

**FEDERAL DEPOSIT INSURANCE CORPORATION****12 CFR Part 363**

RIN 3064-AC06

**Independent Audits and Reporting Requirements**

AGENCY: Federal Deposit Insurance Corporation (FDIC or Corporation).

ACTION: Final rule.

**SUMMARY:** The FDIC is amending its regulations concerning annual independent audits and reporting requirements which implement section 36 of the Federal Deposit Insurance Act (FDI Act). Section 36 is generally intended to facilitate early identification of problems in financial management at larger insured depository institutions through annual independent audits, assessments of the effectiveness of internal controls and compliance with designated laws and regulations, and more stringent reporting requirements.

Section 2301 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) repealed section 36(e) of the FDI Act which required that each insured depository institution over a certain size have an independent public accountant perform specified procedures for determining compliance with designated safety and soundness laws. Accordingly, the FDIC is eliminating Schedule A to Appendix A, "Agreed Upon Procedures for Determining Compliance with Designated Laws".

Section 2301 of EGRPRA also permits the FDIC in certain circumstances to exempt institutions from the requirement that audit committees be comprised entirely of outside directors. It further permits the FDIC to designate certain information filed under section 36 as privileged and confidential and therefore not available to the public.

The FDIC is also making several technical changes to the Guidelines and Interpretations (Guidelines) published as an appendix to the annual independent audit rule. The changes delete certain filing requirements that have been determined to be unnecessary, and clarify ambiguities identified by the Corporation, financial institutions, and accountants since the audit rule was promulgated.

**EFFECTIVE DATE:** The final regulation is effective January 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Doris L. Marsh, Examination Specialist, Division of Supervision (202) 898-8905, FDIC, 550 17th Street, N.W., Washington, DC 20429, or Sandra

Comenetz, Counsel, Legal Division, (202) 898-3582, FDIC, 550 17th Street N.W., Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:****I. Background**

Section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) added section 36, "Independent Annual Audits of Insured Depository Institutions," to the FDI Act (12 U.S.C. 1831m). As enacted, section 36 required the FDIC, in consultation with the appropriate federal banking agencies, to promulgate regulations requiring each insured depository institution over a certain asset size (covered institution) to have an annual independent audit of its financial statements performed in accordance with generally accepted auditing standards and section 37 of the FDI Act (12 U.S.C. 1831n), and to provide a management report and an independent public accountant's attestation concerning the effectiveness of the institution's internal controls for financial reporting and its compliance with designated safety and soundness laws. Section 36 also requires each covered institution to have an independent audit committee. The audit committee of each large covered institution (total assets exceeding \$3 billion) must meet certain additional requirements.

In June 1993, the FDIC published 12 CFR part 363 (58 FR 31332, June 2, 1993) to implement the provisions of section 36 of the FDI Act. Under part 363, the requirements of section 36 apply to each insured depository institution with \$500 million or more in total assets at the beginning of any fiscal year that begins after December 31, 1992. Part 363 also includes Guidelines and Interpretations (Appendix A to part 363), which are intended to assist institutions and independent public accountants in understanding and complying with section 36 and part 363.

Section 314 of the Riegle Community Development and Regulatory Improvement Act of 1994 amended sections 36(i) and 36(g)(2) of the FDI Act (12 U.S.C. 1831m (i) and (g)(2)). The purpose of section 314(a) was to provide relief from certain duplicative reporting under section 36 of the FDI Act for sound, well managed insured depository institutions with over \$9 billion in total assets which are subsidiaries of multibank holding companies. The regulation was amended effective April 1, 1996, to implement section 314.

Section 2301 of EGRPRA repealed section 36(e) and amended sections

36(a)(3) and 36(g)(1) of the FDI Act. Section 36(e) required that each covered institution have an independent public accountant perform specified procedures for determining compliance with designated safety and soundness laws. To comply with the repeal of section 36(e), the FDIC is removing Schedule A to Appendix A, "Agreed Upon Procedures for Determining Compliance with Designated Laws," and is making conforming changes to the regulation and the Guidelines.

