

copy of the framework document is available at: [http://www1.eere.energy.gov/buildings/appliance\\_standards/commercial/automatic\\_ice\\_making\\_equipment.html](http://www1.eere.energy.gov/buildings/appliance_standards/commercial/automatic_ice_making_equipment.html).

Public meeting participants need not limit their comments to the issues identified in the framework document. DOE is also interested in comments on other relevant issues that participants believe would affect energy conservation standards for this equipment, applicable test procedures, or the preliminary determination of the scope of coverage. DOE invites all interested parties, whether or not they participate in the public meeting, to submit in writing by January 18, 2011, comments and information on matters addressed in the framework document and on other matters relevant to DOE's consideration of amended standards for automatic commercial ice-makers.

The public meeting will be conducted in an informal, facilitated, conference style. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by U.S. antitrust laws. A court reporter will record the proceedings of the public meeting, after which a transcript will be available for purchase from the court reporter and placed on the DOE Web site at: [http://www1.eere.energy.gov/buildings/appliance\\_standards/commercial/automatic\\_ice\\_making\\_equipment.html](http://www1.eere.energy.gov/buildings/appliance_standards/commercial/automatic_ice_making_equipment.html).

After the public meeting and the close of the comment period on the framework document, DOE will begin conducting the analyses as discussed in the framework document and at the public meeting, and reviewing the public comments.

DOE considers public participation to be a very important part of the process for determining whether to amend energy conservation standards, as well as for setting those amended standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Beginning with the framework document, and during each subsequent public meeting and comment period, interactions with and among members of the public provide a balanced discussion of the issues to assist DOE in the standards rulemaking process. Accordingly, anyone who wishes to participate in the public meeting, receive meeting materials, or be added to the DOE mailing list to receive future notices and information about this rulemaking should contact Ms. Brenda Edwards at (202) 586-2945, or via e-mail at [Brenda.Edwards@ee.doe.gov](mailto:Brenda.Edwards@ee.doe.gov).

Issued in Washington, DC, on November 4, 2010.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. FAA-2010-0310; Notice No. 10-17]

RIN 2120-AJ72

#### Harmonization of Various Airworthiness Standards for Transport Category Airplanes—Flight Rules

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

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

**SUMMARY:** The FAA proposes to amend various airworthiness standards for transport category airplanes. This action would harmonize the requirements for takeoff speeds, static lateral-directional stability, speed increase and recovery characteristics, and the stall warning margin for the landing configuration in icing conditions with the European Aviation Safety Agency (EASA) certification standards. When airplanes are type certificated to both sets of standards, differences between the standards can result in additional costs to manufacturers and operators. Adopting this proposal would harmonize regulatory differences for the items noted above between United States (U.S.) and EASA airworthiness standards.

**DATES:** Send your comments on or before February 17, 2011.

**ADDRESSES:** You may send comments identified by Docket Number FAA-2010-0310 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between

9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket web site, anyone can find and read the electronic form of all comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

*Docket:* To read background documents or comments received, go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the docket, or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this proposed rule contact Don Stimson, FAA, Airplane & Flight Crew Interface Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, WA 98057-3356; telephone (425) 227-1129; facsimile (425) 227-1149, e-mail [Don.Stimson@faa.gov](mailto:Don.Stimson@faa.gov).

For legal questions about this proposed rule, contact Doug Anderson, FAA, Office of the Regional Counsel (ANM-7), 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2166; facsimile (425) 227-1007; e-mail [Douglas.Anderson@faa.gov](mailto:Douglas.Anderson@faa.gov).

**SUPPLEMENTARY INFORMATION:** Later in this preamble, under the Additional Information section, we discuss how you can comment on this proposal and how we will handle your comments. Included in this discussion is related information about the docket, privacy, and the handling of proprietary or confidential business information. We also discuss how you can get a copy of this proposal and related rulemaking documents. Appendix 1 of this NPRM defines terms used in this proposal.

### Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, part A, subpart III, section 44701, "General requirements." Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for the design and performance of aircraft that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority. It prescribes new safety standards for the design and operation of transport category airplanes.

