

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No. 96-130; Notice 03]

RIN 2127-AG56

Insurer Reporting Requirements; List of Insurers-Required To File Reports

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

ACTION: Final rule.

SUMMARY: This final rule updates the list in appendices A, B, and C of part 544 of passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences, pursuant to 49 U.S.C. 33112. Each insurer listed must file a report for the 1994 calendar year not later than October 25, 1997. Further, as long as an insurer remains listed, it must submit reports on each subsequent October 25. DATES: The final rule on this subject is effective June 23, 1997.

Reporting Date: Insurers listed in the appendices are required to submit reports on their calendar year 1994 experience on or before October 25, 1997. Previously listed insurers whose names are removed by this notice need not submit reports for that year. Insurers newly listed in this final rule must submit their reports for calendar year 1994 on or before October 25, 1997.

Under part 544, as long as an insurer is listed; it must file reports each October 25. Thus, any insurer listed in the appendices as of the date of the most recent final rule must file a report on the following October 25, and on each succeeding October 25, absent a further amendment removing the insurer's name from the appendices.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Ms. Proctor's telephone number is (202) 366-1740. Her fax number is (202) 493-2739.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 49 U.S.C. 33112, Insurer reports and information, NHTSA requires certain passenger motor vehicle insurers to file an annual report with the agency. Each insurer's report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions

taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft. Under the agency's implementing regulation, 49 CFR part 544, the following insurers are subject to the reporting requirements: (1) Those issuers of motor vehicle insurance policies whose total premiums account for 1 percent or more of the total premiums of motor vehicle insurance issued within the United States; (2) Those issuers of motor vehicle insurance policies whose premiums account for 10 percent or more of total premiums written within any one State; and (3) Rental and leasing companies with a fleet of 20 or more vehicles not covered by theft insurance policies issued by insurers of motor vehicles other than any governmental entity.

Pursuant to its statutory exemption authority, the agency has exempted smaller passenger motor vehicle insurers from the reporting requirements.

A. Small Insurers of Passenger Motor Vehicles

Section 33112(f)(2) provides that NHTSA shall exempt small insurers of passenger motor vehicles if it finds that such exemptions will not significantly affect the validity or usefulness of the information in the reports, either nationally or on a State-by-State basis. The term "small insurer" is defined in section 33112(f)(1)(A) and (B) as an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including pooling arrangements established under State law or regulation for the issuance of motor vehicle insurance, account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a "small insurer," but accounts for 10 percent or more of the total premiums for all motor vehicle insurance issued in a particular State, the insurer must report about its operations in that State.

As provided in 49 CFR part 544, NHTSA exercises its exemption authority by listing in Appendix A each insurer which must report because it had at least 1 percent of the motor vehicle insurance premiums nationally. Listing the insurers subject to reporting instead of each insurer exempted from reporting because it had less than 1 percent of the premiums nationally is administratively simpler since the former group is much smaller than the latter. In appendix B, NHTSA lists those insurers that are required to report for

particular states because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. In the establishing part 544 (52 FR 59, January 2, 1987) final rule, the agency stated that appendices A and B will be updated annually. It has been NHTSA's practice to update the appendices based on data voluntarily provided by insurance companies to A.M. Best, and made available for the agency each spring. The agency uses the data to determine the insurers' market shares nationally and in each state.

B. Self-Insured Rental and Leasing Companies

In addition, upon making certain determinations, NHTSA is authorized to grant exemptions to self-insurers, i.e., any person who has a fleet of 20 or more motor vehicles (other than any governmental entity) which are used primarily for rental or lease and which are not covered by theft insurance policies issued by insurers of passenger motor vehicles, 49 U.S.C. 33112(e)(1) and (2). NHTSA may exempt a self-insurer from reporting, if the agency determines:

(1) The cost of preparing and furnishing such reports is excessive in relation to the size of the business of the insurer; and

(2) The insurer's report will not significantly contribute to carrying out the purposes of Chapter 331.

Conversely, NHTSA may not exempt a self insurer solely based on meeting the definition of insurer as defined in section 33112(b)(1).

In a final rule published June 22, 1990 (55 FR 25606), the agency granted a class exemption to all companies that rent or lease fewer than 50,000 vehicles because it believed that reports from only the largest companies would sufficiently represent the theft experience of rental and leasing companies. NHTSA concluded that reports by the many smaller rental and leasing companies do not significantly contribute to carrying out NHTSA's statutory obligations, and that exempting such companies will relieve an unnecessary burden on most companies that potentially must report. As a result of the June 1990 final rule, the agency added a new appendix C, which consists of an annually updated list of the self-insurers that are subject to part 544.

Following the same approach as in the case of appendix A, NHTSA has included in appendix C each of the relatively few self-insurers which are subject to reporting instead of the relatively numerous self-insurers which are exempted. NHTSA updates

appendix C based primarily on information from the publications *Automotive Fleet Magazine* and *Business Travel News*.

