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 not meeting 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 in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this 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, 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 proposed to be amended as follows:

PART 544 —[AMENDED]

1. The authority citation for part 544 would be revised to read as follows:

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

2. Section 544.2 would be revised to read as follows:

§ 544.2 Purpose.

The purpose of these reporting requirements in this part is to aid in implementing and evaluating the provisions of 49 U.S.C. Chapter 331 Theft Prevention to prevent or discourage the theft of motor vehicles, to prevent or discourage the sale or distribution in interstate commerce of used parts removed from stolen motor vehicles, and to help reduce the cost to consumers of comprehensive insurance coverage for motor vehicles.

3. Paragraph (a) of § 544.4 *Definitions* would be revised to read as follows:

§ 544.4 Definitions.

(a) *Statutory terms.* All terms defined in 49 U.S.C. 33101 and 33112 are used in accordance with their statutory meanings unless otherwise defined in paragraph (b) of this section.

* * * * *

4. Paragraph (a) of § 544.5 would be revised to read as follows:

§ 544.5 General requirements for reports

(a) Each insurer to which this part applies shall submit a report annually not later than October 25, beginning on October 25, 1986. This report shall contain the information required by § 544.6 of this part for the calendar year three years previous to the year in which the report is filed (e.g., the report due by October 25, 1997 shall contain the required information for the 1994 calendar year).

* * * * *

5. 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

Aetna Life & Casualty Group
Allstate Insurance Group
American Family Group
American International Group
California State Auto Association
CNA Insurance Companies
Farmers Insurance Group
Geico Corporation Group
ITT Hartford Insurance Group
Liberty Mutual Group
Metropolitan Group
Nationwide Group
Progressive Group
Prudential of America Group
Safeco Insurance Companies
State Farm Group
Travelers Insurance Group
USAA Group

6. Appendix B to part 544 would be 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 of Michigan (Michigan)
Commerce Group, Inc. (Massachusetts)
Commercial Union Insurance Companies (Maine)
Concord Group Insurance Companies (Vermont)
Erie Insurance Group (Pennsylvania)
Integon Corporate Group (North Carolina) [1]
Kentucky Farm Bureau Group (Kentucky)
Tennessee Farmers Companies (Tennessee)
Nodak Mutual Insurance Company (North Dakota)
Southern Farm Bureau Casualty Group (Arkansas, Mississippi)

7. Appendix C to part 544 would be 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.) [1]
A T & T Automotive Services, Inc.[1]
Avis, Inc.
Budget Rent-A-Car Corporation
Citicorp Bankers Leasing Corporation
Dollar Rent-A-Car Systems, Inc.
Donlen Corporation
Hertz Rent-A-Car Division (subsidiary of Hertz Corporation)
Lease Plan International
National Car Rental System, Inc.
Penske Truck Leasing Company
Indicates a newly listed company which must file a report beginning with the report due on October 25, 1997.
Ryder System, Inc. (Both rental and leasing operations)
U-Haul International, Inc. (Subsidiary of AMERCO)
USL Capital Fleet Services

Issued on: June 12, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–16334 Filed 6–20–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 583

[Docket No. 92–64; Notice 11]

RIN 2127–AG46

Motor Vehicle Content Labeling

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

ACTION: Final rule.

SUMMARY: Under NHTSA's content labeling program, passenger motor vehicles (passenger cars and other light vehicles) are required to be labeled with information about their domestic and foreign parts content. In this document, the agency extends for two years a

[1] Indicates a newly listed company which must file a report beginning with the report due on October 25, 1997.

limited, temporary provision in its content calculation procedures to provide vehicle manufacturers added flexibility in making content determinations where outside suppliers have not responded to requests for content information. This flexibility will be available for up to 10 percent, by value, of a carline's total parts content from outside suppliers, and only for carlines offered for sale prior to January 1, 1999. It will also only be available where manufacturers or allied suppliers have made a good faith effort to obtain the information. The agency views this provision as providing extra flexibility during the early years of the content labeling program, as the vehicle manufacturers and suppliers continue to gain familiarity with the program and develop appropriate procedures to ensure supplier responsiveness to requests for content information.

DATES: *Effective date:* The amendments made by this rule are effective July 23, 1997.

Petitions: Petitions for reconsideration must be received by August 7, 1997.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: *For non-legal issues:* Mr. Orron Kee, Office of Planning and Consumer Programs, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–0846).

