Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150–AF44

Reporting Requirements for Unauthorized Use of Licensed Radioactive Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to add a new requirement for licensees to notify the NRC Operations Center within 24 hours of discovering an intentional or allegedly intentional diversion of licensed radioactive material from its intended or authorized use. The proposed rule would also require licensees to notify the NRC when they are unable, within 48 hours of discovery of the event, to rule out that the use was intentional. The proposed rule would require reporting of events that cause, or have the potential to cause, an exposure of individuals whether or not the exposure exceeds the regulatory limits.

DATES: Submit comments by March 1, 1996. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Service Branch. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. Federal workdays.

Documents related to this rulemaking may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. For information on electronic communications please see the Electronic Access discussion in the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: Mary L. Thomas, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone (301) 415–6230, e-mail MLT1@NRC.GOV.

SUPPLEMENTARY INFORMATION:

I. Background

Recently, the NRC responded to two incidents involving phosphorous-32 (P–32) internal contamination of individuals at biomedical research facilities. P–32 is widely used in research institutions, as are many other radionuclides. Although these incidents both involved P–32, the inherent issues of security and control of radioactive material apply to all facilities using licensed material.

The first incident, involving a pregnant researcher, had been reported to the licensee's radiation safety office. The contamination was detected by the researcher's spouse, who worked with the researcher at the licensee's facility, while performing a routine survey of the lab. The licensee identified the radionuclide as P–32. In addition to the researcher's contamination, further surveys performed by the licensee identified P–32 contamination on the floor in front of a refrigerator in an adjacent lounge and a contaminated water cooler in the same building. Urine bioassays of other workers in the same building identified approximately 25 additional individuals who had low-level internal P–32 contamination.

The second incident, also involving internal contamination with P–32, was discovered during a routine survey by the researcher. The licensee performed urine bioassays and confirmed that the researcher was internally contaminated with P–32. Both incidents are still under investigation at this time.

These two recent incidents raise the following issues. First, the current reporting requirements may not capture potentially intentional events such as these if the events did not involve quantities of material or potential exposures that exceeded the current regulatory thresholds that trigger the requirements to file reports. Second, prompt NRC attention to these types of events is needed to assure that the appropriate corrective actions will or have been taken by the licensee and to determine any need for the NRC to take action in addition to any action taken by the licensee. Therefore, the NRC has determined that a new reporting requirement is needed to address incidents such as these.

II. Discussion of Proposed Rule Changes

The intent of the proposed rule is to provide the NRC with an early notification of the intentional use of licensed radioactive material for a purpose that is not authorized by the applicable NRC license or the regulations. The rationale for such a requirement is that, even though the potential exposures involved may not result in harm to an individual, incidents involving intentional misconduct or a disregard for safety requirements raise a great concern about the loss of control of materials that could lead to potential harm. The NRC needs to have the assurance that timely corrective action will be taken by the licensee and needs to determine whether further NRC actions may be appropriate. Further NRC action might be appropriate, for example, if an individual is identified as having intentionally acted in violation of the regulations and the individual has access to or is working with other licensees and/or licensed materials.

A new section would be added (§ 20.2205) to require a licensee to notify the NRC Operations Center within 24 hours after discovering that licensed radioactive material was used for a purpose not authorized by the applicable NRC license or regulations if the use causes or has the potential to cause an exposure to an individual, regardless of whether or not it exceeds the regulatory exposure limit as identified in 10 CFR 20.2202, and if the use was intentional or the licensee has received information that the use was allegedly intentional. If the licensee cannot rule out that the use was intentional, they must notify the NRC Operations Center within 48 hours of discovery of the event. A separate telephone report under § 20.2205 would not be needed if a telephone report was made under §§ 20.2201 and 20.2202.

Examples where a notification would be required include events similar to the ones that precipitated this rulemaking as well as the following types of events:

In an effort to add realism to an emergency drill, a drill coordinator used Na-24 (a short-lived gamma emitter) without getting permission from facility

management. The source was spread on the floor and participants tracked through and spread the contamination. The drill participants were not informed of this use of radioactive material. Workers had a potential for uptake. This use of the isotope is for a purpose that is not authorized by the license or regulations.