The amendment to section 36(g)(1) of the FDI Act grants authority for each appropriate federal banking agency to permit a covered institution under its supervision to have an audit committee consisting of a majority of outside directors, instead of consisting entirely of outside directors, if the agency determines that the institution has encountered hardships retaining and recruiting a sufficient number of competent outside directors to serve on the committee. The amendment to section 36(a)(3) permits the FDIC and the appropriate federal banking agency to designate certain information filed under section 36 as privileged and confidential and not available to the public.

Since 1993 when part 363 was promulgated, no institution has requested relief from the FDIC because the institution had difficulty in recruiting or retaining outside directors for its audit committee nor has any institution requested confidential treatment of any otherwise public information filed under section 36. Because the banking agencies would consider such matters on a case-by-case basis, and to avoid additional burden, no implementing regulations are being promulgated.

**II. Discussion of Amendment**

The FDIC is amending part 363 to conform it to the amended statute, update certain references, eliminate an unnecessary filing by independent public accountants, and align the filing requirements with the FDIC's current approach for supervising banking organizations.

The FDIC is deleting Schedule A to Appendix A, "Agreed Upon Procedures for Determining Compliance with Designated Laws", and Guideline 19 to conform the regulation to the amended statute which repealed the requirement that each covered institution have an independent public accountant perform specified procedures for determining compliance with designated safety and soundness laws. In addition, §§ 363.3(b) and 363.4 (a) and (b) have been amended to delete references to

Schedule A and the independent public accountant's attestation on compliance with Designated Laws and Regulations (Designated Laws). Guidelines 8, 16, and 18 likewise have been revised.

Although section 2301 of EGRPRA repealed the statutory requirement that an independent public accountant provide an attestation report on the performance of agreed-upon procedures for determining an institution's compliance with Designated Laws, management is still required to file an annual report with the FDIC and appropriate federal and state banking agencies which includes a statement of its responsibility for complying with Designated Laws and an assessment of the institution's compliance with such laws and regulations. Revised Guideline 12 identifies the two categories of Designated Laws. Table 1 to Appendix A lists the specific federal laws and regulations within these categories.

The Introduction to the Guidelines and Interpretations has been amended to remove outdated language. Also, the references to documents which provide information on safeguarding of assets and standards for internal control in footnote 2 to Guideline 10 have been updated.

The FDIC has removed the provision in Guideline 16 that an accountant may elect to file a list of covered institutions that are audit clients in lieu of a peer review report for each client. The FDIC has found that the list of client institutions is not needed.

Revised Guideline 22 (previously numbered Guideline 23) has been amended to reflect the FDIC's current approach to supervising banking organizations which own more than one depository institution. In such cases, one FDIC region is designated to manage supervision of the entire organization. The amended guideline states that covered institutions filing under part 363 on a holding company basis should submit their reports to the appropriate FDIC regional office.

**III. Public Comment Waiver and Effective Date**

The Administrative Procedure Act, 5 U.S.C. 551 *et seq.* (APA), requires that general notice of a proposed rulemaking be published in the **Federal Register**. 5 U.S.C. 553(b). An exception to the rule exists if the agency for good cause finds "\* \* \* that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(B). The FDIC is publishing the amendments to part 363 as a final rule without notice and comment because the amendments consist of only minor and technical changes. The FDIC

finds that publication in this case is unnecessary.

**IV. Paperwork Reduction Act**

This regulation contains modifications to a collection of information that have been reviewed and approved by the Office of Management and Budget on November 5, 1997, under control number 3064-0113 pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The primary modification is the deletion, from Appendix A, of Schedule A "Agreed Upon Procedures for Determining Compliance with Designated Laws".

