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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2005-23215; Directorate Identifier 2005-NM-212-AD; Amendment 39-14596; AD 2006-10-12]

RIN 2120-AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Airplanes and Model 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 all BAE Systems (Operations) Limited Model BAe 146 airplanes and Model Avro 146-RJ airplanes. This AD requires repetitive replacement of the elevator servo tab hinge bearings, elevator servo tab mechanism bearings, elevator trim tab hinge bearings, and elevator trim tab drive rod bearings with new bearings. This AD results from reported incidents of flight control surface restrictions due to the deterioration of flight control surface bearings. We are issuing this AD to prevent corrosion of flight control surface bearings and freezing of moisture inside the bearings, due to loss of lubrication in the bearings, which could lead to flight control restrictions and result in reduced controllability of the airplane.

DATES: This AD becomes effective June 21, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 21, 2006.

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 Mcclareen Road, Herndon, VA 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, WA 98055-4056; 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 all BAE Systems (Operations) Limited Model BAe 146 airplanes and Model Avro 146-RJ airplanes. That NPRM was published in the Federal Register on December 8, 2005 (70 FR 72938). That NPRM proposed to require repetitive replacement of the elevator servo tab hinge bearings, elevator servo tab mechanism bearings, elevator trim tab hinge bearings, and elevator trim tab drive rod bearings with new bearings.

Comments

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

Request To Reference Revision 1 of Service Bulletin

Air Wisconsin Airlines requests that we reference Revision 1 of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.27-177, dated October 5, 2005, as the appropriate source of service information for accomplishing the actions in the NPRM. We referenced the original issue of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.27-177, dated June 3, 2004, in the NPRM. The commenter states that Revision 1 of the service bulletin is divided into two parts, where the actions proposed in the NPRM are specified in Part 1 of the service bulletin and other actions—not related to the NPRM—are specified Part 2. The commenter also states that Revision 1 corrects a typo to a certain part number.

We agree. We have reviewed Revision 1 of the service bulletin and have determined that the procedures in Revision 1 are identical to those specified in the original issue of the service bulletin. The actions specified in Part 2 of the Accomplishment Instructions of Revision 1 are identical to other actions specified in the original issue of the service bulletin that are not required for addressing the unsafe condition of this AD. (Those actions also were not mandated by British airworthiness directive G-2005-0014, dated May 31, 2005.) Therefore, we have revised paragraph (f) of this AD to reference only Part 1 of the Accomplishment Instructions of Revision 1. We have also added a new paragraph (g) to this AD to give credit for actions done in accordance with the original issue of the service bulletin; we have reidentified the subsequent paragraphs in this AD accordingly.

Request To Identify the Part Numbers of Certain Bearings

Modification and Replacement Parts Association (MARPA) requests that we either publish the referenced service bulletin with the AD, or incorporate by reference (IBR) it with the NPRM. If we IBR rather than publish the referenced service bulletin, then MARPA further requests that we identify the manufacturer and part numbers of the affected bearings in this AD. Unless we specify this information in the AD, MARPA states that there is no practical method for determining whether

alternative parts to the affected bearings exist (under 14 CFR 21.303) without obtaining the necessary proprietary service bulletin.

MARPA also comments on our practice of IBR and referencing proprietary service information. MARPA asserts that if we IBR proprietary service information with a public document, such as an AD, then that service information loses its protected copyright status and becomes a public document. MARPA also claims that IBR requires we provide a copy of the relevant service information to the Director of the Federal Register before the NPRM can be published. MARPA further states that: "Merely referencing a service document without incorporation thus becomes an 'end run' around the publication requirement while still requiring possession of a proprietary document in order to comply with the law." MARPA believes our practice of IBR is flawed legally.

We do not agree to specify the affected part numbers in this AD. It is our general practice to reference the appropriate service information, since the affected part numbers are clearly specified in the referenced information. Not only does it appear redundant to repeat part numbers in an AD, but if there was a large number of parts involved, it would increase the risk of error in repeating those part numbers in an AD. We are currently in the process of reviewing issues surrounding the posting of service bulletins on the Department of Transportation's Docket Management System (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. To delay this AD would be inappropriate, since we have determined that an unsafe condition exists and that replacement of certain parts must be accomplished to ensure continued safety. Therefore, no change has been made to the final rule in this regard.

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 with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

This AD affects about 21 airplanes of U.S. registry. The actions in this AD take about 75 work hours per airplane, at an average labor rate of \$65 per work hour. Required parts cost about \$3,192 per airplane. Based on these figures, the estimated cost of the AD for U.S. operators is \$169,407, or \$8,067 per airplane, per replacement 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):

AIRWORTHINESS DIRECTIVE



Aircraft Certification Service
Washington, DC

U.S. Department
of Transportation
**Federal Aviation
Administration**

www.faa.gov/aircraft/safety/alerts/

The following Airworthiness Directive issued by the Federal Aviation Administration in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 39, applies to an aircraft model of which our records indicate you may be the registered owner. Airworthiness Directives affect aviation safety and are regulations which require immediate attention. You are cautioned that no person may operate an aircraft to which an Airworthiness Directive applies, except in accordance with the requirements of the Airworthiness Directive (reference 14 CFR part 39, subpart 39.3).

2006-10-12 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39-14596. Docket No. FAA-2005-23215; Directorate Identifier 2005-NM-212-AD.

Effective Date

- (a) This AD becomes effective June 21, 2006.

Affected ADs

- (b) None.

Applicability

- (c) This AD applies to all BAE Systems (Operations) Limited Model BAe 146-100A, -200A, and -300A series airplanes; and Model Avro 146-RJ70A, 146-RJ85A, and 146-RJ100A airplanes; certificated in any category.

Unsafe Condition

- (d) This AD results from reported incidents of flight control surface restrictions due to the deterioration of flight control surface bearings. We are issuing this AD to prevent corrosion of flight control surface bearings and freezing of moisture inside the bearings, due to loss of lubrication in the bearings, which could lead to flight control restrictions and result in reduced controllability of the airplane.

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 Replacement

- (f) Before the accumulation of 96 months on a bearing since new, or within 16 months after the effective date of this AD, whichever is later: Replace the elevator servo tab hinge bearings, the elevator servo tab mechanism bearings, elevator trim tab hinge bearings, and elevator trim tab drive rod bearings with new bearings, in accordance with Part 1 of the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.27-177, Revision 1, dated October 5, 2005. Repeat the replacements thereafter at intervals not to exceed 96 months.

Credit for Previous Service Bulletin

(g) Actions done before the effective date of this AD in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.27-177, dated June 3, 2004, are acceptable for compliance with the requirements of paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, International Branch, ANM-116, Transport Airplane Directorate, 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) British airworthiness directive G-2005-0014, dated May 31, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use BAE Systems (Operations) Limited Inspection Service Bulletin ISB.27-177, Revision 1, dated October 5, 2005, 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 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 May 8, 2006.

Ali Bahrami,

Manager, , Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06-4543 Filed 5-16-06; 8:45 am]

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