(d) Matters that were raised or that could have been raised in a hearing before an ALJ or in an appeal under section 1128A(d) of the Act may not be raised as a defense in a civil action by the United States to collect a penalty under this part.

§ 101.129 Notice to other agencies.

Whenever a penalty and assessment or suspension imposed under this part becomes final, HCFA and the Public Health Service will notify the appropriate State or local medical or professional association, the appropriate Professional Standards Review Organization, the State Medicaid agency, the appropriate Medicare carrier or intermediary, the appropriate State or local licensing agency or organization (including the Medicare and Medicaid State survey agencies), the long-term care ombudsman, and where appropriate, the State agency administering a Maternal and Child Health Services Block Grant Program, that the penalty and assessment or suspension have become final and the reasons for them. In cases involving suspensions, HCFA will also give notice to the public of the suspension and its effective date. HCFA will also provide to the State Medicaid agency the notice required under section 1128(b) of the Social Security Act.

§ 101.130 Form, filing and service of papers; computation of time; Motions, disposition of motions.

(a) *Form, filing and service of papers*—(1) *Form.* The original and one copy of all papers in a proceeding conducted under this part shall be filed with the ALJ assigned to the case or with the Chief ALJ if the case has not been assigned. Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case file number assigned by the ALJ, and a designation of the paper (e.g., motion for summary judgment). The paper shall be signed and shall contain the address and telephone number of the person representing the party or the person on whose behalf the paper was filed. Unless the ALJ otherwise orders with respect to specific papers in a specific case, all such papers are public documents. Papers are considered filed when they are received by the ALJ.

(2) *Service.* Service upon any party shall be made by the party filing the document by delivering or mailing a copy to the party's last known address. When a party is represented by an attorney, service shall be made upon the attorney.

(3) *Proof of service.* A certificate of the person serving the document by personal delivery or by mailing, setting forth the manner of sevice, shall be proof of service.

(b) *Computation of Time.* In computing any period of time under these rules or in an order issued hereunder, the time begins with the day folowing the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal government, in which event it includes the next business day. When the period of time allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays observed by the Federal government shall be excluded from the computation.

(c) *Motions, disposition of motions*—(1) *Motions.* Motions shall state the relief sought, the authority relied upon and the facts alleged, and shall be filed with the ALJ. If made before or after the hearing itself, the motions shall be in writing. If made at the hearing, motions may be stated orally; bu the ALJ may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Unless otherwise ordered by the ALJ, written motions shall be accompanied by a supporting memorandum. Within 10 days after a written motion is served, or such other time period as may be fixed by ALJ, any party may file a response to a motion.

(2) *Disposition of motions.* The ALJ may not grant a written motion prior to expiration of the time for filing responses thereto, except upon consent of the parties or following a hearing, but may overrule or deny such motion without awaiting response. The ALJ shall make every reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 101.131 Records to be public.

All documents contained in the records of formal proceedings for imposing a penalty and assessment or suspension under this part may be inspected and copied, unless ordered sealed by the ALJ.

§ 101.132 Limitations.

No action under this part shall be entertained unless commenced, pursuant to § 101.109(a) of this part, within five years from the date on which the right of action accrued.

§ 101.133 Statistical sampling.

(a) In meeting the burden of proof set forth in § 101.114, the Inspector General may introduce the results of a statistical sampling study as evidence of the number and amount of claims and/or requests for payment as described in § 101.102 that were presented or caused to be presented by respondent. Such as statistical sampling study, if based upon an appropriate sampling and computed by valid statistical methods, shall constitute prima facie evidence of the number and amount of claims or requests for payment as described § 101.102.

(b) Once the Inspector General has made a prima facie case as described in paragraph (a) of this section, the burden of production shall shift to respondent to produce evidence reasonably calculated to rebut the findings of the statistical sampling study. The Inspector General will then be given the opportunity to rebut this evidence.

Approved: July 27, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-23385 Filed 8-25-83; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 71-3a; Notice 7]

Federal Motor Vehicle Safety Standards; Rearview Mirror Systems

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

ACTION: Final rule and response to petitions.

