

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
RENTON, WASHINGTON 98057-3356

In the matter of the petition of

Fokker Services, B.V.

for an exemption from §§ 26.11, 26.43,  
26.45, and 26.49 of Title 14, Code of  
Federal Regulations

**Regulatory Docket No. FAA-2008-0030**

**GRANT OF EXEMPTION**

By submission to the Department of Transportation's Federal Docket Management System (FDMS) dated January 10, 2008, and a later clarifying submission, dated March 6, 2008, Mr. Rick Visser of Fokker Services, B.V., P.O. Box 231, Nieuw-Vennep, Netherlands, 2150 AE, petitioned the Federal Aviation Administration (FAA) for an exemption from the requirements of Title 14 Code of Federal Regulations (CFR) 26.11, 26.43, 26.45, and 26.49, as they apply to Fokker Models F27 Mark 200 through Mark 700 and F28 Mark1000 through Mark 4000 airplanes. Section 26.11 requires development of instructions for continued airworthiness (ICA) applicable to an airplane's electrical wiring interconnection systems (EWIS). Sections 26.43, 26.45, and 26.49 are requirements related to the development of damage tolerance data for repairs and alterations.

**The petitioner requests relief from the following regulations:**

**Section 26.11 Electrical wiring interconnection systems (EWIS) maintenance program**, which requires development of instructions for continued airworthiness (ICA) applicable to an airplane's electrical wiring interconnection systems (EWIS).

**§ 26.43 Holders of and applicants for type certificates—Repairs**, which requires development of damage tolerance data for repairs.

**§ 26.45 Holders of type certificates—Alterations and repairs to alterations**, which requires development of damage tolerance data for repairs and alterations.

**§ 26.49 Compliance plan**, which requires development of a compliance plan for §§ 26.43, 26.45, and 26.47.

**The petitioner supports its request with the following information.** This information is quoted from Mr. Visser's January 10, 2008, petition, and his March 6, 2008, clarification letter. The complete petition and clarification letter may be found in the docket.

The original Type Certification for the F27Mk100 was completed in 1957, i.e., before the January 1, 1958, date as set in the rule, thus the rule is already not effective for the F27 Mark 100. The certificates for the later F27 marks were issued in 1965 and beyond. Of the 584 aircraft originally built only about 150 were still active at the end of 2007, of which only about 25 in the European Union and not more than 9 in the USA, almost exclusively in the cargo role. The original Type Certification for the F28 Mark 1000 and later marks were completed in or beyond 1969. Of the 241 aircraft originally built only about 60 were still active at the end of 2007, of which none in the European Union and none in the USA.

Given the current phase of these F27 and F28 projects (last aircraft being delivered more than 20 years ago), there is no prospect that these aircraft will find their way back in passenger operation in the European Union or in the USA in any significant numbers. In view of the rate of reduction in numbers over the last few years, it is envisaged that at the time when the operators have to comply with the Enhanced Airworthiness Program for Airplane Systems (EAPAS) and Aging Airplane Safety Rule (AASR) rules (not before the end of 2010), the number of active F27 aircraft on the European Union and USA registers will have been diminished further, while there will be no single F28. For the USA it is even foreseen that also the last F27 will have been phased out at that time. Evidence and confirmation is presently being sought from the last few US owners/operators of this anticipated US fleet development.

It is the position of Fokker Services that the investment to be made by the Type Certificate Holder/Design Approval Holder (DAH) shall be in proportion with the safety benefit gained by compliance to Part 26 rules. Given the relatively small aircraft numbers presently still engaged in commercial passenger transport operation worldwide, and the even smaller and decreasing numbers in the European Union and in the USA, it is anticipated that with the compliance time for the operators even far less aircraft will in the end actually benefit from the results of the activities that would be required from the Type Certificate Holder. This is also confirmed by the experience with the mandatory requirement for an F28 Repair Assessment Program: for less than 10 aircraft worldwide a kind of repair assessment activity has been integrated by operators in their maintenance program.

