

PART 851—WORKER SAFETY AND HEALTH PROGRAM

■ 1. The authority citation for part 851 continues to read as follows:

Authority: 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 42 U.S.C. 5801 *et seq.*; 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 28 U.S.C. 2461 note.

■ 2. Amend § 851.2 by revising paragraph (d) to read as follows:

§ 851.2 Exclusions.

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(d) This part does not require compliance with any Occupational Safety and Health Administration requirements for beryllium or beryllium compounds except as provided in 10 CFR part 850, “Chronic Beryllium Disease Prevention Program.”

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■ 3. Amend § 851.23 by revising paragraphs (a)(3), (4), (7), (9) and (b) to read as follows:

§ 851.23 Safety and health standards.

(a) * * *

(3) Title 29 CFR, Part 1910, “Occupational Safety and Health Standards,” excluding 29 CFR 1910.1096, “Ionizing Radiation”; 29 CFR 1910.1000, “Air Contaminants,” Tables Z–1 and Z–2, as they relate to beryllium and beryllium compounds; and 29 CFR 1910.1024, “Beryllium.”

(4) Title 29 CFR, Part 1915, “Occupational Safety and Health Standards for Shipyard Employment,” except for 29 CFR 1915.1024, “Beryllium.”

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(7) Title 29 CFR, Part 1926, “Safety and Health Regulations for Construction,” except for 29 CFR 1926.1124, “Beryllium.”

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(9) American Conference of Governmental Industrial Hygienists (ACGIH®), *Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices*, (2016) (incorporated by reference, see § 851.27), excluding those for beryllium and beryllium compounds, when the ACGIH® Threshold Limit Values (TLVs®) are lower (more protective) than permissible exposure limits in 29 CFR part 1910 for general industry, 29 CFR part 1915 for shipyards, and/or 29 CFR part 1926 for construction. When the ACGIH® TLVs® are used as exposure limits, contractors must comply with the other provisions of any applicable expanded health standard found in 29 CFR parts 1910, 1915, and 1926.

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(b) Nothing in this part relieves contractors from the responsibility to comply with any additional safety and health requirements that are necessary to protect the safety and health of workers.

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■ 4. Amend § 851.27 by revising paragraph (a) to read as follows:

§ 851.27 Materials incorporated by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the U.S. Department of Energy (DOE) must publish a document in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the DOE and at the National Archives and Records Administration (NARA). Contact DOE at the: U.S. Department of Energy, Office of Environment, Health, Safety and Security, Office of Worker Safety and Health Policy, 1000 Independence Ave. SW, Washington, DC 20585, (301) 903–1165. For information on the availability of this material at NARA, email: fr.inspection@nara.gov, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html. The material may be obtained from the sources in the following paragraphs of this section.

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[FR Doc. 2022–18719 Filed 9–1–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1066; Project Identifier MCAI–2022–00622–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2020–21–11, which applies to certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, and –153N airplanes; and Model A320 and A321 series airplanes. AD 2020–21–

11 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2020–21–11, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would continue to require the actions in AD 2020–21–11 and require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 17, 2022.

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 www.regulations.gov. Follow the instructions for submitting comments.

- **Fax:** 202–493–2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. 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. It is also available in the AD docket at regulations.gov by searching for and locating Docket No. FAA–2022–1066.

Examining the AD Docket

You may examine the AD docket at regulations.gov by searching for and locating Docket No. FAA–2022–1066; 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 NPRM, the mandatory continuing airworthiness information (MCAI), any comments

received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206-231-3225; email dan.rodina@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2022-1066; Project Identifier MCAI-2022-00622-T" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, 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 proposal 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](https://www.regulations.gov), including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

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 NPRM 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 NPRM, 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 NPRM. Submissions containing CBI should be sent to Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206-231-3225; email dan.rodina@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

The FAA issued AD 2020-21-11, Amendment 39-21284 (85 FR 65674, October 16, 2020) (AD 2020-21-11), which applies to certain Airbus SAS Model A318 series airplanes; Model A319-111, -112, -113, -114, -115, -131, -132, -133, -151N, and -153N airplanes; and Model A320 and A321 series airplanes. AD 2020-21-11 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2020-21-11 to address the failure of certain life-limited parts, which could result in reduced structural integrity of the airplane.

Actions Since AD 2020-21-11 Was Issued

Since the FAA issued AD 2020-21-11, the FAA has determined that new or more restrictive airworthiness limitations are necessary.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022-0082, dated May 10, 2022 (EASA AD 2022-0082) (also referred to as the MCAI), to correct an unsafe condition for all Model A318-111, -112, -121, and -122 airplanes; Model A319-111, -112, -113, -114, -115, -131, -132, -133, -151N, -153N, and -171N airplanes; Model A320-211, -212, -214, -215, -216, -231, -232, -233, -251N, -252N, -253N, -271N, -272N, and -273N airplanes; and Model A321-111, -112, -131, -211, -212, -213, -231, -232, -251N, -252N, -253N, -271N, -272N, -251NX, -252NX, -253NX, -271NX, and -272NX airplanes. Model A320-215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after February 2, 2022 must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is proposing this AD to address failure of certain life-limited parts, which could result in reduced structural integrity of the

airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2022-0082 describes new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD would also require EASA AD 2020-0080, dated April 1, 2020, which the Director of the Federal Register approved for incorporation by reference as of November 20, 2020 (85 FR 65674, October 16, 2020).

