

# 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-2012-0589; Directorate Identifier 2011-NM-189-AD]

RIN 2120-AA64

#### Airworthiness Directives; Fokker Services B.V. Airplanes

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

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

**SUMMARY:** We propose to supersede two existing airworthiness directives (AD) that apply to certain Fokker Services B.V. Model F.28 Mark 0100 airplanes. The first existing AD currently requires removing the actuator from the fuel-balance transfer-valve (FBTV) and installing a locking device on the FBTV. The second existing AD currently requires inspecting to verify that the position indicator of the FBTV is in the closed position and deactivating the fuel-balance transfer-system. Since we issued those ADs, we have received reports that the FBTV was inadvertently reactivated after required de-activation measures were undone. This proposed AD would require installing an FBTV locking device. We are proposing this AD to prevent fuel starvation and consequently a double-engine flameout, possibly resulting in a forced landing, damage to the airplane, and injury to occupants.

**DATES:** We must receive comments on this proposed AD by July 23, 2012.

**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 W12-140, 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; email [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, WA 98057-3356; phone: (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-2012-0589; Directorate Identifier 2011-NM-189-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

On June 23, 1994, we issued AD 94-14-05, Amendment 39-8957 (59 FR 35237, July 11, 1994), and on March 21, 1996, we issued AD 96-07-06, Amendment 39-9555 (61 FR 14014, March 29, 1996). Those ADs required actions intended to address an unsafe condition on Model F.28 Mark 0100 airplanes.

Since we issued AD 94-14-05, Amendment 39-8957 (59 FR 35237, July 11, 1994), and AD 96-07-06, Amendment 39-9555 (61 FR 14014, March 29, 1996): The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011-0158, dated August 26, 2011 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Some Fokker F28 Mark 0100 (Fokker 100) aeroplanes were delivered from the production line with a Fuel-Balance Transfer-System (FBTS) installed. Other Fokker 100 aeroplanes were delivered with only FBTS provisions and for some of those, an option existed for in-service activation of the FBTS, through Fokker Service Bulletin (SB) SBF100-28-021.

The FBTS was designed to be used during maintenance activities to move the Centre of Gravity (CG) forward by transferring fuel from the main tanks to the centre tank through the crossfeed system and a Fuel-Balance Transfer-Valve (FBTV).

In 1993, a dormant failure mode was discovered, which could lead to fuel starvation and consequently to a double engine flame-out, possibly resulting in a forced landing, damage to the aeroplane and injury to occupants. To address and correct this unsafe condition, CAA-NL [Civil Aviation Authority—Netherlands] issued AD BLA 93-160, which required modification of the FBTV (Fokker SBF100-28-029) [which corresponds to FAA AD 94-14-05, Amendment 39-8957 (59 FR 35237, July 11, 1994)], and later BLA 94-146, which required deactivation of the FBTS (Fokker SBF100-28-030) [which corresponds to FAA AD 96-07-06, Amendment 39-9555 (61 FR 14014, March 29, 1996)].

Recently, one operator reported that on two aeroplanes, the FBTS had inadvertently been reactivated. SBF100-28-030 had been

accomplished on both aeroplanes but apparently, (some of) the de-activation measures introduced with that SB were later made undone. Subsequent investigation also showed that Fokker SBF100–28–021, containing instructions for activating the FBTS, had inadvertently been left active when SBF100–28–029 and SBF100–28–030 were published. To address this safety concern, Fokker Services have issued SBF100–28–066, which introduces a task to deactivate the FBTS to a greater extent than previously required. At the same time, SBF100–28–021 has been cancelled by its Revision 1.

For the reasons described above, this [EASA] AD retains the requirements of CAA–NL [airworthiness directives] BLA 93–160 and BLA 94–146, which are superseded, and requires the accomplishment of additional measures to deactivate the FBTS [modify the airplane by installing an FBTV locking device], in accordance with the instructions of Fokker Services SBF100–28–066.

You may obtain further information by examining the MCAI in the AD docket.