A worker was being surveyed for contamination as part of the routine surveillance program at a licensed facility. A sealed radiation source (used to response check radiation survey instruments) was found in the worker's pocket. Apparently, someone had removed this strontium-90 source from its storage place without authorization and deliberately hidden it in the worker's pocket (in the change room) while the worker was inside a contaminated area. The worker received a calculated dose to the skin of approximately 20 rem.

In an effort to entrap a suspected thief who had been stealing workers' valuables from a dressing/change room at a licensed facility, health physics technicians fixed low levels of radioactive contamination onto some dollar bills and left this contaminated money in a wallet in an inviting manner to lure the suspected thief. While this baiting activity did successfully lead to the apprehension of the thief (alarmed the sensitive portal exit contamination monitor), this use of licensed radioactive material was for a purpose that was not authorized by the license or regulations.

A laboratory assistant, who had reported the vandalism of a hematology laboratory, was found to have iodine-125 contamination on her lab coat. Subsequent analysis also showed iodine-125 in her urine. Consequently, the laboratory assistant confessed her responsibility for the vandalism and the ingestion. This use of licensed radioactive material was for a purpose that was not authorized by the license or regulations.

Laboratory personnel were scanning samples for disposal when they discovered that a post-doctorate researcher was radioactive. Later analysis determined that the researcher was internally contaminated with P–32. Surveys of the laboratory and surroundings revealed only one instance of contamination, which was isolated to a food item. This use of licensed radioactive material was for a purpose that was not authorized by the license or regulations.

Examples of events that have occurred and that would not be covered by this requirement include the following incidents:

In an effort to add realism to radiation worker training for surveying materials, a qualified instructor used small, sealed radioactive sources attached to objects that, when surveyed, provide the trainee with realistic instrument responses. This controlled use of radioactive materials had been properly reviewed by the facility health physicist, conforms with the ALARA principle, and was part of a documented, management approved training program. This use of licensed radioactive material was used for a purpose that was authorized by the license or regulations.

The routine loose surface contamination (smearable or swipe) survey inside the radiologically controlled area at a licensed facility revealed detectable loose surface contamination on the passageway floor of an area not controlled as a contaminated area. The location, level, and type of contamination leads the radiation protection staff to conclude that it was likely that workers exiting the immediate worksite had inadvertently tracked contamination outside the posted loose-surface contaminated area into the unposted, ''clean'' passageway. The contamination was determined not to be intentional.

A radiographer who intentionally fails to survey and subsequently receives an overexposure while performing radiographic operations would not be covered under this rule because radiography is a purpose authorized by the license and regulations.

This reporting requirement is being proposed to ensure that the NRC is made aware of any intentional or allegedly intentional activities for a purpose not authorized by the applicable license or regulations in order to take the necessary follow-up actions or to conduct investigations in a timely manner. The NRC needs to have prompt assurance that the licensee is taking the appropriate actions to assess the consequences of the situation and to take the necessary steps to reduce any likelihood that further exposures would occur. These actions could consist of identifying the causes of the event, securing the affected area and accounting for all licensed radioactive material, surveying the area and the personnel working in that area, processing the dosimetry worn by personnel working in that area, performing bioassays of the personnel in the affected area, taking the appropriate actions to prevent a recurrence of the event, and notifying law enforcement agencies.

The reporting requirement is not based on an exposure threshold because the NRC is concerned about any intentional unnecessary exposure to workers or members of the public that could occur unless effective corrective actions are promptly taken. It is recognized that, as a licensee analyzes an event such as this, it may not be immediately obvious whether the exposure was the result of an intentional use of licensed material for a purpose not authorized by the applicable license or regulations or was the result of an accident. A notification to the NRC Operations Center would be required for any event that had the potential for radiological exposure whenever the licensee cannot promptly classify the exposure to be the result of either an operation permitted under the license or an accident. Therefore, the NRC is particularly interested in receiving comments on the proposed requirement for licensees to inform the NRC within 48 hours of discovery of the event that the licensee cannot rule out that the use was intentional.

