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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 1

[Docket No. AMS-L&RRS-08-0015]

#### Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Final rule.

**SUMMARY:** This amendment expands the scope and applicability of the Department's uniform rules of practice governing adjudicatory proceedings to include actions initiated under the Organic Foods Production Act of 1990.

**DATES:** *Effective Date:* April 4, 2008.

**FOR FURTHER INFORMATION CONTACT:** Christine M. Sarcone, Director, Legislative and Regulatory Review Staff, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2622-South, Washington, DC 20250-1417. Telephone: (202) 720-3203; Facsimile: (202) 690-3767.

**SUPPLEMENTARY INFORMATION:** The Organic Foods Production Act of 1990, as amended (7 U.S.C. 6501-6522) (OFPA) authorizes enforcement actions against, among other things, any person found to be in violation of the OFPA or a regulation issued thereunder.

The Department's uniform rules of practice (7 CFR part 1, subpart H), which govern the conduct of adjudicatory proceedings under numerous statutes, have been in effect since February 1, 1977. Accordingly, to insure consistency and uniformity in the conduct of the Department's administrative proceedings, it has been determined that proceedings initiated under the OFPA should also be governed by these uniform procedures. This rule relates to internal agency

management. Therefore, this rule is exempt from the provisions of Executive Orders 12866 and 12988. Moreover, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required for this rule, and it may be made effective less than 30 days after publication in the **Federal Register**. In addition, under 5 U.S.C. 804, this rule is not subject to congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and thus is exempt from the provisions of that Act.

#### Paperwork Reduction Act

This rule contains no information collections or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 1

Administrative practice and procedure, Agriculture, Antitrust, Claims, Concessions, Cooperatives, Equal access to justice, Federal buildings and facilities, Freedom of Information, Lawyers, Privacy.

■ For the reasons set forth in the preamble, Title 7 subtitle A is amended as follows:

#### PART 1—ADMINISTRATIVE REGULATIONS

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

**Authority:** 5 U.S.C. 301, unless otherwise noted.

■ 2. The authority citation for part 1, subpart H is revised to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 61, 87e, 228, 268, 499o, 608c(14), 1592, 1624(b), 2151, 2279e, 2621, 2714, 2908, 3812, 4610, 4815, 4910, 6009, 6107, 6207, 6307, 6411, 6519, 6520, 6808, 7107, 7734, 8313; 15 U.S.C. 1828; 16 U.S.C. 620d, 1540(f), 3373; 21 U.S.C. 104, 111, 117, 120, 122, 127, 134e, 134f, 135a, 154, 463(b), 621, 1043; 43 U.S.C. 1740; 7 CFR 2.35, 2.41.

■ 3. In § 1.131, paragraph (a), the following statutory reference is added in alphabetical order:

#### § 1.131 Scope and applicability of this subpart.

(a) \* \* \*

Organic Foods Production Act of 1990, sections 2119 and 2120 (7 U.S.C. 6519, 6520).

\* \* \* \* \*

Dated: March 27, 2008.

**Edward T. Schafer,**

*Secretary of Agriculture.*

[FR Doc. E8-6764 Filed 4-3-08; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2008-0070; Directorate Identifier 2007-CE-098-AD; Amendment 39-15452; AD 2008-07-11]

RIN 2120-AA64

#### Airworthiness Directives; PILATUS AIRCRAFT LTD. Model PC-12, PC-12/45, and PC-12/47 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final Rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. This AD requires inserting changes into the airworthiness limitations of the FAA-approved maintenance program. We are issuing this AD to require actions to correct the unsafe condition on these products.

**DATES:** This AD becomes effective May 9, 2008.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4059; fax: (816) 329-4090.

