

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00-226, adopted October 3, 2001, and released October 12, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualtex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01-26750 Filed 10-23-01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-2249; MM Docket No. 01-93; RM-10076]

Radio Broadcasting Services; McCall, ID and Pinesdale, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a proposal filed by Idaho Broadcasting Consortium, Inc., we will substitute Channel 294C1 for Channel 294C2 at McCall, Idaho, reallocate Channel 294C1 to Pinesdale, Montana, and modify the authorization for Channel 294C2 to specify operation on Channel 294C1 at Pinesdale, Montana.¹ See 66 FR 27059, May 16, 2001. The coordinates for Channel 294C1 at Pinesdale are 46-10-07 and 114-17-06. 112-59-42. Although Canadian concurrence has been requested for the allotment of Channel 294C1 at Pinesdale, notification has not yet been received. Therefore, operation with the facilities specified for Pinesdale herein is subject to modification, suspension, or termination without right to a hearing, if found by the Commission to

¹ Channel 294A was allotted to McCall, Idaho, in MM Docket No. 86-350, 52 FR 42438, November 5, 1987. Idaho Broadcasting Consortium, Inc. filed a first-come/first-serve application for the allotment at McCall as a C2 allotment in lieu of a Class A allotment. Idaho Broadcasting Consortium, Inc. was granted a construction permit for Channel 294C2 at McCall on December 8, 1999 (BPH-19971023MD). The Table of FM Allotments will be amended to reflect the substitution of Channel 294C2 for Channel 294A at McCall pursuant to the one-step application.

be necessary in order to conform to the 1991 Canada-USA FM Broadcast Agreement or if specifically objected to by Canada. With this action, this proceeding is terminated.

DATES: Effective November 12, 2001.

FOR FURTHER INFORMATION CONTACT:

Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 01-93, adopted September 19, 2001, and released September 28, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Information Reference Center, Portals II, 445 12th Street, SW, Room Cy-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualtex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended 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 Idaho, is amended by removing Channel 294A at McCall.

3. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Pinesdale, Channel 294C1.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01-26748 Filed 10-23-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No. NHTSA-2001-001; Notice 02]

RIN 2127-A107

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 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 must file three copies of its report for the 1998 calendar year before October 25, 2001.

DATES: The final rule on this subject is effective October 24, 2001. Insurers listed in the appendices are required to submit reports on or before October 25, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Henrietta L. Spinner, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Spinner's telephone number is (202) 366-4802. Her fax number is (202) 493-2290.

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 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 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 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). 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.

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*.

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.

Notice of Proposed Rulemaking

1. Insurers of Passenger Motor Vehicles

On August 7, 2001, NHTSA published a notice of proposed rulemaking (NPRM) to update the list of insurers in Appendices A, B, and C required to file reports (66 FR 41190). 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 August 14, 2000 (65 FR 49505). Based on the 1998 calendar year data market shares from A.M. Best, we proposed to remove Prudential of America Group and Zurich Insurance Group-U.S. from Appendix A and to add CGU Group, SAFECO Insurance Companies, and St. Paul Companies to Appendix A.

Each of the 19 insurers listed in Appendix A is required to file a report before October 25, 2001, setting forth the information required by Part 544 for each State in which it did business in the 1998 calendar year. As long as these 19 insurers remain listed, they would 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 1998, because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. Based on the 1998 calendar year data for market shares from A.M. Best, we proposed to remove Allmerica P & C Companies, Commercial Union Insurance Companies, and Nodak Mutual Insurance Company from Appendix B and to add New Jersey Manufacturers Group to Appendix B.

The nine insurers listed in Appendix B are required to report on their calendar year 1998 activities in every State where they had a 10 percent or greater market share. These reports must be filed by October 25, 2001, 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 *Business Travel News* for 1998, NHTSA proposed to remove Ford Rent-A-Car-System, Ryder System, Inc., and USL Capital Fleet Services from Appendix C and to add Consolidated Service Corporation to Appendix C. Each of the 17 companies (including franchisees and licensees) listed in Appendix C would be required to file reports for calendar year 1998 no later than October 25, 2001, 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.

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.

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 has determined that the action is not "significant" within the meaning of the Department of Transportation's regulatory policies 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 required to file reports.

NHTSA does not believe that this 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 2000, the cost estimates in the 1987 final regulatory evaluation were adjusted for inflation. The agency estimates that the cost of compliance is \$86,100 for any insurer added to Appendix A, \$34,440 for any insurer added to Appendix B, and \$9,936 for any insurer added to Appendix C. In this final rule, for Appendix A, the agency removed two companies and added three companies; for Appendix B, the agency removed three companies and added one company; and for Appendix C, the agency removed two companies and added one company. The agency estimates that the net effect of this final rule, would be \$7,284 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 information is assigned OMB Control Number 2127-0547 ("Insurer Reporting Requirements") and approved for use through August 31, 2003, 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 final 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 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, and 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 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, 2001 will contain the required information for the 1998 calendar year).

