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[Page 3357-3359]
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-25518; Directorate Identifier 2006-NM-092-AD; Amendment 39-14881; AD 2007-01-09]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 747-100B SUD, 747-200B, 747-300, 747-400, 747-400D, and 747SP Series 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 Boeing Model 747-100B SUD, 747-200B, 747-300, 747-400, 747-400D, and 747SP series airplanes. This AD requires repetitive inspections for cracking of the crease beam and adjacent intercostals, stringers, frames, and skin panels; and related investigative and corrective actions if cracking is found. This AD results from a report indicating that an operator discovered crease beam cracking on two Model 747 airplanes. We are issuing this AD to detect and correct cracking of the crease beam and adjacent structure, which could become large and result in in-flight depressurization and inability of the airframe structure to sustain flight loads.

DATES: This AD becomes effective March 1, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 1, 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207, for the service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6437; fax (425) 917-6590.

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 Boeing Model 747-100B SUD, 747-200B, 747-300, 747-400, 747-400D, and 747SP series airplanes. That NPRM was published in the Federal Register on August 8, 2006 (71 FR 44933). That NPRM proposed to require repetitive inspections for cracking of the crease beam and adjacent intercostals, stringers, frames, and skin panels; and related investigative and corrective actions if cracking is found.

Comments

We provided the public the opportunity to participate in the development of this AD.

Clarification of Submission of Comments to This AD

The Docket Management System has informed us that an error occurred in the assignment of the docket number provided for this AD. DMS docket number FAA-2006-22518 appeared in the published NPRM; in fact, the correct docket number is FAA-2006-25518. The number 22518 refers to docket NHTSA-2005-22518, which is a motor vehicle surface travel issue having nothing to do with any aircraft. In case this confusion had caused comments to NPRM 2006-NM-092-AD to be submitted either to the incorrect docket or to both dockets, we checked both dockets FAA-2006-25518 and NHTSA-2005-22518 for comments applicable to this AD. We found one comment applicable to this AD in each docket. We determined that no other comments have been submitted regarding this AD and have considered the two comments received, both of which now correctly appear only in docket FAA-2006-25518.

Support for the NPRM

Boeing states that it has reviewed the NPRM and concurs with the contents of the NPRM.

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, "This proposed action requires work be accomplished pursuant to certain OEM and/or manufacturer service documents. 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 for compliance upon private writings. Since the interpretation of a document is a question of law and not of fact, a service document not incorporated by reference will not be considered in a legal finding of the meaning of an airworthiness directive. We are therefore concerned that failure to incorporate essential service information could result in a court decision invalidating the airworthiness directive.

“Incorporated by reference service documents should be made available to the public by publication in the Document [*sic*] Management System (DMS) keyed to the action that incorporates them. The stated purpose of the incorporation by reference method of the Federal Register 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.”

The FAA acknowledges these 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 comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

There are about 615 airplanes of the affected design in the worldwide fleet. This AD affects about 65 airplanes of U.S. registry. The required detailed inspection takes about 8 work hours per airplane, per inspection cycle, at an average labor rate of \$80 per work hour. Based on these figures, the estimated cost of this AD for U.S. operators is \$41,600, or \$640 per airplane, per inspection cycle.

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):



2007-01-09 Boeing: Amendment 39-14881. Docket No. FAA-2006-25518; Directorate Identifier 2006-NM-092-AD.

Effective Date

(a) This AD becomes effective March 1, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747-100B SUD, 747-200B, 747-300, 747-400, 747-400D, and 747SP series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747-53A2591, dated April 6, 2006.

Unsafe Condition

(d) This AD results from a report indicating that an operator discovered crease beam cracking on two Model 747 airplanes. We are issuing this AD to detect and correct cracking of the crease beam and adjacent structure, which could become large and result in in-flight depressurization and inability of the airframe structure to sustain flight loads.

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.

Repetitive Detailed Inspections and Related Investigative and Corrective Actions

(f) Perform a detailed inspection for cracking of the crease beam and adjacent intercostals, stringers, frames, and skin panels at the applicable initial and repetitive compliance times specified in Table 1 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747-53A2591, dated April 6, 2006; except, where the alert service bulletin specifies an initial compliance time after the date on the alert service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD. Do all applicable related investigative and corrective actions before further flight if any cracking is found. Do all applicable actions in accordance with the Accomplishment Instructions of the alert service bulletin, except as provided by paragraphs (f)(1) and (f)(2) of this AD.

(1) Where the alert service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, before further flight, repair those conditions using a method approved in accordance with paragraph (g) of this AD.

(2) Where the alert service bulletin specifies to report certain information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle Aircraft Certification Office (ACO), 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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(h) You must use Boeing Alert Service Bulletin 747-53A2591, dated April 6, 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL-401, Nassif Building, Washington, DC; on the Internet at <http://dms.dot.gov>; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741-6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Renton, Washington, on December 26, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7-910 Filed 1-24-07; 8:45 am]