### Background

Part 25 of Title 14 of the Code of Federal Regulations (14 CFR) prescribes airworthiness standards for type certification of transport category airplanes for products certified in the United States. EASA's Certification Specifications for Large Aeroplanes (CS-25) prescribe the corresponding airworthiness standards for products certified in Europe by the European Aviation Safety Agency. While part 25 and CS-25 are similar, they differ in several respects.

The FAA tasked the Aviation Rulemaking Advisory Committee (ARAC) through its Flight Test Harmonization Working Group to review existing regulations and recommend changes that would eliminate differences between the U.S. and European performance and handling characteristics standards by harmonizing to the higher standards. This proposed rule is a result of this harmonization effort.

### General Discussion of the Proposal

Three of the four changes to the part 25 airworthiness requirements proposed in this rulemaking respond to ARAC recommendations and EASA's actions in response to those recommendations. The fourth proposed change (pertaining to the stall warning margin for the landing configuration in icing conditions) responds to an action taken by EASA regarding a comment made during the public comment period of the harmonized rulemaking that led to adoption of Amendment 25-121 and Amendment 3 of CS-25.

The FAA agrees with the actions taken by EASA and proposes to amend

part 25 in a similar manner. The proposals are not expected to be controversial and should reduce costs to industry without adversely affecting safety. In developing these proposals, ARAC and the FAA considered the following factors:

- a. Underlying safety issues addressed by current standards;
- b. Differences between part 25 and CS-25 standards;
- c. Differences between part 25 and CS-25 means of compliance;
- e. Effect of the proposed standard on current industry practice;
- f. Whether FAA advisory material exists and/or needs amendment; and
- g. The costs and benefits of each proposal.

The complete analyses for the proposed changes made in response to ARAC recommendations can be found in the ARAC recommendation reports. We have placed the reports in the docket for this rulemaking.

The appendix of this preamble contains a glossary of airspeed terms and definitions to help the reader understand the rulemaking proposals.

#### *Proposals From ARAC Recommendations*

The following proposals result from ARAC recommendations made to the FAA and EASA:

- (1) Amend § 25.107(e)(1)(iv), selection of the takeoff rotation speed;
- (2) Amend § 25.177, static lateral-directional stability; and
- (3) Amend § 25.253, roll capability and extension of speedbrakes at high speeds.

EASA's rulemaking action in response to these recommendations was included in the original issuance of CS-25, effective October 17, 2003. The adopted CS-25 requirements differ somewhat from the ARAC recommendations due to public comments received during the rulemaking process and because EASA disagreed with some portions of ARAC's recommendations.

#### *A Proposal From a Commenter*

The sole proposal that did not result from an ARAC recommendation is to amend § 25.21(g)(1) to add stall warning requirements that must be met in the landing configuration for flight in icing conditions. This proposal originates from a comment that this requirement should be added, which was made during the public comment period of the rulemaking that led to adoption of Amendment 25-121, Airplane Performance and Handling Qualities in Icing Conditions.

In the preamble to that rulemaking (72 FR 44665), the FAA stated that we

needed more time and aviation industry participation to fully address the safety concern expressed in this comment. We were concerned that adopting the changes proposed by the commenter would introduce significant regulatory differences from EASA's airworthiness certification requirements, and potentially add significant costs (as an initial cost estimate indicated). Further, it was unclear whether the proposed changes would completely resolve the potential safety issue.

The commenter made the same comment to EASA during the public comment period for the rulemaking that became Amendment 3 to CS-25, which corresponds to Amendment 25-121 of 14 CFR. EASA deferred addressing the comment until its Notice of Proposed Amendment 2008-05, dated April 10, 2008. EASA did not receive any opposing comments from the public and adopted the rule change in Amendment 6 to CS-25, issued July 6, 2009. The FAA proposes to amend § 25.21(g) in the same manner.

### Discussion of the Proposed Regulatory Requirements

#### *Proof of Compliance—§ 25.21(g)(1)*

Section 25.21(g)(1) specifies which subpart B requirements must be met in icing conditions and the ice accretions that must be used to show compliance. The current rule does not require the stall warning margin requirements of § 25.207(c) and (d) to be met in icing conditions. The proposed rule would require that these stall warning margin requirements be met in icing conditions for the landing configuration. This proposed change would harmonize our standards with CS 25.21(g)(1), except for one minor difference regarding seaplanes and amphibians. This is because part 25 contains requirements for seaplanes and amphibians, and CS-25 does not.

