

**PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

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

**§ 39.13 [Amended]**

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**Fairchild Dornier GmbH (Formerly Dornier Luftfahrt GmbH):** Docket No. FAA–2005–21053; Directorate Identifier 2005–NM–053–AD.

**Comments Due Date**

(a) The Federal Aviation Administration must receive comments on this AD action by May 26, 2005.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to all Dornier Model 328–100 series airplanes, certificated in any category.

**Unsafe Condition**

(d) This AD was prompted by the results of fuel system reviews conducted by the airplane manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

**Compliance**

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

**Modification and Installations**

(f) Within 12 months after the effective date of this AD, do the actions in Table 1 of this AD in accordance with the Accomplishment Instructions of Dornier Service Bulletin SB–328–00–445, dated August 23, 2004.

TABLE 1.—REQUIREMENTS

Do the following actions—	By accomplishing all the actions specified in—
(1) Modify the electrical wiring of the left-hand and right-hand fuel pumps.	Paragraph 2.B(1) of the service bulletin.
(2) Install insulation at the left-hand and right-hand flow control and shut-off valves, and other components of the environmental control system.	Paragraph 2.B(2) of the service bulletin.
(3) Install markings at fuel wiring harnesses.	Paragraph 2.B(3) of the service bulletin.

**Revision to Airworthiness Limitations**

(g) Within 12 months after the effective date of this AD, revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness by inserting a copy of Dornier Temporary Revision TR ALD–080, dated October 15, 2003, into the Dornier 328 Airworthiness Limitations Document. Thereafter, except as provided in paragraph (h) of this AD, no alternative inspection intervals may be approved for this fuel tank system.

**Alternative Methods of Compliance (AMOCs)**

(h) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

**Related Information**

(i) German airworthiness directive D–2005–001, dated January 26, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on April 18, 2005.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05–8271 Filed 4–25–05; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2005–21054; Directorate Identifier 2005–NM–054–AD]**

**RIN 2120–AA64**

**Airworthiness Directives; Dornier Model 328–300 Series Airplanes**

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Dornier Model 328–300 series airplanes. This proposed AD would require modifying the electrical wiring of the fuel pumps; installing insulation at the flow control and shut-off valves, and other components of the environmental control system; installing markings at fuel wiring harnesses; replacing the wiring harness of the auxiliary fuel system with a new wiring harness; and installing insulated couplings in the fuel system; as applicable. This proposed AD also would require revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness to incorporate new

inspections of the fuel tank system. This proposed AD is prompted by the results of fuel system reviews conducted by the airplane manufacturer. We are proposing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

**DATES:** We must receive comments on this proposed AD by May 26, 2005.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.

- By fax: (202) 493–2251.

- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., 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 AvCraft Aerospace GmbH, PO Box 1103, D–82230 Wessling, Germany.

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21054; the directorate identifier for this docket is 2005–NM–054–AD.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA–2005–21054; Directorate Identifier 2005–NM–054–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will

consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket website, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you can visit <http://dms.dot.gov>.

### Examining the Docket

You can examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

### Discussion

The FAA has examined the underlying safety issues involved in recent fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (67 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21-78, and subsequent Amendments 21-82 and 21-83).

Among other actions, SFAR 88 requires certain type design (*i.e.*, type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered

transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with another latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

The Joint Aviation Authorities (JAA) has issued a regulation that is similar to SFAR 88. (The JAA is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

In light of these findings, the Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, issued German airworthiness directives D-2005-002 (for airplanes with option 033F003 installed) and D-2005-063 (for airplanes without option 033F003 installed), both dated January 26, 2005, to address the unsafe condition previously described on Dornier Model 328-300 series airplanes.

### Relevant Service Information

The airplane manufacturer has issued Dornier Service Bulletin SB-328J-00-197, dated August 23, 2004 (for airplanes without option 033F003 installed); and Dornier Service Bulletin

SB-328J-00-198, dated August 23, 2004 (for airplanes with option 033F003 installed).