#### Notice of Proposed Rulemaking

##### (1) Insurers of Passenger Motor Vehicles

On February 24, 1997, NHTSA published a notice of proposed rulemaking (NPRM) to update the list of insurers in appendices A, B, and C required to file reports (62 FR 8206). Based on the 1994 calendar year market share data provided by A.M. Best, NHTSA proposed to amend the listing in appendix A of insurers which must report because each had written at least one percent of the motor vehicle insurance premiums on a national basis. The list was last amended in a notice published on August 13, 1996 (See 61 FR 41985). One company, Allamerica Property and Casualty Company erroneously included in the August 1996 listing was proposed to be removed from appendix A.

Each of the 18 insurers listed in appendix A of this notice is required to file a report not later than October 25, 1997, setting forth the information required by part 544 for each State in which it did business in the 1994 calendar year. As long as those 18 insurers remain listed, they are required to submit reports on each subsequent October 25 for the calendar year ending slightly less than 3 years before.

Appendix B lists those insurers that would be required to report for particular States for the calendar year 1994, because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. Based on the 1994 calendar year A.M. Best data for market-shares, it was proposed that one company, Amica Mutual Insurance Company, reporting on its activities in the State of Rhode Island be removed from appendix B, and one company, Integon Corporate Group, reporting on its activities in the State of North Carolina, not previously listed in appendix B, was proposed to be added.

The 12 insurers listed in appendix B of this notice would be required to report on their activities in every State in which they had a 10 percent or greater market share. These reports must be filed no later than October 25, 1997, and set forth the information required by part 544. As long as those 12 insurers remain listed, they would be required to submit reports on each subsequent October 25 for the calendar year ending slightly less than 3 years before.

##### (2) Rental and Leasing Companies

Based on information in *Automotive Fleet Magazine* and *Business Travel News* for 1994, the most recent year that data are available, NHTSA proposed that the two rental and leasing companies, ARI (Automotive Rentals, Inc.) and A T & T Automotive Services, Inc., be included in appendix C. Accordingly, each of the 15 companies [including franchisees and licensees] listed in this notice in appendix C would be required to file reports for the calendar year 1994 no later than October 25, 1997, and set forth the information required by part 544. As long as those 15 companies remain listed, they would be required to submit reports on each subsequent October 25 for the calendar year ending slightly less than 3 years before.

NHTSA notes that on July 5, 1994, the Cost Savings Act, (including Title VI-Theft Prevention) was revised and codified "without substantive change." The passenger motor vehicle theft insurers' reporting provisions formerly at 15 U.S.C. 2032 are now at 49 U.S.C. 33112. This final rule amends part 544 to reflect the changed statutory authority.

#### Public Comments and Final Determination.

In response to the NPRM, the agency received no comments. Accordingly, this final rule adopts the proposed changes to appendices A, B, and C.

#### Regulatory Impacts

##### (1) Costs and Other Impacts

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impact of this final rule and has determined the action not to be "significant" within the meaning of the Department of Transportation's regulatory policy and procedures. This rule implements the agency's policy of ensuring that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. Only those companies that are not statutorily eligible for an exemption are expressly required to file reports.

NHTSA does not believe that this rule, reflecting more current data, affects the impacts described in the final regulatory evaluation prepared for the final rule establishing part 544. (52 FR 59, January 2, 1987). Accordingly, a separate regulatory evaluation has not been prepared for this rulemaking action. Using the cost estimates in the 1987 final regulatory evaluation, the agency estimates that the cost of

compliance will be about \$50,000 for any insurer that is added to appendix A, about \$20,000 for any insurer added to appendix B, and about \$5,770 for any insurer added to appendix C. In this final rule, for appendix A, the agency would remove one insurer; for appendix B, the agency would remove one insurer and add one insurer; and for appendix C, the agency would add two additional companies. The agency therefore estimates that the net effect of this final rule will be a cost savings to insurers, as a group, of approximately \$38,460.

Interested persons may wish to examine the 1987 final regulatory evaluation. Copies of that evaluation have been placed in Docket No. T86-01; Notice 2. Any interested person may obtain a copy of this evaluation by writing to NHTSA, Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590, or by calling (202) 366-4949.

##### (2) Paperwork Reduction Act

The information collection requirements in this final rule have been submitted to and approved by the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) This collection of information has been assigned OMB Control Number 2127-0547 ("Insurer Reporting Requirements") and has been approved for use through October 31, 1996. The agency has begun the process of seeking reinstatement of OMB's approval of the collection of information. It expects that process to be complete well before October 25, 1997, when the next reports are due. The agency will publish a Federal Register notice with the control number when it receives notice from OMB that it has approved the requirement.