#### *Takeoff Speeds—§ 25.107(e)(1)(iv)*

This requirement ensures that the scheduled takeoff speeds provide a minimum liftoff speed ( $V_{LOF}$ ) greater than the minimum safe flyaway speed ( $V_{MU}$ ). The  $V_{MU}$  is the lowest speed at which an applicant demonstrates that no hazardous characteristics are present, such as a relatively high drag condition or a stall. This rule prescribes a minimum speed margin between  $V_{LOF}$  and  $V_{MU}$  to ensure a safe takeoff speed, while taking likely in-service variations in takeoff technique into consideration.

The FAA proposes to allow reduction of both the all-engines-operating and one-engine-inoperative speed margins between  $V_{MU}$  and  $V_{LOF}$  for airplanes for

which the minimum liftoff speed is limited by the geometry of the airplane (i.e., ground contact of the tail of the airframe with the runway as the nose lifts off). This limiting condition provides protection against early or over-rotation beyond the safe liftoff pitch attitude at or near  $V_{MU}$  such that the prescribed minimum speed margin can be reduced without reducing the level of safety. In the past, the FAA has allowed reduction of this speed margin for geometry-limited airplanes for the all-engines-operating condition using findings of equivalent safety. The proposed standard would codify this practice and extend its application to the one-engine-inoperative condition. This proposed change would harmonize this takeoff speed requirement with CS 25.107(e)(1)(iv).

#### *Static Lateral-Directional Stability—§ 25.177*

This requirement ensures that transport category airplanes have basic lateral and directional stability, proportionality between aileron and rudder control movements and forces (at least within the sideslip angles appropriate to the operation of the airplane), and freedom from fin stall or rudder overbalance. The full rudder sideslip requirements of § 25.177(c) are primarily intended to investigate the potential for a loss of directional stability or fin stall (as indicated by a decrease in the rudder deflection needed for increased angles of sideslip) and rudder overbalance or locking (as indicated by a reversal in the rudder pedal force).

The proposed revision to § 25.177(a) and (b) would reinstate the standards that existed prior to Amendment 25–72 that treat the specific lateral and directional stability requirements as separate entities.

The proposed revisions to § 25.177(c) are as follows:

1. Divide the existing paragraph into two separate paragraphs. The proposed § 25.177(c) would address the basic lateral and directional stability, while a new paragraph (d) would be introduced to address full rudder sideslips. The existing paragraph (d) would be removed as its provisions would be covered by the reinstated § 25.177(b).

2. Revise § 25.177(c) to require that proportionality criteria must also be met at the sideslip angles obtained with one-half of the available rudder control (i.e., rudder pedal input). This change would impose a minimum lateral control power requirement such that the airplane must be capable of maintaining a straight, steady, sideslip when the pilot puts in one-half of the available

rudder control or uses a force of 180 pounds on the rudder control at the conditions specified in the rule.

3. Specify that the requirements in § 25.177(c) must be met for the configurations and speeds specified in § 25.177(a). This proposal would not change the applicable conditions from those applied in practice under the current § 25.177(c).

4. Move the current § 25.177(c) requirement that applies to sideslip angles greater than those considered appropriate for normal operation of the airplane (i.e., up to full rudder control input) to a proposed new § 25.177(d). The conditions for which this requirement must be met would include all of the approved landing gear and flap positions for the range of operating speeds and power conditions appropriate to each landing gear and flap position with all engines operating. Relative to the current § 25.177(c), this proposal would reduce the range of speeds and power settings for which the requirement applies. The reduced speed ranges specified in the proposed § 25.177(d) are intended to reduce the flight test safety risk as well as to harmonize and standardize current practices.

5. Add text to the new § 25.177(d) stating that compliance with this requirement must be shown using straight, steady sideslips, unless full lateral control input is achieved before reaching either the rudder control input or force limit. A straight, steady sideslip need not be maintained beyond the lateral control limit. This change further clarifies the intent of the requirement regarding the capability required beyond the sideslip angles considered appropriate for operations. For airplanes lacking sufficient aileron control power to maintain a steady heading with full rudder input, any flight test demonstration would be continued to full rudder input even though a steady heading could not be maintained. This situation has caused difficulties in the past because the current rule wording is ambiguous regarding the conduct of the full rudder sideslips. This proposal would codify the FAA interpretation provided in the preamble to Amendment 25–72, Special Review: Transport Category Airplane Airworthiness Standards (55 FR 29756).

