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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-25739; Directorate Identifier 2006-CE-46-AD; Amendment 39-14988; AD 2007-06-07]

RIN 2120-AA64

Airworthiness Directives; Raytheon Aircraft Company Models 58 and G58 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for certain Raytheon Aircraft Company (RAC) Models 58 and G58 airplanes with optional propeller unfeathering accumulators installed. This AD requires you to inspect the left propeller accumulator oil tube assembly for any chafing; replace the propeller accumulator oil tube assembly if any chafing is found; and reposition and secure with clamps both the left engine manifold pressure hose and its metal identification tags to avoid contact with other tubes, hoses, electrical wires, parts, components, and structure. This AD results from several reports on the affected airplanes of chafing damage on the left propeller accumulator oil tube assembly. We are issuing this AD to detect, correct, and prevent any chafing damage of the left propeller accumulator oil tube assembly, which could result in loss of engine oil. Loss of engine oil may lead to fire or smoke in the engine compartment, inability to unfeather the propeller, engine damage, or loss of engine power.

DATES: This AD becomes effective on April 19, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 19, 2007.

ADDRESSES: To get the service information identified in this AD, contact Raytheon Aircraft Company, 9709 E. Central, Wichita, Kansas 67201-0085; telephone: (800) 429-5372 or (316) 676-3140.

To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001 or on the Internet at <http://dms.dot.gov>. The docket number is FAA-2006-25739; Directorate Identifier 2006-CE-46-AD.

FOR FURTHER INFORMATION CONTACT: Jeff Pretz, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946-4153; fax: (316) 946-4407.

SUPPLEMENTARY INFORMATION:

Discussion

On October 10, 2006, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain RAC Models 58 and G58 airplanes with optional propeller unfeathering accumulators installed. This proposal was published in the Federal Register as a notice of proposed rulemaking (NPRM) on October 17, 2006 (71 FR 60924). The NPRM proposed to require you to inspect the left propeller accumulator oil tube assembly for any chafing; replace the propeller accumulator oil tube assembly if any chafing is found; and reposition and secure with clamps both the left engine manifold pressure hose and its metal identification tags to avoid contact with other tubes, hoses, electrical wires, parts, components, and structure.

Comments

We provided the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue: Service Information and Derived ADs

The Modification and Replacement of Parts Association (MARPA) states that frequently ADs are derived from service information originating with the type certificate holder or its suppliers. MARPA also states that manufacturer's service documents are privately authored instruments generally enjoying copyright protection against duplication and distribution. MARPA contends that when a service document is incorporated by reference under 5 U.S.C. 552(a) and 1 CFR part 51 into a public document such as an AD, it loses its private, protected status and becomes itself a public document. MARPA explains 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. MARPA states that public laws by definition must be public, which means they cannot rely for compliance upon private writings, especially when the writings originate in a foreign country. MARPA adds that the interpretation of a document is not a question of fact, but of law, bound by the figurative four corners of the document; therefore, unless the service document is incorporated by reference, a court of law will not consider it when interpreting the AD. MARPA is concerned that failure to incorporate-by-reference the relevant service information could result in a court decision invalidating the AD.

MARPA advises that it was informed that service documents are usually not incorporated into NPRMs, but only into final actions. MARPA notes that there is no indication in the NPRM that the FAA intends to incorporate by reference the necessary service information; in addition, there is no indication of which service documents are mandatory and which are merely sources of additional service information; therefore, the reader is unsure of the FAA's intent. MARPA asks that future proposed actions indicate the FAA intent by including the following, or a similar statement: "We intend to incorporate by reference the following publications."

MARPA also states that incorporation 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 adds that, under the aforementioned authorities, incorporation by reference is a technique used to reduce the size of the Federal Register when the information is

already available to the affected individuals. MARPA notes that, traditionally, "affected individuals" has meant aircraft owners and operators who are generally provided service information by the manufacturer. MARPA states 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 adds that 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 section 21.303 ("Replacement and modification parts") of the Federal Aviation Regulations (14 CFR 21.303). Further, MARPA notes 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 DMS prior to release of the AD.

