

## DEPARTMENT OF AGRICULTURE

## Animal and Plant Health Inspection Service

## 9 CFR Part 1

[Docket No. 98-043-1]

## Field Study; Definition

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

**SUMMARY:** We are proposing to amend the Animal Welfare regulations by clarifying the definition of the term *field study*. We want to clarify that a field study cannot involve an invasive procedure, harm the animals under study, or materially alter the behavior of the animals under study. As currently worded, the definition of *field study* could be interpreted to mean that a field study may include one of these situations. This action would help ensure the proper use and care of animals used in field studies.

**DATES:** Consideration will be given only to comments received on or before September 29, 1998.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 98-043-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 98-043-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jerry DePoyster, Senior Veterinary Medical Officer, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737-1228, (301) 734-7586.

**SUPPLEMENTARY INFORMATION:** The Animal Welfare Act (the Act) (7 U.S.C. 2131 *et seq.*) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and intermediate handlers.

The regulations established under the Act are contained in title 9 of the Code of Federal Regulations (9 CFR), chapter I, subchapter A, parts 1, 2, and 3. Part 1 defines various terms used in parts 2 and 3.

We are proposing to amend the definition of *field study*. Currently, a field study, as defined in § 1.1 of the regulations, is any study that is "conducted on free-living wild animals in their natural habitat, which does not involve an invasive procedure, and which does not harm or materially alter the behavior of the animals under study."

We have always intended that field studies not include any invasive procedures, harm the animals under study, or materially alter the behavior of the animals under study. However, we are concerned that, as currently worded, the definition could be interpreted to mean that a field study may include any one of these situations.

Determining whether a study should be classified as a field study is essential because a field study is not subject to the regulations in § 2.31(d). In § 2.31, paragraph (d) requires the Institutional Animal Care and Use Committee (IACUC) for each research facility to review all studies, except field studies, to ensure that the planned care and use of the animals comply with the Act and the regulations in 9 CFR parts 2 and 3. However, if the definition of a field study is not clear, a study that involves an invasive procedure or harms or materially alters the behavior of the animals under study may be misclassified as a field study and, accordingly, would not be reviewed by the IACUC.

We are, therefore, proposing to amend the definition of *field study* in § 1.1. We would define *field study* as any study conducted on free-living wild animals in their natural habitat. We would also add the provision that the term *field study* excludes any study that involves an invasive procedure or has the potential to harm or materially alter the behavior of the animals under study.

**Executive Order 12866 and Regulatory Flexibility Act**

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule would clarify the definition of *field study*. Currently, a field study, as defined in § 1.1 of the regulations, is any study that is "conducted on free-living wild animals in their natural habitat, which does not involve an invasive procedure, and which does not harm or materially alter the behavior of the animals under study."

We have always intended that field studies not include any invasive procedures, harm the animals under study, or materially alter the behavior of the animals under study. However, we are concerned that, as currently worded, the definition could be interpreted to mean that a field study may include any one of these situations. By clarifying the definition of *field study*, this proposed rule would help ensure that studies that should be subject to the Animal Welfare regulations are subject to the Animal Welfare regulations.

The only entities that would be affected by this proposed rule would be entities that perform studies conducted on free-living wild animals in their natural habitat. We estimate that at least 50 entities may be impacted by this proposed rule; however, we do not have an exact number. These entities may be considered small and large entities by Small Business Administration standards, but this proposed rule would only affect a small portion of the entities' activities. As we are not proposing a substantive change in the definition, the impact on these entities should not be significant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (see 7 CFR part 3015, subpart V.)

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State and local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

**Paperwork Reduction Act**

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

**List of Subjects in 9 CFR Part 1**

Animal welfare, Pets, Reporting and recordkeeping requirements, Research.

Accordingly, we propose to amend 9 CFR part 1 as follows:

## PART 1—DEFINITION OF TERMS

1. The authority citation for part 1 would continue to read as follows:

**Authority:** 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.2(g).

2. In § 1.1, the definition of *field study* would be revised to read as follows:

### § 1.1 Definitions.

\* \* \* \* \*

*Field study* means any study conducted on free-living wild animals in their natural habitat. This term excludes any study that involves an invasive procedure or has the potential to harm or materially alter the behavior of an animal under study.

\* \* \* \* \*

Done in Washington, DC, this 27th day of July 1998.

**Alfred S. Elder,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 98–20499 Filed 7–30–98; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 98–CE–69–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 Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes that are equipped with the “corporate commuter cabin layout.” This layout is a Pilatus designation only and the affected airplanes are not certificated for commuter operation. The proposed AD would require modifying the passenger seats and seat rail covers. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by the proposed AD are intended to prevent passenger injuries because the passenger seat configuration has been found to not fully meet current head injury criteria regulations.

**DATES:** Comments must be received on or before September 4, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–69–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 62 33; facsimile: +41 41 610 33 51. This information also may be examined at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roman T. Gabrys, Aerospace Engineer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

### SUPPLEMENTARY INFORMATION:

#### Comments Invited

Interested persons are invited to participate in the making of the proposed 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, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: “Comments to Docket No. 98–CE–69–AD.” The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–69–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

### 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 Models PC–12 and PC–12/45 airplanes that are equipped with the “corporate commuter cabin layout.” This layout is a Pilatus designation only and the affected airplanes are not certificated for commuter operation. The FOCA of Switzerland reports that the current executive cabin layout of the above-referenced airplanes, in particular the passenger seat configuration, has been found to not fully meet the head injury criteria (HIC) requirements of section 23.562 of the Federal Aviation Regulations (14 CFR 23.562).

These conditions, if not corrected in a timely manner, could result in passenger injuries during an airplane crash because the passenger seat configuration has been found to not fully meet current head injury criteria regulations.

### Relevant Service Information

Pilatus has issued Service Bulletin No. 25–006, dated April 7, 1998, which specifies procedures for modifying the passenger seats and seat rail covers.

The FOCA of Switzerland classified this service bulletin as mandatory and issued Swiss AD HB 98–179, dated June 15, 1998, in order to assure the continued airworthiness of these airplanes in Switzerland.

### The FAA’s Determination

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 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 information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.