Also, § 25.253(b) and (c) would be revised to reference only § 25.177 (a) through (c), rather than the entire § 25.177, to be consistent with the proposed reduced speed range over which § 25.177(d) applies. The current § 25.253 (b) and (c) specify that  $V_{FC}/M_{FC}$  is the maximum speed for which the requirements of all of § 25.177 must be

met. Because the proposed § 25.177(d) requirements only apply to the operational speed range (e.g.,  $V_{MO}/M_{MO}$ ) and need not be met at  $V_{FC}/M_{FC}$ , the reference to § 25.177 in § 25.253(b) and (c) would be revised to refer only to § 25.177(a) through (c).

These proposed changes would harmonize the static lateral-directional stability requirements with the corresponding CS–25 requirements and update references to these requirements in other sections of part 25.

#### *High-Speed Characteristics—§ 25.253*

This requirement assures that the airplane has safe recovery characteristics at speeds beyond the maximum operating limit speed ( $V_{MO}/M_{MO}$ ) up to the maximum demonstrated flight diving speed ( $V_{DF}/M_{DF}$ ). We propose to add requirements that (1) there must be adequate roll capability to assure a prompt recovery from a lateral upset condition and (2) speedbrake extension at high speed must not result in an excessive positive load factor when the pilot does act to counteract the effects of the extension. The speedbrake extension at high speed also must not cause buffeting that would impair the pilot's ability to read the instruments or cause a nose-down pitching moment, unless that pitching moment is small.

The proposed revision would harmonize our high-speed characteristics requirements with CS 25.253.

#### *Advisory Material*

The FAA is revising AC 25–7 to incorporate guidance on how to comply with the proposed harmonized standards. The draft AC is posted on the FAA's draft document Web site at [http://www.faa.gov/aircraft/draft\\_docs/](http://www.faa.gov/aircraft/draft_docs/).

#### **Paperwork Reduction Act**

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there would be no new requirement for information collection associated with this proposed rule.

#### **International Compatibility**

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices

and has identified no differences with these proposed regulations.

### Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impact of the proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the costs and benefits is not prepared. Such a determination has been made for this proposed rule.

The reasoning for this determination follows: The proposed rule would amend §§ 25.21(g)(1), 25.107(e)(1)(iv), 25.177, and 25.253 to harmonize with EASA requirements already in CS–25. A review of current practice of U.S. manufacturers of transport category airplanes has revealed the manufacturers intend to fully comply with the EASA standards (or are already complying) as a means of obtaining joint certification. Since future certificated transport category airplanes are expected to meet the existing CS–25 requirements and this proposed rule

would simply adopt the same requirements, the manufacturers would incur no additional costs. The proposed rule would provide benefits from reduced joint certification costs from the harmonization itself, and for the parts of the rule harmonizing with less stringent EASA requirements; manufacturers can expect additional benefits inherent in the reduced stringency. The FAA therefore has determined that this proposed rule would have no costs and positive benefits and does not warrant a full regulatory evaluation. The FAA requests comments regarding this determination. We discuss the basis for our findings below.

The FAA has also determined that this proposed rule is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866, and is not “significant” as defined in DOT's Regulatory Policies and Procedures.

### Costs and Benefits of This Rulemaking

#### *Cost and Benefits of Proposed Amendment to § 25.21(g)(1)*

We are proposing to adopt an EASA requirement that has no counterpart in the current CFR. Manufacturer compliance with the EASA requirement would increase the safety of their airplanes. Since the manufacturers intend to comply with the EASA requirement, however, there would be no additional safety benefits from compliance with the proposed harmonizing amendment. Nevertheless, it is beneficial to make the FAA's compliance requirement identical to EASA's requirement in order to avoid confusion and make clear that the safety implications of the proposed § 25.21(g)(1) and CS 25.21(g)(1) are identical.