For legal issues: Mr. J. Edward Glancy, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–2992).

SUPPLEMENTARY INFORMATION:

Background

On July 21, 1994, NHTSA published in the **Federal Register** (59 FR 37294) a new regulation, 49 CFR part 583, Automobile Parts Content Labeling, to implement the American Automobile Labeling Act (Labeling Act). That Act, which is codified at 49 U.S.C. 32304, requires passenger motor vehicles to be labeled with information about their domestic and foreign parts content. Interested persons are encouraged to read the July 1994 notice for a detailed explanation of this program.

NHTSA received several petitions for reconsideration of the July 1994 final rule, and has subsequently published four notices addressing issues raised in those or subsequent petitions.[1]

One issue has been the subject of successive petitions from the American Automobile Manufacturers Association (AAMA). That organization has repeatedly objected to a provision in part 583 which specifies that the U.S./Canadian content of components is defaulted to zero if suppliers fail to respond to a manufacturer's or allied supplier's request for content information. AAMA would like the agency to permit vehicle manufacturers and allied suppliers to make ''best-efforts'' content determinations when their outside suppliers fail to do so.

The agency published two notices on this issue last year. On April 19, 1996, NHTSA published in the **Federal Register** (61 FR 17253) a notice denying an AAMA petition on this subject. The agency explained that it believes that the ability to obtain the necessary content information from suppliers is within the control of the vehicle manufacturers.

On September 3, 1996, however, in light of new information provided by AAMA and General Motors (GM), NHTSA published in the **Federal Register** (61 FR 46385) a very narrow, temporary final rule providing vehicle manufacturers additional flexibility in this area. The temporary final rule provided that, in limited situations where outside suppliers had not responded to requests for content information, allied suppliers and manufacturers could make those content determinations from information available to them. This flexibility was only available if the allied supplier or manufacturer had a good faith basis for making the calculation. Moreover, this flexibility was only available for up to 10 percent, by value, of a carline's total parts content from outside suppliers. Finally, the flexibility was only available where the manufacturer or allied supplier had made a good faith effort to obtain the information from the outside supplier.

The amendment applied only to carlines offered for sale before January 1, 1997. However, the agency requested comments on whether the applicability of the amendment, or a similar one, should be extended past that date. (The September 1996 temporary final rule was issued without a prior notice of proposed rulemaking.)

In the September 1996 notice, NHTSA explained that it was issuing the temporary amendment in light of several factors. The agency stated:

> On the one hand, NHTSA believes that Chrysler's experience (discussed in a letter cited in the September 1996 notice) demonstrates that the ability to obtain the necessary content information from suppliers is within the control of the vehicle manufacturers. However, the agency also agrees that there are differences between Chrysler and GM, related to number of suppliers and degree of vertical integration, which make efforts by GM to obtain content information from its suppliers considerably more complex.
>
> The agency has previously recognized that a certain amount of confusion is likely during the time period when a new program, such as content labeling, is implemented. The content labeling program is still a relatively new program. Indeed, model year 1997 is the first year for which the full content calculation procedures of part 583 are required, i.e., the temporary alternative procedures are not available.
>
> The agency believes that GM has demonstrated that it has been making significant efforts in recent months to obtain content information from non-responsive suppliers. Moreover, GM has shown that, despite those efforts, it is having difficulty obtaining information for the last portion of a carline's content.
>
> Finally, NHTSA believes that, all other things being equal, a good faith content determination by a vehicle manufacturer or allied supplier of equipment it receives is likely to be more accurate than simply applying a ''default-to-zero'' provision. Thus, adoption of today's amendment should result in more accurate information for consumers.
>
> The agency recognizes, of course, that the most accurate determinations are those provided by the outside suppliers themselves, since they obviously have much more complete information about the content of the equipment they manufacture than the purchaser. Therefore, the agency must consider whether its actions would have the effect of reducing the incentives for outside suppliers to provide the required information, or for the vehicle manufacturers to make efforts to obtain the information.
>
> NHTSA has concluded that adoption of today's temporary amendment will not reduce incentives for outside suppliers or vehicle manufacturers for model year 1997. Given that the vehicle manufacturers are already in the final stages of making content calculations for these vehicles, today's amendment should not have any effect on whether outside suppliers provide, or do not provide, the required information for model year 1997. However, the agency will consider this issue further in deciding whether to extend the applicability of today's temporary amendment. NHTSA also emphasizes that today's amendment does not excuse outside suppliers for failure to comply with part 583. 61 FR 46387.