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer Alexander Hunt, New Executive Office Building, Room 3208, Washington, D.C. 20503, with copies of such comments to Steven F. Hanft, Assistant Executive Secretary (Regulatory Analysis), Federal Deposit Insurance Corporation, Room F-4001-B, 550 17th Street, NW, Washington, D.C. 20429. All comments should refer to "3064-0113".

The estimated reporting burden for the collection of information under part 363 is:

*Number of Respondents:* 420.

*Number of Responses per Respondent:* 3.

*Total Annual Responses:* 1,260.

*Hours per Response:* 32.

*Total Annual Burden Hours:* 40,320.

**V. Regulatory Flexibility Act**

The rule expressly exempts insured depository institutions having assets of less than \$500 million, and, for that reason, is inapplicable to small entities. Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), it is certified that the rule would not have a significant impact on a substantial number of small entities.

**VI. Small Business Regulatory Enforcement Fairness Act**

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Title II, Pub. L. 104-121) provides generally for agencies to report rules to Congress and the General Accounting Office (GAO) for review. The reporting requirement is triggered when a federal agency issues a final rule. The FDIC will file the appropriate reports with Congress and the GAO as required by SBREFA.

Because the Office of Management and Budget has determined that the rule does not constitute a "major rule" as defined by SBREFA, the final rule will take effect on January 1, 1998.

**List of Subjects in 12 CFR Part 363**

Accounting, Administrative practice and procedure, Banks, banking, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board of Directors of the FDIC hereby amends Part 363 of title 12, chapter III, of the Code of Federal Regulations as follows:

**PART 363—ANNUAL INDEPENDENT AUDITS AND REPORTING REQUIREMENTS**

1. The authority citation for part 363 continues to read as follows:

**Authority:** 12 U.S.C. 1831m.

2. Section 363.3 is amended by revising paragraph (b) to read as follows:

**§ 363.3 Independent public accountant.**

\* \* \* \* \*

(b) *Additional report.* Such independent public accountant shall examine, attest to, and report separately on, the assertion of management concerning the institution's internal control structure and procedures for financial reporting. The attestation shall be made in accordance with generally accepted standards for attestation engagements.

\* \* \* \* \*

3. Section 363.4 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 363.4 Filing and notice requirements.**

(a) *Annual reporting.* Within 90 days after the end of its fiscal year, each insured depository institution shall file with each of the FDIC, the appropriate federal banking agency, and any appropriate state bank supervisor, two copies of an annual report containing audited annual financial statements, the independent public accountant's report thereon, management's statements and

assessments, and the independent public accountant's attestation report concerning the institution's internal control structure and procedures for financial reporting as required by §§ 363.2(a), 363.3(a), 363.2(b), and 363.3(b), respectively.

(b) *Public availability.* The annual report in paragraph (a) of this section shall be available for public inspection.

\* \* \* \* \*

4. Appendix A to part 363 is amended by revising the table of contents entry for item 18, by removing the table of contents entry for item 19, by redesignating table of contents entries 20 through 37 as 19 through 36, respectively, by revising the introduction and guidelines 8, 10, 12, 16, 18 to read as follows:

**Appendix A to Part 363—Guidelines and Interpretations**

**Table of Contents**

\* \* \* \* \*

18. Attestation Report

\* \* \* \* \*

**Introduction**

Congress added section 36, "Early Identification of Needed Improvements in Financial Management" (section 36), to the Federal Deposit Insurance Act (FDI Act) in 1991.

The FDIC Board of Directors adopted 12 CFR part 363 of its rules and regulations (the Rule) to implement those provisions of section 36 that require rulemaking. The FDIC also approved these "Guidelines and Interpretations" (the Guidelines) and directed that they be published with the Rule to facilitate a better understanding of, and full compliance with, the provisions of section 36.

Although not contained in the Rule itself, some of the guidance offered restates or refers to statutory requirements of section 36 and is therefore mandatory. If that is the case, the statutory provision is cited.

