

\*234C3 at Horseshoe Beach are 29–26–28 North Latitude and 83–17–15 West Longitude.

The Audio Division requests comment on petitions filed by Starboard Media Foundation, Inc. proposing the reservation of vacant Channel 259A at Live Oak, Florida and vacant Channel 246A at Merville, Iowa for noncommercial use. The reference coordinates for Channel \*259A at Live Oak are 30–13–12 North Latitude and 82–54–0 West Longitude. The reference coordinates for Channel \*246A at Merville are 42–29–11 North Latitude and 96–0–36 West Longitude.

The Audio Division requests comment on petitions filed by American Family Association and Starboard Media Foundation, Inc. proposing the reservation of vacant Channel 238A at Asbury, Iowa for noncommercial use. The reference coordinates for Channel \*238A at Asbury are 42–30–18 North Latitude and 90–40–46 West Longitude.

The Audio Division requests comment on petitions filed by University of Iowa and Starboard Media Foundation, Inc. proposing the reservation of vacant Channel 271C3 at Keosauqua, Iowa for noncommercial use. The reference coordinates for Channel \*271C3 at Keosauqua are 40–43–48 North Latitude and 91–57–48 West Longitude.

The Audio Division requests comment on a petition filed by Boise Community Radio Project, Inc. proposing the reservation of vacant Channel 280C1 at Weiser, Idaho for noncommercial use. The reference coordinates for Channel \*280C1 at Weiser are 44–20–39 North Latitude and 117–7–14 West Longitude.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding Channel \*261C3 and by removing Channel 261C3 at Anniston; and by adding Channel \*274A and by removing Channel 274A at Saint Florian.

3. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Channel \*251A and by removing Channel 251A at Patagonia; by adding Channel \*296A and by removing Channel 296A at Pima; by adding Channel \*260C3 at Somerton; and by adding Channel \*223C3 and by removing Channel 223C3 at Willcox.

4. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel \*298A and by removing Channel 298A at Sutter Creek; and by adding Channel \*238A and by removing Channel 238A at Westley.

5. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Channel \*270C2 and by removing Channel 270C2 at Olathe; and by adding Channel \*293C and by removing Channel 293C at Olathe.

6. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Channel \*234C3 and by removing Channel 234C3 at Horseshoe Beach; and by adding Channel \*259A and by removing Channel 259A at Live Oak.

7. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by adding Channel \*280C1 and by removing Channel 280C1 at Weiser.

8. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Channel \*238A and by removing Channel 238A at Asbury; by adding Channel \*271C3 and by removing Channel 271C3 at Keosauqua; by adding Channel \*246A and by removing Channel 246A at Merville; and by adding Channel \*268A and by removing Channel 268A at Rudd.

Federal Communications Commission.

**Peter H. Doyle,**

Chief, Audio Division, Media Bureau.

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#### DEPARTMENT OF TRANSPORTATION

#### National Highway Traffic Safety Administration

#### 49 CFR Part 544

[Docket No.: NHTSA–2004–17217]

RIN 2127–AJ29

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

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend appendices A, B, and C of 49 CFR part 544, insurer reporting requirements. The appendices list those passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences. An insurer included in any of these appendices would be required to file three copies of its report for the 2001 calendar year before October 25, 2004. If the passenger motor vehicle insurers remain listed, they must submit reports by each subsequent October 25.

**DATES:** Comments must be submitted not later than June 8, 2004. Insurers listed in the appendices are required to submit reports on or before October 25, 2004.

**ADDRESSES:** You may submit comments, identified by docket number: NHTSA–2004–17217 and/or RIN number: 2127–AJ29, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Agency Web Site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the Docket Management System.

- Fax: (202) 493–2251
- Mail: Dockets, 400 7th Street, SW., Washington, DC 20590
- Hand Delivery/Courier: Plaza Level Room 401, (PL #401), of Nassif Building, 400 7th Street, SW., Washington, DC 20590. Telephone: 1–800–647–5527

You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590, by electronic mail to [rproctor@nhtsa.dot.gov](mailto:rproctor@nhtsa.dot.gov). Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

**SUPPLEMENTARY INFORMATION:**

## I. 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 regulation, 49 CFR part 544, the following insurers are subject to the reporting requirements:

(1) 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) 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 exempted certain passenger motor vehicle insurers from the reporting requirements.

### A. Small Insurers of Passenger Motor Vehicles

Section 33112(f)(2) provides that the agency shall exempt small insurers of passenger motor vehicles if NHTSA 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.