Comments

NHTSA received comments from AAMA, GM, and the Association of International Automobile

[1] 60 FR 14228, March 16, 1995; 60 FR 47878, September 15, 1995; 61 FR 17253, April 19, 1996; 61 FR 46385, September 3, 1996.

Manufacturers, Inc. (AIAM). All of the commenters asked the agency to issue a permanent amendment providing greater flexibility in making content determinations when outside suppliers do not respond to requests for information.

AAMA asked again that vehicle manufacturers be permitted to make ''best efforts'' content determinations when suppliers fail to respond to requests for content information, as is permitted for outside suppliers. That organization stated that over the past three years, vehicle manufacturers have made attempts to standardize the forms used for reporting content information, and developed programs to familiarize the supplier community with the law and its requirements. However, because supplier compliance has not been uniform, vehicle manufacturers have been forced to make multiple requests of some suppliers to gain accurate content information.

AAMA noted that Congress expressly contemplated rules that would not be financially burdensome to vehicle manufacturers. That organization argued that each manufacturer has used more resources than ever contemplated to effect compliance with the law.

AAMA also stated that vehicle manufacturers believe that defaulting content to zero U.S./Canadian content when a certificate is not forthcoming is not required by the law. That organization stated that there is no penalty against the supplier even though noncompliance under the present rule could result in understatement of U.S./Canadian content and false information being provided to the consumer. AAMA argued that the best solution is for the rule to provide the same flexibility for vehicle manufacturers and allied suppliers to provide this content information as outside suppliers have in dealing with the same issue.

GM noted that its allied supplier operations generally supply products not only for GM-produced vehicles but also for vehicles produced by others for the U.S. market. That company stated that as an outside supplier, it is allowed to make best efforts estimates of content to establish domestic content to the benefit of its non-allied vehicle manufacturer customers. However, as an allied supplier, GM is not allowed to use best efforts determinations on essentially the same products. GM argued that this is particularly inequitable, and urged that the agency allow the same flexibility for vehicle manufacturers and allied suppliers as for outside suppliers.

AIAM stated that, despite its many objections to the Labeling Act, it supports a permanent amendment to NHTSA's calculation procedures to provide vehicle manufacturers with added flexibility in making content determinations when outside suppliers have not provided content information. That organization stated that such flexibility would reflect an understanding of the difficulties manufacturers have in obtaining necessary information from outside suppliers. AIAM stated that without a permanent amendment, future labels will understate the value of the ''domestic'' content because manufacturers using ''recalcitrant'' outside suppliers will have to default that supplier's content to 0% ''domestic.''

According to AIAM, allowing manufacturers and allied suppliers to make content determinations in these situations would provide flexibility that recognizes the realities of the industry. That organization stated that contrary to NHTSA's statement, some outside suppliers cannot be forced into compliance with the labeling requirements merely through contract provisions. AIAM stated that some of these suppliers may be supplying components that have been designed to the manufacturer's specifications, and punishing outside suppliers who refuse to comply with the labeling requirements is not realistic when it jeopardizes the manufacturer's own ability to meet its production schedules.

AIAM also stated that allowing greater flexibility would relieve slightly the regulatory burden associated with the Labeling Act. That organization stated that pursuing and obtaining the documentation from the suppliers who refuse to comply often requires extraordinary efforts which increase administrative costs and often fail to obtain the missing data.

Agency Decision

After considering the comments, NHTSA has decided to extend for two years the applicability of the limited, temporary provision established in the September 1996 final rule, to provide vehicle manufacturers added flexibility in making content determinations where outside suppliers have not responded to requests for content information. The agency is extending the provision to apply to carlines offered for sale prior to January 1, 1999, but is not making any other changes. The agency views this provision as providing extra flexibility during the early years of the content labeling program, as the vehicle manufacturers and suppliers continue to gain familiarity with the program and develop appropriate procedures to ensure supplier responsiveness to requests for content information.

NHTSA notes that all of the commenters on the September 1996 notice essentially re-raised issues which the agency has addressed at length in responding to previous petitions on this subject. Since the commenters did not provide any arguments significantly different from ones previously offered by the vehicle manufacturers, the agency is not changing its views with respect to those basic issues.

