

[Federal Register, Volume 88 Number 38 (Monday, February 27, 2023)]

[Rules and Regulations]

[Pages 12143-12146]

From the Federal Register Online via the Government Publishing Office [www.gpo.gov]

[FR Doc No: 2023-04020]

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

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

**[Docket No. FAA-2023-0174; Project Identifier MCAI-2023-00063-T; Amendment 39-22359; AD 2023-04-12]**

**RIN 2120-AA64**

**Airworthiness Directives; Airbus SAS Airplanes**

#### **AGENCY:**

Federal Aviation Administration (FAA), DOT.

#### **ACTION:**

Final rule; request for comments.

#### **SUMMARY:**

The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A350-941 and -1041 airplanes. This AD was prompted by a determination that longitudinal sealing tape in the forward and aft cargo compartments had migrated from its original position, which could affect the fire extinguishing system efficiency in the cargo compartments. This AD requires repetitive detailed inspection of the affected parts, and, depending on findings, accomplishment of applicable corrective action, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

#### **DATES:**

This AD is effective March 14, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 14, 2023.

The FAA must receive comments on this AD by April 13, 2023.

#### **ADDRESSES:**

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

- *Federal eRulemaking Portal*: Go to *regulations.gov*. Follow the instructions for submitting comments.
- *Fax*: 202-493-2251.
- *Mail*: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery*: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*AD Docket*: You may examine the AD docket at *regulations.gov* under Docket No. FAA-2023-0174; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

#### *Material Incorporated by Reference:*

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); website [easa.europa.eu](http://easa.europa.eu). You may find this material on the EASA website at [ad.easa.europa.eu](http://ad.easa.europa.eu).
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at *regulations.gov* under Docket No. FAA-2023-0174.

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

Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516-228-7317; email [dat.v.le@faa.gov](mailto:dat.v.le@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2023-0174; Project Identifier MCAI-2023-00063-T” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

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

### **Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) ([5 U.S.C. 552](#)), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516-228-7317; email [dat.v.le@faa.gov](mailto:dat.v.le@faa.gov). Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

### **Background**

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2023-0011, dated January 17, 2023 (EASA AD 2023-0011) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A350-941 and -1041 airplanes. The MCAI states that longitudinal sealing tape in the forward and aft cargo compartments had migrated from its original position, possibly due to relative movement between the cargo floor panels and the cargo loading system, combined with compression of the tape. One function of the cargo floor panel sealing is as a contributor to the tightness of the lower cargo compartment floor panels, which provide an enclosed area to maintain halon concentration in the event of a fire. This condition, if not addressed, could affect the fire extinguishing system efficiency in the cargo compartments, possibly resulting in failure of the system to contain a cargo compartment fire or permanently extinguish the fire.

The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA-2023-0174.

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

EASA AD 2023-0011 specifies procedures for repetitive detailed inspections of the affected parts ( *i.e.*, cargo sealing tapes installed between the cargo floor panels and the cargo loading system in longitudinal direction, in the forward and aft cargo compartment area) for complete or partial migration of the cargo sealing tape and to determine if there are any repairs on the tape; for partially migrated tape, measuring the maximum migration of the tape; for repaired tape, inspecting for incorrect seating/condition of the tape and incorrect sealant condition; and applicable corrective action if any discrepancies are found ( *i.e.*, any cargo sealing tape that has migrated more than 11 millimeters, complete migration of the tape, incorrect seating/condition of the tape in repaired areas, and incorrect sealant condition in repaired areas). Corrective actions include repairing the tape and sealant. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

## **FAA's Determination**

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

## **Requirements of This AD**

This AD requires accomplishing the actions specified in EASA AD 2023-0011 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

## **Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2023-0011 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2023-0011 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2023-0011 does not mean that operators need comply only with that section. For example, where the AD requirement refers to "all required actions and compliance times," compliance with this AD requirement is not limited to the section titled "Required Action(s) and Compliance Time(s)" in EASA AD 2023-0011. Service information required by EASA AD 2023-0011 for compliance will be available at *regulations.gov* under Docket No. FAA-2023-0174 after this AD is published.