As we are proposing to adopt an EASA requirement that has no counterpart in the current CFR, there can be no reduction in certification costs—in the requirements for data collection and analysis, paperwork, and time spent applying for and obtaining approval from the regulatory authorities. Rather, manufacturers would face some increase in certification costs to comply with the EASA requirement. Since the manufacturers intend to comply with the EASA requirement, however, they would incur no additional costs to comply with the proposed FAA harmonizing amendment.

#### *Costs and Benefits of Proposed Amendment to § 25.107(e)(1)(iv)*

Manufacturers would benefit as a result of reduced certification costs from the harmonization of proposed

§ 25.107(e)(1)(iv) with CS 25.107(e)(1)(iv).

Additional benefits would result because the proposed amendment is a less stringent requirement, which would reduce the required minimum takeoff speed of geometry-limited (viz., tail contact with the runway) airplanes. As discussed in the preamble above, since the minimum takeoff speed is, in part, intended to reduce the probability of an airplane reaching a takeoff pitch attitude beyond that shown to be safe, the additional protection against such a condition inherent in a geometry-limited airplane allows the minimum takeoff speed to be safely reduced. The less stringent requirement implies higher takeoff weights, increases in payload, and shorter takeoff distances for geometry-limited airplanes. These are operator benefits, some of which will accrue to part 25 manufacturers by increasing airplane value.

As this proposed amendment is relieving, there would be no increase in costs.

#### *Costs and Benefits of Proposed Amendment to § 25.177*

Section 25.177(a) and (b) (requiring separate directional and lateral stability assessments) were removed by Amendment 25–72, published in the **Federal Register** (55 FR 29756), July 20, 1990. The FAA considered them unnecessary since directional and lateral stability could be determined using an “alternative test” based on data obtained in showing compliance with § 25.177(c). EASA's retention of CS 25.177(a) and (b), however, allows manufacturers to use the “basic test” outlined by CS 25.177(a) and (b). Reinstatement of § 25.177(a) and (b) would lower certification costs for manufacturers preferring instead to use the “basic test.” Part 25 manufacturers preferring to satisfy the stability requirements with the “alternative test” of § 25.177(c) would face no increase in cost since they could still use that test. In any case, since manufacturers intend to comply with CS 25.177(a) and (b), they would incur no additional costs from complying with the proposed harmonizing amendment regardless of the cost situation.

Compared to the current § 25.177(c) and (d), CS 25.177(c) and (d) have both more stringent and less stringent requirements. As discussed in the preamble above, the less stringent requirement would increase the safety of flight tests without reducing test validity. Compliance with the more stringent requirement would entail some certification costs and reduce payload-carrying capability under

certain conditions. Since the manufacturers intend to comply with CS 25.177(c) and (d), however, they would incur no additional costs to comply with the proposed harmonizing amendment.

#### *Costs and Benefits of Proposed Amendment to § 25.253*

Manufacturers would benefit as a result of reduced certification costs from the harmonization of § 25.253 with CS 25.253. The compliance of the manufacturers with the more stringent EASA requirements would also increase the safety of their airplanes. Since the manufacturers intend to comply with the EASA requirements, however, there would be no additional safety benefits from compliance with the proposed FAA harmonizing amendment.

Part 25 manufacturers would face additional certification costs, especially additional flight testing costs, to meet the EASA requirements. Since the manufacturers intend to comply with the EASA requirements, however, they would incur no additional costs to comply with the proposed FAA harmonizing amendment.

#### *Summary of Costs and Benefits*

The benefits of an FAA rule harmonizing with a more stringent EASA rule necessarily flow from reduced certification costs brought about by the harmonization itself. Just as any costs are attributable to complying with the existing EASA rule, so too are any benefits from increased safety. Accordingly, the benefits of the more stringent §§ 25.21(g)(1), 25.253, 25.177(a) and (b), and the more stringent parts of § 25.177(c) and (d) would be reduced certification costs or qualitative benefits from harmonization.

For an FAA rule harmonizing with a less stringent EASA rule, there would be reduced certification costs from the harmonization itself, but also benefits inherent in the reduced stringency. For § 25.107(e)(1)(iv) the inherent benefits to operators would be higher takeoff weights, increases in payload, and shorter takeoff distances for geometry-limited airplanes allowed by the reduced minimum takeoff speeds. For the reduced speed ranges specified in proposed § 25.177(c) and (d), the inherent benefits would be to reduce test flight safety risk.

