

insured depository institution of which it is a related person with responsibility for the surveillance over such account pursuant to paragraph (a)(2) of this section; and

(2) Copies of all statements for such account and of all written records prepared by such other retail forex counterparty upon receipt of orders for such account pursuant to paragraph (c)(2) of this section are transmitted on a regular basis to the retail forex counterparty of which it is a related person.

(e) *Prohibited trading practices.* No FDIC-supervised insured depository institution engaging in retail forex transactions may:

(1) Enter into a retail forex transaction, to be executed pursuant to a market or limit order at a price that is not at or near the price at which other retail forex customers, during that same time period, have executed retail forex transactions with the FDIC-supervised insured depository institution;

(2) Adjust or alter prices for a retail forex transaction after the transaction has been confirmed to the retail forex customer;

(3) Provide a retail forex customer a new bid price for a retail forex transaction that is higher than its previous bid without providing a new asked price that is also higher than its previous asked price by a similar amount;

(4) Provide a retail forex customer a new bid price for a retail forex transaction that is lower than its previous bid without providing a new asked price that is also lower than its previous asked price by a similar amount; or

(5) Establish a new position for a retail forex customer (except one that offsets an existing position for that retail forex customer) where the FDIC-supervised insured depository institution holds outstanding orders of other retail forex customers for the same currency pair at a comparable price.

#### **§ 349.14 Supervision.**

(a) *Supervision by the FDIC-supervised insured depository institution.* An FDIC-supervised insured depository institution engaging in retail forex transactions shall diligently supervise the handling by its officers, employees, and agents (or persons occupying a similar status or performing a similar function) of all retail forex accounts carried, operated, or advised by at the FDIC-supervised insured depository institution and all activities of its officers, employees, and agents (or persons occupying a similar status or

performing a similar function) relating to its retail forex business.

(b) *Supervision by officers, employees, or agents.* An officer, employee, or agent of an FDIC-supervised insured depository institution must diligently supervise his or her subordinates' handling of all retail forex accounts at the FDIC-supervised insured depository institution and all the subordinates' activities relating to the FDIC-supervised insured depository institution's retail forex business.

#### **§ 349.15 Notice of transfers.**

(a) *Prior notice generally required.* Except as provided in paragraph (b) of this section, an FDIC-supervised insured depository institution must provide a retail forex customer with 30 days' prior notice of any assignment of any position or transfer of any account of the retail forex customer. The notice must include a statement that the retail forex customer is not required to accept the proposed assignment or transfer and may direct the FDIC-supervised insured depository institution to liquidate the positions of the retail forex customer or transfer the account to a retail forex counterparty of the retail forex customer's selection.

(b) *Exceptions.* The requirements of paragraph (a) of this section shall not apply to transfers:

(1) Requested by the retail forex customer;

(2) Made by the Federal Deposit Insurance Corporation as receiver or conservator under the Federal Deposit Insurance Act; or

(3) Otherwise authorized by applicable law.

(c) *Obligations of transferee FDIC-supervised insured depository institution.* An FDIC-supervised insured depository institution to which retail forex accounts or positions are assigned or transferred under paragraph (a) of this section must provide to the affected retail forex customers the risk disclosure statements and forms of acknowledgment required by this part and receive the required signed acknowledgments within 60 days of such assignments or transfers. This requirement shall not apply if the FDIC-supervised insured depository institution has clear written evidence that the retail forex customer has received and acknowledged receipt of the required disclosure statements.

#### **§ 349.16 Customer dispute resolution.**

(a) *Prohibition on predispute arbitration agreements.* No FDIC-supervised insured depository institution shall enter into any agreement with a retail forex customer

in which the parties agree to arbitrate any future dispute between them arising related to the customer's retail forex account.

(b) *Election of forum.* (1) Where the parties agree to arbitrate a dispute after it has arisen, within ten business days of the agreement, the FDIC-supervised insured depository institution must provide the customer with a list of persons qualified in dispute resolution.

(2) The customer shall, within 45 days after receipt of such list, notify the FDIC-supervised insured depository institution of the person selected. The customer's failure to provide such notice shall give the FDIC-supervised insured depository institution the right to select a person from the list.