In the final rule establishing the insurer reports requirement (52 FR 59; January 2, 1987), 49 CFR part 544, NHTSA exercised its exemption authority by listing in appendix A each

insurer that 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 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 January 1987 final rule, the agency stated that it would update appendices A and B annually. NHTSA updates the appendices based on data voluntarily provided by insurance companies to A.M. Best, which A.M. Best,<sup>1</sup> publishes in its *State/Line Report* 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 grants exemptions to self-insurers, *i.e.*, any person who has a fleet of 20 or more motor vehicles (other than any governmental entity) used for rental or lease whose vehicles are not covered by theft insurance policies issued by insurers of passenger motor vehicles, 49 U.S.C. 33112(b)(1) and (f). Under 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 33112(e)(1) and (2),

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

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 the largest companies' reports sufficiently represent the theft experience of rental and leasing companies. NHTSA concluded that smaller rental and leasing companies' reports do not significantly contribute to carrying out NHTSA's statutory obligations and that exempting such companies will relieve an unnecessary burden on them. As a result of the June 1990 final rule, the agency added appendix C, consisting of an annually updated list of the self-

insurers subject to part 544. Following the same approach as in appendix A, NHTSA included, in appendix C, each of the self-insurers subject to reporting instead of the self-insurers which are exempted. NHTSA updates appendix C based primarily on information from *Automotive Fleet Magazine* and *Business Travel News*.<sup>2</sup>

### C. When a Listed Insurer Must File a Report

Under part 544, as long as an insurer is listed, it must file reports on or before October 25 of each year. Thus, any insurer listed in the appendices must file a report by October 25, and by each succeeding October 25, absent an amendment removing the insurer's name from the appendices.

## II. Proposal

### 1. Insurers of Passenger Motor Vehicles

Appendix A lists insurers that must report because each had 1 percent of the motor vehicle insurance premiums on a national basis. The list was last amended in a final rule published on October 14, 2003 (68 FR 59132). Based on the 2001 calendar year data market shares from A.M. Best, we propose to make no changes to appendix A.

Each of the 19 insurers listed in appendix A are required to file a report before October 25, 2004, setting forth the information required by part 544 for each State in which it did business in the 2001 calendar year. As long as these 19 insurers remain listed, they will be required to submit reports by each subsequent October 25 for the calendar year ending slightly less than 3 years before.

Appendix B lists insurers required to report for particular States for calendar year 2001, because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. Based on the 2001 calendar year data for market shares from A.M. Best, we propose to make no changes to appendix B.

The eight insurers listed in appendix B are required to report on their calendar year 2001 activities in every State where they had a 10 percent or greater market share.

These reports must be filed by October 25, 2004, and set forth the information required by part 544. As long as these eight insurers remain listed, they would be required to submit reports on or before each subsequent

<sup>1</sup> A.M. Best Company is a well-recognized source of insurance company ratings and information. 49 U.S.C. 33112(j) authorizes NHTSA to consult with public and private organizations as necessary.

<sup>2</sup> *Automotive Fleet Magazine* and *Business Travel News* are publications that provide information on the size of fleets and market share of rental and leasing companies.

October 25 for the calendar year ending slightly less than 3 years before.

## 2. Rental and Leasing Companies

Appendix C lists rental and leasing companies required to file reports. Based on information in *Automotive Fleet Magazine* and *Business Travel News* for 2000, NHTSA proposes to add ANC Rental Corporation and remove Associates Leasing Inc., and the Consolidated Service Corporation. Each of the 17 companies (including franchisees and licensees) listed in appendix C would be required to file reports for calendar year 2001 no later than October 25, 2004, and set forth the information required by part 544. As long as those 17 companies remain listed, they would be required to submit reports before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

## III. Regulatory Impacts

### 1. Costs and Other Impacts

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impact of this proposed rule and determined that the action is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. This proposed 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 required to file reports.

NHTSA does not believe that this proposed rule, reflecting 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 Bureau of Labor Statistics Consumer Price Index for 2003 (see <http://www.bls.gov/cpi>), the cost estimates in the 1987 final regulatory evaluation were adjusted for inflation. The agency estimates that the cost of compliance is \$92,000 for any insurer added to appendix A, \$36,800 for any insurer added to appendix B, and \$10,616.80 for any insurer added to appendix C. If this proposed rule is made final, for appendix A, the agency would propose no change; for appendix B, the agency would propose no change; and for appendix C, the agency would propose to add one company and remove two companies. The agency

estimates that the net effect of this proposal, if made final, would be a cost decrease to insurers, as a group of approximately \$10,616.80.

Interested persons may wish to examine the 1987 final regulatory evaluation. Copies of that evaluation were 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 proposed rule were submitted 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 is assigned OMB Control Number 2127-0547 ("Insurer Reporting Requirements") and approved for use through July 31, 2006, and the agency will seek to extend the approval afterwards.

### 3. Regulatory Flexibility Act

The agency also considered the effects of this rulemaking under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). I certify that this proposed rule will 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 for appendices A, B, or C are 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 1 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 too large to meet 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 according to the principles and criteria contained in Executive Order 12612,

and it has been determined that the proposed 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 proposed rule and determined that it would not have a significant impact on the quality of the human environment.