The actual safety benefit would therefore remain limited to some handfuls of aircraft at maximum, and would not in a measurable way contribute to the safety record of these types.

**No Adverse Effect on Public Safety:**

Granting the exemptions as requested would not adversely affect safety in US operation as the rules would not have any effect on US registered aircraft operating under Part 91, 121, 125 or 129 requirements in view of the current fleet status and anticipated fleet developments as indicated above.

**Public Interest:**

Granting the exemptions as requested would be in the public interest as it would eliminate the need for an investment of about 4000 workhours by Fokker Services plus the additional costs of about 45,000 Euro for the support of the program by the European Aviation Safety Agency (EASA). In addition the one-time investment per operator for the incorporation of the resulting add-ons in the maintenance programs plus the recurring costs for the actual accomplishment of the new tasks (EAPAS) or assessments and possible additional inspections and/or repair replacements (AASR), need to be considered. This can not easily be expressed numerically (as it depends on many variables), however, can be expected to be disproportionate in view of the relatively short remaining productive life of the aircraft involved, the youngest of these aircraft being already more than 20 years old. Thus it would be difficult to continue profitable operation of these aircraft if these EAPAS and AASR operator requirements would need to be complied with.

**Federal Register publication**

A summary of the petition was published in the Federal Register on April 4, 2008 (73 FR 18605). One comment was received from Empire Airlines who expressed their support for granting the exemption as requested by Fokker Services B.V.

**The FAA's analysis**

The FAA has developed criteria to consider when deciding whether to grant or deny a part 26 exemption request. These criteria were developed to aid the FAA in making a decision for part 26 exemption requests and were not specifically developed for any specific request. The FAA uses these criteria as a starting point for making its decision. However, other factors may also be considered before a final decision is made on any particular exemption request.

The criteria are as follow:

**Table 1**  
**Criteria for Considering Eligibility for Exemption**  
**from §§ 26.11, 26.43, 26.45, 26.47, or 26.49**

	<b>If the airworthiness authority for the state of design is</b>	<b>And</b>	<b>And</b>	<b>And</b>	<b>Then</b>
1	The FAA	No airplanes are operating under part 121 and it is unlikely that any will do so in the future <sup>3</sup>	No airplanes are operating under part 129 (N-registered) and it is unlikely that any will do so in the future <sup>3</sup>	No airplanes are being operated by a foreign air carrier and it is unlikely that any will do so in the future <sup>3</sup>	The DAH may be eligible for an exemption
2	The FAA	Airplanes are operating under part 121 but no airplanes will be operated under part 121 after the operational rule compliance date <sup>1</sup> and it is unlikely that any will return to such service in the future <sup>3</sup>	Airplanes are operating under part 129 (N-registered) but no airplanes will be operated under part 129 (N-registered) after the operational rule compliance date <sup>1</sup> and it is unlikely that any will return to such service in the future <sup>3</sup>	Airplanes are being operated by a foreign air carrier but no airplanes will be operated by a foreign air carrier after the operational rule compliance date <sup>1</sup> and it is unlikely that any will return to such service in the future <sup>3</sup>	The DAH may be eligible for an exemption
3	Not the FAA	No airplanes are operating under part 121 and it is unlikely that any will do so in the future <sup>3</sup>	No airplanes are operating under part 129 (N-registered) and it is unlikely that any will do so in the future <sup>3</sup>		The DAH may be eligible for an exemption
4	Not the FAA	Airplanes are operating under part 121 but no airplanes will be operated under part 121 after the operational rule compliance date <sup>2</sup> and it is unlikely that any will return to such service in the future <sup>3</sup>	Airplanes are operating under part 129 (N-registered) but no airplanes will be operated under part 129 (N-registered) after the operational rule compliance date <sup>2</sup> and it is unlikely that any will return to such service in the future <sup>3</sup>		The DAH may be eligible for an exemption

<sup>1</sup> The design approval holder must demonstrate that these airplanes will not be operating under part 121 or part 129, or operated by a foreign air carrier, after the operational rule compliance date by obtaining documentation of such from the current owners/operators of the airplanes.

