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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

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

**[Docket No. FAA-2023-0168; Project Identifier MCAI-2022-00553-T; Amendment 39-22350; AD 2023-04-03]**

**RIN 2120-AA64**

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

#### **AGENCY:**

Federal Aviation Administration (FAA), DOT.

#### **ACTION:**

Final rule; request for comments.

#### **SUMMARY:**

The FAA is adopting a new airworthiness directive (AD) for all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. This AD was prompted by reports of cracks at the upper and lower fastener holes of a repair plate in the stubwing, which had been applied to repair heat damage. This AD requires a one-time inspection of the fuselage skin in the stubwing bay area to determine if a heat damage repair plate is installed, an inspection of repaired areas for cracking, and applicable corrective actions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

#### **DATES:**

This AD becomes effective March 20, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 20, 2023.

The FAA must receive comments on this AD by April 17, 2023.

#### **ADDRESSES:**

You may send comments, using the procedures found in [14.CFR 11.43](#) and [11.45](#), by any of the following methods:

- *Federal eRulemaking Portal*: Go to *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*: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*AD Docket*: You may examine the AD docket at *regulations.gov* under Docket No. FAA-2023-0168; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

#### *Material Incorporated by Reference:*

- For EASA material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); website [easa.europa.eu](http://easa.europa.eu). You may find this material on the EASA website at [ad.easa.europa.eu](http://ad.easa.europa.eu).
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

#### **FOR FURTHER INFORMATION CONTACT:**

Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 3960 Paramount Boulevard, Lakewood, CA 90712-4137; telephone 206-231-3225; email [Dan.Rodina@faa.gov](mailto:Dan.Rodina@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2023-0168; Project Identifier MCAI-2022-00553-T” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in [14.CFR 11.35](#), the FAA will post all comments received, without change, to

*regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

### **Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) ([5 U.S.C. 552](#)), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 3960 Paramount Boulevard, Lakewood, CA 90712-4137; telephone 206-231-3225; email [Dan.Rodina@faa.gov](mailto:Dan.Rodina@faa.gov). Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

### **Background**

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022-0070, dated April 21, 2022 (EASA AD 2022-0070) (also referred to as the MCAI), to correct an unsafe condition for all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. The MCAI states that cracks have been reported at the upper and lower fastener holes of a repair plate, located within the boundaries of the stubwing, which had been applied to repair heat damage. The cracks were found about 32,000 flight cycles after the repair plate was installed—earlier than expected, suggesting reduced resistance to crack growth due to overheated aluminum. This condition, if not detected and corrected, could lead to reduced structural integrity of the airplane. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA-2023-0168.

### **Related Service Information Under [1 CFR Part 51](#)**

EASA AD 2022-0070 specifies procedures for a one-time inspection of the fuselage skin in the stubwing bay area to determine whether a heat damage repair plate is installed within the boundaries of the stubwing. EASA AD 2022-0070 also specifies procedures for a high-frequency eddy-current (HFEC) inspection for cracks of any repaired area, damage tolerance inspections, crack repair, and reporting of inspection results to Fokker. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

### **FAA's Determination**

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI described above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

## Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2022-0070 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

## Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2022-0070 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2022-0070 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022-0070 does not mean that operators need comply only with that section. For example, where the AD requirement refers to "all required actions and compliance times," compliance with this AD requirement is not limited to the section titled "Required Action(s) and Compliance Time(s)" in EASA AD 2022-0070. Service information required by EASA AD 2022-0070 for compliance will be available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2023-0168 after this AD is published.

## FAA's Justification and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) ([5 U.S.C. 551](#) *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for "good cause," finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

There are currently no domestic operators of these products. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to [5 U.S.C. 553\(b\)\(3\)\(B\)](#). In addition, for the forgoing reason(s), the FAA finds that good cause exists pursuant to [5 U.S.C. 553\(d\)](#) for making this amendment effective in less than 30 days.

## Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to [5 U.S.C. 553](#) to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

## Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

### Estimated Costs for Required Actions

<b>Labor cost</b>	<b>Parts cost</b>	<b>Cost per product</b>
9 work-hours × \$85 per hour = \$765	\$0	\$765

The FAA estimates the following costs to do on-condition HFEC inspections that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need these inspections:

### **Estimated Costs of On-Condition Actions**

<b>Labor cost</b>	<b>Parts cost</b>	<b>Cost per product</b>
17 work-hours × \$85 per hour = \$1,445	\$0	\$1,445

The FAA has received no definitive data on which to base the cost estimates for the damage tolerance inspections and repairs specified in this AD.

### **Paperwork Reduction Act**

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120-0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

### **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.

The FAA is 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**

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, and
- (2) Will not affect intrastate aviation in Alaska.

#### List of Subjects in [14 CFR Part 39](#)

- Air transportation
- Aircraft
- Aviation safety
- Incorporation by reference
- Safety

#### 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 FAA amends § 39.13 by adding the following new airworthiness directive:

**2023-04-03 Fokker Services B.V.:** Amendment 39-22350; Docket No. FAA-2023-0168; Project Identifier MCAI-2022-00553-T.

#### (a) Effective Date

This airworthiness directive (AD) is effective March 20, 2023.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes, certificated in any category.

#### (d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

**(e) Unsafe Condition**

This AD was prompted by reports of cracks at the upper and lower fastener holes of a repair plate in the stubwing, which had been applied to repair heat damage, found earlier than expected. The FAA is issuing this AD to address reduced resistance to crack growth due to overheated aluminum. This condition, if not detected and corrected, could lead to reduced structural integrity of the airplane.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022-0070, dated April 21, 2022 (EASA AD 2022-0070).

**(h) Exceptions to EASA AD 2022-0070**

(1) Where EASA AD 2022-0070 refers to its effective date, this AD requires using the effective date of this AD.

(2) Paragraph (5) of EASA AD 2022-0070 specifies to report inspection results to Fokker Services B.V. within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(2)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(3) This AD does not adopt the “Remarks” section of EASA AD 2022-0070.

**(i) Additional AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Validation Branch, 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 responsible Flight Standards Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov). Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Fokker Services B.V.'s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

#### **(j) Additional Information**

For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 3960 Paramount Boulevard, Lakewood, CA 90712-4137; telephone 206-231-3225; email [Dan.Rodina@faa.gov](mailto:Dan.Rodina@faa.gov).

#### **(k) Material Incorporated by Reference**

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

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2022-0070, dated April 21, 2022.

(ii) [Reserved]

(3) For EASA AD 2022-0070, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); website [easa.europa.eu](http://easa.europa.eu). You may find this EASA AD on the EASA website at [ad.easa.europa.eu](http://ad.easa.europa.eu).

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

Issued on February 15, 2023.

Christina Underwood,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[[FR Doc. 2023-04254](#) Filed 3-2-23; 8:45 am]

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