

brakes to vehicles already required to be equipped with such brakes. By providing a compliance test, this final rule assures the realization of the benefits previously calculated when the requirement for installation of anti-lock brakes was issued in 1995. The compliance test contained in this final rule, which requires a vehicle to successfully negotiate a curved lane on a wetted low-friction surface, is identical to the existing agency test applicable to truck tractors, virtually identical to an existing Society of Automotive Engineers (SAE) test, and similar to other industry tests used to evaluate anti-lock brakes. Therefore, NHTSA believes that existing ABS systems, when properly installed and configured, will allow a vehicle to meet the requirements of the braking-in-a-curve test.

By extending the braking-in-a-curve test to non-articulated trucks and buses, this final rule adds a new road test requirement to an existing sequence of road tests for those vehicles. The costs of the new additional road test required by this final rule are (because the tests are identical) identical to the costs of requiring truck tractors to meet the same test. Based on our knowledge of this braking-in-a-curve test, the agency estimated the incremental cost of adding this new road test to the existing sequence of road tests for brakes to be approximately \$1,000 per test. In most cases, this additional test cost will be spread over hundreds or thousands of vehicles. In instances in which the vehicle involved is a more specialized configuration, the cost of compliance testing, including the cost of including the braking-in-a-curve test in the existing road test sequence will be spread over fewer vehicles. Overall, NHTSA estimates that approximately 250,000 single unit trucks and 7,000 single-unit buses will be affected by this final rule. Testing costs were estimated at the time of the 1995 final rule to range from \$1 to \$18 per vehicle, depending on whether the vehicle has air brakes or hydraulic brakes and if the braking-in-a-curve test is as part of a full brake system compliance test or is performed alone.

When we promulgated the anti-lock brake requirements in 1995, the benefits of the anti-lock brake requirements were estimated to result in as many as 506 fewer annual fatalities, 27,413 fewer injuries and a reduction of property damage by as much as \$553 million each year. The increased cost, which included the cost of anti-lock brakes and testing combined, was estimated to be \$692 per vehicle. Almost all of that cost is for the brakes themselves. The cost of

the brakes is attributable to the March 1995 final rule, not this one.

B. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking action in accordance with the principles and criteria set forth in Executive Order 13132. This final rule does not 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, as specified in Executive Order 13132. Accordingly, the requirements of section 6 of the Executive Order do not apply to this final rule.

C. 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 involve decisions based on environmental, safety or health risks having a disproportionate impact on children.

D. Executive Order 12778

Pursuant to Executive Order 12778, "Civil Justice Reform," we have considered whether this final rule will have any retroactive effect. We conclude that it will not have such 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.

E. 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.

The Administrator has considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*) and certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

This final rule extends application of an existing performance test for anti-lock brakes to a class of vehicles that are already required to have anti-lock brakes. The performance test, known as the braking-in-a-curve test, previously applied only to truck tractors and this final rule simply requires that single unit (non-articulated) trucks and buses must meet the same test. The primary cost effect of the requirements will be testing costs and will be on manufacturers of single unit (*i.e.*, non-articulated) trucks and buses. Some single unit trucks and buses are produced by large manufacturers. Other single unit trucks and buses are produced in stages. In most cases, large manufacturers provide incomplete vehicles to smaller final stage manufacturers, who then produce the finished vehicle. Final stage manufacturers, those who use incomplete vehicles produced by larger manufacturers to produce specialty products, are generally small businesses. However, NHTSA believes that this final rule is not burdensome for final stage manufacturers. As eighty to ninety percent of the affected vehicles are completed from chassis-cabs where pass through certification is available, most final stage manufacturers will be able to rely on the prior certification and testing performed by an incomplete vehicle manufacturer and thus will not