comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace extending upward from 700 feet above the surface (AGL) at Zelienople, PA. A GPS RWY 35 SIAP has been developed for Zelienople Municipal Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace extending upward from 700 feet above the surface are published in Paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA PA E5 Zelienople, PA [New]

Zelienople Municipal Airport, PA
(Lat. 40°48′06″ N., long. 80°09′38″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Zelienople Municipal Airport, excluding the portions that coincides with the Butler, PA, and Beaver Falls, PA Class E airspace areas.

* * * * *

Issued in Jamaica, New York, on March 5, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–8503 Filed 4–2–97; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 456

Ophthalmic Practice Rules: Request for Comments

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (the ''Commission'') is requesting public comments on its Trade Regulation Rule entitled Ophthalmic Practice Rules, which requires eye care practitioners to release eyeglass prescriptions to their patients (''Prescription Release Rule''), 16 CFR Part 456. The Commission is soliciting comments about the overall costs and benefits of the rule and its overall regulatory and economic impact as part of its systematic review of all current Commission regulations and guides. The Commission is further requesting comment on several issues relating to specific provisions of the rule. All interested persons are hereby given notice of the opportunity to submit written data, views, and arguments concerning the rule.

DATES: Written comments must be submitted on or before June 2, 1997.

ADDRESSES: Written comments should be identified as ''16 CFR Part 456 Comment'' and sent to Secretary, Federal Trade Commission, Room 159, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Renee Kinscheck, Attorney, Federal Trade Commission, Bureau of Consumer Protection, Washington, DC 20580, (202) 326–3283; Federal Trade Commission, room 200, Washington, DC 20580; e-mail address: RKinscheck@ftc.gov.

SUPPLEMENTARY INFORMATION: The Commission has determined, as part of its oversight responsibilities, to review rules and guides periodically. These reviews will seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained will assist the Commission in identifying rules and guides that warrant modification or rescission. The Commission is also seeking comment on several issues specific to the Prescription Release Rule, including: whether the Commission should modify or eliminate the prescription release requirement; whether, if it is retained, this provision should be changed to require that an eyeglass prescription be given to a patient only if the patient requests it, rather than in every instance, or whether this provision should be modified in some other way; and whether any changes should be made to § 456.2(d)'s prohibition on the use of certain waivers or disclaimers of liability. The Commission seeks comment on the costs and benefits of such proposed changes.

Part A—Background Information

The Commission promulgated the Prescription Release Rule in 1978 based on a finding that many consumers were being deterred from comparison shopping for eyeglasses because eye care practitioners refused to release prescriptions, even when requested to do so, or charged an additional fee for release of a prescription.[1]

[1] Advertising of Ophthalmic Goods and Services, Statement of Basis and Purpose and Final Trade

Continued

The rule requires an optometrist or ophthalmologist to provide the patient with a copy of the patient's eyeglass prescription immediately after the eye examination is completed at no extra cost.[2] (§ 456.2 (a) and (c).) It also prohibits optometrists and ophthalmologists from conditioning the availability of an eye examination, as defined in the rule, on a requirement that the patient agrees to purchase ophthalmic goods from the optometrist or ophthalmologist. (§ 456.2(b).)

In § 456.2(d) the rule prohibits placing on the prescription, or delivering to the patient, any waiver or disclaimer of the liability of the practitioner for the accuracy of the eye examination or the accuracy of the ophthalmic goods and services dispensed by another seller. As the Commission made clear in its declaration of intent (§ 456.4), the rule does not impose liability on an ophthalmologist or optometrist for the ophthalmic goods and services dispensed by another seller pursuant to the ophthalmologist's or optometrist's prescription. By its terms, the rule proscribes only ''waivers or disclaimers'' of responsibility. The Commission has interpreted this portion of the rule to permit nondeceptive affirmative statements concerning responsibility. For example, a written statement that ''the person who dispenses your eyeglasses is responsible for their accuracy'' would not violate § 456.2(d). However, such an affirmative statement cannot be coupled with a waiver or disclaimer of the optometrist's or ophthalmologist's own liability.[3]

The rule requires eye care practitioners to release copies of the eyeglass prescriptions regardless of whether or not the patient requests the prescription. The Commission promulgated this automatic release requirement based on a finding of ''consumers' lack of awareness that the purchase of eyeglasses need not be a unitary process''—i.e., the purchasing eyeglasses can be separated from the process of obtaining an eye exam. The automatic release provision was thus imposed as a remedial measure.[4]

In 1985, the Commission published a Notice of Proposed Rulemaking (hereinafter ''NPR'') that invited comments on whether the prescription release requirement should be modified or repealed. Specifically, among other questions, the Commission asked whether: (1) the rule should be modified to require that eyeglass prescriptions be given to patients only in those instances where patients request them; (2) the rule should be modified to require eye care practitioners only to offer, rather than automatically give, eyeglass prescriptions to their patients; or (3) the rule should be extended to require the release of contact lens prescriptions.[5]

