

the proposed size would exceed 25 directors. The bank's notice shall specify the reason(s) for the increase in the size of the board of directors beyond the statutory limit.

**Subpart D—Preemption**

14. In § 7.4000:

A. Paragraphs (a)(3)(i) and (a)(3)(ii) are added; and

B. Paragraph (b) is revised to read as follows:

**§ 7.4000 Visitorial powers.**

(a) \* \* \*

(3)(i) Unless otherwise provided by Federal law, the OCC has exclusive visitorial authority with respect to activities expressly authorized or recognized as permissible for national banks under Federal law or regulation, or by OCC issuance or interpretation, including the content of those activities and the manner in which, and standards whereby, those activities are conducted.

(ii) The question of whether the OCC possesses the exclusive visitorial authority to assess the applicability of a state law to a national bank, and determine and enforce compliance with that law, shall be determined exclusively by Federal law, including 12 U.S.C. 484 and this § 7.4000.

(b) *Exceptions to the general rule.* Under 12 U.S.C. 484, the OCC's exclusive visitorial powers are subject to the following exceptions:

(1) *Exceptions authorized by Federal law.* National banks are subject to such visitorial powers as are provided by Federal law. Examples of laws vesting visitorial power in other governmental entities include laws authorizing state or other Federal officials to:

(i) Inspect the list of shareholders, provided that the official is authorized to assess taxes under state authority (12 U.S.C. 62; this section also authorizes inspection of the shareholder list by shareholders and creditors of a national bank);

(ii) Review at reasonable times and upon reasonable notice to a bank, the bank's records solely to ensure compliance with applicable state unclaimed property or escheat laws upon reasonable cause to believe that the bank has failed to comply with those laws (12 U.S.C. 484(b));

(iii) Verify payroll records for unemployment compensation purposes (26 U.S.C. 3505(c));

(iv) Ascertain the correctness of Federal tax returns (26 U.S.C. 7602);

(v) Enforce the Fair Labor Standards Act (29 U.S.C. 211); and

(vi) Functionally regulate certain activities, as provided under the

Gramm-Leach-Bliley Act, Pub. L. 106-102, 113 Stat. 1338 (Nov. 12, 1999).

(2) *Exception for courts of justice.* National banks are subject to such visitorial powers as are vested in the courts of justice to issue orders or writs compelling the production of information or witnesses. This exception does not authorize state or other governmental entities to inspect, regulate, or supervise the activities of national banks, or to compel production of information or adherence to restrictions or requirements concerning the content of those activities or the manner in which, or standards whereby, those activities are conducted.

(3) *Exception for Congress.* National banks are subject to such visitorial powers as shall be, or have been, exercised or directed by Congress or by either House thereof or by any committee of Congress or of either House duly authorized.

\* \* \* \* \*

**PART 9—FIDUCIARY ACTIVITIES OF NATIONAL BANKS**

15. The authority citation for part 9 continues to read as follows:

**Authority:** 12 U.S.C. 24 (Seventh), 92a, and 93a; 15 U.S.C. 78q, 78q-1, and 78w.

16. In § 9.18, paragraph (b)(4)(i) is revised to read as follows:

**§ 9.18 Collective investment funds.**

\* \* \* \* \*

(b) \* \* \*

(4) *Valuation—(i) Frequency of valuation.* A bank administering a collective investment fund shall determine the value of the fund's readily marketable assets at least once every three months. A bank shall determine the value of the fund's assets that are not readily marketable at least once a year.

\* \* \* \* \*

17. In § 9.20, amend paragraph (b), by removing the term "240.17Ad-16" and adding in its place the term "240.17Ad-17."

**PART 28—INTERNATIONAL BANKING ACTIVITIES**

18. The authority citation for part 28 continues to read as follows:

**Authority:** 12 U.S.C. 1 *et seq.*, 24(Seventh), 93a, 161, 602, 1818, 3101 *et seq.*, and 3901 *et seq.*

**Subpart B—Federal Branches and Agencies of Foreign Banks**

19. In § 28.16, amend paragraph (e), by removing the term "12 CFR 346.7" and adding in its place the term "12 CFR 347.207."

**PART 34—REAL ESTATE LENDING AND APPRAISALS**

**Subpart A—General**

20. The authority citation for part 34 continues to read as follows:

**Authority:** 12 U.S.C. 1 *et seq.*, 29, 93a, 371, 1701j-3, 1828(o), and 3331 *et seq.*

21. Section 34.3 is revised to read as follows:

**§ 34.3 General rule.**

(a) A national bank may make, arrange, purchase, or sell loans or extensions of credit, or interests therein, that are secured by liens on, or interests in, real estate ("real estate loans"), subject to 12 U.S.C. 1828(o) and such restrictions and requirements as the Comptroller of the Currency may prescribe by regulation or order.

Dated: January 27, 2003.

**John D. Hawke, Jr.,**

*Comptroller of the Currency.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 2003-CE-02-AD]

RIN 2120-AA64

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

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus Aircraft Ltd. (Pilatus) Models PC-12 and PC-12/45 airplanes. This proposed AD would require you to replace certain push switch caps on the electrical power management overhead panel with parts of improved design. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this proposed AD are intended to prevent the inability to operate the switch, which could result in failure to activate the related operational system. Such failure could adversely affect the operation and control of the airplane.

**DATES:** The Federal Aviation Administration (FAA) must receive any

comments on this proposed rule on or before March 14, 2003.

