

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2006-25437; Directorate Identifier 2006-NM-136-AD; Amendment 39-14828; AD 2006-23-16]

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 all BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ airplanes. This AD requires modifying the nose landing gear. This AD results from reports of loss of the nose wheel assembly. We are issuing this AD to prevent the nose wheel nut from loosening, and consequently, the nose wheel assembly detaching from the airplane; and to prevent the nose wheel clamping loads from applying to the machined radius at the root of the stub axle, which could result in damage to the nose landing gear.

**DATES:** This AD becomes effective December 21, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of December 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 Mclearen Road, Herndon, Virginia 20171, for service information identified in this AD.

**FOR FURTHER INFORMATION CONTACT:** Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1175; 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 and Avro 146-RJ airplanes. That NPRM was published in the **Federal Register** on July 25, 2006 (71 FR 42065). That NPRM proposed to require modifying the nose landing gear.

**Comments**

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

**Request To Publish Service Information**

The Modification and Replacement Parts Association (MARPA) states that, typically, ADs are based on service information originating with the type certificate holder or its suppliers. MARPA adds that manufacturer service documents are privately authored instruments generally having copyright protection against duplication and distribution. MARPA notes that when a service document is incorporated by reference into a public document, such as an AD, it loses its private, protected status and becomes a public document. MARPA adds that 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; by definition, public laws must be public, which means they cannot rely upon private writings. MARPA adds that 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. MARPA notes that the stated purpose of the 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" means aircraft owners and operators, who are generally provided service information by the manufacturer. MARPA adds that 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. MARPA notes that this new class includes maintenance and repair

organizations, component servicing and repair shops, parts purveyors and distributors, and organizations manufacturing or servicing alternatively certified parts under section 21.303 of the Federal Aviation Regulations (14 CFR 21.303). MARPA adds that the concept of brevity is now nearly archaic as documents exist more frequently in electronic format than on paper. Therefore, MARPA asks that the service documents deemed essential to the accomplishment of the NPRM be incorporated by reference into the regulatory instrument and published in the DMS.

We do not agree that documents should be incorporated by reference during the NPRM phase of rulemaking. 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 the commenter's request that service documents be made available to the public by publication in the **Federal Register**, we agree that incorporation by reference was authorized to reduce the volume of material published in the **Federal Register** and the Code of Federal Regulations. However, as specified in the *Federal Register Document Drafting Handbook*, the Director of the OFR decides when an agency may incorporate material by reference. As the commenter is aware, the OFR files documents for public inspection on the workday before the date of publication of the rule at its office in Washington, DC. As stated in the *Federal Register Document Drafting Handbook*, when documents are filed for public inspection, anyone may inspect or copy file documents during the OFR's hours of business. Further questions regarding publication of documents in the **Federal Register** or incorporation by reference should be directed to the OFR.

In regard to the commenter'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

This AD affects about 53 airplanes of U.S. registry. The required actions take about 2 work hours per airplane, at an average labor rate of \$80 per work hour. The manufacturer states that it will supply required parts to the operators at no cost. Based on these figures, the estimated cost of the AD for U.S. operators is \$8,480, or \$160 per airplane.

### 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):

**2006-23-16 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft):** Amendment 39-14828. Docket No. FAA-2006-25437; Directorate Identifier 2006-NM-136-AD.

#### Effective Date

(a) This AD becomes effective December 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 reports of loss of the nose wheel assembly. We are issuing this AD to prevent the nose wheel nut from loosening, and consequently, the nose wheel assembly detaching from the airplane; and to prevent the nose wheel clamping loads from applying to the machined radius at the root of the stub axle, which could result in damage to the nose landing gear.

#### 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.

### Modification

(f) Within 12 months after the effective date of this AD, modify the nose landing gear in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Modification Service Bulletin 32-174-70676A, dated February 21, 2006.