Dornier Service Bulletin SB-328J-00-197 describes procedures for:

1. Modifying the electrical wiring of the left-hand and right-hand fuel pumps, which includes installing new supports, wet-installing plugs, and torquing and securing nuts;

2. Installing insulation at the left-hand and right-hand flow control and shut-off valves, and other components of the environmental control system (*i.e.*, cross bleed valve, temperature control valve and cold air unit of the environmental control unit, and bleed air inlet), which includes replacing the existing flex joint covers of the bleed air ducts with new covers;

3. Installing markings at fuel wiring harnesses; and

4. Amending the Airworthiness Limitations Document (ALD).

Dornier Service Bulletin SB-328J-00-198 describes procedures similar to those described in items 1, 3, and 4 above for Dornier Service Bulletin SB-328J-00-197. Dornier Service Bulletin SB-328J-00-198 also describes procedures for replacing the wiring harness of the auxiliary fuel system with a new wiring harness and installing insulated couplings in the fuel system.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The LBA mandated the service information to ensure the continued airworthiness of these airplanes in Germany.

### FAA's Determination and Requirements of the Proposed AD

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. We have examined the LBA's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously. This proposed AD also would require revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness to incorporate new inspections of the fuel tank system.

**Costs of Compliance**

The following table provides the estimated costs for U.S. operators to

comply with this proposed AD. The average labor rate is \$65 per hour.

**ESTIMATED COSTS**

For airplanes—	Work hours	Parts	Number of U.S.-registered airplanes	Cost per airplane	Fleet cost
With option 033F003 installed.	95	\$9,402	Currently, none of these affected airplanes are on the U.S. Register.	\$15,577 if an affected airplane is imported and placed on the U.S. Register in the future.	None.
Without option 033F003 installed.	70	14,118	47 .....	\$18,668 .....	\$877,396.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency’s authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, “General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a “significant regulatory action” under Executive Order 12866;
2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:  
**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**Fairchild Dornier GmbH (Formerly Dornier Luftfahrt GmbH):** Docket No. FAA–2005–21054; Directorate Identifier 2005–NM–054–AD.

**Comments Due Date**

- (a) The Federal Aviation Administration must receive comments on this AD action by May 26, 2005.

**Affected ADs**

- (b) None.

**Applicability**

- (c) This AD applies to Dornier Model 328–300 series airplanes, certificated in any category, serial numbers 3105 through 3223 inclusive.

**Unsafe Condition**

- (d) This AD was prompted by the results of fuel system reviews conducted by the airplane manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

**Compliance**

- (e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

**Without Option 033F003 Installed: Modification and Installations**

(f) For airplanes without option 033F003 installed: Within 12 months after the effective date of this AD, do the actions in Table 1 of this AD in accordance with the Accomplishment Instructions of Dornier Service Bulletin SB–328J–00–197, dated August 23, 2004.

**TABLE 1.—REQUIREMENTS FOR AIRPLANES WITHOUT OPTION 033F003 INSTALLED**

Do the following actions—	By accomplishing all the actions specified in—
(1) Modify the electrical wiring of the left-hand and right-hand fuel pumps.	Paragraph 2.B(1) of the service bulletin.
(2) Install insulation at the left-hand and right-hand flow control and shut-off valves and other components of the environmental control system.	Paragraph 2.B(2) of the service bulletin.
(3) Install markings at fuel wiring harnesses.	Paragraph 2.B(3) of the service bulletin.

**With Option 033F003 Installed: Modification, Replacement, and Installation**

(g) For airplanes with option 033F003 installed: Within 12 months after the effective date of this AD, do the actions in Table 2 of this AD in accordance with the Accomplishment Instructions of Dornier Service Bulletin SB–328J–00–198, dated August 23, 2004.

**TABLE 2.—REQUIREMENTS FOR AIRPLANES WITH OPTION 033F003 INSTALLED**

Do the following actions—	By accomplishing all the actions specified in—
(1) Modify the electrical wiring of the left-hand and right-hand fuel pumps.	Paragraph 1.B(1) of the service bulletin.