Furthermore, upon adopting the Rule, the FDIC reiterated its belief that every insured depository institution, regardless of its size or charter, should have an annual audit of its financial statements performed by an independent public accountant, and should establish an audit committee comprised entirely of outside directors.

The following Guidelines reflect the views of the FDIC concerning the interpretation of section 36. The Guidelines are intended to assist insured depository institutions (institutions), their boards of directors, and their advisors, including their independent public accountants and legal counsel, and to clarify section 36 and the Rule. It is recognized that reliance on the Guidelines may result in compliance with section 36 and the Rule which may vary from institution to institution. Terms which are not explained in the Guidelines have the meanings given them

in the Rule, the FDI Act, or professional accounting and auditing literature.

\* \* \* \* \*

**Annual Reporting Requirements (§ 363.2)**

\* \* \* \* \*

8. *Management Report.* Management should perform its own investigation and review of the effectiveness of internal controls and compliance with the Designated Laws defined in Guideline 12. Management also should maintain records of its determinations and assessments until the next federal safety and soundness examination, or such later date as specified by the FDIC or appropriate federal banking agency. Management should provide in its assessment of the effectiveness of internal controls, or supplementally, sufficient information to enable the accountant to report on its assertion. The management report of an insured branch of a foreign bank should be signed by the branch's managing official if the branch does not have a chief executive or financial officer.

\* \* \* \* \*

10. *Standards for Internal Controls.* Each institution should determine its own standards for establishing, maintaining, and assessing the effectiveness of its internal controls.<sup>2</sup>

\* \* \* \* \*

12. *Compliance with Laws and Regulations.* The designated laws and regulations are the federal laws and regulations concerning loans to insiders and the federal and state laws and regulations concerning dividend restrictions (the Designated Laws). Table 1 to this Appendix A lists the designated federal laws and regulations pertaining to insider loans and dividend restrictions that are applicable to each type of institution.

**Role of Independent Public Accountant (§ 363.3)**

\* \* \* \* \*

16. *Filing Peer Review Reports.* Within 15 days of receiving notification that the peer review has been accepted, or before commencing any audit under the Rule,

<sup>2</sup>In considering what information is needed on safeguarding of assets and standards for internal controls, management may review guidelines provided by its primary federal regulator; the FDIC's Division of Supervision Manual of Examination Policies; the Federal Reserve Board's Commercial Bank Examination Manual and other relevant regulations; the Office of Thrift Supervision's Thrift Activities Handbook; the Comptroller of the Currency's Handbook for National Bank Examiners; and standards published by professional accounting organizations, such as the American Institute of Certified Public Accountants' (AICPA) Statement on Auditing Standards No. 55, "Consideration of the Internal Control Structure in a Financial Statement Audit," as amended by Statement of Auditing Standards No. 78; the Committee of Sponsoring Organizations (COSO) of the Treadway Commission's *Internal Control—Integrated Framework*, including its addendum on safeguarding of assets; and other internal control standards published by the AICPA, other accounting or auditing professional associations, and financial institution trade associations.

whichever is earlier, two copies of the most recent peer review report, accompanied by any letter of comments and letter of response, should be filed by the independent public accountant (if not already on file) with the FDIC, Registration and Disclosure Section, 550 17th Street, N.W., Washington, D.C. 20429, where they will be available for public inspection. All corrective action required under any qualified peer review report should have been taken before commencing services under this Rule.

\* \* \* \* \*

18. *Attestation Report.* The independent public accountant should provide the institution with an internal controls attestation report and any management letter at the conclusion of the audit as required by section 36(c)(1). If a holding company subsidiary relies on its holding company management report, the accountant may attest to and report on management's assertions in one report, without reporting separately on each subsidiary covered by the Rule. The FDIC has determined that management letters are exempt from public disclosure.

\* \* \* \* \*

5. Appendix A to part 363 is amended by removing Guideline 19 and redesignating Guidelines 20 through 37 as 19 through 36, respectively.

