

appellant shows that the Special Counsel's notification was received more than 5 days after the date of issuance, within 60 days after the date the appellant received the Special Counsel's notification.

This regulatory action does not affect the provisions of law and regulation permitting an appellant to file an IRA appeal with the Board anytime after 120 days have passed since filing with the Special Counsel if he or she has not received notification that the Special Counsel will seek corrective action from the Board. 5 U.S.C. 1214(a)(3)(B) and 5 CFR 1209.5(a)(2).

A whistleblower affected by an action that is directly appealable to the Board may choose to seek corrective action from the Special Counsel first or may file an otherwise appealable action (OAA) appeal directly with the Board. 5 U.S.C. 1221(b) and 5 CFR 1209.5(b). An appellant who chooses to go to the Special Counsel first is subject to the same time limit for filing as an IRA appellant under the amended 5 CFR 1209.5(a)(1). An appellant who appeals directly to the Board is subject to the same time limit that applies to other appeals under the Board's regulation at 5 CFR 1201.22(b), which is being amended simultaneously with this amendment. Under the amended 5 CFR 1201.22(b), an appellant must file no later than 30 days after the effective date, if any, of the action being appealed, or 30 days after the date of receipt of the agency's decision, whichever is later.

The Board is also amending its regulation at 5 CFR 1209.5(c) to ensure that an appellant who has filed a stay request before filing a whistleblower appeal (IRA or OAA) has a full 30 days to file after the date the appellant receives the judge's ruling on the stay request. This amendment corresponds to the amendments being made simultaneously to various filing requirements in 5 CFR part 1201.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

**List of Subjects in 5 CFR Part 1209**

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1209 as follows:

**PART 1209—[AMENDED]**

1. The authority citation for part 1209 continues to read as follows:

**Authority:** 5 U.S.C. 1204, 1221, 2302(b)(8), and 7701.

**§1209.5 [Amended]**

2. Section 1209.5 is amended by revising paragraph (a)(1) and the first sentence of paragraph (c) to read as follows:

\* \* \* \* \*

(a) \* \* \*

(1) No later than 65 days after the date of issuance of the Office of Special Counsel's written notification to the appellant that it was terminating its investigation of the appellant's allegations or, if the appellant shows that the Special Counsel's notification was received more than 5 days after the date of issuance, within 60 days after the date the appellant received the Special Counsel's notification; or,

\* \* \* \* \*

(c) \* \* \* Where an appellant has filed a request for a stay with the Board without first filing an appeal of the action, the appeal must be filed within 30 days after the date the appellant receives the order ruling on the stay request. \* \* \*

Dated: October 31, 1997.

**Robert E. Taylor,**  
*Clerk of the Board.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 97-CE-95-AD; Amendment 39-10192; AD 97-23-04]

RIN 2120-AA64

**Airworthiness Directives; Pilatus Aircraft Ltd. Models PC-12 and PC-12/45 Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to Pilatus Aircraft Ltd. (Pilatus) Models PC-12 and PC-12/45 airplanes. This AD requires replacing the fuel tank vent valves with modified fuel tank vent valves. This AD is the result of mandatory continued airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are intended to prevent the fuel tank inward vent valve from freezing, which, if followed by a cold soak at altitude, could result in wing airfoil distortion and structural damage with consequent

degradation of the airplane's handling qualities.

**DATES:** Effective December 1, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 1, 1997.

Comments for inclusion in the Rules Docket must be received on or before December 8, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97-CE-95-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Pilatus Aircraft Ltd., CH-6370 Stans, Switzerland. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97-CE-95-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426-6934; facsimile (816) 426-2169.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified the FAA that an unsafe condition may exist on Pilatus Models PC-12 and PC-12/45 airplanes. The FOCA reports an instance of abnormal automatic engagement of the fuel booster pumps during normal operation of a Pilatus Model PC-12 airplane. The FOCA's investigation reveals that the fuel tank inward vent valves may fail in the closed position under certain conditions. Moisture ingestion, followed by cold soak, can lead to the fuel tank inward vent valve freezing. This condition, if not corrected, could result in wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities.

**Relevant Service Information**

Pilatus issued Service Bulletin No. 28-003, Revision 1, dated September 30, 1997, which specifies procedures for replacing the fuel tank vent valves with modified fuel tank vent valves.

The FOCA of Switzerland classified this service bulletin as mandatory and

issued Swiss AD HB 97-432A, dated October 3, 1997, in order to assure the continued airworthiness of these airplanes in Switzerland.

#### The FAA's Determination

This airplane model is manufactured in Switzerland and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the FOCA of Switzerland has kept the FAA informed of the situation described above.

The FAA has examined the findings of the FOCA of Switzerland; reviewed all available information, including the service bulletin referenced in this document; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

#### Explanation of the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus Models PC-12 and PC-12/45 airplanes of the same type design registered for operation in the United States, the FAA is issuing an AD. This AD requires replacing the fuel tank vent valves with modified fuel tank vent valves. Accomplishment of the replacement is required in accordance with Pilatus Service Bulletin No. 28-003, Revision 1, dated September 30, 1997.

#### Determination of the Effective Date of the AD

Since a situation exists (possible wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

#### Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this 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 will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97-CE-95-AD." The postcard will be date stamped and returned to the commenter.

#### Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 USC 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

#### 97-23-04 Pilatus Aircraft, LTD.:

Amendment 39-10192; Docket No. 97-CE-95-AD.

*Applicability:* Models PC-12 and PC-12/45 airplanes; serial numbers 101 through 186, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required within the next 10 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent the fuel tank inward vent valve from freezing, which, if followed by a cold soak at altitude, could result in wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities, accomplish the following:

(a) Replace the fuel tank vent valves with modified fuel tank vent valves in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 28-003, Revision 1, dated September 30, 1997.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

**Note 2:** Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) The replacement required by this AD shall be done in accordance with Pilatus Service Bulletin No. 28-003, Revision 1, dated September 30, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pilatus Aircraft Ltd., CH-6370 Stans, Switzerland. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in Swiss AD HB 97-432A, dated October 3, 1997.

(e) This amendment (39-10192) becomes effective on December 1, 1997. Issued in Kansas City, Missouri, on October 29, 1997.

**Mary Ellen A. Schutt,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

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BILLING CODE 4910-13-U

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MI38-01-6734; FRL-5884-1]

### Approval and Promulgation of Implementation Plans; Michigan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving requested State Implementation Plan (SIP) revisions submitted by the State of Michigan for the purpose of transferring the authority of the Michigan Air Pollution Control Commission (Commission) to the Director of the Michigan Department of Natural Resources (MDNR) and subsequently transferring the authority of the Director of MDNR to the Director of the Michigan Department of Environmental Quality (MDEQ). Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

**DATES:** This rule is effective: December 8, 1997.

**ADDRESSES:** Copies of the Michigan SIP revision request and EPA's analysis are

available for inspection during normal business hours at the following location: EPA Region 5, Air and Radiation Division (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

#### FOR FURTHER INFORMATION CONTACT:

Laura Gerleman, Air Programs Branch, Permits and Grants Section (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5703.

Copies of the State of Michigan's final authorization revision application are available during normal business hours at the following addresses for inspection and copying: Library of Michigan, Government Documents Section, 717 West Allegan, Lansing, Michigan; Olson Library, Northern Michigan University, Harden Circle Drive, Marquette, Michigan; Detroit Public Library Main Branch, Sociology and Economics Department, 5201 Woodward Avenue, Detroit, Michigan. To arrange for access to the materials in Lansing, call (517) 373-9489 between 9 a.m. and 6 p.m. on Mondays through Saturdays and between 12 p.m. and 4 p.m. on Sundays (Eastern time); in Marquette, call (906) 227-2260 between 8 a.m. and 12 a.m. on Mondays through Thursdays, between 8 a.m. and 9 p.m. on Fridays, and between 10 a.m. and 6 p.m. on Sundays (Eastern time); in Detroit, call (313) 833-1440 between 9:30 a.m. and 5:30 p.m. on Tuesdays and Thursdays through Saturdays, and between 1 p.m. and 9 p.m. on Wednesdays (Eastern time).

#### SUPPLEMENTARY INFORMATION:

##### A. Executive Order 1991-31

On November 8, 1991, Governor John Engler of Michigan signed Executive Order 1991-31 which, *inter alia*, abolished the Commission and transferred the authority of the Commission to the Director of MDNR. The State of Michigan submitted to EPA under a December 13, 1994 cover letter, a SIP revision request containing the transfer of authority of the Commission to the Director of MDNR. The EPA deemed the submittal complete in a February 16, 1995 letter to Roland Harnes, Director, MDNR.

##### B. Executive Order 1995-18

On July 31, 1995, Governor Engler signed Executive Order 1995-18 which, *inter alia*, elevated eight program divisions and two program offices from within MDNR to the MDEQ, effective October 1, 1995. The authority given to the Director of MDNR in Executive Order 1991-31 was conferred upon the Director of MDEQ in Executive Order 1995-18, with the exception of administrative appeals decisions.

The State of Michigan submitted Executive Order 1995-18 to EPA under a January 19, 1996 cover letter as a supplement to the December 13, 1994 SIP revision.

#### C. Authority

On March 28, 1997, EPA proposed to approve Michigan's requested SIP revisions as reorganizations of Michigan's environmental agencies wherein the authorities of the Director of the Commission under the SIP have been conferred upon the Director of MDEQ by Executive Order. See 62 FR 14843. The EPA did not receive any public comment on the proposal. In this notice, EPA is taking final action to approve these transfers of authority for the State of Michigan.

The EPA notes that it is currently reviewing the Michigan Environmental Audit Privilege and Immunity Law, Public Act 132 of 1996, and its potential impact on Michigan's federally delegated and authorized programs, including programs under the Federal Clean Air Act (CAA). The EPA's approval only addresses the requested SIP revisions submitted by Michigan that result from Executive Order 1991-31 and Executive Order 1995-18. The EPA's approval of requested revisions to Michigan's SIP arising out of these two Executive Orders does not express any viewpoint on the question of whether there are legal deficiencies in Michigan's SIP resulting from Public Act 132 of 1996.

#### Administrative Requirements

##### A. Executive Order (E.O.) 12866

The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

##### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Delegation of the Governor's authority under the CAA does not impose any new requirements on small entities. EPA certifies that this delegation will not affect a substantial number of small entities.