A medical administration to any individual is subject to the regulations in part 35 and is specifically excluded from the scope of Part 20 regulations. However, the administration of licensed radioactive material to individuals outside the scope of Part 35's definition of ''medical use'' is for a purpose not authorized by the regulations and would therefore be reportable. An example of such a situation would be the administration of material by one technician to another technician to test their imaging skills.

The NRC has considered the impact on licensees from these new requirements and has weighed them against the benefits. In those instances where exposures of individuals cannot be ruled out as resulting from operations permitted under the license or from accidents, licensees will have to notify the NRC Operations Center. Such events are expected to be rare. However, by reporting this information early, the NRC will be able to assess promptly the licensee's actions to prevent further exposures and possible harm to other individuals, as well as determine whether it needs to be involved in the matter. With this in mind, the NRC is specifically requesting comments regarding the burden associated with the proposed reporting requirement. Specifically, the NRC is interested in receiving an estimate of the likely number of notifications licensees would have to make of cases where they could not promptly rule out whether or not the use was intentional.

III. Electronic Access

Comments on the proposed rule, 10 CFR part 20 Reporting Requirements may be submitted electronically as indicated below.

Comments may be submitted electronically, in either ASCII text or Wordperfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages or directly via Internet. Background documents on the rulemaking are also available for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC subsystem on FedWorld can be accessed directly by dialing the toll free number: 1–800–303–9672. Communication software parameters should be set as follows: Parity to none, data bits to 8, and stop bits to 1 (N,8,1). Use ANSI or VT–100 terminal emulation. The NRC rulemaking subsystems can then be accessed by selecting the ''Rules Menu'' option from the ''NRC Main Menu.'' For further information about options available for NRC at FedWorld consult the ''Help/Information Center'' from the ''NRC Main Menu.'' Users will find the ''FedWorld Online User's Guides'' particularly helpful. Many NRC subsystems and databases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS: 703–321–3339; Telnet via Internet: fedworld.gov (192.239.92.3); File Transfer Protocol (FTP) via Internet: ftp.fedworld.gov (192.239.92.205); and World Wide Web using the ''Home Page'': www.fedworld.gov (this is the Uniform Resource Locator (URL)).

If using a method other than the NRC's toll free number to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting ''F—Regulatory, Government Administration and State Systems'' or by entering the command ''/go nrc'' at a FedWorld command line. At the next menu select ''A—Regulatory Information Mall,'' and then select ''A—U.S. Nuclear Regulatory Commission'' at the next menu. If you access NRC from FedWorld's ''Regulatory, Government Administration'' menu, you may return to FedWorld by selecting the ''Return to FedWorld'' option from the ''NRC Main Menu.'' However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

IV. Enforcement Policy

In light of the purpose of this proposed rule, the NRC intends, if this rule becomes final, to consider amending the NRC Enforcement Policy, NUREG–1600, (60 FR 34381, June 30, 1995), to state that a failure to meet 10 CFR 20.2205 may be considered a violation of significant regulatory concern. Such a violation could be characterized as a Severity Level III violation and be subject to an assessment of civil penalties.

V. Agreement State Compatibility

This rulemaking will be a matter of compatibility between the NRC and the Agreement States, thereby providing consistency of State with Federal safety requirements. The NRC is considering whether Division 2 or 3 level of compatibility should be assigned. Comments are specifically requested on the appropriate level of compatibility.

VI. Environmental Impact: Categorical Exclusion

The NRC has determined that this revised regulation is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(3)(ii), recordkeeping requirements. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this revised regulation.

VII. Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

The public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the collection of information contained in the proposed rule and on the following issues:

1. Is the proposed collection of information necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?

2. Is the estimate of burden accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of collection of information be minimized, including the use of automated collection techniques?

Send comments on any aspect of this proposed collection of information, including suggestions for reducing the burden, to the Information and Records Management Branch (T–6F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0014), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the collections of information or on the above issues should be submitted by March 1, 1996. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

VIII. Regulatory Analysis

The NRC has considered the impact on licensees from these new requirements and has weighed them against the benefits. Under the proposed rule, the licensee would be required to report promptly to NRC those instances in which exposures of individuals are intentional, are alleged to be intentional, or in which intentional and unauthorized use cannot be ruled out. These types of events are expected to be rare. By reporting this information promptly, the NRC would be able to assess quickly the licensee's actions to prevent further exposures and possible harm to other individuals.