**SUPPLEMENTARY INFORMATION:****Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on January 25, 2008 (73 FR 4497). That NPRM proposed to correct an unsafe condition for the specified products. The NPRM proposed to require incorporating new limitations into the Airworthiness Limitations section of the Pilatus PC-12 Airplane Maintenance Manual (AMM) 12-A/AMP-04. The revisions to the Airworthiness Limitations section of AMM 12-A/AMP-04 incorporate the following:

- Time between overhaul (TBO) for the pitch trim actuator is reduced from 6,000 hours TIS or 5 years, whichever occurs first, to 5,000 hours time-in-service (TIS) or 5 years, whichever occurs first;
- The life limit for the pitch trim actuator is increased from 10,000 hours TIS or 13,500 flights, whichever occurs first, to 20,000 hours TIS or 27,000 flights, whichever occurs first; and
- A life limit of 10,000 hours TIS is introduced for the pitch trim actuator attachment parts.

**Comments**

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

*Comment Issue No. 1: Unable To Comply With AD*

Scott R. Lania of Alpha Flying Inc./ Atlas Aircraft Center, Inc. and Tim Kitzmann state that incorporating limitations and making pen and ink changes to the airworthiness limitations section of the FAA-approved maintenance manual are impractical and impossible.

The commenters state that each affected airplane does not have its own maintenance manual, which makes compliance with paragraph (f) of the NPRM implausible. They state that most maintenance manuals for Pilatus PC-12 airplanes are now on compact disk (CD), which makes the pen and ink changes required in paragraph (f)(2) of the NPRM impossible.

The commenters believe it would be easier to state the part numbers of the affected pitch trim actuators and their new TBO interval into the AD to address the unsafe condition.

We partially agree with the commenters. We agree that making the pen and ink changes to the CD version of the FAA-approved maintenance

manual would be impossible. However, we do not agree that incorporating just the part numbers of the affected pitch trim actuators and their new TBO interval into the AD addresses the unsafe condition. That approach could cause confusion with the latest version of the airworthiness limitations section of the FAA-approved maintenance manual and would not follow the State of Design Authority's actions.

To address this issue, we will allow using the CD version of the FAA-approved maintenance manual that incorporates the November 20, 2007, version of chapter 4 and the corresponding version of chapter 5 as an option for complying with the AD.

In accordance with 14 CFR 21.50 and 23.1529, the holder of a design approval for which application was made after January 28, 1981, is required to include an Airworthiness Limitations section in their FAA-approved maintenance manual or maintenance program (Instructions for Continued Airworthiness). In this case, the manufacturer issued chapter 4 to Pilatus PC-12 AMM 12-A/AMP-04, which is the Airworthiness Limitations section, and it must be incorporated into the airplane maintenance manual or maintenance program. This AD incorporates the November 20, 2007, version of these limitations.

The only way for us to mandate a version of the airworthiness limitations section, other than what was in place at delivery of the airplane, is through rulemaking, e.g., AD.

We will change the final rule AD action to incorporate the changes mentioned above.

*Comment Issue No. 2: Change Compliance Time for TBO*

Scott R. Lania of Alpha Flying Inc./ Atlas Aircraft Center, Inc. believes that the calendar time for the TBO interval is too early for low-time users. He suggests 8 to 10 years as a more realistic time for the 400- to 500-hour-a-year users. He believes this would be more in line with the high-time users.

We do not agree. We have no data that allows us to deviate from the compliance time decision of both the type certificate (TC) holder and the State of Design Authority. The TC holder did not provide a conversion for the low-time users; therefore, we are relying on the compliance time decision of the TC holder and State of Design Authority. Owners/operators may request an alternative method of compliance (AMOC) following the procedures in 14 CFR 39.19, and the AD. We will coordinate all requests with the TC holder and State of Design Authority.

We are not changing the final rule AD action based on this comment.

*Comment Issue No. 3: Request for Test Result Data*

Dan P. Johnson states that the reduction of the hourly limit for the TBO may be acceptable provided there is evidence supporting it. The proposed AD states: "based on full-scale fatigue test, the life limit has been extended, but the TBO reduced."

The commenter requests to see the actual test results that prove a 5-year calendar limit is warranted.