In 1989, having considered the rulemaking record, which included two surveys and comments and testimony offered by optometrists, opticians, professional associations, state boards, and consumer groups, the Commission decided to retain the automatic release aspect of the rule. In declining to modify the rule, the Commission stated that there was still significant non-compliance with the automatic release requirement and that there continued to be a lack of consumer awareness about prescription rights. Accordingly, the Commission held that it could not conclude that the remedial automatic release provision was no longer needed.[6]

The Commission also determined not to extend the Prescription Release Rule to contact lens prescriptions. In making its decision, the Commission concluded that there was not sufficient reliable evidence on the record to permit a conclusion that the practice not to release contact lens prescriptions was prevalent. The Commission further commented that even if the evidence on the prevalence of refusal to release contact lens prescriptions, and any resulting consumer injury, were satisfactorily documented, the Commission would need to consider if any countervailing benefits justified the refusal. The Commission noted in its Statement of Basis and Purpose that some commenters suggested that refusal to release contact lens prescriptions is necessary to permit the fitter to verify the fit of the lens because there is some danger that the lenses may not conform to the eye as expected. The Commission then stated that because the evidence was insufficient to evaluate this claim fully, it could not reach a conclusion that the refusal to release a contact lens prescription in an unfair act or practice.[7]

The Commission revisited the contact lens prescription release issue in 1995, in response to a petition for rulemaking by a consumer in South Carolina whose optometrist had refused to release the consumer's contact lens prescription. Although the petitioner did not provide any information or documentation suggesting that the evidence considered by the Commission during the previous rulemaking proceeding had changed in any way, the Commission, in February 1995, conducted a survey on the extent of contact lens consumers' ability to obtain their contact lens prescriptions.[8]

Regulation Rule, 43 FR 23992, 23998 (June 2, 1978) (hereinafter ''1978 Statement of Basis and Purpose''). In addition, the Commission found that some practitioners refused to conduct an examination unless the patient agreed to purchase eyeglasses from the practitioner or included potentially intimidating disclaimers of liability on the prescription itself. *Id.*

[2] An optometrist or ophthalmologist, however, may withhold the eyeglass prescription if the patient has not paid for the eye examination in full if the optometrist or ophthalmologist would have required immediate payment if the examination revealed that no ophthalmic goods, such as eyeglasses, were required.

[3] Trade Regulation Rule; Ophthalmic Practice Rules, Final Trade Regulation Rule, 54 FR 10285, 10299 (March 13, 1989) (hereinafter ''1989 Statement of Basis and Purpose''). The Commission's interpretation of this provision was originally set forth at 43 FR 46296–46297 (October 6, 1978).

[4] Statement of Basis and Purpose, 54 FR at 10302, citing, Ophthalmic Practice Rules, State Restrictions on Commercial Practice, ''Eyeglasses II,'' Report of the Staff of the Federal Trade Commission, October 1986, at pp. 251–52.

[5] Ophthalmic Practice Rules; Proposed Trade Regulation Rule; Notice of Proposed Rulemaking, 50 FR 598, 602–03 (January 4, 1985). The Commission also asked whether: (1) the rule should be repealed altogether; (2) the rule should be extended to require optometrists and ophthalmologists to provide a duplicate copy of a prescription to a patient who lost or misplaced the original; and (3) the rule should require dispensers to return the prescription after filling the prescription. *Id.*

[6] 1989 Statement of Basis and Purpose, 54 FR at 10303. The Commission did modify the definition of ''prescription'' to eliminate confusion. This term was, and is, defined as those specifications necessary to obtain lenses for eyeglasses. Thus, under the rule, the prescription that is released to the patient need only contain the data on the refractive status of the patient's eyes and any information, such as the date or signature of the examining optometrist or ophthalmologist, that state law requires in a legally fillable eyeglasses prescription. In 1989, the Commission deleted from the definition all references to contact lenses. This change was intended to end the confusion generated by the prior definition concerning the obligation of optometrists and ophthalmologists to place the phrase ''OK for contact lenses'' (or similar words) on prescriptions. No such obligation exists under the rule. 1989 Statement of Basis and Purpose, 54 FR at 10299. The change also helped to eliminate confusion over whether the rule requires the release of a contact lens prescription.

[7] 1989 Statement of Basis and Purpose, 54 FR at 10303. With respect to the other questions raised in the NPR, the Commission concluded that there was no substantial evidence to show either that practitioners refused to release duplicate copies of prescriptions to patients who lost or misplaced their original copies or that eyeglass dispensers refused to return prescriptions to patients after filling the prescription. Thus, it concluded that rulemaking in these areas would be inappropriate. *Id.*

[8] The survey consisted of telephone interviews of 2037 consumers selected from a random digit dialing probability sample of all households in the United States. These consumers were initially asked whether they had worn contact lenses within the past year. Two hundred and fifty of the 2037 consumers contacted by interviewers (approximately 10.5%) had worn contact lenses within the past year. These consumers were asked the remaining questions in the survey concerning their ability to obtain their contact lens prescription.