The NRC has considered three alternatives: (1) Take no action, (2) amending each license, and (3) amend the regulations.

The first alternative is not acceptable because the NRC would not be made aware promptly of any intentional or deliberate activities. Thus, the NRC would not be able to take the necessary

follow-up actions or to conduct investigations in a timely manner.

Under the second alternative, the only benefit of amending licenses would be in the resources saved in promulgating a new regulation. However, the costs to amend licenses for the more than 6,600 NRC licensees could be much higher than the costs for amending the regulation.

The third alternative would be acceptable because it would provide regulations for prompt reporting of the affected events. The NRC needs to have prompt assurance that the licensee is taking the appropriate actions to assess the consequences of the situation and to take the necessary steps to reduce any likelihood that further exposures would occur. Furthermore, the rulemaking process involves public participation and provides NRC the opportunity to consider any public comments. The NRC believes that this benefit outweighs the costs to the licensees if the proposed rule is adopted.

The costs to licensees of the proposed rule, if adopted, could be estimated as follows: Based on the past experience, the occurrence of events that would be affected by this rule is expected to be rare. The number of such events is estimated at 20 per year. The NRC further estimates that 20 hours would be required to determine the cause of the event, prepare the report, complete management review, and make a telephone call to the NRC Operations Center. The total estimated burden to all licensees would be 400 hours per year. Assuming administration and labor costs of approximately $116 per hour, the total cost would be about $46,400 per year.

The NRC is requesting specific comments regarding the burden associated with the proposed reporting requirement. Specifically, the NRC is interested in receiving an estimate of the likely number of events that must be reported under the proposed rule and the number of events in which the licensee could not promptly rule out that the use was intentional and unauthorized. Comments may submitted to the NRC as indicated under the **ADDRESSES** heading.

This rule, if adopted, will be published in the Federal Register as a final rule which would include an effective date for implementation of the changes to allow licensees time to make the required changes. The NRC intends to make the final rule effective 30 days after the publication in the Federal Register. The NRC is also requesting comments regarding the effective date.

IX. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC certifies that this rule, if adopted, will not have a significant economic impact upon a substantial number of small entities. The proposed rule affects all licensees. The anticipated cost of the proposed requirement is indicated in the Regulatory Analysis. This cost would be incurred only by a licensee who is required to report an event. The estimated cost of reporting a single event is $2,320.

The potential gains in protection of the public health and safety significantly outweigh the economic impact on small licensees. However, the NRC is seeking comments and suggested modification because of the widely differing conditions under which small licensees operate.

Any small entity subject to this regulation who determines that, because of its size, it is likely to bear a disproportionate adverse economic impact should notify the NRC of this in a comment that indicates—

(a) The licensee's size and how the proposed regulation would result in a significant economic burden upon the licensee as compared to the economic burden on a larger licensee;

(b) How the proposed regulations could be modified to take into account the licensee's differing needs or capabilities;

(c) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulations were modified as suggested by the licensee;

(d) How the proposed regulation, as modified, would more closely equalize the impact of NRC regulations or create more equal access to the benefits of Federal programs as opposed to providing special advantages to any individual or group; and

(e) How the proposed regulation, as modified, would still adequately protect public health and safety.

X. Backfit Analysis

The NRC has determined that the proposed rule is not a backfit under the backfit rule, 10 CFR 50.109. The NRC has determined that recordkeeping and reporting requirements are not backfits.

List of Subjects in 10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendment to 10 CFR part 20.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, (U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236), secs. 201, as amended 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

2. In § 20.1009, paragraph (b) is revised to read as follows:

§ 20.1009 Reporting, recordkeeping, and application requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 20.1101, 20.1202, 20.1204, 20.1206, 20.1301, 20.1302, 20.1501, 20.1601, 20.1703, 20.1901, 20.1902, 20.1904, 20.1905, 20.1906, 20.2002, 20.2004, 20.2006, 20.2102, 20.2103, 20.2104, 20.2105, 20.2106, 20.2107, 20.2108, 20.2109, 20.2110, 20.2201, 20.2202, 20.2203, 20.2204, 20.2205, 20.2206, and appendices F and G to 10 CFR part 20.