The commenter notes that the current chapter 4 component entry for this actuator has no calendar limitation. These actuators are overhauled in the United States by Derco Repair Services, Inc. in Milwaukee, Wisconsin. The commenter states that he contacted this repair station last year for a quote to overhaul one of these and was quoted a price of around \$4,500. The commenter states that he was also told that, due to a proprietary agreement with Pilatus, they would not accept direct requests for overhaul and only Pilatus could provide service. The commenter states that this is a common practice of Pilatus to control U.S. parts distribution.

The commenter states that he understands the FAA does not get involved with costs incurred by operators. He also states that he understands the purpose of an AD is to detect and correct unsafe conditions and prevent them from happening in the future. The commenter believes that the FAA is assisting the TC holder in the "gouging of American operators by agreeing to an unsubstantiated calendar limit."

The commenter believes that the hourly TBO reduction is sufficient for 14 CFR part 91 operators.

We issued the NPRM based on full-scale fatigue tests conducted by the TC holder. The actual data is held by Pilatus, the European Aviation Safety Agency (EASA), and the Federal Office of Civil Aviation (FOCA). We have no data to show that the State of Design Authority's determination of the life limits specified in the NPRM is not valid.

We evaluated the State of Design Authority's information and determined that AD action was necessary in the United States to address an unsafe condition that is likely to exist or develop on airplanes of the same type design that are type certificated for operation in the United States. The life limit of the component is being added to the Airworthiness Limitations section along with the TBO interval in order to

maintain the safe operation of this component.

We are not changing the final rule AD action based on this comment.

*Comment Issue No. 4: AD Unnecessary*

Tim Kitzmann questions why the AD is necessary if these new limitations are FAA-approved. The commenter points out that 14 CFR 91.403(c) requires compliance with airworthiness limitations issued by the TC holder.

The commenter believes that the AD is unnecessary since the new limitations are part of chapter 4.

We do not agree with the commenter. While 14 CFR 91.403(c) requires compliance with FAA-approved limitations issued by the TC holder, the FAA's regulations do not require future incorporations of limitation section revisions, unless additional rulemaking action is taken, e.g., AD action. By taking AD action, we can mandate change to the airworthiness limitations section of an FAA-approved maintenance program for airplanes operating in both 14 CFR part 91 and part 135 operations. If these new limitations are not mandated, the pitch trim actuator and the pitch trim actuator components could fail.

We are not changing the final rule AD action based on these comments.

*Comment Issue No. 5: Update Reference to the AMM*

Pilatus Aircraft Ltd. states that the reference to Pilatus PC-12 AMM, Chapter 4 is not correct. Due to the implementation of a new software publication system, Pilatus requests for the AMM reference to be changed to Report No. 02049, issue 1, revision 0, dated November 20, 2007.

We partially agree with the commenter. In order to avoid confusion, we will incorporate the date of the new document. Based on the documents we have, we cannot change the way Pilatus PC-12 AMM, Chapter 4 is referenced in this AD. However, to accommodate Pilatus' new software publication system, we will add a parenthetical to the Pilatus PC-12 AMM, Chapter 4 reference to include Report No. 02049, issue 1, revision 0.

We will change the final rule AD action based on this comment.

### Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on

any operator or increase the scope of the AD.

### Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the AD.

### Costs of Compliance

We estimate that this AD will affect about 500 products of U.S. registry. We also estimate that it will take about .5 work-hour per product to comply with the basic requirements of this AD. The average labor rate is \$80 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be \$20,000, or \$40 per product.

In addition, we estimate that any necessary follow-on actions (the replacements required by the limitations changes) will take about 3.5 work-hours and require parts costing \$11,960, for a cost of \$12,240 per product.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect 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.

For the reasons discussed above, I certify this AD:

(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) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD Docket.

### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647-5527) is in the ADDRESSES section. Comments will be available in the AD docket shortly after receipt.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

#### 2008-07-11 Pilatus Aircraft Ltd.:

Amendment 39-15452; Docket No. FAA-2008-0070; Directorate Identifier 2007-CE-098-AD.

#### Effective Date

(a) This airworthiness directive (AD) becomes effective May 9, 2008.

#### Affected ADs

(b) None.