#### Relevant Service Information

Fokker Services B.V. has issued Fokker Service Bulletin SBF100–28–066, dated June 30, 2011, which includes the following attachments (\* the issue date is not specified on the drawing):

- Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–145, dated June 30, 2011.
- Fokker Manual Change Notification—Operational Documentation MCNO–F100–059, dated June 30, 2011.
- Fokker Drawing W41190, Sheet 013, Issue P.\*
- Fokker Drawing W41190, Sheet 014, Issue P.\*
- Fokker Drawing W41190, Sheet 016, Issue P.\*

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.

#### Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 2 products of U.S. registry.

The actions that are required by AD 94–14–05, Amendment 39–8957 (59 FR 35237, July 11, 1994), and retained in this proposed AD take about 1 work-hour per product, at an average labor rate of \$85 per work hour. Required parts cost about \$250 per product. Based on these figures, the estimated cost of the currently required actions is \$335 per product.

The actions required by AD 96–07–06, Amendment 39–9555 (61 FR 14014, March 29, 1996), and retained in this proposed AD take about 1 work-hour per product, at an average labor rate of \$85 per work hour. Required parts cost about \$0 per product. Based on these figures, the estimated cost of the currently required actions is \$85 per product.

We estimate that it would take about 5 work-hours per product to comply with the new basic requirements of this proposed AD. The average labor rate is \$85 per work-hour. Required parts would cost about \$650 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 parts. 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 \$2,150, or \$1,075 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);
3. Will not affect intrastate aviation in Alaska; and
4. 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 removing airworthiness directive (AD) 94–14–05, Amendment 39–8957 (59 FR 35237, July 11, 1994); and AD 96–07–06, Amendment 39–9555 (61 FR 14014, March 29, 1996); and adding the following new AD:

**Fokker Services B.V.:** Docket No. FAA–2012–0589; Directorate Identifier 2011–NM–189–AD.

#### (a) Comments Due Date

We must receive comments by July 23, 2012.

#### (b) Affected ADs

This AD supersedes AD 94–14–05, Amendment 39–8957 (59 FR 35237, July 11, 1994); and AD 96–07–06, Amendment 39–9555 (61 FR 14014, March 29, 1996).

**(c) Applicability**

This AD applies to Fokker Services B.V. Model F.28 Mark 0100 airplanes; certificated in any category; serial numbers 11257, 11258, 11261, 11262, 11264, 11265, 11266, 11284, 11285, 11287, 11288, 11290, 11292, 11294, 11296, 11298, 11299, 11301, 11302, 11304, 11305, 11307, 11309, 11311, 11315, 11317, 11319, 11320, 11322, 11336, 11339, 11341 through 11344 inclusive, 11347, 11348, 11350, 11351, 11362, 11363, 11364, 11371, 11374, 11375, 11382, 11383, 11384, 11389, 11390, 11394, 11400, 11401, 11409, 11410, 11420 through 11424 inclusive, 11429, 11430, 11431, 11433, 11441 through 11456 inclusive, 11461, 11462, 11463, 11470 through 11475 inclusive, 11477, 11484, 11485, 11486, 11488, 11489, 11496, 11497, 11500, 11503, 11505, 11511, 11512, 11516, 11517, 11518, and 11527.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by reports that the fuel-balance transfer-valve (FBTV) was inadvertently reactivated after required deactivation measures were undone. We are issuing this AD to prevent fuel starvation and consequently a double-engine flameout, possibly resulting in a forced landing, damage to the airplane, and injury to occupants.

**(f) Compliance**

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

**(g) Retained Installation of a Locking Device for the FBTV**

This paragraph restates the requirements of paragraph (a) of AD 94-14-05, Amendment 39-8957 (59 FR 35237, July 11, 1994). For airplanes having serial numbers 11443, 11446 through 11449 inclusive, and 11456: Within 30 days after August 10, 1994 (the effective date of AD 94-14-05), remove the actuator from the fuel-balance transfer-valve, part number (P/N) 7933141J and install a locking device on the fuel-balance transfer-valve, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100-28-029, Revision 1, dated November 30, 1993.