TABLE 2.—REQUIREMENTS FOR AIRPLANES WITH OPTION 033F003 INSTALLED—Continued

Do the following actions—	By accomplishing all the actions specified in—
(2) Replace the wiring harness of the auxiliary fuel system with a new wiring harness.	Paragraph 1B(2) of the service bulletin.
(3) Install markings at fuel wiring harnesses.	Paragraph 1B(3) of the service bulletin.
(4) Install insulated couplings in the fuel system.	Paragraph 1B(5) of the service bulletin.

**Revision to Airworthiness Limitations**

(h) Within 12 months after the effective date of this AD, revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness by inserting a copy of Dornier Temporary Revision TR ALD-028, dated October 15, 2003, into the Dornier 328JET Airworthiness Limitations Document. Thereafter, except as provided in paragraph (i) of this AD, no alternative inspection intervals may be approved for this fuel tank system.

**Alternative Methods of Compliance (AMOCs)**

(i) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

**Related Information**

(j) German airworthiness directives D-2005-002 (for airplanes with option 033F003 installed) and D-2005-063 (for airplanes without option 033F003 installed), both dated January 26, 2005, also address the subject of this AD.

Issued in Renton, Washington, on April 18, 2005.

**Ali Bahrami,**

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05-8277 Filed 4-25-05; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****18 CFR Part 35**

[Docket Nos. RM05-10-000 and AD04-13-000]

**Imbalance Provisions for Intermittent Resources Assessing the State of Wind Energy in Wholesale Electricity Markets**

April 14, 2005.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to require public utilities to append to their open access transmission tariffs (OATTs) an intermittent generator imbalance service schedule.

The intent of the amendment is to clarify the imbalance tariff provisions that have become outdated and have become unjust, unreasonable, unduly discriminatory or preferential, as applied to intermittent resources.

**DATES:** Comments are due May 26, 2005.

**ADDRESSES:** Comments may be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. Commenters unable to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC 20426. Refer to the Comment Procedures section of the preamble for additional information on how to file comments.

**FOR FURTHER INFORMATION CONTACT:**

Matthew J. Deal (Technical Information), Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-6363.

Bruce Poole (Technical Information), Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8468.

Jeffrey Sanders (Technical Information), Office of Market Oversight and Investigations, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-6455.

Jignasa Gadani (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888

First Street, NE., Washington, DC 20426, (202) 502-8608.  
David Withnell (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8421.

**SUPPLEMENTARY INFORMATION:****Introduction**

1. In this Notice of Proposed Rulemaking (NOPR or proposed rule), we propose to clarify and amend the imbalance tariff provisions that have become outdated and have become unjust, unreasonable, unduly discriminatory or preferential, as applied to intermittent resources.<sup>1</sup> At the time Order No. 888<sup>2</sup> was issued, intermittent resources were not a significant source of generation and typically energy from intermittent resources was sold to the host utility. In the years since the issuance of Order No. 888, intermittent resources have grown at an annual average rate of approximately 20 percent and want to avail themselves of the open access transmission tariff (OATT or tariff) for opportunities to make sales more broadly, but are hesitant to do so because of the application of imbalance provisions that were designed to apply to resources with the ability to control fuel input and thus schedule their energy with precision. These imbalance provisions were not designed to apply to intermittent resources that by nature are weather-driven. In order to remove the unjust, unreasonable, unduly discriminatory or preferential imbalance tariff provisions, while still providing an incentive to intermittent resources to schedule as accurately as possible, the Commission, pursuant to its authority under sections 205 and 206 of the Federal Power Act,<sup>3</sup> proposes to establish a standardized schedule under the Order No. 888 pro forma OATT to address generator imbalances created by

<sup>1</sup> For purposes of this rulemaking, an intermittent resource is an electric generator that is not dispatchable and cannot store its fuel source and therefore cannot respond to changes in system demand or respond to transmission security constraints.

<sup>2</sup> Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 FR 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 62 FR 12,274 (March 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part, remanded in part on other grounds sub nom. Transmission Access Policy Study Group, et al. v. FERC*, 225 F.3d 667 (DC Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

<sup>3</sup> 16 U.S.C. 824d-e (2000).