**Applicability**

(c) This AD applies to Models PC-12, PC-12/45, and PC-12/47 airplanes, all serial numbers, certificated in any category.

**Subject**

(d) Air Transport Association of America (ATA) Code 27: Flight Controls.

**Reason**

(e) This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. We are issuing this AD to mandate new life limits for the pitch trim actuator and pitch trim actuator attachment parts. If these new limitations are not mandated, the pitch trim actuator and the pitch trim actuator components could fail. This failure could lead to an unsafe flying configuration.

**Actions and Compliance**

**Note 1:** Pilatus has implemented a new software publication system. During the implementation of this new system, the airplane maintenance manual revision number was reset to 0. For the purposes of this AD, the date of issue takes precedence over the revision level.

(f) Unless already done, do the following within the next 30 days after May 9, 2008 (the effective date of this AD).

(1) Insert unclassified document 12-A/AMP-04, Structural, Component and Miscellaneous—Airworthiness Limitations, 12-A-04-00-00-00A-000A-A, dated October 26, 2007 (Pilatus PC-12 Airplane Maintenance Manual, Chapter 4, Report No. 02049, Issue 1, Revision 0, dated November 20, 2007), into the airworthiness limitations section of the FAA-approved maintenance program (e.g., maintenance manual) or use the CD version that incorporates the November 20, 2007, version of chapter 4 and the corresponding version of chapter 5. You may use any future amendment to this Airworthiness Limitations section provided it does not change the inspection intervals, requirements, or the life limits for the pitch trim actuator and pitch trim actuator attachment parts of the document referenced above. The owner/operator holding at least a private pilot certificate as authorized by 14 CFR 43.7 may do this action. Make an entry in the aircraft records showing compliance with this portion of the AD following 14 CFR 43.9.

(2) In order to avoid confusion with the new pitch trim actuator limitations now contained in chapter 4 (previously contained in chapter 5), make pen and ink changes in chapter 5 and line through references to limitations for the pitch trim actuator. You do not have to make these pen and ink changes if you are using the CD version that incorporates the November 20, 2007, version of chapter 4 and the corresponding version of chapter 5.

**FAA AD Differences**

**Note 2:** This AD differs from the MCAI and/or service information as follows: No differences.

**Other FAA AD Provisions**

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4059; fax: (816) 329-4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Issued in Kansas City, Missouri, on March 27, 2008.

**John Colomy,**

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

[FR Doc. E8-6958 Filed 4-3-08; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2007-0343; Airspace Docket No. 07-AAL-21]

**Revision of Class E Airspace; Anvik, AK**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action revises Class E airspace at Anvik, AK to provide adequate controlled airspace to contain aircraft executing Standard Instrument Approach Procedures (SIAPs). Two new Standard Instrument Approach Procedures (SIAPs) and a textual departure procedure (DP) are being developed for the Anvik Airport. Additionally, one SIAP is being amended. This action revises existing Class E airspace upward from 700 feet

(ft.) and 1,200 ft. above the surface at Anvik Airport, Anvik, AK.

**EFFECTIVE DATE:** 0901 UTC, June 5, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** Gary Rolf, AAL-538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587; telephone number (907) 271-5898; fax: (907) 271-2850; e-mail: [gary.ctr.rolf@faa.gov](mailto:gary.ctr.rolf@faa.gov). Internet address: <http://www.alaska.faa.gov/at>.

**SUPPLEMENTARY INFORMATION:****History**

On Friday, February 1, 2008, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace upward from 700 ft. above the surface and from 1,200 ft. above the surface at Anvik, AK (73 FR 6058). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing SIAPs for the Anvik Airport. Class E controlled airspace extending upward from 700 ft. above the surface and from 1,200 ft. above the surface in the Anvik Airport area is revised by this action.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9R, *Airspace Designations and Reporting Points*, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

**The Rule**

This amendment to 14 CFR part 71 revises Class E airspace at the Anvik Airport, Alaska. This Class E airspace is revised to accommodate aircraft executing new and amended SIAPs, and a new DP, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for