

Authority: 42 U.S.C. 7384, *et seq.*; 42 U.S.C. 2201 and 7101, *et seq.*; 50 U.S.C. 2401 *et seq.*

■ 2. Section 852.2 is amended by revising the definition of the term "Physician Panel" to read as follows:

§ 852.2 What are the definitions of terms used in this part?

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Physician panel means one or more physicians (as determined by the Program Office), who are appointed by the Secretary of Health and Human Services, pursuant to part D of the Act, to evaluate applications of DOE contractor employees, under the procedures and requirements of this part.

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■ 3. Section 852.11 is amended by revising paragraph (b) as follows:

§ 852.11 How is a Physician Panel to carry out its deliberations and arrive at a determination?

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(b) If a Physician Panel has more than one physician, all panel members meet in conference, in person, or by teleconference in order to discuss the application and arrive at a determination agreed to by a majority of the members of the Physician Panel.

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■ 4. Section 852.13 is amended by revising paragraph (a) as follows:

§ 852.13 When must a Physician Panel issue its determination?

(a) A Physician Panel must submit its determination and findings to the Program Office within 20 working days of the time that panel member(s) have received the complete application for review from the Program Office.

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■ 5. Section 852.16 is revised to read as follows:

§ 852.16 When may the Program Office ask a Physician Panel to reexamine an application that has undergone prior Physician Panel review?

(a) If a panel composed of a single physician issues a negative determination, the negative determination is considered an initial opinion and the Program Office must direct an additional single-physician panel to review the application and issue an independent opinion. If the second single-physician panel issues a negative determination, the Program Offices considers the opinions as a negative determination by the Physician Panel for purposes of § 852.17(a) of this part.

(b) If a second single-physician panel issues a positive opinion, the Program Office must direct an additional single-physician panel to review the application and issue an independent opinion. The Program Office reviews the three opinions and considers the majority of the three opinions as the determination by the Physician Panel for purposes of § 852.17(a) of this part.

(c) The Program Office may direct the original Physician Panel or a different Physician Panel to reexamine an application that has undergone prior Physician Panel review if:

(1) There is significant evidence contrary to the panel determination;

(2) The Program Office obtains new information the consideration of which would be reasonably likely to result in a different determination;

(3) The Program Office becomes aware of a real or potential conflict of interest of a member of the original panel in relation to the application under review; or

(4) Reexamination is necessary to ensure consistency among panels.

[FR Doc. 04-6555 Filed 3-23-04; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003-CE-55-AD; Amendment 39-13531; AD 2004-06-05]

RIN 2120-AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for all Pilatus Aircraft Ltd. (Pilatus) Models PC-12 and PC-12/45 airplanes. This AD requires you to determine whether certain main landing gear shock absorber attachment bolts have been replaced and, if not replaced, would require you to replace shock absorber attachment bolts on main landing gear assemblies that have a serial number beginning with AM001 through AM053. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. We are issuing this AD to detect and correct hydrogen embrittlement in the main landing gear shock absorber attachment

bolts, which could result in failure of the main landing gear. This failure could lead to main landing gear collapse during operation with consequent loss of airplane control.

DATES: This AD becomes effective on May 6, 2004.

As of May 6, 2004, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: You may get the service information identified 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 the AD docket at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003-CE-55-AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Office hours are 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

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:

Discussion

What events have caused this 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 Pilatus Models PC-12 and PC-12/45 airplanes. The FOCA reports that certain shock absorber attachment bolts (part number 532.10.12.110) in the main landing gear assemblies could fail during operation. Investigations revealed that an improper cadmium plating process applied to the high strength steel part causes the problem. This can cause hydrogen embrittlement.

The only bolts affected are those installed on main landing gear assemblies with a serial number that starts with AM.

What is the potential impact if FAA took no action? Failure of the main landing gear could lead to main landing gear collapse during operation with consequent loss of airplane control.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Pilatus Models PC-12 and PC-12/45 airplanes.

This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on January 9, 2004 (69 FR 1551). The NPRM proposed to require you to determine whether certain main landing gear shock absorber attachment bolts have been replaced and, if not replaced, would require you to replace shock absorber attachment bolts on main landing gear assemblies that have a serial number beginning with AM.

