

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address	Waste description
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[FR Doc. 05–14535 Filed 7–22–05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 544****[Docket No.: NHTSA–2004–20484]****RIN 2127–AJ54****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 amends regulations on 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 must file three copies of its report for the 2002 calendar year before October 25, 2005. If the passenger motor vehicle insurers remain listed, they must submit reports by each subsequent October 25.

DATES: This final rule becomes effective on September 23, 2005. Insurers listed in the appendices are required to submit reports before October 25, 2005.

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 rosalind.proctor@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,¹ 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

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

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 Auto Rental News.²

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 before October 25, and by each succeeding October 25, absent an amendment removing the insurer's name from the appendices.

II. Notice of Proposed Rulemaking

1. Insurers of Passenger Motor Vehicles

On March 15, 2005, NHTSA published a notice of proposed rulemaking (NPRM) to update the list of insurers in Appendices A, B, and, C required to file reports (70 FR 12635). 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 July 13, 2004 (69 FR 41974). Based on the 2002 calendar year data market shares from A.M. Best, we proposed to remove CGU Group and Great American P&C Group and add the Mercury General Group and Auto-Owners Insurance Group to Appendix A.

Each of the 19 insurers listed in Appendix A are required to file a report before October 25, 2005, setting forth the information required by part 544 for each State in which it did business in the 2002 calendar year. As long as these 19 insurers remain listed, they are required to submit a report 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 2002, because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. Based on the 2002 calendar year data for market shares from A.M. Best, we proposed to add the Nodak Mutual Group (North Dakota) to Appendix B.

The nine insurers listed in Appendix B are required to report on their calendar year 2002 activities in every State where they had a 10 percent or greater market share. These reports must be filed by October 25, 2005, and set forth the information required by part 544. As long as these nine insurers remain listed, they would be required to submit reports on or before each subsequent 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 *Auto Rental News* for 2002, NHTSA proposed to add Enterprise Fleet Services and remove Alamo Rent-A-Car, Inc., National Car Rental System, Inc., Ryder TRS and Thrifty Rental Car System, Inc. Each of the 14 companies (including franchisees and licensees) listed in Appendix C are required to file reports for calendar year 2002 no later than October 25, 2005, and set forth the information required by part 544. As long as those 14 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.

Public Comments on Final Determination

Insurers of Passenger Motor Vehicles

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

Submission of Theft Loss Report

Passenger motor vehicle insurers listed in the appendices can forward their theft loss reports to the agency in several ways:

a. Mail: Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, NVS-131, 400 Seventh Street, SW., Washington, DC 20590

b. E-Mail: rosalind.proctor@nhtsa.dot.gov; or

c. Fax: (202) 493-2290.

Theft loss reports may also be submitted to the docket electronically by:

d. logging onto the Dockets Management System Web site at <http://dms.dot.gov>. Click on "ES Submit" or "Help" to obtain instructions for filing the document electronically.

Regulatory Impacts

1. Costs and Other Impacts

This notice has not been reviewed under Executive Order 12866, Regulatory Planning and Review. 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 2004 (see <http://www.bls.gov/cpi>), the cost estimates in the 1987 final regulatory evaluation were adjusted for inflation. The agency estimates that there is no cost of compliance for any insurer added to appendix A, \$37,780 for any insurer added to appendix B, and –\$32,698.59 for any insurer added to appendix C. In this final rule, for appendix A, the agency proposed to add two companies and remove two companies; for appendix B, the agency proposed to add one company; and for appendix C, the agency proposed to remove four companies and add one company. The agency estimates that the net effect of this final rule would be a cost increase of \$5,081.41 to insurers as a group.

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 final 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

² Automotive Fleet Magazine and Auto Rental News are publications that provide information on the size of fleets and market share of rental and leasing companies.

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. 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, and section 32909 does not require submission of a petition for reconsideration or other administrative

proceedings before parties may file suit in court.

7. 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.

8. Plain Language

Executive Order 12866 requires 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*: rosalind.proctor@nhtsa.dot.gov; or

c. *Fax*: (202) 493-2290

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 amended as follows:

PART 544—[AMENDED]

■ 1. The authority citation for part 544 continues 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 revised 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, 2005 will contain the required information for the 2002 calendar year).

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■ 3. 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

Allstate Insurance Group
American Family Insurance Group
American International Group
Auto-Owners Insurance Group¹
California State Auto Association
CNA Insurance Companies
Erie Insurance Group
Berkshire Hathaway/GEICO Corporation Group
Hartford Insurance Group
Liberty Mutual Insurance Companies
Metropolitan Life Auto & Home Group
Mercury General Group¹
Nationwide Group
Progressive Group
SAFECO Insurance Companies
State Farm Group
Travelers/Citigroup Company
USAA Group
Farmers Insurance Group

¹ Indicates a newly listed company, which must file a report beginning with the report due October 25, 2005.

■ 4. Appendix B to Part 544 is 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 (Michigan)
Commerce Group, Inc. (Massachusetts)
Kentucky Farm Bureau Group (Kentucky)
New Jersey Manufacturers Group (New Jersey)
Nodak Mutual Group (North Dakota)¹
Southern Farm Bureau Group (Arkansas, Mississippi)
Tennessee Farmers Companies (Tennessee)

¹ Indicates a newly listed company, which must file a report beginning with the report due October 25, 2005.

■ 5. Appendix C to Part 544 is 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

ANC Rental Corporation²
ARI (Automotive Resources International)
Avis Rent-A-Car, Inc.