## **Interim Action**

The FAA considers that this AD is an interim action. If final action is later identified, the FAA might consider further rulemaking then.

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

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because migration of the sealing tape can affect the tightness of the cargo compartment floor panels, which provide an enclosed area to maintain halon concentration in the event of a fire. Migration of the sealing tape in the forward and aft cargo compartments could affect the fire extinguishing system efficiency in the cargo

compartments and possibly result in failure of the system to contain a cargo compartment fire or permanently extinguish the fire. In addition, the compliance time for the required action is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to [5 U.S.C. 553\(b\)\(3\)\(B\)](#).

In addition, the FAA finds that good cause exists pursuant to [5 U.S.C. 553\(d\)](#) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

### **Regulatory Flexibility Act (RFA)**

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

### **Costs of Compliance**

The FAA estimates that this AD affects 31 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

#### **Estimated Costs for Required Actions**

<b>Labor cost</b>	<b>Parts cost</b>	<b>Cost per product</b>	<b>Cost on U.S. operators</b>
Up to 1 work-hour × \$85 per hour = \$85	\$0	Up to \$85	Up to \$2,635.

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

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

<b>Labor cost</b>	<b>Parts cost</b>	<b>Cost per product</b>
Up to 2 work-hours × \$85 per hour = \$170	Up to \$10	Up to \$180.

### **Authority for This Rulemaking**

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

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

## Regulatory Findings

This AD will not have federalism implications under [Executive Order 13132](#). This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

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

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

## The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends [14 CFR part 39](#) as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** [49 U.S.C. 106\(g\)](#), [40113](#), [44701](#).

#### [§ 39.13](#) [Amended]

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

**2023-04-12 Airbus SAS:** Amendment 39-22359; Docket No. FAA-2023-0174; Project Identifier MCAI-2023-00063-T.

#### (a) Effective Date

This airworthiness directive (AD) is effective March 14, 2023.

#### (b) Affected ADs

None.

**(c) Applicability**

This AD applies to all Airbus SAS Model A350-941 and -1041 airplanes, certificated in any category.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by a determination that longitudinal sealing tape in the forward and aft cargo compartments had migrated from its original position. The FAA is issuing this AD to address migration of the tape, which can affect the tightness of the cargo compartment floor panels that provide an enclosed area to maintain halon concentration in the event of a fire. This condition, if not addressed, could affect the fire extinguishing system efficiency in the cargo compartments, possibly resulting in failure of the system to contain a cargo compartment fire or permanently extinguish a fire.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023-0011, dated January 17, 2023 (EASA AD 2023-0011).

**(h) Exceptions to EASA AD 2023-0011**

(1) Where EASA AD 2023-0011 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (2) of EASA AD 2023-0011 specifies accomplishing corrective actions if “discrepancies, as identified in the AOT” are found, for this AD, discrepancies is defined as cargo sealing tape that has migrated more than 11 millimeters, complete migration of the tape as shown in Condition B of the service information reference in EASA 2023-0011, incorrect seating/condition of the tape in repaired areas, and incorrect sealant condition in repaired areas.

(3) This AD does not adopt the “Remarks” section of EASA AD 2023-0011.

**(i) Additional AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in [14](#).



[CFR 39.19](#). In accordance with [14 CFR 39.19](#), send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov). Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(3) *Required for Compliance (RC)*: Except as required by paragraph (i)(2) of this AD, if any service information referenced in EASA AD 2023-0011 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

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

For more information about this AD, contact Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516-228-7317; email [dat.v.le@faa.gov](mailto:dat.v.le@faa.gov).

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

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023-0011, dated January 17, 2023.

(ii) [Reserved]

(3) For EASA AD 2023-0011, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); website [easa.europa.eu](http://easa.europa.eu). You may find this EASA AD on the EASA website at [ad.easa.europa.eu](http://ad.easa.europa.eu).

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



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

Issued on February 17, 2023.

Christina Underwood,

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

[[FR Doc. 2023-04020](#) Filed 2-23-23; 8:45 am]

BILLING CODE 4910-13-P