### 6. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading, at the beginning, of this document to find this action in the Unified Agenda.

### 7. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the proposal clearly stated?
- Does the proposal contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the proposal easier to understand?

If you have any responses to these questions, you can forward them to me several ways:

- a. *Mail*: Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590;
- b. *E-mail*: [rproctor@nhtsa.dot.gov](mailto:rproctor@nhtsa.dot.gov); or
- c. *Fax*: (202) 493-2290.

## IV. Comments

### Submission of Comments

#### 1. How Can I Influence NHTSA's Thinking on This Proposed Rule?

In developing our rules, NHTSA tries to address the concerns of all our

stakeholders. Your comments will help us improve this rule. We invite you to provide views on our proposal, new data, a discussion of the effects of this proposal on you, or other relevant information. We welcome your views on all aspects of this proposed rule. Your comments will be most effective if you follow the suggestions below:

- Explain your views and reasoning clearly.
- Provide solid technical and cost data to support your views.
- If you estimate potential costs, explain how you derived the estimate.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Include the name, date, and docket number with your comments.

## 2. How Do I Prepare and Submit Comments?

Your comments must be written in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not exceed 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments concisely. You may attach necessary documents to your comments. We have no limit on the attachments' length.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web site at <http://dms.dot.gov>. Click on "Help & Information" or "Help/Info" to obtain instructions for filling the document electronically.

## 3. How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you, upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will mail the postcard.

## 4. How Do I Submit Confidential Business Information?

If you wish to submit any information under a confidentiality claim, you should submit three copies of your complete submission, including the information you claim as confidential business information, to the Chief Counsel, Office of Chief Counsel, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. In addition, you should submit two copies, from which

you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter addressing the information specified in our confidential business information regulation (49 CFR part 512).

## 5. Will the Agency Consider Late Comments?

NHTSA will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider, in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

## 6. How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above, in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

1. Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).
2. On that page, click on "search."
3. On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number was "NHTSA 1998-1234," you would type "1234." After typing the docket number, click on "search."
4. On the next page, which contains docket summary information for the docket you selected, click on the desired comments. The "pdf" versions of the documents are word searchable.

## V. Conclusion

Based on the foregoing, we are proposing to amend appendices A, B, and C of 49 CFR part 544, insurer reporting requirements.

### 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 is proposed to read as follows:

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

2. Paragraph (a) of § 544.5 is proposed to read as follows:

#### § 544.5 General requirements for reports.

(a) Each insurer to which this part applies shall submit a report annually before October 25, beginning on October 25, 1986. This report shall contain the information required by § 544.6 of this part for the calendar year 3 years previous to the year in which the report is filed (*e.g.*, the report due by October 25, 2004 will contain the required information for the 2001 calendar year).

\* \* \* \* \*

3. Appendix A to part 544 is proposed 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

Allstate Insurance Group  
 American Family Insurance Group  
 American International Group  
 California State Auto Association  
 CGU Group  
 CNA Insurance Companies  
 Erie Insurance Group  
 Berkshire Hathaway/GEICO Corporation  
 Group  
 Great American P & C Group  
 Hartford Insurance Group  
 Liberty Mutual Insurance Companies  
 Metropolitan Life Auto & Home Group  
 Nationwide Group  
 Progressive Group  
 SAFECO Insurance Companies  
 State Farm Group  
 Travelers/Citigroup Company  
 USAA Group  
 Farmers Insurance Group

4. Appendix B to part 544 is proposed 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 (Michigan)  
 Commerce Group, Inc. (Massachusetts)  
 Kentucky Farm Bureau Group (Kentucky)  
 New Jersey Manufacturers Group (New Jersey)  
 Southern Farm Bureau Group (Arkansas, Mississippi)  
 Tennessee Farmers Companies (Tennessee)

5. Appendix C to part 544 is proposed 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.  
ANC Rental Corporation<sup>3</sup>  
ARI (Automotive Resources International)

<sup>3</sup>Indicates a newly listed company, which must file a report beginning with the report due October 25, 2004.

Avis, Rent-A-Car, Inc.  
Budget Rent-A-Car Corporation  
Dollar Rent-A-Car Systems, Inc.  
Donlen Corporation  
Enterprise Rent-A-Car  
GE Capital Fleet Services  
Hertz Rent-A-Car Division (subsidiary of The Hertz Corporation)  
Lease Plan USA, Inc.  
National Car Rental System, Inc.  
PHH Vehicle Management Services/PHH Arval

Ryder TRS  
Thrifty Rental Car System Inc.  
U-Haul International, Inc. (Subsidiary of AMERCO)  
Wheels Inc.

Issued on: April 1, 2004.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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