SUMMARY: This notice responds to a petition for reconsideration filed by Volkswagen of America regarding a recent amendment to Federal Motor Vehicle Safety Standard (FMVSS) 111, and to a related petition for rulemaking filed by Toyota Motor Corporation. The amendment to FMVSS 111 permitted the use of exterior passenger side convex mirrors on passenger cars and trucks, multipurpose passenger vehicles and buses other than schoolbuses with a gross vehicle weight rating of 10,000 pounds or less to meet the field of view requirements of that standard. The amendment required that such convex mirrors must have "indelibly etched" on the mirror's surface the warning "Objects in Mirror Are Closer Than They Appear." The amendment also specified a maximum radius of curvature requirement for such mirrors. The agency is denying Volkswagen requests that the warning and maximum radius requirements be deleted, but in

response to Volkswagen's and Toyota's petition, is modifying the warning requirement to permit the warning to be permanently marked on the mirror by methods other than etching.

DATE: This amendment is effective on August 26, 1983.

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202–426–2153).

SUPPLEMENTARY INFORMATION: On September 2, 1982, NHTSA published an amendment to FMVSS 111, *Rearview Mirrors*. Prior to this amendment, the standard specified that field of view requirements (i.e., minimum permissible viewing area behind the vehicle) could be met only by using plane mirrors. This amendment, issued in response to a petition from General Motors Corporation, permitted field of view requirements to be met in part by using an exterior, passenger side convex mirror meeting certain specifications. Among these specifications were the requirements that a warning ("Objects in Mirror Are Closer Than They Appear") must be "indelibly etched" on the mirror and that the radius of curvature of the convex mirror must not exceed 65 inches. The warning was deemed necessary to alert drivers to the fact that the driver is using a convex mirror, which provides a different image than the common plane mirror. The maximum radius of curvature requirement was deemed necesssary to limit the range of different image sizes to which drivers would be exposed and to provide an additional warning that the mirror being used is convex. With regard to the latter point, larger radius convex mirrors provide images which approach those of plane mirrors. The agency concluded that large radius convex mirrors might mislead drivers into thinking that a mirror was plane, when in fact it was convex and the distances from following vehicles was less than the drivers would realize.

With respect to the warning requirement, Volkswagen argues in its October 4 petition for reconsideration that the requirement imposes a trade barrier, since other countries do not require a warning and an English language warning would be of no use in non-English speaking countries. The agency agrees that this requirement would, as a practical matter require manufacturers to use different convex mirrors (at least with regard to the warning lettering) in vehicles sold in the U.S. than in vehicles sold in some other countries. However, as noted in the September 2 final rule, the agency's research indicates that providing a clear warning is necessary, given the relative inexperience of U.S. drivers in using automotive convex mirrors. Accordingly, the agency is denying Volkswagen's request to delete the warning requirement altogether.

Nevertheless, in response to Volkswagen's petition and an October 6, 1982 rulemaking petition submitted by Toyota Motor Corporation, the agency will amend the warning requirement to facilitate compliance with it. Making this change may reduce the burdens associated with having to provide different mirrors for different markets. Toyota pointed out that the requirement that the warning be "indelibly etched" on the mirror unnecessarily restricts the methods available for assuring that the warning is permanently marked on the mirror. "Etching" implies that lettering is produced by the corrosive action of an acid on the mirror. Toyota suggests that sandblasting or glass-based ink printing can equally-well produce permanent lettering on mirrors whose reflective surface is at the back side of the mirror glass. The agency agrees that manufacturers should be given additional flexibility in choosing their means of compliance. The agency is amending FMVSS 111 to permit the use of any process which assures that the warning is "permanently and indelibly marked" on the mirror's reflective surface. The agency cannot foresee all possible methods which might be used to "permanently and indelibly" mark warning lettering on a mirror and does not wish to unnecessarily limit the use of new technology in this area. The agency notes that exterior-surface painting or the use of a plastic decal, either of which could be removed or become illegible, would not be deemed "permanent and indelible" by the agency.

