

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2007-0371; Directorate Identifier 2007-NM-269-AD]

RIN 2120-AA64

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

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from service history of incidents and accidents involving transport category turbojet airplanes without leading edge high lift devices, that shows that even small amounts of frost, ice, snow, or slush on the wing leading edges or forward upper wing surfaces can cause an adverse change in the stall speeds, stall characteristics, and the protection provided by the stall protection system. This proposed AD requires revising the airplane flight manual to include a new cold weather operations limitation. We are proposing this AD to prevent possible loss of control on takeoff resulting from even small amounts of frost, ice, snow, or slush on the wing leading edges or forward upper wing surfaces. The proposed AD would require actions that are intended to address the unsafe condition.

**DATES:** We must receive comments on this proposed AD by January 25, 2008.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* (202) 493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1175; fax (425) 227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2007-0371; Directorate Identifier 2007-NM-269-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

##### Discussion

In February 2005, the FAA began a review of certain airplanes of concern—

turbojet airplanes without leading edge high lift devices—to determine their sensitivity to takeoff in ice/frost conditions. We have taken a broad and proactive approach to this issue. This approach involved a review of the effect of small amounts of wing contamination on the takeoff safety margins of the existing fleet of turbojet transport category airplanes that do not have leading edge high lift devices. Included in this review were the BAE Systems (Operations) Limited Model BAe 146 and Model Avro 146-RJ airplanes. We have already taken airworthiness action against certain airplane types that have experienced accidents and incidents due to a contaminated wing. Although there have been no accidents or incidents related to wing contamination associated with the BAE Systems (Operations) Limited Model BAe 146 and Model Avro 146-RJ airplanes, the wings of these airplanes are similarly sensitive to small amounts of wing contamination.

Small, almost visually imperceptible, amounts of ice on the wing's leading edge or upper surface can cause severe aerodynamic penalties and result in a loss of control of the airplane during takeoff. Despite operating rules, procedures, and training programs stressing the importance of a clean wing for takeoff, continued accidents and incidents show that airplanes are still departing with ice-contaminated wings.

This proposed AD would require revising the airplane flight manual (AFM) to include new limitations for cold weather operation. The actions in this proposed AD are intended to prevent possible loss of control on takeoff resulting from even small amounts of frost, ice, snow, or slush on the wing leading edges or forward upper wing surfaces.

#### FAA's Determination and Requirements of the Proposed AD

These airplanes are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or

develop in other products of the same type design.

### Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 1 product of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with this proposed AD. The average labor rate is \$80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$80, or \$80 per product.

### 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 determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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 this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the 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 proposed AD and placed it in the AD docket.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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 FAA amends § 39.13 by adding the following new AD:

#### BAE Systems (Operations) Limited

(Formerly British Aerospace Regional Aircraft): Docket No. FAA-2007-0371; Directorate Identifier 2007-NM-269-AD.

#### Comments Due Date

(a) We must receive comments by January 25, 2008.

#### Affected ADs

(b) None.

#### Applicability

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

#### Subject

(d) Air Transport Association (ATA) of America Code 30: Ice and Rain Protection.

#### Reason

(e) This AD results from service history of incidents and accidents involving transport category turbojet airplanes without leading edge high lift devices, that shows that even small amounts of frost, ice, snow, or slush on the wing leading edges or forward upper wing surfaces can cause an adverse change in the stall speeds, stall characteristics, and the protection provided by the stall protection system. We are issuing this AD to prevent possible loss of control on take-off resulting from even small amounts of frost, ice, snow, or slush on the wing leading edges or forward upper wing surfaces.

#### Actions and Compliance

(f) Within 14 days after the effective date of this AD, revise the Limitations Section of the Airplane Flight Manual (AFM) to include the following statement. This may be done by inserting a copy of this AD in the AFM.

"1. Takeoff is prohibited with frost, ice, snow, or slush adhering to the wings, control surfaces, engine inlets, or other critical surfaces.

2. A visual and tactile (hand on surface) check of the wing leading edge and the wing upper surface must be performed to ensure

the wing is free from frost, ice, snow, or slush when the outside air temperature is less than 42 degrees F (6 degrees C), or if it cannot be ascertained that the wing fuel temperature is above 32 degrees F (0 degrees C); and

a. There is visible moisture (rain, drizzle, sleet, snow, fog, etc.) present; or

b. Water is present on the wing; or

c. The difference between the dew point and the outside air temperature is 5 degrees F (3 degrees C) or less; or

d. The atmospheric conditions have been conducive to frost formation."

**Note 1:** When a statement identical to that in paragraph (f) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

### Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, Transport Airplane Directorate, ANM-116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 227-1175; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

### Related Information

(h) None.

Issued in Renton, Washington, on December 14, 2007.

**Michael J. Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E7-24922 Filed 12-21-07; 8:45 am]

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