**ADDRESSES:** Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003-CE-02-AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: 9-ACE-7-Docket@faa.gov. Comments sent 1 electronically must contain "Docket No. 2003-CE-02-AD" in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH-6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465-9099; facsimile: (303) 465-6040. You may also view this information at the Rules Docket at the address above.

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

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

*How do I comment on this proposed AD?* The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

*Are there any specific portions of this proposed AD I should pay attention to?* The FAA specifically invites comments on the overall regulatory, economic,

environmental, and energy aspects of this proposed rule that might suggest a need to modify the proposed rule. You may view all comments we receive before and after the closing date of the proposed rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

*How can I be sure FAA receives my comment?* If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2003-CE-02-AD." We will date stamp and mail the postcard back to you.

**Discussion**

*What events have caused this proposed AD?* The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA that an unsafe condition may exist on certain Pilatus Models PC-12 and PC-12/45 airplanes. The FOCA reports that certain push switch cap spigots on the electrical power management overhead panel have failed to activate their related operational system when engaged. The plastic these push switch cap spigots are made of is not strong enough and causes the switch cap spigots to break when engaged. The defective switch caps have the caption of ON, OPEN, or have no caption or symbol located on the electrical power management overhead panel, part number 972.81.32.102, that has not been modified to Mod A status.

The FOCA has reported the following three incidents in which the switch failed to activate its related operational system when engaged:

- Inability to switch the probe heating on;
- Inability to open the Inertial Separator; and
- Inability to switch the Taxi Light on.

*What are the consequences if the condition is not corrected?* This condition, if not corrected, could result in failure to activate certain operational systems. Such failure could result in adverse operation and control of the airplane.

*Is there service information that applies to this subject?* Pilatus has issued Pilatus PC12 Service Bulletin No. 31-003, dated September 27, 2002.

*What are the provisions of this service information?* The service bulletin

includes procedures for replacing certain push switch caps on the electrical power management overhead panel with parts of improved design.

*What action did the FOCA take?* The FOCA classified this service bulletin as mandatory and issued Swiss AD Number HB 2002-659, dated November 30, 2002, in order to ensure the continued airworthiness of these airplanes in Switzerland.

*Was this in accordance with the bilateral airworthiness agreement?* These airplane models are manufactured in Switzerland and are 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 has kept FAA informed of the situation described above.

**The FAA's Determination and an Explanation of the Provisions of This Proposed AD**

*What has FAA decided?* The FAA has examined the findings of the FOCA; reviewed all available information, including the service information referenced above; and determined that:

- The unsafe condition referenced in this document exists or could develop on other Pilatus PC-12 and PC-12/45 of the same type design that are on the U.S. registry;
- The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and
- AD action should be taken in order to correct this unsafe condition.

*What would this proposed AD require?* This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

**Cost Impact**

*How many airplanes would this proposed AD impact?* We estimate that this proposed AD affects 45 airplanes in the U.S. registry.

*What would be the cost impact of this proposed AD on owners/operators of the affected airplanes?* We estimate the following costs to accomplish the proposed replacements:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
3 workhours × \$60 = \$180 .....	The manufacturer will provide replacement parts free of charge.	\$180	\$180 × 45 = \$8,100.

**Regulatory Impact**

*Would this proposed AD impact various entities?* The regulations proposed herein would 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. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

*Would this proposed AD involve a significant rule or regulatory action?* For the reasons discussed above, I certify that this proposed action (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) if promulgated, 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. A copy of the draft

regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

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

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

**Pilatus Aircraft LTD.:** Docket No. 2003-CE-02-AD

(a) *What airplanes are affected by this AD?* This AD affects Models PC-12 and PC-12/45 airplanes, manufacturer serial numbers (MSN) 321, 401 through 457, and 463 that:

- (1) Have an overhead panel, part number (P/N) 972.81.32.102 (or FAA-approved equivalent part number), installed that has not been modified to Mod A status; and
- (2) Are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent the inability to activate certain operational systems. Such failure could adversely affect the operation and control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following, unless already accomplished:

Actions	Compliance	Procedures
(1) Replace all switch caps that have a caption of ON, OPEN, and ones with no caption or symbol on them.	Within the next 100 hours time-in-service after the effective date of this AD.	In accordance with Pilatus PC12 Service Bulletin No. 31-003, dated September 27, 2002.
(2) Using a permanent marker, mark MOD Status A on the overhead panel identification label.	Prior to further flight after completing the actions required in paragraph (d)(2) of this AD.	In accordance with Pilatus PC12 Service Bulletin No. 31-003, dated September 27, 2002.
(3) Do not install an overhead panel, P/N 972.81.32.102, unless it has been modified to Mod A status.	As of the effective date of this AD .....	In accordance with Pilatus PC12 Service Bulletin No. 31-003, dated September 27, 2002.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

- (1) Your alternative method of compliance provides an equivalent level of safety; and
- (2) The Manager, Standards Office, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standards Office.

**Note 1:** This AD applies to each airplane identified in paragraph (a) of this AD, 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 5 (e) 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 you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4059; facsimile: (816) 329-4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison

Manager, CH-6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465-9099; facsimile: (303) 465-6040. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

**Note 2:** The subject of this AD is addressed in Swiss AD Number HB 2002-659, dated November 30, 2002.

Issued in Kansas City, Missouri, on January 29, 2003.

**Michael Gallagher,**  
Manager, Small Airplane Directorate, Aircraft Certification Service.

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**BILLING CODE 4910-13-P**