**Note 1:** BAE Systems (Operations) Limited Modification Service Bulletin 32-174-70676A refers to Messier-Dowty Service Bulletin 146-32-161, dated March 2, 2005, as an additional source of service information for accomplishing the modification.

**Note 2:** BAE Systems (Operations) Limited Modification Service Bulletin 32-174-70676A refers to the abutment ring as a spacer. BAE Systems (Operations) Limited BAe 146/Avro 146-RJ Airplane Maintenance Manual (AMM) 32-42-17 401 identifies this part as an abutment ring (item 4). Item 3 of the AMM is identified as a spacer, but this is not the part described in the modification service bulletin.

### No Reporting

(g) Although the service bulletin referenced in this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

### 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) European Aviation Safety Agency (EASA) airworthiness directive 2006-0137, dated May 23, 2006, also addresses the subject of this AD.

### Material Incorporated by Reference

(j) You must use BAE Systems (Operations) Limited Modification Service Bulletin 32-174-70676A, dated February 21, 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 Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL-401, Nassiff 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](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on November 7, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate,  
Aircraft Certification Service.

[FR Doc. E6-19148 Filed 11-15-06; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 110

[CGD01-06-026]

RIN 1625-AA01

#### Anchorage Regulations; Falmouth Maine, Casco Bay

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

**SUMMARY:** The Coast Guard hereby amends the special anchorage area in Falmouth, Maine, Casco Bay. This action is necessary to facilitate safe navigation and provide mariners a safe and secure anchorage for vessels of not more than 65 feet in length. This action is intended to increase the safety of life and property on Casco Bay, improve the safety of anchored vessels, and provide for the overall safe and efficient flow of vessel traffic and commerce.

**DATES:** This rule is effective December 18, 2006.

**ADDRESSES:** Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-06-026), and are available for inspection or copying at room 628, First Coast Guard District Boston, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. John J. Mauro, Commander (dpw), First Coast Guard District, 408 Atlantic Ave., Boston, MA 02110, Telephone (617) 223-8355, e-mail: [John.J.Mauro@uscg.mil](mailto:John.J.Mauro@uscg.mil).

#### Regulatory Information

On August 11, 2006, we published a notice of proposed rulemaking (NPRM) entitled "Anchorage Regulations; Falmouth, ME, Casco Bay" in the **Federal Register** (71 FR 46181). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Because we did not receive any comments on the proposed rule, we have not made any changes from the proposed rule with the exception of

correcting a paragraph reference in the note to paragraph (d) of 33 CFR 110.5 from "(g)" to "(d)".

#### Background and Purpose

This rule is intended to reduce the risk of vessel collisions by enlarging the current special anchorage area in Falmouth, Maine, by an additional 206 acres. This rule will expand the existing special anchorage, described in 33 CFR 110.5(d), to allow anchorage for approximately 150 additional vessels. When at anchor in any special anchorage, vessels not more than 65 feet in length need not carry or exhibit the white anchor lights required by the Navigation Rules.

The Coast Guard has defined the anchorage area contained herein with the advice and consent of the Army Corps of Engineers, Northeast, located at 696 Virginia Rd., Concord, MA 01742.

#### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

This finding is based on the fact that this rule conforms to the changing needs of the Town of Falmouth, the changing needs of recreational, fishing and commercial vessels, and makes the best use of the available navigable water. This rule is in the interest of safe navigation and protection of Falmouth and the marine environment. This special area, while in the interest of safe navigation and protection of the vessels moored at the Town of Falmouth, does not impede the passage of vessels intending to transit within Casco Bay.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The owners or operators of recreational or commercial vessels intending to transit in a portion of the Casco Bay in and around the anchorage area. However, this anchorage area would not have a significant economic impact on these entities for the following reasons: The special area does not impede the passage of vessels intending to transit in and around Falmouth, which include both small recreational and large commercial vessels. Thus, the special anchorage area will not impede safe and efficient vessel transits on Casco Bay.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process.

If this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact John J. Mauro, at the address listed in **ADDRESSES** above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### Collection of Information

This calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of