

hose materials to comply with the proposed changes, but can assume that it would be for improved additives to elastomeric compounds or improved synthetic fibers used as reinforcing materials. Again, the agency does not have any data on the cost of manufacturing such materials, but estimates that the modification of such manufacturing processes would add not more than ten cents to the cost of each brake hose assembly. The highest-cost estimate of the proposed regulations is based on production of 64 million new and replacement hydraulic brake hose assemblies, plus 16 million new and replacement vacuum brake hoses/assemblies, for a total of 80 million total affected brake hoses. If 20 percent of these need to be modified to meet the proposed changes, at a cost of ten cents per hose, the total cost would be \$1.6M. Therefore, the agency estimates the cost of complying with the proposed changes to FMVSS No. 106 to be between zero and \$1.6 M. This potential additional cost would not, however, be expected to have any impact on small businesses, but only on large manufacturers of brake hose materials that are produced in large quantities. Accordingly, the agency does not believe that this proposal would have any significant economic effects. Nevertheless, the agency welcomes comments on the cost of compliance with the proposed requirements.

The DOT's regulatory policies and procedures require the preparation of a full regulatory evaluation, unless the agency finds that the impacts of a rulemaking are so minimal as not to warrant the preparation of a full regulatory evaluation. Since anecdotal evidence suggests that most, if not all, of these hose, tubing, and fittings are already compliant with the minimum performance requirements that the agency is proposing to apply, the agency believes that the impacts of this rulemaking would be minimal. Thus, it has not prepared a full regulatory evaluation.

#### B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's

regulations at 13 CFR part 121 define a small business, in part, as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. As explained above, NHTSA is proposing to incorporate performance requirements and test procedures that are currently contained or referenced in the Federal Motor Carrier Safety Regulations. Those performance requirements/test procedures are based on voluntary standards adopted by the Society of Automotive Engineers. Although NHTSA proposes to incorporate the most recent versions of these SAE requirements/procedures and to apply them to brake hoses, tubing, and fittings for all motor vehicles, not just commercial motor vehicles, the agency believes that most, if not all, such hoses, tubing, and fittings are already designed to meet the most recent SAE requirements/procedures. For the remaining hoses, tubing, and fittings, estimated at up to 20 percent of all hydraulic and vacuum brake hoses manufactured each year, the agency estimates the cost of complying with these requirements to be \$1.6M. Considering that the total number of hydraulic brake hose assemblies and vacuum brake hose/assemblies that would be subject to the proposed requirements is estimated to be approximately 80 million units annually, the agency estimates that the total annual effect of this proposed rule would be between zero and \$1.6M. Accordingly, I hereby certify that it would not have a significant economic impact on a substantial number of small entities.

#### C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

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

Executive Order 13132 requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." The Executive Order defines "policies that have federalism implications" to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, NHTSA may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA also may not issue a regulation with Federalism implications and that preempts State law unless the agency consults with State and local officials early in the process of developing the proposed regulation.

NHTSA has analyzed this rulemaking action in accordance with the principles and criteria set forth in Executive Order 13132. The agency has determined that this proposed rule would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposal would not have any substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

#### E. Civil Justice Reform

This proposed amendment would 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