Comments

Was the public invited to comment? We provided the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Limit the Effectivity of the AD

What is the commenter's concern? Two commenters want the effectivity of the AD limited to Pilatus Models PC-12 and PC-12/45 airplanes with serial numbers 101 through 482 (as listed in Pilatus SB PC12 Service Bulletin No: 32-015, dated September 12, 2003). The commenters state that the suspected bolts have been installed on a limited number of landing gears. Further, it is very unlikely that bolts have been swapped between airplanes. The proposed effectivity to all serial numbers will place an undue burden on owners and operators.

The commenters conclude that limiting the effectivity to airplanes with serial numbers 101 through 482 is enough to assure the airworthiness of Pilatus Models PC-12 and PC-12/45 airplanes.

What is FAA's response to the concern? We believe that the practice of swapping bolts is rare, however, it is still possible. To help alleviate this possibility, we are including the action of a logbook check in the AD.

We also believe that the swapping of the main landing gear assemblies is possible so limiting the airplane serial numbers is not enough to assure the airworthiness of Pilatus Models PC-12 and PC-12/45 airplanes.

We are not changing the final rule AD action as a result of these comments.

Comment Issue No. 2: Limit Effectivity on the Shock-Absorber Attachment Bolts

What is the commenter's concern? Two commenters note that main landing gear assemblies with new bolts (part number (P/N) 532.10.12.110) marked "AT" or "VLG" are good bolts and do not require replacement.

The commenters request limiting the effectivity of the AD to those P/N 532.10.12.110 bolts *not* marked "AT" or "VLG."

What is FAA's response to the concern? We agree that the main landing gear assemblies with new bolts (part number (P/N) 532.10.12.110) marked "AT" or "VLG" are good bolts and do not require replacement.

We are changing the final rule AD action accordingly to reflect the commenters' request.

Comment Issue No. 3: AD Is Not Needed

What is the commenter's concern? One commenter suggests that the aviation industry has influence over FAA. Further, FAA neglects the public's concerns.

We infer that the commenters want us to withdraw the NPRM.

What is FAA's response to the concern? Through the NPRM process, FAA provides the public opportunity to comment on and influence the AD action.

Since the commenter gave no specific reasons to withdraw or change the proposed rule, we are not changing the final rule AD action as a result of these comments.

Comment Issue No. 4: Limit Effectivity on the Main Landing Gear Assemblies

What is the commenter's concern? One commenter requests that FAA limit the effectivity on the main landing gear assemblies to those assemblies with the serial numbers that start "AM001" through "AM053" since Pilatus has identified these were assembled with the defective bolts. The commenter notes that limiting the effectivity will lessen the impact on owners/operators.

What is FAA's response to the concern? The FAA agrees that the AD should limit the effectivity on the main landing gear assemblies.

We are changing the final rule AD action accordingly.

Conclusion

What is FAA's final determination on this issue? We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for the changes discussed above and minor editorial corrections. We have determined that these changes and minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Changes to 14 CFR Part 39—Effect on the AD

How does the revision to 14 CFR part 39 affect this AD? On July 10, 2002, the FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

How many airplanes does this AD impact? We estimate that this AD affects 260 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? The manufacturer will provide parts free of charge and will pay for the estimated 3 workhours required to do the inspection and replacement of the shock absorber attachment bolts.

Compliance Time of This AD

What will be the compliance time of this AD? The compliance time of this AD is within the next 30 calendar days after the effective date of this AD.

Why is this compliance time presented in calendar time instead of hours time-in-service (TIS)? The unsafe condition exists or could develop on airplanes equipped with the affected parts regardless of airplane operation. For example, the unsafe condition has the same chance of occurring on an airplane with 50 hours TIS as it does on one with 5,000 hours TIS. Therefore, we are presenting the compliance time of this AD in calendar time instead of hours TIS.

Regulatory Findings

Will this AD impact various entities? We have 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.

Will this AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the 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 summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "AD Docket No. 2003-CE-55-AD" in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under 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 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. FAA amends § 39.13 by adding a new AD to read as follows:

2004-06-05 Pilatus Aircraft Ltd.:

Amendment 39-13531; Docket No. 2003-CE-55-AD.

When Does This AD Become Effective?

(a) This AD becomes effective on May 6, 2004.

What Other ADs Are Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

(c) This AD affects Models PC-12 and PC-12/45 airplanes, all serial numbers, that are certificated in any category.

What is the Unsafe Condition Presented in This AD?

