

Dated: March 6, 2003.

**Kenneth C. Clayton,**

*Acting Administrator.*

[FR Doc. 03-5844 Filed 3-11-03; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 21, 43 and 145

#### Performing Work on Products and/or Parts That Have Left a Production Approval Holder's (PAH's) Quality System

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of policy statement; request for comments.

**SUMMARY:** The Production and Airworthiness Division (AIR-200) and the Aircraft Maintenance Division (AFS-300) propose to formally adopt policy regarding who is authorized to perform work on products and/or parts that have left a PAH's quality system.

**DATES:** Comments must be received by May 12, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Barbara A. Capron, Aircraft Certification Service, Production and Airworthiness Division, Production Certification Branch, AIR-210, Room 815, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3343; fax (202) 267-5580; e-mail: [barbara.capron@faa.gov](mailto:barbara.capron@faa.gov).

**SUPPLEMENTARY INFORMATION:**

#### Comments Invited

The FAA invites interested parties to comment on this notice of policy statement. Please submit comments to the above address. The FAA will consider all comments received by the closing date before issuing a final policy statement.

#### Background

##### *Part 21 Applicability*

Title 14, Code of Federal Regulations (14 CFR) Part 21 Certification Procedures for Products and Parts (part 21) defines the regulations for the portion of the aviation industry that supports the design and manufacture of aviation products and parts. This includes the requirements for the issue of type certificates and changes to those certificates; the issue of production certificates (PCs); the issue of airworthiness certificates; the issue of export airworthiness approvals; the rules governing the holder of any of

these certificates, and procedural requirements for the approval of certain materials, parts, processes, and appliances.

##### *Part 43 Applicability*

14 CFR Part 43 Maintenance, Preventive Maintenance, Rebuilding and Alteration (part 43) defines regulations for the portion of the aviation industry that supports continued airworthiness standards, or more specifically those that maintain the airworthiness status of products and parts. It describes rules governing the maintenance, preventive maintenance, rebuilding and alteration of any aircraft having a U.S. airworthiness certificate; foreign-registered civil aircraft used in common carriage or carriage of mail under the provisions of 14 CFR part 121 or 135; and airframe, aircraft engines, propellers, appliances, and component parts of such aircraft. Part 43 does not apply to any aircraft for which an experimental airworthiness certificate has been issued, unless a different kind of airworthiness certificate had previously been issued for that aircraft.

For products and parts that have already met the applicability requirements of part 43, § 43.3(j) authorizes a manufacturer *to rebuild or alter* (emphasis added) any aircraft, aircraft engine, propeller, appliance, or part manufactured by him under a type or PC, Technical Standard Order (TSO) Authorization, an FAA Parts Manufacturer Approval (PMA), or Product and Process Specification. Any maintenance, preventive maintenance and alterations are not included in the authority of § 43.3(j).

##### *Part 145 Applicability*

Part 145, Subpart D, Limited Ratings for Manufacturers, permits certain manufacturers to obtain, without further showing, a repair station certificate with a limited rating under Part 145. The FAA considered that the standards met by a manufacturer to obtain a PC, approved production inspection system (APIS), or other approved quality control system, provided a level of safety equivalent to that achieved under the standards applicable to a certificated repair station with a limited rating. This has permitted the holder of a limited rating for manufacturers to maintain and approve for return to service any article for which it is rated, and perform preventive maintenance on that article if certificated mechanics and repairmen are employed directly in charge of the maintenance and preventive maintenance in accordance with current § 145.103.

##### *Elimination of the Limited Rating for Manufacturers*

As proposed in Notice No. 99-09 (66 FR 41117, August 6, 2001) the FAA is eliminating the limited rating for manufacturers because maintenance practices and aircraft technologies have evolved since the establishment of limited ratings for manufacturers, and the FAA has determined that all repair facilities' systems for inspection, recordkeeping, and quality control should be consistent. These regulatory changes should also ensure uniform FAA surveillance activities.

##### *Part 145 Regulatory Change*

Effective April 6, 2003, Manufacturer Maintenance Facilities will no longer be permitted. Under the revised 14 CFR part 145, existing MMFs will be required to have a limited repair station rating under § 145.61 if they choose to continue exercising similar privileges.

##### *Need To Define Part 21 vs. Part 43 Activities*

A production approval holder (PAH) is a person who holds a PC, APIS, a PMA, or a TSO authorization that controls the design and quality of a product or part thereof. For many years, products and/or parts have been shipped from suppliers to PAHs, between PAHs, and from PAHs to airlines, repair stations, distributors, etc. This notice is designed to clarify at what point a supplier or PAH may no longer perform work on its product under part 21, and when that work must be performed by an appropriately certificated person under part 43, part 93, part 145, or any of the operating rules of 14 CFR Subchapter G, Air Carriers and Operations for Compensation or Hire: Certification and Operations.

