

## Public Comments on Final Determination

### *Insurers of Passenger Motor Vehicles*

In the NPRM, the list of passenger motor vehicle insurers who are required to file theft loss reports contained the "Zurich/Farmers Group," a newly listed insurance company. In response to the NPRM, we received two comments regarding the "Zurich/Farmers Group" listing. The first comment was submitted by Farmers Group, Inc. (Farmers), and the second comment was submitted by Zurich North America (Zurich).

Farmers argued that the listing should contain only "Farmers Insurance Group" instead of "Zurich/Farmers Group." Farmers also stated that the "Zurich/Farmers Group" designation does not reflect the legal or economic reality of the relationship between the two separate insurance companies. Specifically, Farmers note that it is "comprised of reciprocal insurance exchanges (which are owned by their policyholders), or the wholly owned subsidiaries of those exchanges." The only part of Farmers owned by Zurich is the management company for the exchanges, Farmer's Group, Inc. Besides owning this management company, Zurich also engages in providing passenger automobile insurance separately, and in competition with Farmers. According to Farmers, therefore, "Zurich/Farmers Group" is not an insurance company and does not own any of the subsidiary companies that write auto insurance.

Zurich similarly argued that the listing in question should contain "Farmers Insurance Group" instead of "Zurich/Farmers Group." Specifically, Zurich described the structure of Farmers and reiterated that Zurich does not control the reciprocal insurance exchanges. Instead, Zurich owns only Farmers Group, Inc., which provides management services to all reciprocal exchanges. Zurich provides its own insurance services for passenger cars under the name of "Zurich North America." Neither the reciprocal insurance exchanges, nor Farmers Group, Inc. are a part of Zurich North America. Further, Zurich has less than 1% market share for passenger car insurance, and therefore, should qualify for small insurer exception. Currently, Zurich estimates its market share to be at 0.63%.

After reviewing both comments, the agency concluded that Farmers and Zurich are not a single insurance company, and should not be listed together as "Zurich/Farmers Group." The agency agrees with both

commenters' basic descriptions of their corporate structure. The agency also notes that while Zurich owns Farmers Group Inc. (which manages reciprocal exchanges), it also engages in providing their own insurance services through a separate entity that is separately licensed to provide insurance. In arriving at our decision, the agency consulted with an A.M. Best Co. insurance analyst familiar with Farmers and Zurich corporate structure, Stephan Holtzberger.<sup>3</sup> Mr. Holtzberger indicated support for our new position. Therefore, Appendix A will list "Farmers Insurance Group" instead of "Zurich Group/Farmers." Zurich North America Insurance will not be listed in Appendix A because it falls short of the requisite 1% market share.

As a result of the new information received in response to the NPRM, this final rule revises the changes initially proposed to Appendix A. The agency received no comments in response to the NPRM for Appendices B and C. Accordingly, this final will reissue Appendix B without change and adopt the proposed changes to Appendix 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:* Carlita Ballard, Office of Planning and Consumer Standards, NHTSA, NVS-131, 400 Seventh Street, SW., Washington, DC 20590;

b. *E-mail:* [cballard@nhtsa.dot.gov](mailto:cballard@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 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 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 \$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 will remove one company and add none; for Appendix B, the agency proposed no change; and for Appendix C, the agency removed one company and added two companies. The agency estimates that the net effect of this final rule would be a decrease of \$76,164 to insurers as a group.

Interested persons may 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 is 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

<sup>3</sup> Docket No. NHTSA-14372-4.