NHTSA is providing a two-year extension of the limited, temporary provision established in the September 1996 final rule because it believes that the problems encountered by GM and other vehicle manufacturers for model year 1997 will not disappear immediately. At the same time, the agency continues to believe that the vehicle manufacturers can take steps to ensure that, in the future, they will obtain the necessary content information from essentially all of their suppliers, without costly efforts. The agency believes that a two-year extension will enable manufacturers to take, or complete taking, such steps.

NHTSA has considered the extent to which this action may reduce the incentives for outside suppliers to provide the required information, or for the vehicle manufacturers to make efforts to obtain the information. The agency believes that any such effects will be very small, given the limited scope and duration of the amendment. NHTSA also emphasizes, as it did with respect to the September 1996 final rule, that today's amendment does not excuse outside suppliers for failure to comply with part 583. The agency also notes that, while AAMA indicated that there are no penalties against suppliers for noncompliance, suppliers are in fact subject to civil penalties for failure to comply with part 583.

NHTSA will not attempt to repeat all of its prior analyses related to the issues raised by the commenters in this notice, since it has addressed the same issues on several prior occasions. The agency specifically incorporates by reference its responses to these issues set forth in the September 15, 1995, April 19, 1996, and September 3, 1996 notices cited above.

NHTSA notes that, in the September 1996 notice, it specifically addressed the ''equity'' of providing different procedures for outside and allied suppliers. The agency explained:

> [T]he agency does not believe there is anything inequitable about providing different procedures for outside and allied suppliers. The Labeling Act establishes vastly

different procedures for outside and allied suppliers. For example, in making domestic content calculations, outside suppliers need determine only whether an item of equipment has at least 70 percent U.S./Canadian content, while allied suppliers must make precise calculations based on certificates from outside suppliers. The differences in part 583's procedures for outside and allied suppliers reflect the specific statutory differences for these two groups and/or the agency's efforts to limit the regulatory burdens associated with the content labeling program. For example, a significant reason why the agency permits outside suppliers to make good faith estimates of the U.S./Canadian content of the materials they purchase is that, unlike the situation for allied suppliers, suppliers to outside suppliers are not required, by statute or regulation, to provide certificates of content. 61 FR 46388.

While GM re-raised the issue of the equity of different procedures for outside and allied suppliers, it did not address the explanation provided by the agency. NHTSA also notes that the ''default-to-zero'' provision of concern to GM only adversely affects vehicle manufacturers and allied suppliers to the extent that outside suppliers do not provide content information. For reasons discussed below and in other **Federal Register** notices, the ability to obtain this information is within the control of the vehicle manufacturers.

In the September 1996 notice, the agency addressed at some length the issue of whether the provision providing greater flexibility, or a similar provision, should be extended for a longer period of time. NHTSA stated that it believes the guiding principle for making this decision should be the statutory direction specifying that regulations promulgated under the Labeling Act are to provide the ultimate purchaser of a new passenger motor vehicle with the best and most understandable information possible about the foreign and U.S./Canadian origin of the equipment of the vehicles without imposing costly and unnecessary burdens on the manufacturers. 49 U.S.C. 32304(e).

The agency explained:

> There is no question that the ''best'' determinations of the content of equipment provided by outside suppliers are those provided by the suppliers themselves, since they obviously have much more complete information about the content of the equipment they manufacture than the purchaser. There is also no question that the Labeling Act contemplates the vehicle manufacturers basing their content calculations on certificates provided by the outside suppliers, and that outside suppliers are statutorily required to provide this information. See 49 U.S.C. 32304(e). Thus, the only question is the extent, if any, to which the agency should provide alternatives to address situations where outside suppliers fail to provide the required information despite being asked to do so by the vehicle manufacturers.
>
> As indicated above, an important consideration is whether such alternatives would have the effect of reducing the incentives for outside suppliers to provide the required information, or for the vehicle manufacturers to make efforts to obtain the information. It is clear that the ''default-to-zero'' provision does provide significant incentives in this regard. Therefore, the agency will not simply drop that provision.
>
> To the extent that the non-responsive supplier problem experienced by GM is likely to continue, it could be argued that, at some point, the costs of obtaining the last portion of outside supplier content value for a particular carline become unreasonable. This argument could be used to support extending the temporary amendment. The length of such extension would depend on how long the problem was likely to continue.
>
> On the other hand, NHTSA is not convinced that the vehicle manufacturers cannot ultimately obtain the necessary content information from essentially 100 percent of their suppliers, without costly efforts. 61 FR 46388.