**(h) Retained Inspection and Deactivation**

(1) This paragraph restates the requirements of paragraphs (a) and (b) of AD 96-07-06, Amendment 39-9555 (61 FR 14014, March 29, 1996). For airplanes identified in Fokker Service Bulletin SBF100-28-030, Revision 1, dated December 5, 1994: After April 29, 1996 (the effective date of AD 96-07-06), whenever the fuel balance transfer system (FBTS) is used during maintenance, prior to further flight, perform an inspection to verify that the position indicator of the FBTV is in the closed position, in accordance with Fokker Service Bulletin SBF100-28-030, Revision 1, dated December 5, 1994. The inspection requirements of this paragraph must be

accomplished until the deactivation required by paragraph (h)(2) of this AD is accomplished.

(i) If the position indicator is in the closed position, no further action is required by this paragraph.

(ii) If the position indicator is in the open position, close the FBTV, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100-28-030, Revision 1, dated December 5, 1994.

(2) Within 90 days after April 29, 1996 (the effective date of AD 96-07-06, Amendment 39-9555 (61 FR 14014, March 29, 1996)), deactivate the FBTS in accordance with either Part 2 or Part 3, as applicable, of the Accomplishment Instructions of Fokker Service Bulletin SBF100-28-030, Revision 1, dated December 5, 1994. Accomplishment of the deactivation constitutes terminating action for the repetitive inspection requirements of paragraph (h)(1) of this AD.

**(i) New Requirements of This AD**

Within 12 months after the effective date of this AD, modify the airplane by installing an FBTV locking device, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100-28-066, dated June 30, 2011, which includes the attachments identified in paragraphs (i)(1) through (i)(5) of this AD (\* the issue date is not specified on the drawing.)

(1) Fokker Manual Change Notification—Maintenance Documentation MCNM-F100-145, dated June 30, 2011.

(2) Fokker Manual Change Notification—Operational Documentation MCNO-F100-059, dated June 30, 2011.

(3) Fokker Drawing W41190, Sheet 013, Issue P.\*

(4) Fokker Drawing W41190, Sheet 014, Issue P.\*

(5) Fokker Drawing W41190, Sheet 016, Issue P.\*

**(j) Prohibited Modification**

As of the effective date of this AD, no person may modify any airplane using the Accomplishment Instructions of Fokker Services Bulletin SBF100-28-021, dated September 6, 1991. That service bulletin was cancelled by Fokker Service Bulletin SBF100-28-021, Revision 1, dated June 30, 2011.

**(k) Other FAA AD Provisions**

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 emailed to: 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.

**(l) Related Information**

Refer to MCAI EASA Airworthiness Directive 2011-0158, dated August 26, 2011, and the service information specified in paragraphs (l)(1), (l)(2), and (l)(3) for related information.

(1) Fokker Service Bulletin SBF100-28-029, Revision 1, dated November 30, 1993.

(2) Fokker Service Bulletin SBF100-28-030, Revision 1, dated December 5, 1994.

(3) Fokker Service Bulletin SBF100-28-066, dated June 30, 2011, which includes the attachments identified in paragraphs (l)(3)(i) through (l)(3)(v) of this AD (\* the issue date is not specified on the drawing.)

(i) Fokker Manual Change Notification—Maintenance Documentation MCNM-F100-145, dated June 30, 2011.

(ii) Fokker Manual Change Notification—Operational Documentation MCNO-F100-059, dated June 30, 2011.

(iii) Fokker Drawing W41190, Sheet 013, Issue P.\*

(iv) Fokker Drawing W41190, Sheet 014, Issue P.\*

(v) Fokker Drawing W41190, Sheet 016, Issue P.\*

Issued in Renton, Washington, on May 24, 2012.

**Michael Kaszycki,**

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

[FR Doc. 2012-13671 Filed 6-5-12; 8:45 am]

**BILLING CODE 4910-13-P**

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

**[Docket No. FAA-2012-0590; Directorate Identifier 2011-NM-112-AD]**

**RIN 2120-AA64**

**Airworthiness Directives; Embraer S.A. Airplanes**

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

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

**SUMMARY:** We propose to supersede an existing airworthiness directive (AD) that applies to all Model ERJ 190-100