(d) This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified in this AD are intended to detect and correct hydrogen embrittlement in the main landing gear shock absorber attachment bolts, which could result in failure of the main landing gear. This failure could lead to main landing gear collapse during operation with consequent loss of airplane control.

What Must I do To Address This Problem?

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
<p>(1) Maintenance Records Check:</p> <p>(i) Check the maintenance records to determine whether the main landing gear (MLG) shock absorber attachment bolts (part number (P/N) 532.10.12.110) have been replaced. The bolts must have been replaced by following Pilatus PC12 Service Bulletin No: 32-015, dated September 12, 2003. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may perform this check.</p> <p>(ii) If, by checking the maintenance records, the owner/operator can definitely show that the MLG gear shock absorber attachment bolts (P/N 532.10.12.110) have been replaced (by following Pilatus PC12 Service Bulletin No: 32-015, dated September 12, 2003), then report the removal of any bolts to FAA at the address in paragraph (f) of this AD. You must make an entry into the aircraft records that shows compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).</p>	<p>Within the next 30 calendar days after May 6, 2004 (the effective date of this AD), unless already done.</p>	<p>No special procedures necessary to check the maintenance records.</p>
<p>(2) If you find as a result of the check in paragraph (e)(1) that there is no record of bolt replacement, inspect the left and right MLG assemblies (P/N 532.10.12.049 and P/N 532.10.12.050) for any serial number beginning with AM001 through AM053. You may choose to do the inspection without doing the logbook check.</p>	<p>Within the next 30 calendar days after May 6, 2004 (the effective date of this AD), unless already done.</p>	<p>Follow the Accomplishment Instructions of Pilatus PC12 Service Bulletin No: 32-015, dated September 12, 2003.</p>
<p>(3) If during the inspection required by paragraph (e)(2) of this AD, you find any MLG assembly with a serial number beginning with AM001 through AM053, replace any shock absorber bolts (P/N inspection 532.10.12.110) NOT MARKED with "AT" or "VLG" with new bolts.</p>	<p>Before further flight after the inspection required by paragraph (e)(2) of this AD.</p>	<p>Follow the Accomplishment Instructions of Pilatus PC12 Service Bulletin No: 32-015, dated September 12, 2003.</p>

Actions	Compliance	Procedures
(4) After removal of the shock absorber bolts (P/N 532.10.12.110), send the old removed bolts to Pilatus. Report this to FAA at the address in paragraph (f) of this AD. The Office of Management and Budget (OMB) approved the information collection requirements contained in this regulation under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 <i>et seq.</i>) and assigned OMB Control Number 2120-0056.	Within the next 30 calendar days after May 6, 2004 (the effective date of this AD), unless already done..	Not Applicable.
(5) Before installing any left or right MLG assembly (P/N 532.10.12.049 or P/N 532.10.12.050) that has a serial number beginning with AM, ensure that the shock absorber bolts (P/N 532.10.12.110) NOT MARKED with "AT" or "VLG" have been replaced, and, if not, replace with new bolts.	As of May 6, 2004 (the effective date of this AD).	Follow Pilatus PC12 Service Bulletin No: 32-015, dated September 12, 2003

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Standards Office, Small Airplane Directorate, FAA. For information on 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.

Does This AD Incorporate Any Material by Reference?

(g) You must do the actions required by this AD following the instructions in Pilatus PC12 Service Bulletin No: 32-015, dated September 12, 2003. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may get a copy 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 review copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Is There Other Information That Relates to This Subject?

(h) Swiss AD Number HB 2003-522, dated November 14, 2003, also addresses the subject of this AD.

Issued in Kansas City, Missouri, on March 15, 2004.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04-6260 Filed 3-23-04; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-400-AD; Amendment 39-13527; AD 2004-06-01]

RIN 2120-AA64

Airworthiness Directives; Dornier Model 328-100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328-100 series airplanes, that requires replacement of the existing main landing gear (MLG) leg assembly with a modified assembly. This action is necessary to prevent fatigue damage of the MLG leg, which could result in collapse of the MLG. This action is intended to address the identified unsafe condition.

DATES: Effective April 28, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of April 28, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from AvCraft Aerospace GmbH, P.O.

Box 1103, D-82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1503; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dornier Model 328-100 series airplanes was published in the **Federal Register** on January 5, 2004 (69 FR 287). That action proposed to require replacement of the existing main landing gear (MLG) leg assembly with a modified assembly.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

After careful review of the available data, we have determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

We estimate that 53 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required