

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. section 33112. Each insurer listed in these appendices must file a report for the 1992 calendar year not later than October 25, 1995. Further, as long as they remain listed, they must submit reports on each subsequent October 25.

**DATES:** The final rule on this subject is effective July 27, 1995.

**Reporting Date:** Insurers listed in the appendices are required to submit reports on their calendar year 1992 experience, which is due October 25, 1995. 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 1992 on or before October 25, 1995. 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. Barbara A. Gray, Office of Market Incentives, NHTSA, 400 Seventh St., SW., Washington, DC 20590. Ms. Gray's telephone number is (202) 366-1740. Her fax number is (202) 366-4329.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Pursuant to 49 U.S.C. section 33112, *Insurer reports and information*, NHTSA requires certain passenger motor vehicle insurers to file an annual report with NHTSA unless the agency exempts the insurer from filing such reports. Each insurers' 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 action taken by the insurer to reduce or deter theft. Under the agency's implementing regulation, 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 or 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 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.

As described in the final rule establishing the requirement for insurer reports (52 FR 59, January 2, 1987), in 49 CFR part 544, NHTSA exercises its exemption authority by listing in Appendix A each insurer which must report because it had written 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 January 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 to the agency each spring. The agency uses the data to determine the insurers' market share 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 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 providing the information is excessive in relation to the size of the insurer's business; and

(2) the information from that insurer will not contribute significantly to carrying out 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 experiences 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 listing relatively numerous self insurers that are exempted. NHTSA updates Appendix C based on information from the publications *Automotive Fleet Magazine* and *Travel Business Travel News*.

##### **Notice of Proposed Rulemaking**

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

On January 19, 1995, NHTSA published a notice of proposed rulemaking (NPRM) to update the list of insurers in Appendices A, B, and C required to file reports (See 60 FR 3830). Based on the 1992 calendar year market share data provided by A.M. Best, NHTSA proposes to amend the listing in