* * * * *

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 Financial Group
American International Group
California State Auto Association
CGU Group¹
CNA Insurance Companies
Erie Insurance Group
Farmers Insurance Group
Berkshire Hathaway/GEICO Corporation
Group
Hartford Insurance Group
Liberty Mutual Insurance Companies
Nationwide Group
Progressive Group
SAFECO Insurance Companies¹
St. Paul Companies¹
State Farm Group
Travelers PC Group
USAA Group

4. Appendix B to Part 544 is revised to read as follows:

¹ Indicates a newly listed company which must file a report beginning with the report due October 25, 2001.

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 Group (Michigan)
 Commerce Group, Inc. (Massachusetts)
 Concord Group Insurance Companies (Vermont)
 Kentucky Farm Bureau Group (Kentucky)
 New Jersey Manufacturers Group (New Jersey)¹
 Southern Farm Bureau Group (Arkansas, Mississippi)
 Tennessee Farmers Companies (Tennessee)

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

Alamo Rent-A-Car, Inc.
 ARI (Automotive Rentals, Inc.)
 Associates Leasing Inc.
 A T & T Automotive Services, Inc.
 Avis, Rent-A-Car, Inc.
 Budget Rent-A-Car Corporation
 Consolidated Service Corporation¹
 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
 U-Haul International, Inc. (Subsidiary of AMERCO)
 Wheels Inc.

Issued on: October 18, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01-26812 Filed 10-23-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1244

[STB Ex Parte No. 385 (Sub-No. 5)]

Modification of the Carload Waybill Sample Reporting Procedures

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule.

SUMMARY: The Board modifies its regulations to require all railroads operating in the United States to include

in the Carload Waybill Sample (Waybill Sample) export traffic moving from or through the United States. To comply with this regulation, railroads may report data on either the U.S. portion of movements or on entire international movements. Railroads reporting information on only the U.S. portion of movements may use a mileage proration to estimate the revenues attributable to the U.S. leg of the movement. When actual revenue divisions are reported, carriers may encrypt (mask) the revenue information if such information is commercially sensitive. This modification of the reporting requirements is designed to improve the accuracy of the Waybill Sample.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT:

James Nash, (202) 565-1542 or H. Jeff Warren, (202) 565-1533. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: We require railroads that annually terminate 4,500 or more carloads (or 5 percent of the carloads in any state) to report data, including revenues, on individual movements drawn from a random sampling of their traffic. 49 CFR 1244.2. This Waybill Sample is used for a variety of purposes by the Board, parties appearing before the Board, other Federal and state agencies, and the public in general. Because of the increased volume of rail traffic moving between the United States and Canada or Mexico, or between Canada and Mexico through the United States, we proposed (in a Notice of Proposed Rulemaking served September 8, 2000 (65 FR 54471)) to require railroads to include in the sampling process export traffic moving on the U.S. rail system.

Comments were filed by the United States Department of Transportation (DOT), the Western Coal Traffic League (WCTL), and the Association of American Railroads (AAR). DOT and WCTL support the proposal but ask for clarification.

DOT asks whether, when using data on the U.S. portion of international movements, we will modify our revenue and costing algorithms to account for the fact that the traffic does not actually terminate at the U.S. border. We recognize that, when waybill information is used to develop costs associated with specific rail service or assign revenues to segments of a movement, we must account for the fact that export traffic does not terminate at the border. Accordingly, when estimating segment costs and revenues for cross-border traffic, we will not

assign the extra costs or revenues generally associated with actual terminations to points where international traffic simply crosses the border on the way to its final destination.

WCTL suggests that, to the extent possible, railroads should specify the foreign destination and revenues associated with the export traffic. As discussed below, railroads will be permitted to report such information but will not be required to do so. We do not have the authority to require foreign carriers that terminate export traffic to report information on traffic moving outside the United States. 49 U.S.C. 10501(a)(2). WCTL further asks whether export traffic will be sampled and tracked as a specific category, or whether it will be sampled on the same basis as, and subsumed within, other traffic generally. While our regulations will require the specific identification of export traffic in the Waybill Sample, we do not intend that such traffic be treated as a separate category of traffic but rather be sampled and tracked like other railroad traffic.

AAR, while acknowledging the need for an accurate Waybill Sample, expresses concern that the proposal may be burdensome for some railroads to implement because it could require expensive data processing changes in order to develop revenue data on only the U.S. portion of international movements. We note that the Canadian National Railroad Company and the Canadian Pacific Railroad Company, which are currently voluntarily reporting the information that the proposed regulations would require, have not complained of an undue burden. Nevertheless, should other carriers find it impractical to allocate revenues between the U.S. and foreign legs of movements, we will allow the reporting of information on entire international movements. With this modification, we believe that any expense associated with implementing the new regulations should be limited.

Because actual U.S. revenues are only available for traffic that is interchanged at or near the border, AAR notes that for much of the international traffic a mileage proration formula or other estimation process must be used to allocate revenues. AAR suggests that if such a revenue allocation procedure is adopted, it may be easier for carriers to rely on the mileage proration formula now used by ALK Associates (ALK).

We recognize that an allocation of revenues may be necessary. Indeed, we currently use a mileage formula to allocate revenues between U.S. carriers on multi-carrier domestic movements.

¹ Indicates a newly listed company which must file a report beginning with the report due October 25, 2001.