* * * * *

3. Section 20.2205 is added to read as follows:

§ 20.2205 Reports of unauthorized use of licensed radioactive material.

(a) The licensee shall notify the NRC Operations Center by telephone as soon as practical but not later than 24 hours after discovering that—

(1) Licensed radioactive material was used for a purpose not authorized by the applicable NRC license or regulations; and

(2) Such use listed in paragraph (a)(1) of this section causes, or has the potential to cause an exposure to an individual, regardless of whether or not it exceeds the regulatory exposure limit as identified in 10 CFR 20.2202; and

(3) Such use listed in paragraph (a)(1) of this section was intentional or the licensee receives information that the use was allegedly intentional.

(b) The licensee shall notify the NRC Operations Center by telephone as soon as practical but not later than 48 hours after discovering that provisions (a)(1) and (a)(2) of this section have occurred

and the licensee cannot rule out that the use was intentional.

(c) Reports made by licensees in response to the requirement of this section must be made as follows:

(1) Licensees having an installed Emergency Notification System shall make reports to the NRC Operations Center, and

(2) All other licensees shall make reports by telephone to the NRC Operations Center (301–816–5100).

(d) Reporting events under §§ 20.2201 and 20.2202 continue to apply. A report is not required by paragraphs (a) or (b) of this section if a notification has already been made under §§ 20.2201 or 20.2202.

Dated at Rockville, MD, this 19th day of January 1996.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 96–1867 Filed 1–30–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–CE–60–AD]

Airworthiness Directives; The New Piper Aircraft, Inc. (formerly Piper Aircraft Corporation) Models PA31, PA31–300, PA31–325, and PA31–350 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 80–22–04, which currently requires the following on The New Piper Aircraft, Inc. (Piper) Models PA31, PA31–300, PA31–325, and PA31–350 airplanes: Repetitively inspecting the upper section of Fuselage Station (FS) 317.75 bulkhead for cracks, and incorporating a certain reinforcement kit if any crack is found. The proposed action would require inspecting (one-time) the upper section of the FS 317.75 bulkhead for cracks, and incorporating one of two reinforcement kits depending on whether cracks are found in the FS 317.75 bulkhead area. Cracks found on airplanes in compliance with the inspection requirements of AD 80–22–04 and the Federal Aviation Administration's policy on aging commuter-class aircraft prompted the proposed action. The actions specified in the proposed AD are intended to prevent structural failure of the vertical fin forward spar caused by cracks in the FS 317.75 bulkhead, which, if not detected and corrected, could result in loss of control of the airplane.

DATES: Comments must be received on or before April 7, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–60–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that relates to the proposed AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Christina Marsh, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7362; facsimile (404) 305–7348.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 90–CE–60–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–60–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 80–22–04, Amendment 39–3943, currently requires the following on Piper Models PA31, PA31–300, PA31–325, and PA31–350 airplanes:

—Repetitively inspecting the upper section of Fuselage Station (FS) 317.75 bulkhead for cracks; and

—Incorporating Piper Kit part number (P/N) 764–028 if any crack is found in the upper section of the FS 317.75 bulkhead.

AD 80–22–04 also allows for the option of incorporating Piper Kit P/N 763–917 as terminating action for the repetitive inspection requirement. Accomplishment of these inspections is in accordance with Piper Service Bulletin (SB) No. 636A, dated August 26, 1980.

The FAA has received several reports of cracks in the upper section of FS 317.75 bulkhead on airplanes in compliance with the repetitive inspection requirements of AD 80–22–04. These reports prompted the FAA to consider mandating the installation of a reinforcement kit in the area of the FS 317.75 bulkhead on Piper Models PA31, PA31–300, PA31–325, and PA31–350 airplanes.

In addition, AD 80–22–04 has been identified as one that should be superseded under the FAA's aging commuter-class airplane policy. The FAA has determined that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences if the known problem is not detected during the inspection; (2) the probability of the problem not being detected during the inspection; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

These factors have led the FAA to establish an aging commuter-class