

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1201 as follows:

PART 1201—[AMENDED]

1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204 and 7701, and 38 U.S.C. 4331, unless otherwise noted.

§ 1201.22 [Amended]

2. Section 1201.22 is amended by revising paragraph (b) to read as follows:

(b) *Time of filing.* An appeal must be filed 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 time for filing is computed in accordance with §1201.23 of this part. A response to an appeal must be filed within 20 days of the date of the Board's acknowledgment order.

§ 1201.27 [Amended]

3. Section 1201.27 is amended at paragraph (b) by revising the second sentence to read as follows:

(b) * * * If the judge denies the request, the appellants affected by the decision may file individual appeals within 30 days after the date of receipt of the decision denying the request to be heard as a class appeal.

§ 1201.113 [Amended]

4. Section 1201.113 is amended by revising paragraphs (a) and (d) to read as follows:

(a) *Exceptions.* The initial decision will not become final if any party files a petition for review within the time limit for filing specified in § 1201.114 of this part, or if the Board reopens the case on its own motion.

(d) *Extensions.* The Board may extend the time limit for filing a petition for good cause shown as specified in § 1201.114 of this part.

§ 1201.114 [Amended]

5. Section 1201.114 is amended at paragraph (d) by revising the first sentence to read as follows:

(d) * * * Any petition for review must be filed within 35 days after the

date of issuance of the initial decision or, if the petitioner shows that the initial decision was received more than 5 days after the date of issuance, within 30 days after the date the petitioner received the initial decision. * * *

§ 1201.154 [Amended]

6. Section 1201.154 is amended by revising paragraph (a) and the first sentence of paragraph (d) to read as follows:

(a) Where the appellant has been subject to an action appealable to the Board, he or she may either file a timely complaint of discrimination with the agency or file an appeal with the Board 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 on the appealable action, whichever is later.

(d) If the appellant has filed a grievance with the agency under its negotiated grievance procedure in accordance with 5 U.S.C. 7121, he or she may ask the Board to review the final decision under 5 U.S.C. 7702 within 35 days after the date of issuance of the decision or, if the appellant shows that the decision was received more than 5 days after the date of issuance, within 30 days after the date the appellant received the decision.

Dated: October 31, 1997.
Robert E. Taylor,
Clerk of the Board.
[FR Doc. 97-29311 Filed 11-5-97; 8:45 am]
BILLING CODE 7400-01-U

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1209

Practices and Procedures for Appeals and Stay Requests of Personnel Actions Allegedly Based on Whistleblowing

AGENCY: Merit Systems Protection Board.
ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending its rules of practice and procedure for whistleblower appeals to change the time limits for filing. The amendment to the time limit for filing an individual right of action (IRA) appeal is intended to ensure that an appellant has the full 60 days required by law to file after being

provided notification by the Special Counsel that an investigation has been terminated. The amendment to the time limit for filing a whistleblower appeal after a judge's ruling on a stay request is intended to ensure that an appellant has a full 30 days to file after receipt of the ruling. The purpose of these amendments is to provide guidance to the parties to MSPB cases and their representatives regarding filing requirements. The Board is simultaneously amending its rules at 5 CFR part 1201 with respect to the time limits for filing other appeals and petitions for review.

EFFECTIVE DATE: November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, (202) 653-7200.

SUPPLEMENTARY INFORMATION: The provisions of the Whistleblower Protection Act of 1989 (Pub. L. 101-12) governing a whistleblower's filing of an individual right of action (IRA) appeal with the Board require that such an appeal be filed no more than 60 days after notification by the Special Counsel that an investigation into the whistleblower's allegations has been terminated. 5 U.S.C. 1214(a)(3)(A)(ii) and 1221(a). The statutory language does not specify whether the 60-day period begins to run from the date of the Special Counsel's notice or the date of the whistleblower's receipt of that notice.

Prior to this amendment, the Board's implementing regulation at 5 CFR 1209.5(a) required that an IRA appeal be filed no later than 65 days after the date of issuance of the Office of Special Counsel's written notification that it was terminating its investigation of the appellant's allegations. This established a clear date on which the time for filing began to run and allowed an additional 5 days for the notice to be mailed and received by an appellant before the 60-day statutory period began.

Delay by the Office of Special Counsel in mailing the notice and/or a delay by the U.S. Postal Service could result in an appellant having less than 60 days to file an appeal with MSPB. If an appellant did not receive the Special Counsel's notice until after the 65-day time period for filing expired, an IRA appeal might be dismissed as untimely.

To ensure that each IRA appellant has a full 60 days for filing with the Board after receipt of a notice from the Special Counsel, the Board is amending its regulation at 5 CFR 1209.5(a)(1) to require that an IRA appeal be filed no later than 65 days after the date of issuance of the Office of Special Counsel's written notification 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.

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.

[FR Doc. 97-29312 Filed 11-5-97; 8:45 am]
BILLING CODE 7400-01-U

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