<sup>2</sup> The design approval holder must demonstrate that these airplanes will not be operating under part 121 or part 129 after the operational rule compliance date by obtaining documentation of such from the current owners/operators of the airplanes.

<sup>3</sup> Arguments for the likelihood of an airplane not entering into air carrier service in the future should center on the airplane's age and/or current configuration.

The determination of whether an airplane is operating under part 121 or part 129 is based on whether that particular airplane is listed on an air carrier's Operations Specifications.

The rationale behind these two criteria is that if there are no operators who will be required by the 121/129 rules, or (for U.S. manufacturers) the rules of foreign authorities that have harmonized with us, to utilize the data that is required to be developed, then it would be a poor use of resources to develop it. Therefore, it would benefit both the DAH and the public as a whole to *not* waste resources to develop data that will not be utilized. Further, granting such an exemption would not adversely affect safety because there are no airplanes that would be required to incorporate the data, nor is it likely that there will be any in the future.

The FAA has reviewed Fokker's request and has made the determination that granting this exemption would not have an adverse effect on public safety and would be in the public interest based on the following information:

**Fokker Model F27 Mark 200, 300, 400, 500, 600, and 700.**

The FAA is not the airworthiness authority for the state of design for the Fokker Model F-27, however there are currently six US-registered Model F27 aircraft that are part of Fokker's exemption request that are on two part 121 air carrier's Operations Specifications. Federal Express owns five Model F27 airplanes that are operated by either Mountain Air Cargo or Empire Airlines. Federal Express owns the sixth airplane but has donated it to a museum and is currently in the process of removing that airplane from its Operations Specifications. The serial numbers of these airplanes are: 10349, 10350, 10367, 10385, 10420, and 10615. Empire Airlines operates serial numbers 10349, 10350, 10385, and 10420. Mountain Air Cargo operates serial number 10615. The donated airplane's serial number is 10367.

Federal Express has indicated via a letter (sent to Empire Airlines and submitted to the public docket by Federal Express), that they plan to retire these five operational airplanes no later than July 31, 2010. Of the Part 26 requirements from which Fokker seeks an exemption, the operational requirement with the earliest compliance time corresponding to a part 26 requirement is § 121.1109 -- Supplemental inspections. The compliance deadline for this rule is December 20, 2010. This meets our first criterion as Fokker has demonstrated that these airplanes will not be operating under part 121 or part 129 after the operational rule(s) compliance deadline. Federal Express further states that they historically either scrap or sell their unwanted airplanes to non-US citizens. Therefore these five airplanes are unlikely to return to part 121 or part 129 services after they have done so.

Regarding SN 10367- Federal Express has informed the FAA that this airplane has been retired and donated to a museum in North Carolina. Although this airplane is still on their Operations Specifications, they have informed the FAA that they have started the

process to remove it from their Operations Specifications. Therefore this particular airplane is unlikely to return to part 121 or part 129 services.

There are four more affected F27 airplanes on the US Registry. These are serial numbers 10371, 10372, 10383, 10464 and they are not on any part 121 or part 129 Operations Specifications.

According to correspondence from Executive Jet Support Ltd. located in Chippenham, UK, serial numbers 10371, 10383, and 10464 have been "reduced...to parts" and 10372 is currently up for sale. They further state that 10372 will be sold outside of the US within the next two years, and thus will be de-registered from the US register. Their correspondence goes on to state that they have a deal pending and it should conclude within a few months. Therefore all of these airplanes meet our criteria - the parted-out airplanes are unlikely to return to part 121 or part 129 service (or service under any 14 CFR operational part), and 10372 will not be operated under part 121 or part 129 after the operational rules compliance date.

Generally, the F27 is an older model airplane--the affected versions were type certificated in 1965. These airplanes are relatively inefficient as compared with more recent models. We, therefore, conclude that it is unlikely that any operator would attempt to reintroduce this model airplane into air carrier service in the future. Therefore the Model F27 airplanes meet the FAA's exemption criteria. There are no other factors to be considered regarding Fokker's petition for their exemption.