Part 21 applies to new products or parts that remain under the control of a PAH. Any work performed on those products or parts while under the control of the PAH's quality system is to be accomplished in accordance with that system. However, once the products or parts leave that quality system, any work performed would be in accordance with part 43.

Part 43 applies to: (1) Aircraft having a U.S. airworthiness certificate; (2) Foreign-registered civil aircraft used in common carriage or carriage of mail under the provisions of part 121 or 135 of this chapter; and (3) Airframe, aircraft engines, propellers, appliances, and component parts of such aircraft. This indicates that any work performed on an article before it meets the applicability requirements of part 43 would not have

to be accomplished in accordance with part 43.

### Discussion

In an effort to better define where the regulatory authority of part 21 ends and the regulatory authority of part 43 begins, the Aviation Rulemaking Advisory Committee (ARAC) for part 21 suggested incorporating new language into part 21 that would clarify a manufacturer's authority to maintain products and parts that do not meet part 43 applicability requirements, *i.e.*, new products and parts that have not yet left the PAH's quality system. This work would be done without the need for a repairman or mechanic certificate, and would not be considered to be maintenance as it pertains to part 43. Currently, aviation authorities such as Transport Canada and the Joint Aviation Authorities allow this. Rather than initiate a lengthy rule change to accommodate ARAC's recommendation, AFS and AIR are providing the following clarification:

Products or parts that leave a PAH or supplier (either foreign or domestic) and go to a PAH for incorporation into a higher level product/part (*e.g.* fuel control unit incorporated into an engine; or an engine incorporated into an aircraft) for which that PAH controls the type design must have work performed in accordance with the higher level of PAH's quality system regardless of who performs the work. Conditions are as follows:

(1) The supplier or PAH working on the product or part must have the appropriate design data to ensure that the product or part continues to conform to its type design.

(2) The PAH incorporating the product or part must have an approved system in place (*e.g.*, quality control system, material review board, configuration control, etc.) that defines how work is performed and documented. If the product or part is worked on by the supplier, it must then be accepted through the PAH's quality system.

(3) If the PAH incorporating the product or part chooses to work on it, the work must be accomplished by authorized personnel who are familiar with the product's or part's complexities.

(4) If a product or part has moved through several suppliers or PAHs during its assembly, the PAH that is incorporating the product or part into its type design must determine which of those organizations is the appropriate one to work on the product or part based on the above conditions.

Products or parts that leave a PAH's quality system and are delivered to an airline, repair station, distributor, etc., are intended to be installed on a higher assembly that has already met the applicability requirements of part 43. Therefore, any maintenance, preventive maintenance, or alterations on such articles will be performed by persons authorized under part 43.

### Summary

Effective April 6, 2003, products or parts that leave a PAH or supplier (either foreign or domestic) and go to a PAH for incorporation into a higher level product/part for which that PAH controls the type design must have work performed in accordance with the higher level PAH's quality system under part 21.

Products or parts shipped to airlines, repair stations, distributors, etc., after leaving a PAH's approved quality system must be maintained in accordance with part 43. Any used products or parts returned to the manufacturer must be maintained in accordance with part 43 under the provisions of the new § 145.61. Any used products or parts installed on new production aircraft must have been maintained in accordance with part 43 prior to their installation. As noted in Notice Number 99-09, the FAA will give full consideration to the part 21 quality control system established by the manufacturer when it applies for the § 145.61, Limited rating under new § 145.51, Application for certificate.

**Frank P. Paskiewicz,**

*Manager, Production and Airworthiness Division, AIR-200.*

[FR Doc. 03-5926 Filed 3-11-03; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-NM-271-AD]

RIN 2120-AA64

#### **Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain BAE Systems (Operations)

Limited Model BAe 146 series airplanes. This proposal would require modification of the flight annunciator box. This action is necessary to prevent traffic collision avoidance system (TCAS) aural messages and resolution advisories of the TCAS from being inhibited following a ground proximity warning system alert or test message, which could prevent the TCAS from providing attention-getting alerts, and could result in the consequent possibility of a mid-air collision or near mid-air collision. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by April 11, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-271-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-271-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

#### **FOR FURTHER INFORMATION CONTACT:**

Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (425) 227-1175; fax (425) 227-1149.

#### **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 shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date