NHTSA then cited the following discussion from its March 16, 1996 notice denying an earlier petition from AAMA on this subject:

> NHTSA notes that AAMA's petition did not discuss whether its member companies experienced difficulty in obtaining content information from suppliers in the presence or absence of specific contractual provisions intended to ensure the provision of content information by suppliers. As stated in the September 1995 notice, outside suppliers are dependent on the vehicle manufacturers for their business. Therefore, the agency believed, and continues to believe, that the ability to obtain the necessary content information is within the control of the vehicle manufacturers.
>
> The purpose of including any specific provision in a business contract is to make observance of the terms of that provision a required element of the business relationship. Just as such things as meeting material specifications, strength requirements and specified time of delivery are a necessary part of a supplier's doing business with a vehicle manufacturer and are ensured by provisions included in contractual agreements, the providing of content information can also be made a necessary part of that business relationship and be reflected in the purchase contract.
>
> Moreover, just as liquidated damages clauses can be inserted in a contract for failure to comply with any other part of the contract, so can such a provision be included for failure to provide timely content reports. If a supplier knows that it will be paid less money if it fails to provide content information, it will have a strong incentive to provide the information.
>
> The agency also notes that the supplier industry is highly competitive. If one supplier is unwilling to agree to provide content information (an agreement to do no more than comply with existing Federal law), other suppliers would step in to take advantage of the opportunity for new business.
>
> For the above reasons, including those presented in the September 1995 notice, NHTSA continues to believe that the vehicle manufacturers will be able to obtain the required content information from their suppliers. 61 FR 17254–55.

In the September 1996 notice, the agency noted that AAMA and GM had argued in their new petitions that even if a non-responsive supplier is penalized under the contract, the penalty paid to the manufacturer is not compensatory because the ''damages'' cannot offset the effects of understating the U.S./Canadian content value for the manufacturer's vehicles. NHTSA stated that it believes, in contrast, that the contractual provisions would help ensure that outside suppliers provide content information without the need to actually impose ''damages.'' The agency stated that it believes outside suppliers would not sign contracts that they planned to violate and that, given that it is not very costly to provide content information, it would be irrational for outside suppliers to decide to pay damages instead of simply providing the information (information that they are, in any event, required by Federal law to provide).

The agency also pointed out that, in addition to providing an extra incentive for outside suppliers, such contractual provisions would provide an educational function. AAMA had stated in its petition that ''suppliers that deliberately do not respond cite the uncompensated cost to establish the information on content in their parts, the increased employees to calculate the data, and the burdens they already face in generating multiple content reports such as for NAFTA, AALA, CAFE and others each with its own rules.'' The agency noted that these sorts of explanations by suppliers suggest that they were unaware of the need to provide content information when they signed their contracts. The agency added:

> The inclusion of a specific contract provision concerning the need to provide content information would make suppliers aware of this obligation. While the costs of providing content information may not be compensated directly, such costs are simply a necessary part of doing business. Assuming that suppliers are aware of these costs, they will presumably consider them in negotiating their contracts, just as they consider other costs of doing business. 61 FR 46389.

While both AAMA and AIAM asserted in their comments on the September 1996 notice that the problem of outside supplier nonresponsiveness cannot be solved by contractual provisions, they did not address the analysis presented by the agency. Further, they did not respond in any detail to the question in the September 1996 notice about what types of good faith actions should be specified in the regulation. The agency notes that while AAMA stated that the vehicle manufacturers have included specific provisions concerning content labeling in their contracts, that organization did not provide specific examples of such provisions or explain how they worked in practice. For example, AAMA did not indicate what penalties, if any, were incorporated in the contractual provisions or the degree to which the vehicle manufacturers had actually attempted to enforce such provisions. With respect to AIAM's argument that it is not ''realistic'' for a vehicle manufacturer to enforce contractual provisions related to labeling, the agency does not see how such enforcement would be any different than enforcing other contractual provisions that are part of the business relationship between the vehicle manufacturer and supplier.

Since the commenters have not provided any new arguments or information indicating that the agency's previous determinations concerning this subject are incorrect, the agency is not making any changes other than providing a two-year extension of the limited, temporary provision established in the September 1996 final rule. The agency is not including a definition of ''good faith effort'' in today's final rule, primarily because the vehicle manufacturers and allied suppliers would likely not be able to, among other actions, add such provisions to their contracts in time to take advantage of the relief being provided. The agency notes, as it did in the September 1996 notice, that, in the absence of a definition, it intends the term ''good faith effort'' to mean at least some effort beyond the request for information and certificates that is required by part 583, e.g., some kind of follow-up effort.

At this time, NHTSA does not contemplate the need to provide further relief when this temporary provision expires. Should vehicle manufacturers and allied suppliers conclude in the future that there is a need to extend this provision again, they should be aware that any future relief would likely be available only upon demonstration that specific good faith actions have been taken. To this end, the agency anticipates that it would specifically define what constitutes a ''good faith effort'' by a vehicle manufacturer or allied supplier to obtain content information. Such a definition of ''good faith effort'' might include elements along the following lines: (1) An express contractual provision between the vehicle manufacturer or allied supplier and the outside supplier which cites 49 CFR part 583, requires the outside supplier to provide content information in the time and manner required by that regulation, and includes some contractual penalty for failure to comply; (2) follow-up efforts (after the initial request for content information) by the vehicle manufacturer or allied supplier to obtain content information; and (3) in instances in which follow-up efforts are unsuccessful, action by the vehicle manufacturer or allied supplier to enforce the contractual penalty for failure to provide content information.

NHTSA notes that the temporary final rule now being extended expired as of the end of 1996, that is, it was only available for carlines first offered for sale to ultimate purchasers prior to January 1, 1997. In extending the final rule at this time, the agency does not wish to create a gap with respect to the procedures that applied to any carlines offered for sale between January 1, 1997 and now. The agency notes that this is not likely to be a very significant issue, since few carlines are first offered for sale to ultimate purchasers in the early months of a calendar year.

However, given the circumstances of today's final rule, the agency will permit manufacturers to re-label any such vehicles.[2] In such an instance, however, NHTSA urges manufacturers to take steps to prevent confusion when consumers compare the labels of vehicles within the same carline manufactured at different times. For example, manufacturers could take steps to re-label all of the vehicles within a carline that have not yet been sold to a consumer. Alternatively, the revised label could include a note indicating that the carline percentages have been revised during the model year. NHTSA notes that it took this same position in the September 1996 notice with respect to model year 1997 carlines which had been introduced prior to issuance of that final rule.

[2] While content percentages are ordinarily calculated only once for a carline for a particular model year, NHTSA has previously concluded that, under special circumstances, manufacturers may revise the carline percentages. See interpretation letter to Diamond Star Motors dated February 10, 1995.

Rulemaking Analyses and Notices

A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under Executive Order 12866. NHTSA has considered the economic implications of this regulation and determined that it is not significant within the meaning of the DOT Regulatory Policies and Procedure. Today's amendment will not affect manufacturer or supplier costs. It simply provides additional flexibility to vehicle manufacturers and their allied suppliers in making content calculations.

B. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the final rule will not have a significant economic impact on a substantial number of small entities. Today's amendments simply provide additional flexibility to vehicle manufacturers and their allied suppliers in making content calculations. Therefore, a regulatory flexibility analysis is not required for this action.

C. Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule did not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No state laws are affected.

D. Executive Order 12778 (Civil Justice Reform)

This final rule does not have any retroactive effect. States are preempted from promulgating laws and regulations contrary to the provisions of this rule. The rule does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

E. National Environmental Policy Act

The agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act of 1969 and determined that this rule will not significantly affect the human environment.

List of Subjects in 49 CFR Part 583

Motor vehicles, Imports, Labeling, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 583 is amended as follows:

PART 583—AUTOMOBILE PARTS CONTENT LABELING

1. The authority for part 583 continues to read as follows:

Authority: 49 U.S.C. 32304, 49 CFR 1.50, 501.2(f).

2. Section 583.6 is amended by revising paragraph (c)(6) to read as follows:

§ 583.6 Procedure for determining U.S./Canadian parts content.