The survey results suggest that most consumers obtain a copy of their contact lens prescription. Approximately 60% (147/250) of those interviewees did receive a copy of their contact lens prescription either immediately after their last exam or subsequently thereafter. Moreover, the survey results indicate that nearly all practitioners who are requested to release the contact lens prescription to the consumer, do so. Approximately 92% (66/72) of those consumers who requested a copy of their contact lens prescription received the prescription either immediately after the eye examination or subsequently thereafter.[9]

Based on the results of the survey as well as the existence of industry literature continuing to raise quality of care issues relating to unsupervised use of contact lenses, the Commission denied the petition.[10]

Part B—Issues for Comments

The Commission solicits written public comments on the following questions:

1. Is there a continuing need for the rule?

a. What benefits has the rule provided to purchasers of eye exams and eyeglasses, to opticians or to others affected by the rule?

b. Has the rule imposed costs on purchasers?

2. What changes, if any, should be made to the rule to increase the benefits of the rule to purchasers, opticians or to others?

a. How would these changes affect the costs the rule imposes on eye care practitioners (optometrists and ophthalmologists) subject to its requirements?

3. What significant burdens or costs, including costs of compliance, has the rule imposed on eye care practitioners?

a. Has the rule provided benefits to such practitioners?

4. What changes, if any, should be made to the rule to reduce the burdens or costs imposed on eye care practitioners?

a. How would these changes affect the benefits provided by the rule?

5. Does the rule overlap or conflict with other federal, state, or local laws or regulations?

6. Since the rule was issued, what effects, if any, have changes in relevant technology or economic conditions had on the rule?

Section 456.2(a)—Prescription Release Requirement

7. If the rule is retained, should the Commission modify the prescription release requirement of § 456.2(a) to require that an eyeglass prescription be given to a patient only if the patient requests it, rather than in every instance, or should this provision be modified in some other way?

a. Are consumers generally aware of their ability to seek and obtain their eyeglass prescriptions?

b. To what extent are consumers able to obtain a copy of their eyeglass prescription if they request one?

c. To what extent would practitioners release eyeglass prescriptions in the absence of any federal requirement to do so?

Section 456.2(d)—Waivers and Disclaimers

8. Should any changes be made to § 456.2(d)'s prohibition on the use of certain waivers or disclaimers of liability, and/or the Commission interpretation thereof?

a. What problems, if any, has the current requirement, and/or its interpretation, caused?

b. How could any such problems be remedied?

Contact Lens Prescriptions

9. Should the rule be extended to require the release of contact lens prescriptions?

a. Are consumers able to get their contact lens prescriptions upon request?

b. What evidence is there to show that refusal to release contact lens prescriptions does or does not have benefits justifying the refusal? Specifically, are there any significant administrative costs incurred when releasing contact lens prescriptions? What evidence is there to show that there is or is not a danger that the lenses may not conform to the eye as expected, thus justifying a refusal to release contact lens prescriptions to permit the fitter to verify the fit of the lens?

List of Subjects in 16 CFR Part 456

Advertising; Medical devices; Ophthalmic goods and services; Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 97–8494 Filed 4–2–97; 8:45 am]

BILLING CODE 6750–01–M

[9] This survey has been placed on the public record, and is available from the Commission's Public Reference Branch, Room, 130, Washington, DC 20580; 202–326–2222; TTY for the hearing impaired 202–326–2502.

[10] The petition and the Commission's response have been placed on the public record, and are available from the Commission's Public Reference Branch, Room 130, Washington, DC 20580; 202–326–2222; TTY for the hearing impaired 202–326–2502.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1258

RIN 3095–AA71

NARA Reproduction Fee Schedule; Correction

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rulemaking; correction.

SUMMARY: NARA is correcting a typographical error in the notice of proposed rulemaking published on March 31, 1997, setting out the proposed revised NARA reproduction fee schedule. In that document, the proposed fee for orders of additional paper-to-paper copies placed at a Washington, DC, facility was correctly stated as $5 for each additional block of *20* copies in the preamble, but was stated as $5 for each additional block of up to *10* copies in the proposed § 1258.12(b)(2)(ii).

Correction

In the proposed rule published in the **Federal Register** on March 31, 1997 (61 FR 15137), on page 15138, in the second column, proposed paragraph (b)(2)(ii) of § 1258.12 is corrected to read as follows:

§ 1258.12 [Corrected]

* * * * *

(b) * * *

(2) * * *

(ii) All other orders placed at a Washington, DC, area facility: $10 for the first 1–20 copies; $5 for each additional block of up to 20 copies.

* * * * *

Dated: April 1, 1997.

Nancy Y. Allard,

Alternate Federal Register Liaison.

[FR Doc. 97–8636 Filed 4–2–97; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN53–1b; FRL–5710–2]

Approval and Promulgation of State Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to approve the following as revisions to the Indiana ozone State Implementation Plan (SIP): A rate-of-