Budget Rent-A-Car Corporation
 Dollar Rent-A-Car Systems, Inc.
 Donlen Corporation
 Enterprise Rent-A-Car
 Enterprise Fleet Services¹
 GE Capital Fleet Services
 Hertz Rent-A-Car Division (subsidiary of The Hertz Corporation)
 Lease Plan USA, Inc.
 PHH Vehicle Management Services/PHH Arval
 U-Haul International, Inc. (Subsidiary of AMERCO)
 Wheels Inc.

¹ Indicates a newly listed company, which must file a report beginning with the report due October 25, 2005.

² National Car Rental System, Inc., and Alamo Rent-A-Car Inc., became ANC Rental Corporation in 2002.

Issued on: July 13, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 050224044-5185-02; I.D. 092304A]

RIN 0648-AS57

Sea Turtle Conservation; Exceptions to Taking Prohibitions for Endangered Sea Turtles

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is allowing any agent or employee of NMFS, the U.S. Fish and Wildlife Service (FWS), the U.S. Coast Guard, or any other Federal land or water management agency, or any agent or employee of a state agency responsible for fish and wildlife, when acting in the course of his or her official duties, to take endangered sea turtles encountered in the marine environment if such taking is necessary to aid a sick, injured, or entangled endangered sea turtle, or dispose of a dead endangered sea turtle, or salvage a dead endangered sea turtle that may be useful for scientific and educational purposes. This action is necessary to provide equal conservation and protection measures to stranded endangered sea turtles as is afforded for threatened sea turtles under 50 CFR 223.206.

DATES: Effective August 24, 2005.

FOR FURTHER INFORMATION CONTACT:

Therese Conant, phone: 301-713-1401, fax: 301-427-2523.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act (ESA). Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles are listed as endangered. Loggerhead (*Caretta caretta*), green (*Chelonia mydas*), and olive ridley (*Lepidochelys olivacea*) sea turtles are listed as threatened, except for breeding colony populations of green turtles in Florida and on the Pacific coast of Mexico and breeding colony populations of olive ridleys on the Pacific coast of Mexico which are listed as endangered. NMFS and the FWS share jurisdictional responsibility for sea turtles under the ESA. FWS has responsibility in the terrestrial environment and NMFS has responsibility in the marine environment.

Under the ESA and its implementing regulations, taking endangered sea turtles - even incidentally - is prohibited. The ESA allows take of threatened species; however, section 4(d) of the ESA allows NMFS to implement regulations for the conservation of threatened species. NMFS implemented a section 4(d) regulation that extended the take prohibitions to threatened sea turtles with exceptions identified in 50 CFR 223.206 which allows appropriate handling of sick, injured, entangled, or dead threatened sea turtles found in the marine environment. The take of endangered species may be authorized by an incidental take statement pursuant to section 7 or a permit or programmatic permit regulation issued pursuant to section 10 of the ESA.

Surveying, documenting and responding to sick, injured, entangled, and dead turtles have been ongoing for over 30 years and became institutionalized in 1980 with the establishment of the NMFS' Sea Turtle Stranding and Salvage Network (STSSN). The STSSN consists of agents or employees of NMFS, the FWS, the U.S. Coast Guard, or any other Federal land or water management agency, or any agent or employee of a state agency responsible for fish and wildlife. The FWS grants authority to each state with an official ESA section 6 agreement for permitting land-based activities (i.e., on the beach and in holding facilities) related to the STSSN. FWS also implemented regulations to allow any

employee or agent of FWS, NMFS, or a state conservation agency, to aid, dispose, salvage or humanely remove endangered species that constitute a demonstrable threat to human safety (50 CFR 17.21). NMFS currently has ESA section 6 agreements with only 10 states/territories: Florida, Georgia, South Carolina, North Carolina, Maryland, New Jersey, New York, Massachusetts, Puerto Rico, and U.S. Virgin Islands (note: On June 11, 1997, NMFS entered into a Memorandum of Agreement with the California Department of Fish and Game, Office of Oil Spill Prevention and Response to aid sick, injured or stranded sea turtles impacted by oil and other hazardous material spills). The STSSN encompasses all U.S. states and territories. The ESA does not allow exceptions to takings for endangered species through section 4(d). Therefore, NMFS is granting authority under ESA section 10(a)(1)(A) to provide for the aid, collection, and disposition of, stranded endangered sea turtles found in the marine environment. By definition, the term 'stranded' includes live endangered sea turtles that are sick, injured, or entangled and dead endangered sea turtles found in the marine environment. Because the activities of the STSSN are similar in nature and scope, NMFS is issuing this final programmatic permit by regulation pursuant to section 10(a)(1)(A). Implementing this section 10(a)(1)(A) provides consistency with FWS regulations that allow such activities on land as described in 50 CFR 17.21. For a description of the activities related to the STSSN, see the proposed rule published on March 29, 2005 (70 FR 15800).

Comments on the Proposed Rule and Changes to the Final Rule

NMFS did not receive any public comments germane to the proposed rule. However, upon further internal agency review, NMFS is making two minor changes to clarify the requirements of the final rule. First, NMFS is requiring that all equipment (tagging equipment, tape measures, etc.) that comes in contact with turtles exhibiting fibropapilloma, be cleaned with a mild bleach solution. Fibropapilloma is a tumor-forming and debilitating transmissible disease of sea turtles. A herpes virus and retrovirus have been identified in association with fibropapilloma, but the etiology of the disease has not been determined. Cleaning equipment that has come in contact with fibropapilloma turtles may help prevent transmission. Second, NMFS is replacing the specification that passive integrated transponder (PIT)