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

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

Proposed AD Requirements in This NPRM

This proposed AD would retain the requirements of AD 2020-21-11. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, which are specified in EASA AD 2022-0082 described previously, as proposed for incorporation by reference. Revising the existing maintenance or inspection program would terminate the retained requirements from AD 2020-21-11. Any differences with EASA AD 2022-0082 are identified as exceptions in the regulatory text of this AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (e.g., inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC)

according to paragraph (m)(1) of this proposed 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, the FAA proposes to incorporate EASA AD 2022–0082 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0082 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0082 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 2022–0082. Service information required by EASA AD 2022–0082 for compliance will be available at regulations.gov by searching for and locating Docket No. FAA–2022–1066 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (e.g., inspections) or intervals may be used unless the actions and intervals are approved as an AMOC in accordance with the procedures specified in the AMOCs paragraph under “Additional FAA Provisions.” This new format includes a “New Provisions for Alternative Actions and Intervals” paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action or interval.

Costs of Compliance

The FAA estimates that this proposed AD affects 1,857 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2020–21–11 to be \$7,650 (90 work-hours × \$85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new proposed actions to be \$7,650 (90 work-hours × \$85 per work-hour).

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

The FAA 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 this proposed regulation:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, 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:
 - a. Removing Airworthiness Directive (AD) 2020–21–11, Amendment 39–21284 (85 FR 65674, October 16, 2020); and
 - b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2022–1066; Project Identifier MCAI–2022–00622–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 17, 2022.

(b) Affected ADs

This AD replaces AD 2020–21–11, Amendment 39–21284 (85 FR 65674, October 16, 2020) (AD 2020–21–11).

(c) Applicability

This AD applies to Airbus SAS Model airplanes specified in paragraphs (c)(1) through (4) of this AD, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before February 2, 2022.

- (1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –252N, –253N, –271N, –272N, –251NX, –252NX, –253NX, –271NX, and –272NX airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address failure of certain life-limited parts, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With a New Terminating Action

This paragraph restates the requirements of paragraph (i) of AD 2020–21–11, with a new terminating action. For all airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before November 13, 2019, except for Model A319–171N airplanes: 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 2020–0080, dated April 1, 2020 (EASA AD 2020–0080). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2020–0080, With No Changes

(1) The requirements specified in paragraph (1), (3), and (4) of EASA AD 2020–0080 do not apply to this AD.

(2) Paragraph (2) of EASA AD 2020–0080 specifies revising “the AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the “limitations” specified in paragraph (3) of EASA AD 2020–0080 within 90 days after November 20, 2020 (the effective date of AD 2020–21–11).

(3) The initial compliance time for doing the tasks specified in paragraph (2) of EASA AD 2020–0080 is at the applicable compliance times specified in paragraph (2)

of EASA AD 2020–0080, or within 90 days after November 20, 2020 (the effective date of AD 2020–21–11), whichever occurs later.

(4) The “Remarks” section of EASA AD 2020–0080 does not apply to this AD.

(i) Retained Restrictions on Alternative Actions and Intervals, With a New Exception

This paragraph restates the requirements of paragraph (k) of AD 2020–21–11, with a new exception. Except as required by paragraph (j) of this AD, after the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals are allowed except as specified in the provisions of the “Ref. Publications” section of EASA AD 2020–0080.

(j) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2022–0082, dated May 10, 2022 (EASA AD 2022–0082). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2022–0082

(1) Where EASA AD 2022–0082 refers to its effective date, this AD requires using the effective date of this AD.

(2) The requirements specified in paragraph (1) of EASA AD 2022–0082 do not apply to this AD.

(3) Paragraph (2) of EASA AD 2022–0082 specifies revising “the approved AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(4) The initial compliance time for doing the tasks specified in paragraph (2) of EASA AD 2022–0082 is at the applicable “limitations” as incorporated by the requirements of paragraph (2) of EASA AD 2022–0082, or within 90 days after the effective date of this AD, whichever occurs later.

(5) The provisions specified in paragraphs (3) and (4) of EASA AD 2022–0082 do not apply to this AD.

(6) The “Remarks” section of EASA AD 2022–0082 does not apply to this AD.

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (e.g., inspections) and intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2022–0082.

(m) Additional FAA 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 (n)(2) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov.

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(ii) AMOCs approved previously for AD 2020–21–11 are approved as AMOCs for the corresponding provisions of EASA AD 2022–0082 that are required by paragraph (j) of this AD.

(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.

(n) Related Information

(1) For EASA AD 2020–0080 and EASA AD 2022–0082, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this EASA AD on the EASA website at ad.easa.europa.eu. 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. This material may be found in the AD docket at [regulations.gov](https://www.regulations.gov) by searching for and locating Docket No. FAA–2022–1066.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3225; email dan.rodina@faa.gov.

Issued on August 29, 2022.

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

[FR Doc. 2022–18993 Filed 9–1–22; 8:45 am]

BILLING CODE 4910–13–P