or was not previously submitted, including relevant documents that were not previously submitted, or, if the person cannot do so, provide a

detailed description of that information and/or the content of those documents and the reason why the individual cannot provide them to NHTSA (e.g., the information or documents are not in the individual's possession or control).

(3) For a corporation, the submission must be signed by an authorized person (ordinarily, the individual officer or employee who submitted the improper report or who should have provided the report that the corporation failed to submit on behalf of the company, or someone in the company with authority to make such a submission).

(4) Submissions must be made by a means which permits the sender to verify promptly that the report was in fact received by NHTSA and the day it was received by NHTSA.

(5) Submit the report to Chief Counsel (NCC–10), National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590.

[65 FR 81419, Dec. 26, 2000, as amended at 66 FR 38384, July 24, 2001]

§578.8 Civil penalty factors under 49 U.S.C. Chapter 301.

(a) *General civil penalty factors.* This subsection interprets the terms nature, circumstances, extent, and gravity of the violation consistent with the factors in 49 U.S.C. 30165(c).

(1) *Nature of the violation* means the essential, fundamental character or constitution of the violation. It includes but is not limited to the nature of a safety-related defect or noncompliance. It also includes what the violation involves.

(2) *Circumstances of the violation* means the context, facts, and conditions having bearing on the violation.

(3) *Extent of the violation* means the range of inclusiveness over which the violation extends including the scope, time frame and/or the degree of the violation. This includes the number of violations and whether the violations are related or unrelated.

(4) *Gravity of the violation* means the importance, significance, and/or seriousness of the violation.

(b) *Discretionary civil penalty factors.* Paragraph (b) of this section interprets the nine discretionary factors in 49

U.S.C. 30165(c)(1) through (9) that NHTSA may apply in making civil penalty amount determinations.

(1) *The nature of the defect or non-compliance* means the essential, fundamental characteristic or constitution of the defect or noncompliance. “Defect” is as defined in 49 U.S.C. 30102(a)(2). “Noncompliance” under this factor includes a noncompliance with a Federal Motor Vehicle Safety Standard (“FMVSS”), as well as other violations subject to penalties under 49 U.S.C. 30165. When considering the nature of a safety-related defect or noncompliance with an FMVSS, NHTSA may examine the conditions or circumstances under which the defect or noncompliance arises, the performance problem, and actual and probable consequences of the defect or noncompliance. When considering the nature of the noncompliance with the Safety Act or a regulation promulgated thereunder, NHTSA may also examine the circumstances surrounding the violation.

(2) *Knowledge by the respondent of its obligations under this chapter* means all knowledge, legal and factual, actual, presumed and constructive, of the respondent of its obligations under 49 U.S.C. Chapter 301. If a respondent is other than a natural person, including but not limited to a corporation or a partnership, then the knowledge of an employee or employees of that non-natural person may be imputed to that non-natural person. The knowledge of an agent may be imputed to a principal. A person, such as a corporation, with multiple employees may be charged with the knowledge of each employee, regardless of whether the employees have communicated that knowledge among each other, or to a decision maker for the non-natural person.

(3) *The severity of the risk of injury* means the gravity of exposure to potential injury and includes the potential for injury or death of drivers, passengers, other motorists, pedestrians, and others. The severity of the risk includes the likelihood of an injury occurring and the population group exposed.

(4) *The occurrence or absence of injury* means whether injuries or deaths have

occurred as a result of a defect, non-compliance, or other violation of 49 U.S.C. Chapter 301 or Chapter 5 of Title 49 of the Code of Federal Regulations. NHTSA may also take into consideration allegations of death or injury. The absence of deaths or injuries shall not be dispositive of manufacturer's liability for civil penalties.

(5) *The number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance* means the total number of vehicles or items of motor vehicle equipment distributed with the defect or noncompliance with an FMVSS or the percentage of vehicles or items of motor vehicle equipment of the subject population with the defect or noncompliance with an FMVSS. If multiple make, model and model years of motor vehicles are affected by the defect or noncompliance with an FMVSS, NHTSA may also consider the percentage of motor vehicles that contain the defect or noncompliance with an FMVSS as a percentage of the manufacturer's total annual production of vehicles. NHTSA may choose to make distinction between those defective or noncompliant products distributed in commerce that consumers received, and those defective or noncompliant products distributed in commerce that consumers have not received.

(6) *Actions taken by the respondent to identify, investigate, or mitigate the condition* means actions actually taken, the time frame when those actions were taken, what those actions involved and how they ameliorated or otherwise related to the condition, what remained after those actions were taken, and the speed with which the actions were taken. A failure to act may also be considered. NHTSA may also consider whether the respondent has set up processes to facilitate timely and accurate reporting and timely investigation of potential safety issues, whether it has audited such processes, whether it has provided training to employees on the processes, and whether such processes were followed.

(7) *The appropriateness of such penalty in relation to the size of the business of the respondent, including the potential for undue adverse economic impacts.* NHTSA takes the Small Business Reg-

ulatory Enforcement Fairness Act of 1996 into account. Upon a showing that a violator is a small entity, NHTSA may include, but is not limited to, requiring the small entity to correct the violation within a reasonable correction period, considering whether the violation was discovered through the participation by the small entity in a compliance assistance program sponsored by the agency, considering whether the small entity has been subject to multiple enforcement actions by the agency, considering whether the violations involve willful or criminal conduct, considering whether the violations pose serious health, safety or environmental threats, and requiring a good faith effort to comply with the law. NHTSA may also consider the effect of the penalty on ability of the person to continue to operate. NHTSA may consider a person's ability to pay, including in installments over time, any effect of a penalty on the respondent's ability to continue to do business, and relevant financial factors such as liquidity, solvency, and profitability. NHTSA may also consider whether the business has been deliberately undercapitalized.

(8) *Whether the respondent has been assessed civil penalties under this section during the most recent 5 years* means whether the respondent has been assessed civil penalties, including a settlement agreement containing a penalty, a consent order or a lawsuit involving a penalty or payment of a civil penalty in the most recent 5 years from the date of the alleged violation, regardless of whether there was any admission of a violation or of liability, under 49 U.S.C. 30165.

(9) *Other appropriate factors* means other factors not identified above, including but not limited to aggravating and mitigating factors relating to the violation, such as whether there is a history of violations, whether a person benefitted economically from a violation, the effect of the respondent's conduct on the integrity of programs administered by NHTSA, and whether there was a failure to respond in a complete and timely manner to requests for information or remedial action.

[81 FR 10528, Mar. 1, 2016]