The FAA, therefore, has determined that this proposed rule would have minimal costs with positive net benefits and does not warrant a full regulatory evaluation. The FAA requests comments regarding our determination of minimal costs with positive net benefits.

#### **Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.” The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

As noted above, this proposed rule would not entail any additional costs to part 25 manufacturers as they are already in compliance, or intend to fully comply, with more stringent EASA standards. Moreover, all U.S. manufacturers of transport category airplanes exceed the Small Business Administration small-entity criteria of 1,500 employees. Therefore, the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA requests comments regarding this determination.

#### **International Trade Impact Assessment**

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a

legitimate domestic objective, such the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that it would promote international trade by harmonizing with corresponding EASA regulations thus reducing the cost of joint certification.

#### **Unfunded Mandates Assessment**

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$136.1 million in lieu of \$100 million.

This proposed rule does not contain such a mandate. The requirements of Title II do not apply.

#### **Executive Order 13132, Federalism**

The FAA has analyzed this proposed rule and the principles and criteria of Executive Order 13132, Federalism. We determined that this action 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 and therefore, would not have federalism implications.

#### **Environmental Analysis**

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312d and involves no extraordinary circumstances.

#### **Regulations That Significantly Affect Energy Supply, Distribution, or Use**

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a “significant energy action” under the

executive order, it is not a “significant regulatory action” under Executive Order 12866 and DOT’s Regulatory Policies and Procedures, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

**Regulations Affecting Intrastate Aviation in Alaska**

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect intrastate aviation in Alaska. The FAA therefore specifically requests comments on whether there is justification for applying the proposed rule differently to intrastate operations in Alaska.

**Plain English**

Executive Order 12866 (58 FR 51735, Oct. 4, 1993) requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain unnecessary technical language or jargon that interferes with their clarity?
- Would the regulations be easier to understand if they were divided into more (but shorter) sections?

• Is the description in the preamble helpful in understanding the proposed regulations?

Please send your comments to the address specified in the **ADDRESSES** section.

**Additional Information**

*Comments Invited*

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure that the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal because of the comments we receive.

*Proprietary or Confidential Business Information*

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver such information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the

information that you consider proprietary or confidential. If you send the information on a disk or CD-ROM, mark the outside of the disk or CD-ROM and also identify electronically within the disk or CD-ROM the specific information that is proprietary or confidential.

Under § 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and we place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

*Availability of Rulemaking Documents*

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA’s Regulations and Policies Web page at [http://www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/); or
3. Accessing the Government Printing Office’s web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number or notice number of this rulemaking.

You may access all documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, from the Internet through the Federal eRulemaking Portal referenced in paragraph (1).

**Appendix 1 to the Preamble**

**SPEED TERMS AND DEFINITIONS**

Term	Definition
V <sub>R</sub> .....	Rotation speed.
V <sub>1</sub> .....	Maximum speed in the takeoff at which the pilot must take the first action (e.g., apply brakes, reduce thrust, deploy speed brakes) to stop the airplane within the accelerate stop distance. It also means the minimum speed in the takeoff, following a failure of the critical engine at V <sub>EF</sub> , at which the pilot can continue the takeoff and achieve the required height above the takeoff surface within the takeoff distance.
V <sub>2</sub> .....	Takeoff safety speed.
V <sub>REF</sub> .....	Reference landing speed.
V <sub>SW</sub> .....	Speed at which the onset of natural or artificial stall warning occurs.
V <sub>SR</sub> .....	Reference stall speed.
V <sub>SR1</sub> .....	Reference stall speed in a specific configuration.
V <sub>LOF</sub> .....	Lift-off speed.
V <sub>MU</sub> .....	Minimum unstick speed.
V <sub>MC</sub> .....	Minimum control speed with the critical engine inoperative.
V <sub>FE</sub> .....	Maximum flap extended speed.
V <sub>LE</sub> .....	Maximum landing gear extended speed.