6. Appendix A to part 363 is amended by revising newly designated Guideline 22 to read as follows:

\* \* \* \* \*

**Filing and Notice Requirements (§ 363.4)**

22. *Place for Filing.* Except for peer review reports filed pursuant to Guideline 16, all reports and notices required by, and other communications or requests made pursuant to, the Rule should be filed as follows:

(a) FDIC: Appropriate FDIC Regional Office (Supervision), i.e., the FDIC regional office in the FDIC region in which the institution is headquartered or, in the case of a subsidiary institution of a holding company, the FDIC regional office that is responsible for monitoring the consolidated company. A filing made on behalf of several covered institutions owned by the same parent holding company should be accompanied by a transmittal letter identifying all of the institutions covered.

(b) Office of the Comptroller of the Currency (OCC): appropriate OCC Supervisory Office.

(c) Federal Reserve: appropriate Federal Reserve Bank.

(d) Office of Thrift Supervision (OTS): appropriate OTS District Office.

(e) State bank supervisor: the filing office of the appropriate state bank supervisor.

\* \* \* \* \*

7. Schedule A to Appendix A of part 363 and the Tables to Schedule A are removed.

8. Table 1 is added to Appendix A to read as follows:

TABLE 1 TO APPENDIX A

Designated Federal Laws and Regulations Applicable to

		National banks	State member banks	State non-member banks	Savings associations
<b>Insider Loans—Parts and/or Sections of Title 12 of the United States Code</b>					
375a	Loans to Executive Officers of Banks	✓	✓	(1)	(1)
375b	Prohibitions Respecting Loans and Extensions of Credit to Executive Officers and Directors of Banks, Political Campaign, Committees, etc.	✓	✓	(1)	(1)
1468(b)	Extensions of Credit to Executive Officers, Directors, and Principal Shareholders.				✓
1828(j)(2)	Provisions Relating to Loans, Extensions of Credit, and Other Dealings Between Member Banks and Their Affiliates, Executive Officers, Directors, etc.			✓	
1828(j)(3)(B)	Extensions of Credit Applicability of Provisions Relating to Loans, Extensions of Credit, and Other Dealings Between Insured Branches of Foreign Banks and Their Insiders.	(2)		(3)	
<b>Parts and/or Sections of Title 12 of the Code of Federal Regulations</b>					
23.5	Application of Legal Lending Limits; Restrictions on Transactions With Affiliates.	✓			
31	Extensions of Credit to National Bank Insiders	✓			
215	Subpart A—Loans by Member Banks to Their Executive Officers, Directors, and Principal Shareholders.	✓	✓	(4)	(5)
	Subpart B—Reports of Indebtedness of Executive Officers and Principal Shareholders of Insured Nonmember Banks.	✓	✓	(4)	(5)
337.3	Limits on Extensions of Credit to Executive Officers, Directors, and Principal Shareholders of Insured Nonmember Banks.			✓	
349.3	Reports by Executive Officers and Principal Shareholders			✓	
563.43	Loans by Savings Associations to Their Executive Officers, Directors, and Principal Shareholders.				✓
<b>Dividend Restrictions—Parts and/or Sections of Title 12 of the United States Code</b>					
56	Prohibition on Withdrawal of Capital and Unearned Dividends	✓	✓		
60	Dividends and Surplus Funds	✓	✓		
1467a(f)	Declaration of Dividends				✓
1831o	Prompt Corrective Action—Dividend Restrictions	✓	✓	✓	✓
<b>Parts and/or Sections of Title 12 of the Code of Federal Regulations</b>					
5.61	Payment of dividends; capital limitation	✓			
5.62	Payment of dividends; earnings limitation	✓			
6.6	Prompt Corrective Action—Dividend Restrictions	✓			
7.6120	Dividends Payable in Property Other Than Cash	✓			
208.19	Payments of Dividends		✓		
208.35	Prompt Corrective Action		✓		
325.105	Prompt Corrective Action			✓	
563.134	Capital Distributions				✓
565	Prompt Corrective Action				✓

<sup>1</sup> Subsections (g) and (h) only.