##### (3) Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) I certify that this final rule would not have a significant economic impact on a substantial number of small entities. The rationale for the certification is that none of the companies proposed to be included on appendices A, B, or C would be construed to be a small entity within the definition of the RFA. "Small insurer" is defined in part under 49 U.S.C. 33112 as any insurer whose premiums for all forms of motor vehicle insurance account for less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States, or any insurer whose premiums within any State.

account for less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the State. This notice would exempt all insurers meeting those criteria. Any insurer not meeting those criteria is not a small entity. In addition, in this rulemaking, the agency proposes to exempt all "self insured rental and leasing companies" that have fleets of fewer than 50,000 vehicles. Any self insured rental and leasing company too large to meet that criterion is not a small entity.

(4) Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

(5) Environmental Impacts

In accordance with the National Environmental Policy Act, NHTSA has considered the environmental impacts of this final rule and determined that it would not have a significant impact on the quality of the human environment.

(6) Civil Justice Reform

This final rule does not have any retroactive effect, and it does not preempt any State law, 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909, section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 544

Crime insurance, Insurance, Insurance companies, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 544 is proposed to be amended as follows:

PART 544 —[AMENDED]

1. The authority citation for part 544 would be revised to read as follows:

Authority: 49 U.S.C. 33112; & delegation of authority at 49 CFR 1.50.

2. Section 544.2 would be revised to read as follows:

§ 544.2 Purpose.

The purpose of these reporting requirements in this part is to aid in implementing and evaluating the provisions of 49 U.S.C. Chapter 331 Theft Prevention to prevent or discourage the theft of motor vehicles, to prevent or discourage the sale or

distribution in interstate commerce of used parts removed from stolen motor vehicles, and to help reduce the cost to consumers of comprehensive insurance coverage for motor vehicles.

3. Paragraph (a) of § 544.4 Definitions would be revised to read as follows:

§ 544.4 Definitions.

(a) Statutory terms. All terms defined in 49 U.S.C. 33101 and 33112 are used in accordance with their statutory meanings unless otherwise defined in paragraph (b) of this section.

4. Paragraph (a) of § 544.5 would be revised to read as follows:

§ 544.5 General requirements for reports

(a) Each insurer to which this part applies shall submit a report annually not later than October 25, beginning on October 25, 1986. This report shall contain the information required by § 544.6 of this part for the calendar year three years previous to the year in which the report is filed (e.g., the report due by October 25, 1997 shall contain the required information for the 1994 calendar year).

5. Appendix A to part 544 is revised to read as follows:

Appendix A—Insurers of Motor Vehicle Insurance Policies subject to the Reporting Requirements in Each State in Which They Do Business

- Aetna Life & Casualty Group
Allstate Insurance Group
America Family Group
American International Group
California State Auto Association
CNA Insurance Companies
Farmers Insurance Group
Geico Corporation Group
ITT Hartford Insurance Group
Liberty Mutual Group
Metropolitan Group
Nationwide Group
Progressive Group
Prudential of America Group
Safeco Insurance Companies
State Farm Group
Travelers Insurance Group
USAA Group

6. Appendix B to part 544 would be revised to read as follows:

Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States

- Alfa Insurance Group (Alabama)
Arbella Mutual Insurance (Massachusetts)
Auto Club of Michigan (Michigan)
Commerce Group, Inc. (Massachusetts)
Commercial Union Insurance Companies (Maine)
Concord Group Insurance Companies (Vermont)

- Erie Insurance Group (Pennsylvania)
Integon Corporate Group (North Carolina)
Kentucky Farm Bureau Group (Kentucky)
Tennessee Farmers Companies (Tennessee)
Nodak Mutual Insurance Company (North Dakota)
Southern Farm Bureau Casualty Group (Arkansas, Mississippi)

7. Appendix C to part 544 would be revised to read as follows:

Appendix C—Motor Vehicle Rental and Leasing Companies (Including Licensees and Franchisees) Subject to the Reporting Requirements of Part 544

- Alamo Rent-A-Car, Inc.
ARI (Automotive Rentals, Inc.)
A T & T Automotive Services, Inc.1
Avis, Inc.
Budget Rent-A-Car Corporation
Citicorp Bankers Leasing Corporation
Dollar Rent-A-Car Systems, Inc.
Donlen Corporation
Hertz Rent-A-Car Division (subsidiary of Hertz Corporation)
Lease Plan International
National Car Rental System, Inc.
Penske Truck Leasing Company
Indicates a newly listed company which must file a report beginning with the report due on October 25, 1997.
Ryder System, Inc. (Both rental and leasing operations)
U-Haul International, Inc. (Subsidiary of AMERCO)
USL Capital Fleet Services
Issued on: June 12, 1997.
L Robert Shelton,
Associate Administrator for Safety Performance Standards.
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