SPEED TERMS AND DEFINITIONS—Continued

Term	Definition
$V_{FC}/M_{FC}$ .....	Maximum speed for stability characteristics.
$V_{MO}/M_{MO}$ .....	Maximum operating limit speed.
$V_{DF}/M_{DF}$ .....	Demonstrated flight diving speed.

**List of Subjects in 14 CFR Part 25**

Aircraft, Aviation safety, Reporting and recordkeeping requirements, Safety.

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

**PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES**

1. The authority citation for part 25 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702 and 44704.

2. Amend § 25.21 by revising paragraph (g)(1) to read as follows:

**§ 25.21 Proof of compliance.**

\* \* \* \* \*

(g) \* \* \*

(1) Each requirement of this subpart, except §§ 25.121(a), 25.123(c), 25.143(b)(1) and (b)(2), 25.149, 25.201(c)(2), 25.239, and 25.251(b) through (e), must be met in icing conditions. Section 25.207(c) and (d) must be met in the landing configuration in icing conditions, but need not be met for other configurations. Compliance must be shown using the ice accretions defined in appendix C of this part, assuming normal operation of the airplane and its ice protection system in accordance with the operating limitations and operating procedures established by the applicant and provided in the Airplane Flight Manual.

\* \* \* \* \*

3. Amend § 25.107 by revising paragraph (e)(1)(iv) to read as follows:

**§ 25.107 Takeoff speeds.**

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(iv) A speed that, if the airplane is rotated at its maximum practicable rate, will result in a  $V_{LOF}$  of not less than—

(A) 110 percent of  $V_{MU}$  in the all-engines-operating condition, and 105 percent of  $V_{MU}$  determined at the thrust-to-weight ratio corresponding to the one-engine-inoperative condition; or

(B) If the  $V_{MU}$  attitude is limited by the geometry of the airplane (i.e., tail

contact with the runway), 108 percent of  $V_{MU}$  in the all-engines-operating condition and 104 percent of  $V_{MU}$  determined at the thrust-to-weight ratio corresponding to the one-engine-inoperative condition.

\* \* \* \* \*

4. Revise § 25.177 to read as follows:

**§ 25.177 Static lateral-directional stability.**

(a) The static directional stability (as shown by the tendency to recover from a skid with the rudder free) must be positive for any landing gear and flap position and symmetric power condition, at speeds from 1.13  $V_{SR1}$ , up to  $V_{FE}$ ,  $V_{LE}$ , or  $V_{FC}/M_{FC}$  (as appropriate).

(b) The static lateral stability (as shown by the tendency to raise the low wing in a sideslip with the aileron controls free) for any landing gear and flap position and symmetric power condition, may not be negative at any airspeed (except that speeds higher than  $V_{FE}$  need not be considered for flaps extended configurations nor speeds higher than  $V_{LE}$  for landing gear extended configurations) in the following airspeed ranges:

(1) From 1.13  $V_{SR1}$  to  $V_{MO}/M_{MO}$ .

(2) From  $V_{MO}/M_{MO}$  to  $V_{FC}/M_{FC}$ , unless the divergence is—

- (i) Gradual;
- (ii) Easily recognizable by the pilot; and
- (iii) Easily controllable by the pilot.

(c) In straight, steady sideslips over the range of sideslip angles appropriate to the operation of the airplane, but not less than those obtained with one-half of the available rudder control input or a rudder control force of 180 pounds, the aileron and rudder control movements and forces must be substantially proportional to the angle of sideslip in a stable sense; and the factor of proportionality must lie between limits found necessary for safe operation. This requirement must be met for the configurations and speeds specified in paragraph (a) of this section.

(d) For sideslip angles greater than those prescribed by paragraph (c) of this section, up to the angle at which full rudder control is used or a rudder control force of 180 pounds is obtained, the rudder control forces may not reverse, and increased rudder deflection must be needed for increased angles of sideslip. Compliance with this

requirement must be shown using straight, steady sideslips, unless full lateral control input is achieved before reaching either full rudder control input or a rudder control force of 180 pounds; a straight, steady sideslip need not be maintained after achieving full lateral control input. This requirement must be met at all approved landing gear and flap positions for the range of operating speeds and power conditions appropriate to each landing gear and flap position with all engines operating.

