

commenters provided data indicating that the cost of remedying noncompliant vehicles will be greater than the agency's estimates. Using the Standard No. 214 side impact test as the Standard No. 301 side impact test will eliminate the cost of conducting a unique Standard No. 301 test as well as the cost of an extra test vehicle. The total savings would be about \$25,200 per vehicle model.

#### *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 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 effects of this final rule under the Regulatory Flexibility Act. I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that the amendments made in this final rule primarily affect manufacturers of passenger cars and light trucks. These manufacturers typically do not qualify as small entities under 5 U.S.C. 605(b).

NHTSA estimates that there are about four small manufacturers of passenger cars in the U.S., and no small manufacturers of light trucks, producing a combined total of at most 500 vehicles each year. It is unknown how many of their vehicle models will meet the amendments made in this final rule. The agency requested comments on this issue in the NPRM, but received none.

As discussed above in the section on Compliance Responsibility of Second-Stage Manufacturers, there are a large number of second-stage and final-stage

manufacturers. The agency believes that there will be no change to the certification responsibilities of second-stage and final-stage manufacturers as a result of this rulemaking.

Consequently, the agency has concluded that this rulemaking will 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 rule will 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." "Policies that have federalism implications" is defined in the Executive Order 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, the agency 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 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 regulation.

The agency has analyzed this final rule in accordance with the principles and criteria set forth in Executive Order 13132 and has determined that it will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule will 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 final 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.

#### *F. Paperwork Reduction Act*

Under the procedures established by 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. For the phase-in reporting requirements, which were not proposed in the notice of proposed rulemaking, but are added in this Final Rule, NHTSA is submitting to OMB a request for approval of the following collection of information. Public comment is sought on the proposed collection.

*Agency:* National Highway Traffic Safety Administration (NHTSA).

*Title:* Phase-In Production Reporting Requirements for Fuel Systems Integrity Upgrade.

*Type of Request:* New collection.

*OMB Clearance Number:* None assigned.

*Form Number:* This collection of information will not use any standard forms.

*Requested Expiration Date of Approval:* Three years from the date of approval.

#### *Summary of the Collection of Information*

So that NHTSA can ensure that vehicle manufacturers are certifying their applicable vehicles as meeting the rear impact test upgrades that are specified in this final rule, in this proposed collection, NHTSA would require vehicle manufacturers to provide reports on compliance of their vehicles with the rear impact test upgrade.

For the rear impact test upgrade, NHTSA established a six year schedule; a three year lead time, then a 3-year phase-in period during which, in the