Volkswagen also objected to the warning requirement on the basis that no advance notice or opportunity to comment was provided with regard to the enactment of that provision. However, the agency specifically sought comment on this issue and suggested that warning lettering might be required. See 43 FR 51660, November 6, 1978. Further, the provision was adopted in response to several comments suggesting that warning lettering be required.

With regard to the maximum radius of curvature requirement, Volkswagen argues that the requirement differs from European requirements (which impose no maximum) and therefore imposes a trade barrier. Volkswagen also argues that large radius mirrors closely resemble plane mirrors in terms of the image provided, and therefore present no safety concerns. However, the agency still feels this requirement is necessary, given the relative inexperience of U.S. drivers with convex mirrors. The maximum radius requirement assures that drivers will be able to tell from the appearance of the image when they are using a convex mirror. It also assures that drivers will not be exposed to a wide range of image sizes and corresponding depth perception and distortion effects. Further, mirrors meeting the U.S. maximum radius requirement may still be used in European countries, which have no maximum radius requirement. Therefore, this requirement will be retained.

The agency is making this amendment effective immediately upon publication, since the amendment "relieves a restriction" within the meaning of 5 U.S.C. 553(d)(1), by permitting the use of additional methods for marking mirrors. The agency also finds that making this amendment effective immediately is in the public interest, in accordance with section 103(c) of the National Traffic and Motor Vehicle Safety Act, since doing so will facilitate the use of additional mirrors as soon as possible. Also, since the amendment relieves a restriction in FMVSS 111, providing 180 days lead time is unnecessary.

NHTSA has determined that this proceeding does not involve a "major rule" within the meaning of section 1, paragraph (b), of Executive Order 12291 because it is not likely to have an effect on the economy of $100 million or more, to result in a major increase in costs or prices, or to have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States firms to meet foreign competition. Similarly, this action is not deemed "significant" for purposes of Department of Transportation procedures for internal review of regulatory actions. The economic impacts of this amendment are so minimal as to not warrant preparation of a full regulatory evaluation, since the amendment merely permits the use of additional methods for labeling rearview mirrors.

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact of this rulemaking action on small entities. I certify that this action will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required for this action. The agency has concluded

that few, if any, manufacturers of rearview mirrors are small entities and that the impacts of this rule on those companies which decide to take advantage of the new alternative methods of labeling should be small. Since this action will impose no new costs, the action will not affect small governmental units or other organizations which purchase automobiles.

NHTSA has concluded that the environmental consequences of this action will be of such limited scope that they clearly will not have a significant effect on the quality of the human environment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, Section 5.4.2 of 49 CFR 571.111 is revised to read as follows:

§ 571.111 Standard No. 111; Rearview Mirrors.

* * * * *

Section 5.4.2 Each convex mirror shall have permanently and indelibly marked at the lower edge of the mirror's reflective surface, in letters not less than 3/16 of an inch nor more than 1/4 inch high the words "Objects in Mirror Are Closer Than They Appear."

* * * * *

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.7)

Issued on August 19, 1983.

Diane K. Steed,

Deputy Administrator.

[FR Doc. 83-23450 Filed 8-25-83; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

[Ex Parte No. MC-19 (Sub-No. 36)]

Practices of Motor Common Carriers of Household Goods (Revision of Operational Regulations)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Permissible Change in Moving Service Questionnaire (Form OCP-100A).

SUMMARY: The Director of the Commission's Office of Compliance and Consumer Assistance is allowing affected carriers to change the Moving Service Questionnaire by deleting the phrase (Not a Complaint Form) and inserting in bold face type at the bottom of the questionnaire the following: Survey form only. See pages 1 and 2 of accompanying booklet for complaint and inquiry procedures.

This action implements the recent information collection approval made by the Office of Management and Budget (OMB). Changes in the questionnaire are intended to clarify the purpose of the questionnaire and to direct users to the proper procedure for making complaints and inquiries about mover's services.

EFFECTIVE DATE: August 26, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia M. Schulze, (202) 275-7841 or John H. O'Brien, (202) 275-7148.

SUPPLEMENTARY INFORMATION:

The Commission requested that OMB extend the May 31, 1983, expiration date of the Moving Service Questionnaire (Form OCP-100A) which is part of the publication *Your Rights and Responsibilities When You Move* (Form OCP-100).

The extension was granted by OMB for use through May 31, 1984, conditioned on changes in the questionnaire as described in the Summary portion of this document.

The changes authorized accommodate certain concerns expressed to OMB by representatives of the moving industry. Since these changes are not substantive and are designed to strengthen and clarify consumer understanding of the questionnaire's purpose and its distinction from a specific complaint or inquiry, notice and comment procedures are unnecessary. Instead, the Director of the Office of Compliance and Consumer Assistance is exercising authority under 49 CFR 1056.2 to permit carriers to change the format and text of Form OCP-100 to the extent necessary to accomplish OMB's changes in the questionnaire.

Commission reprints of Form OCP-100 will reflect these changes as soon as possible. Carrier printed copies of Form OCP-100 should reflect these changes immediately or when current supplies of the publication are exhausted.

Dated: August 19, 1983.

By the Commission, Director of the Office of Compliance and Consumer Assistance, J. Warren McFarland.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23476 Filed 8-25-83; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1181 and 1183

[Ex Parte No. MC-79 (Sub-No. 2); Ex Parte No. MC-152 (Sub-No. 1)]

Control of Duplicate Operating Rights; Policy Statement Regarding Duplicate Operating Rights

AGENCY: Interstate Commerce Commission.

ACTION: Final rules and policy statement.

SUMMARY: In light of the changes contained in the Bus Regulatory Reform Act of 1982, the Commission is eliminating its regulations at 49 CFR 1181.3(c) and 1183.8 to remove the prohibition against motor carriers of passengers holding duplicate operating rights under common control. Simultaneously, the Commission is issuing a final policy statement that it will no longer deny passenger carrier operating rights applications merely because they would result in commonly controlled carriers holding duplicate authority. The Commission will also permit individual carriers to hold duplicative authority and will no longer require carriers granted authority which duplicates one or more of their outstanding certificates to submit that duplicated authority for cancellation as a precondition to the issuance of new authority.

EFFECTIVE DATES: The change in rules will be effective on September 26, 1983. The policy statement becomes effective on August 26, 1983.

FOR FURTHER INFORMATION CONTACT: Barry Cohen, (202) 275-7971, or Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Info System, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (D.C. Metropolitan area) or toll-free (800) 424-5403.

Environmental and Energy Considerations

We adopt our preliminary finding in the notice that the proposed changes will not have any significant impact on the quality of the human environment or the conservation of energy resources. No comments were submitted on this matter.

Regulatory Flexibility Analysis

We affirm our previous determination that these proceedings will not have a

significant impact on a substantial number of small entities.

List of Subjects in 49 CFR Parts 1181 and 1183

Administrative practice and procedure, Buses.

Removal of Rules and Adoption of Policy Statement

We are removing from Title 49, Code of Federal Regulations, §§ 1181.3(c) and 1183.6, and simultaneously adopting the policy statement set forth above.

PART 1181—TRANSFERS OF OPERATING RIGHTS UNDER 49 U.S.C. 10926

§ 1181.3 [Amended]

1. Section 1181.3 is amended by removing paragraph (c) and reserving it for future use.

PART 1183—CONTROL OR CONSOLIDATION OF MOTOR CARRIERS OR THEIR PROPERTIES

§ 1183.6 [Removed]

2. Section 1183.6 is removed.

This decision is issued pursuant to 49 U.S.C. 10321, 10922(i) and 5 U.S C. 553.

Dated: August 18, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-23588 Filed 8-25-83; 8:45 am]

BILLING CODE 7035-01-M