5. Amend § 25.253 by adding paragraphs (a)(4) and (a)(5) and revising paragraphs (b) and (c) introductory text to read as follows:

**§ 25.253 High-speed characteristics.**

(a) \* \* \*

(4) Adequate roll capability to assure a prompt recovery from a lateral upset condition must be available at any speed up to  $V_{DF}/M_{DF}$ .

(5) With the airplane trimmed at  $V_{MO}/M_{MO}$ , extension of the speedbrakes over the available range of movements of the pilot's control, at all speeds above  $V_{MO}/M_{MO}$ , but not so high that  $V_{DF}/M_{DF}$  would be exceeded during the maneuver, must not result in:

- (i) An excessive positive load factor when the pilot does not take action to counteract the effects of extension;
- (ii) Buffeting that would impair the pilot's ability to read the instruments or control the airplane for recovery; or
- (iii) A nose down pitching moment, unless it is small.

(b) *Maximum speed for stability characteristics,  $V_{FC}/M_{FC}$ .*  $V_{FC}/M_{FC}$  is the maximum speed at which the requirements of §§ 25.143(g), 25.147(e), 25.175(b)(1), 25.177(a) through (c), and 25.181 must be met with flaps and landing gear retracted. Except as noted in § 25.253(c),  $V_{FC}/M_{FC}$  may not be less than a speed midway between  $V_{MO}/M_{MO}$  and  $V_{DF}/M_{DF}$ , except that, for altitudes where Mach number is the limiting factor,  $M_{FC}$  need not exceed the Mach number at which effective speed warning occurs.

(c) *Maximum speed for stability characteristics in icing conditions.* The maximum speed for stability characteristics with the ice accretions defined in appendix C, at which the requirements of §§ 25.143(g), 25.147(e),

25.175(b)(1), 25.177(a) through (c), and 25.181 must be met, is the lower of:

\* \* \* \* \*

Issued in Washington, DC, on November 9, 2010.

**KC Yanamura,**

*Deputy Director, Aircraft Certification Service.*

[FR Doc. 2010-29193 Filed 11-18-10; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2010-1114; Directorate Identifier 2010-NM-206-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Fokker Services B.V. Model F.28 Mark 0100, 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:

Prompted by an accident \* \* \*, the FAA published Special Federal Aviation Regulation (SFAR) 88, and the Joint Aviation Authorities (JAA) published Interim Policy INT/POL/25/12. The design review conducted by Fokker on the F28 in response to these regulations revealed that, in case of a lightning strike, an ignition source can develop in the wing tank vapour space during fuel transfer from bag tank CWT [center wing tank], if the electrical power for refuelling is not switched off after refuelling.

Service experience has revealed situations where the power switch of the Fuelling Control Panel (FCP) appeared to be "ON" with the access panel closed. The cam on the access panel that should operate the power switch, if forgotten by flight crew or maintenance staff, can pivot away during closing of the panel, which may result in the switch staying in the "ON" position.

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 January 3, 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-2010-1114; Directorate Identifier 2010-NM-206-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 2010-0139, dated July 1, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Prompted by an accident \* \* \*, the FAA published Special Federal Aviation Regulation (SFAR) 88, and the Joint Aviation Authorities (JAA) published Interim Policy INT/POL/25/12. The design review conducted by Fokker on the F28 in response to these regulations revealed that, in case of a lightning strike, an ignition source can develop in the wing tank vapour space during fuel transfer from bag tank CWT [center wing tank], if the electrical power for refuelling is not switched off after refuelling.

Service experience has revealed situations where the power switch of the Fuelling Control Panel (FCP) appeared to be "ON" with the access panel closed. The cam on the access panel that should operate the power switch, if forgotten by flight crew or maintenance staff, can pivot away during closing of the panel, which may result in the switch staying in the "ON" position.

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 an inspection of the cam and, depending on findings, replacement with an improved part. Subsequently, this AD requires repetitive functional checks of the cam and, depending on findings, the necessary corrective actions.

The corrective action is adjusting the FCP cam until it operates correctly. You may obtain further information by examining the MCAI in the AD docket.

#### **Relevant Service Information**

Fokker Services B.V. has issued Fokker Service Bulletins SBF28-28-052, dated April 20, 2010; and SBF100-28-063, dated April 15, 2010. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.