(c) *Counterclaims.* An agreement to arbitrate a customer's claim against an FDIC-supervised insured depository institution after the claim has arisen may permit the submission of a counterclaim in the arbitration by a person against whom a claim or grievance is brought. Such a counterclaim may be permitted where it arises out of the transaction or occurrence that is the subject of the customer's claim or grievance and does not require for adjudication the presence of essential witnesses, parties, or third persons over which the settlement process lacks jurisdiction.

Dated at Washington, DC, this 10th of May 2011.

By order of the Board of Directors.  
Federal Deposit Insurance Corporation.

**Robert E. Feldman,**  
*Executive Secretary.*

[FR Doc. 2011-11853 Filed 5-16-11; 8:45 am]

BILLING CODE 6714-01-P

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. FAA-2011-0472; Directorate Identifier 2011-NM-005-AD]

RIN 2120-AA64

**Airworthiness Directives; Fokker Services B.V. Model F.28 Mark 1000, 2000, 3000, and 4000 Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), 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 mandatory continuing

airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

[T]he Federal Aviation Administration (FAA) has published Special Federal Aviation Regulation (SFAR) 88, and the Joint Aviation Authorities (JAA) has published Interim Policy INT/POL/25/12. The review conducted by Fokker Services on the Fokker F28 Type Design in response to these regulations revealed that, under certain failure conditions, a short circuit may develop in the collector tank level float switch wiring. Such a short circuit may result in an ignition source in the tank vapour space.

This condition, if not corrected, could result in a wing fuel tank explosion and consequent loss of the aeroplane.

\* \* \* \* \*

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** We must receive comments on this proposed AD by July 1, 2011.

**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.

For service information identified in this proposed AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0) 252-627-350; fax +31 (0) 252-627-211; e-mail [technicalservices.fokkerservices@stork.com](mailto:technicalservices.fokkerservices@stork.com); Internet <http://www.myfokkerfleet.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221.

#### 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:** Tom Rodriguez, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1137; 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-2011-0472; Directorate Identifier 2011-NM-005-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

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2010-0194, dated September 29, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

[T]he Federal Aviation Administration (FAA) has published Special Federal Aviation Regulation (SFAR) 88, and the Joint Aviation Authorities (JAA) has published Interim Policy INT/POL/25/12. The review conducted by Fokker Services on the Fokker F28 Type Design in response to these regulations revealed that, under certain failure conditions, a short circuit may develop in the collector tank level float switch wiring. Such a short circuit may result in an ignition source in the tank vapour space.

This condition, if not corrected, could result in a wing fuel tank explosion and consequent loss of the aeroplane.

For the reasons described above, this [EASA] AD requires the installation of a fuse packed in a jiffy junction [i.e., crimped wire

in-line junction device] in the collector tank level float switch wiring.

The required actions also include revising the aircraft maintenance program by incorporating critical design configuration control limitations (CDCCLs). You may obtain further information by examining the MCAI in the AD docket.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21-78, and subsequent Amendments 21-82 and 21-83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

The Joint Aviation Authorities (JAA) has issued a regulation that is similar to

SFAR 88. (The JAA is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

#### Relevant Service Information

Fokker Services B.V. has issued Service Bulletin SBF28–28–049, dated June 23, 2010, including Fokker Drawing W57273, Sheet 002, Issue C, dated June 23, 2010, Fokker Drawing W58048, Sheet 1, dated April 29, 2010, and Fokker Manual Change Notification MCNM–F28–035, dated June 23, 2010. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

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

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

#### Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are

highlighted in a Note within the proposed AD.

#### Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 4 products of U.S. registry. We also estimate that it would take about 5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$85 per work-hour. Required parts would cost about \$825 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$5,000, or \$1,250 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, Incorporation by reference, 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:

**Fokker Services B.V.:** Docket No. FAA–2011–0472; Directorate Identifier 2011–NM–005–AD.

#### Comments Due Date

(a) We must receive comments by July 1, 2011.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Fokker Services B.V. Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes, certificated in any category, all serial numbers.

**Note 1:** This AD requires revisions to certain operator maintenance documents to include new Critical Design Configuration Control Limitations (CDCCLs). Compliance with these CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (j) of this AD. The request should include a description of changes to the required actions that will ensure the continued operational safety of the airplane.

#### Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

#### Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

[T]he Federal Aviation Administration (FAA) has published Special Federal Aviation Regulation (SFAR) 88, and the Joint Aviation Authorities (JAA) has published Interim Policy INT/POL/25/12. The review conducted by Fokker Services on the Fokker F28 Type Design in response to these regulations revealed that, under certain failure conditions, a short circuit may develop in the collector tank level float switch wiring. Such a short circuit may result in an ignition source in the tank vapour space.

This condition, if not corrected, could result in a wing fuel tank explosion and consequent loss of the aeroplane.

\* \* \* \* \*

#### Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### Actions

(g) Within 24 months after the effective date of this AD, install fuses packed in jiffy junctions [*i.e.*, crimped wire in-line junction device], in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF28–28–049, dated June 23, 2010, including Fokker Drawing W57273, Sheet 002, Issue C, dated June 23, 2010, Fokker Drawing W58048, Sheet 1, dated April 29, 2010, and Fokker Manual Change Notification MCNM–F28–035, dated June 23, 2010.

#### Maintenance Program Revision

(h) Before further flight after doing the modification required in paragraph (g) of this AD: Revise the maintenance program by incorporating the CDCCL specified in paragraph 1.L.(1)(c) of Fokker Services Service Bulletin SBF28–28–049, dated June 23, 2010, including Fokker Drawing W57273, Sheet 002, Issue C, dated June 23, 2010, Fokker Drawing W58048, Sheet 1, dated April 29, 2010, and Fokker Manual Change Notification MCNM–F28–035, dated June 23, 2010.

#### No Alternative Critical Design Configuration Control Limitations (CDCCLs)

(i) After accomplishing the revision required by paragraph (h) of this AD, no alternative CDCCLs may be used unless the CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

#### FAA AD Differences

**Note 2:** This AD differs from the MCAI and/or service information as follows: Although EASA Airworthiness Directive 2010–0194, dated September 29, 2010, specifies both revising the maintenance program to include limitations, and maintaining CDCCLs, this AD only requires the revision. Requiring a revision of the maintenance program, rather than requiring maintaining CDCCLs, requires operators to record AD compliance only at the time the revision is made. Maintaining CDCCLs specified in the airworthiness limitations

must be complied with in accordance with 14 CFR 91.403(c).

#### Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested, using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be e-mailed to: [9-ANM-116-AMOC-REQUESTS@faa.gov](mailto:9-ANM-116-AMOC-REQUESTS@faa.gov). Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(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.

#### Related Information

(k) Refer to MCAI EASA Airworthiness Directive 2010–0194, dated September 29, 2010; and Fokker Services Service Bulletin SBF28–28–049, dated June 23, 2010, including Fokker Drawing W57273, Sheet 002, Issue C, dated June 23, 2010, Fokker Drawing W58048, Sheet 1, dated April 29, 2010, and Fokker Manual Change Notification MCNM–F28–035, dated June 23, 2010; for related information.

Issued in Renton, Washington, on May 6, 2011.

**Kalene C. Yanamura,**

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

[FR Doc. 2011–12015 Filed 5–16–11; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2011–0473; Directorate Identifier 2011–NM–019–AD]

RIN 2120–AA64

#### Airworthiness Directives; Fokker Services B.V. Model F.28 Mark 1000, 2000, 3000, and 4000 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), 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 mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

\* \* \* [T]he Federal Aviation Administration (FAA) have published Special Federal Aviation Regulation (SFAR) 88, and the Joint Aviation Authorities (JAA) have published Interim Policy INT/POL/25/12. The review conducted by Fokker Services on the Fokker F28 type design in response to these regulations revealed that, on certain aeroplanes, an interrupted shield contact may exist or develop between the housing of an in-tank Fuel Quantity Indication (FQI) cable plug and the cable shield of the shielded FQI system cables in the main and collector fuel tanks which can, under certain conditions, form a spark gap.

This condition, if not detected and corrected, may create an ignition source in the tank vapour space, possibly resulting in a wing fuel tank explosion and consequent loss of the aeroplane.

\* \* \* \* \*

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** We must receive comments on this proposed AD by July 1, 2011.

**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