We understand MARPA's comment concerning incorporation by reference. 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 documents 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.

The FAA does not concur with the commenter's request to indicate in an NPRM our intent to incorporate service information by reference. When we propose that actions be accomplished in accordance with certain service information in an NPRM, the public may assume we intend to IBR that service information, as requested by the Office of the Federal Register. Service information that is cited in the proposed AD as a source of additional information is not presented as a requirement, and the public may assume we do not intend to IBR that service information. No change to this final rule is necessary in regard to the commenter's request.

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 and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 49 airplanes in the U.S. registry.
We estimate the following costs to do the inspection:

Labor Cost	Parts Cost	Total Cost Per Airplane	Total Cost on U.S. Operators
1 work-hour X \$80 per hour = \$80	\$5	\$85	\$4,165

We estimate the following costs to do any necessary replacements that would be required based on the results of the inspection. We have no way of determining the number of airplanes that may need this replacement:

Labor Cost	Parts Cost	Total Cost Per Airplane
1 work-hour X \$80 per hour = \$80	\$39	\$119

RAC will provide warranty credit as specified in RAC Mandatory Service Bulletin No. SB 61-3806, issued: August 2006.

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 AD.

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 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 summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under ADDRESSES. Include "Docket No. FAA-2006-25739; Directorate Identifier 2006-CE-46-AD" in your request.

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 Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. FAA amends § 39.13 by adding a new AD to read as follows:



The preamble information for this AD is available at the above FAA website.

2007-06-07 Raytheon Aircraft Company: Amendment 39-14988; Docket No. FAA-2006-25739; Directorate Identifier 2006-CE-46-AD.

Effective Date

(a) This AD becomes effective on April 19, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models 58 and G58 airplanes, serial numbers TH-2097 through TH-2150, with optional propeller unfeathering accumulators installed, that are certificated in any category.

Unsafe Condition

(d) This AD results from several reports on the affected airplanes of chafing damage on the left propeller accumulator oil tube assembly. This includes an in-flight oil leak from the left engine on a Raytheon Aircraft Company Model G58 airplane. We are issuing this AD to detect, correct, and prevent any chafing damage of the left propeller accumulator oil tube assembly, which could result in loss of engine oil. Loss of engine oil may lead to fire or smoke in the engine compartment, inability to unfeather the propeller, engine damage, or loss of engine power.

Compliance

(e) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
(1) Inspect the left propeller accumulator oil tube assembly for chafing.	<i>For airplanes that have not had a 100-hour time-in-service (TIS) inspection or the inspection following Raytheon Safety Communiqué No. 271, dated May 2006: Within the next 25 hours TIS after April 19, 2007 (the effective date of this AD). For airplanes that have had a 100-hour TIS inspection or the inspection following Raytheon Safety Communiqué No. 271, dated May 2006: Within the next 50 hours TIS after April 19, 2007 (the effective date of this AD).</i>	Follow Raytheon Aircraft Company Mandatory Service Bulletin No. SB 61-3806, issued: August 2006.

(2) If any chafing is found in the inspection required by paragraph (e)(1) of this AD, replace the propeller accumulator oil tube assembly.	Before further flight after the inspection required by paragraph (e)(1) of this AD.	Follow Raytheon Aircraft Company Mandatory Service Bulletin No. SB 61-3806, issued: August 2006.
(3) Reposition and secure with clamps the left manifold pressure hose and its metal identification tags to ensure clearance between it and all tubes, hoses, electrical wires, parts, components, and structure.	Before further flight after the inspection or replacement required in paragraphs (e)(1) and (e)(2) of this AD.	Follow Raytheon Aircraft Company Mandatory Service Bulletin No. SB 61-3806, issued: August 2006.

Material Incorporated by Reference

(f) You must use Raytheon Aircraft Company Mandatory Service Bulletin No. SB 61-3806, issued: August 2006, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Raytheon Aircraft Company, 9709 E. Central, Wichita, Kansas 67201-0085; telephone: (800) 429-5372 or (316) 676-3140.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Kansas City, Missouri, on March 7, 2007.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

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