* * * * *

(c) * * *

(6) For carlines which are first offered for sale to ultimate purchasers before January 1, 1999, if a manufacturer or allied supplier requests information in a timely manner from one or more of its outside suppliers concerning the U.S./Canadian content of particular equipment, but does not receive that information despite a good faith effort to obtain it, the manufacturer or allied supplier may make its own good faith value added determinations, subject to the following provisions:

(i) The manufacturer or allied supplier shall make the same value added determinations as would be made by the outside supplier, i.e., whether 70 percent or more of the value of equipment is added in the United States and/or Canada;

(ii) The manufacturer or allied supplier shall consider the amount of value added and the location in which the value was added for all of the stages that the outside supplier would be required to consider;

(iii) The manufacturer or allied supplier may determine that the value added in the United States and/or Canada is 70 percent or more only if it has a good faith basis to make that determination;

(iv) A manufacturer and its allied suppliers may, on a combined basis, make value added determinations for no more than 10 percent, by value, of a carline's total parts content from outside suppliers;

(v) Value added determinations made by a manufacturer or allied supplier under this paragraph shall have the same effect as if they were made by the outside supplier;

(vi) This provision does not affect the obligation of outside suppliers to provide the requested information.

Issued on: June 17, 1997.

Ricardo Martinez,

Administrator.

[FR Doc. 97–16333 Filed 6–18–97; 3:13 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 970612136–7136–01; I.D. 060297B]

RIN 0648–AJ61

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; 1997 Harvest Guideline

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

ACTION: Harvest guideline for crustaceans for 1997.

SUMMARY: NMFS announces a 1997 harvest guideline of 322,912 lobsters for the Northwestern Hawaiian Islands (NWHI) crustacean fishery. This is a reduction of 4,088 lobsters from the harvest guideline of 327,000 lobsters published on May 23, 1997. This change in the harvest guideline was identified as a future action in the May 23, 1997, publication and is necessary to account for mortality from anticipated discards in the fishery, which increases fishing mortality beyond the harvest guideline.

DATES: Effective July 1, 1997.

ADDRESSES: Copies of background material for determining the harvest guideline may be obtained from Dr. William Hogarth, Acting Regional Administrator, Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Katekaru, NMFS, (808) 973–2985 or Mr. Svein Fougner, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: A harvest guideline for the NWHI crustacean fishery of 327,000 spiny and slipper lobster combined was announced in the **Federal Register** on May 23, 1997 (62 FR 28376) for the fishing season beginning July 1, 1997. The basis for setting the harvest guideline was Amendment 9 to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP). A summary of the procedure was discussed at that time and will not be repeated here.

Also discussed in the announcement was the high-grading (retention of only the more valuable components of the catch) that had occurred during the 1996 fishing season. Mortality of discarded lobster is believed to be high in the NWHI; therefore, high-grading results in fishing mortality in excess of the harvest guideline and thus compromises a major objective of Amendment 9.

There were differences between the estimate of high-grading by NMFS and that reported by the permit holders in 1996; therefore, the Western Pacific Fishery Management Council (Council) convened a panel of technical experts to conduct a thorough review of the 1996 fishery. The panel concluded that, while the approach used by NMFS to estimate high-grading was technically sound, the underlying assumptions and data NMFS used in making the estimate likely resulted in an overestimate of discarding in 1996. The review panel agreed, however, that discarding needs to be accounted for in the management program.

The Council met in April and, after considering comments from the experts panel, its Advisory Panel, Plan Team, and Scientific and Statistical Committee, determined that changes were needed in the harvest guideline system to ensure achievement of the objectives of Amendment 9. Necessary changes include a pre-season or in-season estimate of the amount of high-grading and associated mortality so that the fishery can be closed when total harvest (retained catch plus discards) reaches the harvest guideline level. The Council decided that, for the 1997 fishing season, the rate of discards as recorded by the permit holders during the 1996 fishing season (1.25 percent) should be used as an estimate of discards for the 1997 fishery, while recognizing that a better method needs to be developed to estimate annual discards. Therefore, the harvest guideline of 327,000 spiny and slipper lobsters must be reduced by 1.25 percent, that is, 4,088 lobsters. Accordingly, the harvest guideline for the 1997 fishing season, which begins on July 1, is 322,912 spiny and slipper lobster combined.

This change is implemented under the framework procedures of Amendment 9, in this case the ''Procedure for established measures'' at 50 CFR part 660.53(c). A letter will be sent by the Regional Administrator to all permit holders to advise them of the action.

The Southwest Region, NMFS, will monitor landings against the harvest guideline and issue timely reports of summary catch and effort information. However, participants are advised to contact the Southwest Region (see **ADDRESSES**) periodically to stay abreast of any change in the harvest guideline and progress of the fishery toward attaining the harvest guideline. Under