<sup>2</sup> Applies only to insured federal branches of foreign banks.

<sup>3</sup> Applies only to insured state branches of foreign banks.

<sup>4</sup> See 12 CFR parts 337.3 and 349.3.

<sup>5</sup> See 12 CFR part 563.43.

By Order of the Board of Directors.

Dated at Washington, D.C., this 12th day of November, 1997.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 97-30860 Filed 11-26-97; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 95-NM-29-AD; Amendment 39-10223; AD 97-24-16]

RIN 2120-AA64

#### **Airworthiness Directives; Fokker Model F28 Mark 0070 and 0100 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0070 and 0100 series airplanes, that requires a one-time operational test of a certain pitot heating system, repair or replacement of failed elements, and repair or replacement of the pitot heating system with a new improved system. This amendment also requires installation of new power supply wiring with increased gauge thickness, and a circuit breaker with an increased amperage rating. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent icing of the No. 1 pitot tube, which could result in failure of the No. 1 Air Data Computer, or output of erroneous airspeed data to all on-side subsidiary systems, including the Automatic Flight Control and Augmentation System.

**DATES:** Effective January 2, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 2, 1998.

**ADDRESSES:** The service information referenced in this AD may be obtained from 95-NM-29-AD. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2110; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0070 and 0100 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on February 3, 1997 (62 FR 4944). That action proposed to require a one-time operational test of the No. 1 pitot heating system, repair or replacement of failed elements, and repair or replacement of the pitot heating system with a new improved system. That action also proposed to require installation of new power supply wiring with increased gauge thickness, and a circuit breaker with an increased amperage rating.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

#### **Requests To Extend the Compliance Time for Replacement of Pitot Tube**

Two commenters request that the compliance time, specified in paragraph (b)(2) of the proposed AD, for accomplishing the replacement of the pitot tube and associated electrical modifications be extended from the proposed 18 months to 24 months. The commenters state that such an extension will allow the replacement to be accomplished during a regularly scheduled heavy maintenance check for all but 7 of its affected airplanes, and thereby minimize any additional expenses that would be associated with special scheduling.

The FAA does not concur with the commenters' request. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the manufacturer's and foreign airworthiness authority's recommendations as to an appropriate compliance time, the availability of required parts, and the practical aspect of installing the required replacement within an interval of time that parallels the normal scheduled maintenance for the majority of affected operators. The FAA has determined that the compliance time, as proposed,

represents the maximum interval of time allowable for the affected airplanes to continue to operate prior to accomplishing the required replacement without compromising safety. In addition, the commenters have not provided any data to substantiate why an extension of the compliance time would not compromise safety.

In consideration of all of these factors, and in consideration of the amount of time that has already elapsed since issuance of the original NPRM, the FAA has determined that further delay of this modification is not appropriate. However, under the provisions of paragraph (d) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

#### **Conclusion**

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

#### **Cost Impact**

The FAA estimates that 129 Fokker Model F28 Mark 0100 and 0070 series airplanes of U.S. registry will be affected by this AD.

The required operational check will take approximately 1 work hour per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact for the operational check required by this AD on U.S. operators is estimated to be \$7,740, or \$60 per airplane.

The required replacement of the pitot heating system will take approximately 36 work hours per airplane, at an average labor rate of \$60 per work hour. Required parts will cost approximately \$16,000 per airplane. Based on these figures, the cost impact of this replacement required by this AD on U.S. operators is estimated to be \$18,160 per airplane.

For airplanes on which replacement of the pitot heating system has been accomplished previously, the required installation of the power supply electrical wiring and circuit breaker will take approximately 12 work hours per airplane, at an average labor rate of \$60 per work hour. Required parts will cost approximately \$350 per airplane. Based on these figures, the cost impact is estimated to be \$1,070 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish