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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-26044; Directorate Identifier 2006-NM-098-AD; Amendment 39-14960; AD 2007-04-27]

RIN 2120-AA64

Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 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 Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes. This AD requires a one-time inspection of the left- and right-hand main landing gear (MLG) downlock actuators or a review of the airplane maintenance records to determine the part number of each downlock actuator installed, and replacement of identified MLG downlock actuators with modified MLG downlock actuators. This AD results from a report of a failed downlock actuator, which resulted in the left MLG collapsing during taxi after landing. We are issuing this AD to prevent failure of the downlock actuator, which could prevent the MLG side stay from locking properly, resulting in collapse of the MLG during ground maneuvers or upon landing.

DATES: This AD becomes effective April 3, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 3, 2007.

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 Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for service information identified in this AD.

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:

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 Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes. That NPRM was published in the Federal Register on October 12, 2006 (71 FR 60085). That NPRM proposed to require a one-time inspection of the left- and right-hand main landing gear (MLG) downlock actuators or a review of the airplane maintenance records to determine the part number of each downlock actuator installed, and replacement of identified MLG downlock actuators with modified MLG downlock actuators.

Comments

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

Request To State Intent To Incorporate Service Information

The Modification and Replacement Parts Association (MARPA) requests that, during the NPRM stage of AD rulemaking, the FAA state its intent to incorporate by reference (IBR) any relevant service information. MARPA states that without such a statement in the NPRM, it is unclear whether the relevant service information will be incorporated by reference in the final rule.

We do not agree with the commenter's request. When we reference certain service information in a proposed AD, the public can assume we intend to IBR that service information, as required by the Office of the Federal Register. No change to this final rule is necessary in regard to the commenter's request.

Request To Incorporate Essential Service Information

MARPA states that airworthiness directives are frequently derived from service information originating with the type certificate holder or its suppliers. MARPA further states that these manufacturer service documents are privately authored instruments generally enjoying copyright protection against duplication and publication. MARPA asserts 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 also states that if a service document is used as a mandatory element of compliance, it should not simply be mentioned, but should be incorporated into the regulatory document. Therefore, MARPA states that it is concerned that failure to incorporate the necessary service information could result in a court decision invalidating the AD. For these reasons, MARPA requests that the essential service documents be incorporated by reference into the regulatory instrument.

We understand MARPA's comment concerning IBR. 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 actions required 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.

Request To Publish Service Information on the Docket Management System (DMS)

MARPA also requests that we make service information available to the public by publication in DMS, keyed to the action that incorporates that information. MARPA states that the purpose of the IBR method is brevity, to keep from expanding the Federal Register needlessly by publishing documents already available to the affected individuals. MARPA asserts that, traditionally, "affected individuals" has meant aircraft owners and operators who are generally provided service information by the manufacturer. MARPA further asserts that a new class of affected individuals has emerged, since the majority of aircraft maintenance is now performed by specialty shops instead of owners and operators. MARPA states that this new class of individuals includes maintenance and repair organizations, component servicing and repair shops, parts purveyors and distributors, and organizations manufacturing or servicing alternatively certified parts under sections 21.303 ("Replacement and modification parts") of the Federal Aviation Regulations (14 CFR 21.303).

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.

Request To Address Parts Manufacturer Approval (PMA) Parts

MARPA also requests that the NPRM be revised to cover possible defective PMA alternative parts, rather than just a single part number, and to permit the use of new and improved PMA parts. MARPA states that type certificate holders typically ignore the existence of PMA parts in their service information, especially manufacturers in other countries of origin where the concept may not exist or be implemented. MARPA goes on to state that installation of a certain part-numbered part to the exclusion of all other parts, in some cases, effectively prohibits the installation of perfectly good parts and prohibits the development of PMA parts. MARPA asserts that such a prohibition runs the risk of removing the AD from the realm of safety and moving it into the realm of economics.

We acknowledge the need to ensure that unsafe PMA parts are identified and addressed in ADs. We are currently examining all aspects of this issue, including input from industry. Once we have made a final determination, we will consider how our policy regarding PMA parts in ADs needs to be revised. We consider that to delay this AD action would be inappropriate, since we have determined that an unsafe condition exists and that replacement of certain parts must be accomplished to ensure continued safety. Therefore, no change has been made to the final rule in this regard.

Request To Add Certain Language

MARPA also asserts that the NPRM does not comply with draft FAA Order 8040.2, which allows use of PMA parts based on a finding of identity. MARPA suggests that adding language similar to that in draft Order 8040.2 would resolve the issue of possible defective PMA parts. MARPA points out that another AD issued from a Directorate other than the Transport Airplane Directorate does contain the wording that it has requested. MARPA therefore requests that the FAA agree, in a timely manner, on how the matter is to be treated.

The NPRM did not address PMA parts, as provided in draft FAA Order 8040.2, because the Order was only a draft that was out for comment at the time. After issuance of the NPRM, the Order was revised and issued as FAA Order 8040.5 with an effective date of September 29, 2006. FAA Order 8040.5 does not address PMA parts in ADs.

The FAA recognizes the need for standardization of this issue and is currently in the process of reviewing issues that address the use of PMAs in ADs at the national level. However, the Transport Airplane Directorate considers that to delay this particular AD action would be inappropriate, since we have determined that an unsafe condition exists and that replacement of certain parts must be accomplished to ensure continued safety. Therefore, no change has been made to the final rule in this regard.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD.

Estimated Costs

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection of both MLG downlock actuators (2 per airplane)	1	\$80	\$0	\$80	6	Up to \$480
Review of the airplane maintenance records in lieu of the inspection to determine P/N	1	\$80	\$0	\$80	6	Up to \$480
Replacement of the MLG downlock actuators (2 per airplane)	4, per actuator	\$80	\$16,511, per actuator	\$33,662	6	Up to \$201,972

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):



2007-04-27 Fokker Services B.V.: Amendment 39-14960. Docket No. FAA-2006-26044;
Directorate Identifier 2006-NM-098-AD.

Effective Date

(a) This AD becomes effective April 3, 2007.

Affected ADs

(b) None.

Applicability

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

Unsafe Condition

(d) This AD results from a report of a failed downlock actuator, which resulted in the left main landing gear (MLG) collapsing during taxi after landing. We are issuing this AD to prevent failure of the downlock actuator, which could prevent the MLG side stay from locking properly, resulting in collapse of the MLG during ground maneuvers or upon landing.

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.

Determination of the Part Number (P/N) of the MLG Downlock Actuators

(f) Within 66 months after the effective date of this AD: Inspect the left- and right-hand MLG downlock actuators to determine if P/N 200497005 or 200498005 is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the MLG downlock actuator can be conclusively determined from that review. If an MLG downlock actuator does not have a subject part number, no further action is required by this AD for that MLG only, except as provided by paragraph (h) of this AD.

Replacement of Subject MLG Downlock Actuators

(g) For any MLG downlock actuator identified during the inspection or maintenance records review required by paragraph (f) of this AD, or for which the part number cannot be determined: Within 66 months after the effective date of this AD, replace the MLG downlock actuator with a modified MLG downlock actuator in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/32-163, dated March 8, 2004.

Note 1: Fokker Service Bulletin F28/32-163 refers to Dowty Aerospace Hydraulics–Cheltenham Service Bulletin 32-501R, Revision 1, dated September 3, 1998, as an additional source of service information for modifying the MLG downlock actuator.

Parts Installation

(h) As of the effective date of this AD, no person may install an MLG downlock actuator, P/N 200497005 or 200498005, on any airplane.

Alternative Methods of Compliance (AMOCs)

(i)(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

(j) Dutch airworthiness directive 2004-047, dated April 20, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use Fokker Service Bulletin F28/32-163, dated March 8, 2004, 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 Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; 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/cfr/ibr-locations.html>.

Issued in Renton, Washington, on February 15, 2007.
Stephen Boyd,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
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