#### **Fokker Model F28 Mark 1000, 2000, 3000, and 4000.**

The FAA is not the airworthiness authority for the state of design for the Fokker Model F28 and there are currently no affected US-registered Model F28 airplanes on part 121 or part 129 Operations Specifications. There are six-affected Model F28 on the US-Registry; these are serial numbers 11016, 11169, 11176, 11181, 11182, 11235.

Serial number 11016 is operated under part 91 but has been in storage for 3 years. Serial number 11169 has been broken up. Serial number 11176 has been in storage in the Netherlands since 2001. Serial numbers 11181 and 11182 used to be operated by Horizon Airlines, but have been in storage since 2005 and are not listed on Horizon's Operations Specifications. Serial number 11235 was involved in a 1992 accident and is considered to be a hull loss. Fokker says their attempts at contacting the owners regarding future use of these airplanes have been unsuccessful. However, the FAA agrees with Fokker's claim that it is highly unlikely that any of these airplanes will ever be brought back into service.

Like the F27, the F28 is an older model airplane that is relatively inefficient as compared with more recent models. We, therefore, conclude that it is unlikely that any operator would attempt to reintroduce this model airplane into air carrier service in the future. Therefore the Model F28 airplanes meet the FAA's exemption criteria and there are no other factors to be considered regarding Fokker's petition for their exemption.

### **Additional Information.**

Fokker, in their exemption request, states that Models F27 Mark 050, 0502 and 0604 and the F28 Mark 0070 and F28 Mark 0100 airplanes are still flying in substantial numbers over the world and they intend to meet the 14 CFR part 26 requirements for these models. Although Fokker is not requesting an exemption for these models, for clarity we are noting that grant of exemption does not extend to Models F27 Mark 050, 0502, 0604, or Models F28 Mark 0070 and 0100.

This exemption grants relief to Fokker Services B.V., from having to meet the requirements of § 26.11 for development of EWIS ICA and of §§ 26.43, 26.45, and 26.49 for development of damage tolerance data for repairs and alterations. This exemption does not grant relief from the related operational requirements. Should a person choose to operate one of the airplane models covered by this exemption under 14 CFR Part 121 or 129 beyond the operational compliance deadlines as stated in § 121.1111 or § 129.111 (EWIS ICA) or in § 121.1109(c) or § 129.109(b) (damage tolerance data for repairs and alterations), that person will be required to comply with those operational requirements.

### **Supplemental Type Certificate (STC) Holders and Applicants.**

Section 26.11 requires an applicant for an amended type certificate or STC to evaluate whether the design change necessitates a revision to the EWIS ICA developed by the TC holder and approved by the FAA Oversight Office. Section 26.47 requires STC holders and applicants to use damage tolerance data developed by the TC holder to identify all alterations that affect fatigue critical baseline structure and fatigue critical alteration structure. Since it would be Fokker Services' applying for an amended TC, they would be exempt from the requirements of § 26.11(c) as this section is part of their exemption petition. However, if the FAA grants Fokker Services' petition, applicable STC holders and applicants will not be able to comply with the requirements of §§ 26.11 and 26.47. As such, the FAA considered the impact on these entities on whether a grant should be issued, and if so, whether it should be expanded to the applicable STC holders and applicants.

### **The FAA's decision**

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator, Fokker Services, B.V., is hereby granted an exemption from §§ 26.11, 26.43, 26.45, 26.47, and 26.49 for Models F27 Mark 200, 300, 400, 500, 600, 700 and Models F28 Mark 1000, 2000, 3000, and 4000 airplanes.

In addition, since the FAA does not intend for these rules to apply to a STC holder or applicant if they do not apply to the type certificate holder for the airplane model being modified, this grant is extended to those STC holders and applicants that have modified

or modify Models F27 Mark 200, 300, 400, 500, 600, 700 and Models F28 Mark 1000, 2000, 3000, and 4000 airplanes.

Issued in Renton Washington on December 31, 2008.

/s/

Linda Navarro  
Acting Manager  
Transport Airplane Directorate  
Aircraft Certification Service