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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-25232; Directorate Identifier 2006-NM-106-AD; Amendment 39-14935; AD 2007-04-04]

RIN 2120-AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ airplanes. This AD requires repetitive inspections of the wing top skin under the rib 0 joint strap, and related investigative and corrective actions if necessary. This AD results from a report of a significant crack in the wing top skin under the rib 0 joint strap. We are issuing this AD to detect and correct corrosion and cracking in that area, which could result in reduced structural integrity of the wing.

DATES: This AD becomes effective March 21, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 21, 2007.

ADDRESSES: You may examine the AD docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC.

Contact British Aerospace Regional Aircraft American Support, 13850 Mcclarean Road, Herndon, Virginia 20171, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2125; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the street address stated in the ADDRESSES section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ airplanes. That NPRM was published in the Federal Register on July 3, 2006 (71 FR 37868). That NPRM proposed to require repetitive inspections of the wing top skin under the rib 0 joint strap, and related investigative and corrective actions if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the single comment received.

Request for Posting of Service Information

One commenter, the Modification and Replacement Parts Association (MARPA), requests that we revise our procedures for incorporation by reference (IBR) of service information in ADs. MARPA states: "Typically airworthiness directives are based upon service information originating with the type certificate holder or its suppliers. Manufacturer service documents are privately authored instruments generally enjoying copyright protection against duplication and distribution. When a service document is incorporated by reference pursuant to 5 U.S.C. 552(a) and 1 CFR part 51 into a public document such as an airworthiness directive, it loses its private, protected status and becomes itself a public document. If a service document is used as a mandatory element of compliance it should not simply be referenced, but should be incorporated into the regulatory document. Public laws by definition must be public which means they cannot rely upon private writings.

"Incorporated by reference service documents should be made available to the public by publication in the Docket Management System (DMS) keyed to the action that incorporates them. The stated purpose of the Federal Register incorporation by reference method is brevity; to keep from expanding the Federal Register needlessly by publishing documents already in the hands of the affected individuals. Traditionally, "affected individuals" has meant aircraft owners and operators who are generally provided service information by the manufacturer. However, a new class of affected individuals has emerged since the majority of aircraft maintenance is now performed by specialty shops instead of aircraft owners and operators. This new class includes maintenance and repair organizations (MRO), component servicing and repair shops, parts purveyors and distributors and organizations manufacturing or servicing alternatively certified parts under 14 CFR 21.303 (PMA). Further, the concept of brevity is now nearly archaic as documents exist more frequently in electronic format than on paper.

"We therefore request that the service documents deemed essential to the accomplishment of this proposed action be (1) Incorporated by reference into the regulatory instrument, and (2) published in the DMS."

We acknowledge MARPA's requests. The Office of the Federal Register (OFR) requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. This final rule incorporates by reference the document necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information.

In regard to MARPA's request to post service bulletins on the Department of Transportation's DMS, we are currently in the process of reviewing issues surrounding the posting of service bulletins on the DMS as part of an AD docket. Once we have thoroughly examined all aspects of this issue and have made a final determination, we will consider whether our current practice needs to be revised. No change to the final rule is necessary in response to this comment.

Conclusion

We have carefully reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD, per inspection cycle.

| Estimated Costs | | | | | | |
|------------------------|-------------------|------------------------------------|--------------|--------------------------|--|----------------------------------|
| Action | Work hours | Average labor rate per hour | Parts | Cost per airplane | Number of U.S.-registered airplanes | Fleet cost per inspection |
| Inspection | 6 | \$80 | \$0 | \$480 | 10 | \$4,800 |

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 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.

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 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. See the ADDRESSES section for a location to examine the regulatory evaluation.

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 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):



2007-04-04 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39-14935. Docket No. FAA-2006-25232; Directorate Identifier 2006-NM-106-AD.

Effective Date

- (a) This AD becomes effective March 21, 2007.

Affected ADs

- (b) None.

Applicability

(c) This AD applies to BAE Systems (Operations) Limited Model BAE 146-100A, -200A, and -300A series airplanes; and Avro 146-RJ70A, 146-RJ85A, and 146-RJ100A airplanes; certificated in any category; as identified in BAE Systems (Operations) Limited Alert Inspection Service Bulletin ISB.57-a071, dated April 12, 2006.

Unsafe Condition

(d) This AD results from a report of a significant crack in the wing top skin under the rib 0 joint strap. We are issuing this AD to detect and correct corrosion and cracking in that area, which could result in reduced structural integrity of the wing.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspection

(f) Inspect the airplane at the applicable time specified in paragraph 1.D. "Compliance" of BAE Systems (Operations) Limited Alert Inspection Service Bulletin ISB.57-a071, dated April 12, 2006, except, where the service bulletin specifies a compliance time after the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD. The inspection required by this paragraph involves an ultrasonic inspection for defects, including corrosion and cracking, of the wing top skin under the rib 0 joint strap at the outer row of fasteners, by doing all applicable actions specified in the Accomplishment Instructions of the service bulletin. Do all applicable related investigative and corrective actions before further flight in accordance with the service bulletin, except as required by paragraph (g) of this AD. Repeat the inspection at intervals not to exceed 4,000 flight cycles or 24 months, whichever occurs first.

Exceptions to Service Bulletin Specifications

(g) BAE Systems (Operations) Limited Alert Inspection Service Bulletin ISB.57-a071, dated April 12, 2006, specifies two provisions not specified in this AD.

(1) No inspection report is required by this AD.

(2) As an option, the service bulletin allows repairs specified in an approved BAE Systems repair scheme. This AD instead requires any repair using this option to be done in accordance with a method approved by either the Manager, International Branch, ANM-116, FAA; or the European Aviation Safety Agency (or its delegated agent).

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, International Branch, ANM-116, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(i) The subject of this AD is also addressed in European Aviation Safety Agency emergency airworthiness directive 2006-0091-E, dated April 20, 2006.

Material Incorporated by Reference

(j) You must use BAE Systems (Operations) Limited Alert Inspection Service Bulletin ISB.57-a071, dated April 12, 2006, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Renton, Washington, on February 5, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

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