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## DEPARTMENT OF HOMELAND SECURITY

### 6 CFR Chapter I

### 49 CFR Chapter XII

[DHS Docket No. DHS–2021–0008]

### Ratification of Security Directive

**AGENCY:** Office of Strategy, Policy, and Plans, Department of Homeland Security (DHS).

**ACTION:** Notification of ratification of directive.

**SUMMARY:** DHS is publishing official notification that the Transportation Security Oversight Board (TSOB) has ratified a Transportation Security Administration (TSA) surface transportation security directive (SD) requiring mask wearing on public transportation and at transportation hubs to protect the safety and security of the traveling public and the transportation system. As a consequence of the TSOB's actions, described below, the SD will remain in effect until at least May 11, 2021, and may further be extended by the TSA Administrator to the extent described below.

**DATES:** The ratification was executed on February 28, 2021 and took effect on that date. The SD is in effect until at least May 11, 2021.

**FOR FURTHER INFORMATION CONTACT:** John D. Cohen, DHS Coordinator for Counterterrorism and Assistant Secretary for Counterterrorism and Threat Prevention, DHS Office of Strategy, Policy, and Plans, (202) 202–282–9708, [john.cohen@hq.dhs.gov](mailto:john.cohen@hq.dhs.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

*A. Executive Order, DHS Determination, and Centers for Disease Control and Prevention (CDC) Order*

On January 21, 2021, in recognition of the continuing threat to health, safety, and economic and national security

posed by COVID–19, including the new virus variants, the President issued Executive Order 13,998, *Promoting COVID–19 Safety in Domestic and International Travel*.<sup>1</sup> The Executive Order directs the Secretary of Homeland Security, in coordination with other federal officials and “through the Administrator of the Transportation Security Administration,” to “immediately take action, to the extent appropriate and consistent with applicable law, to require masks to be worn in compliance with CDC guidelines” in or on airports, commercial aircraft, trains, public maritime vessels, intercity bus services, and all forms of public transportation.<sup>2</sup> The Executive Order focuses on a nationwide, “whole of government” approach to addressing security and safety concerns presented by the continued transmission of COVID–19 through the transportation system.

On January 27, 2021, the Acting Secretary of Homeland Security issued a *Determination of a National Emergency Requiring Actions to Protect the Safety of Americans Using and Employed by the Transportation System*.<sup>3</sup> The Acting Secretary's determination directs TSA to take actions consistent with its statutory authorities “to implement the Executive Order to promote safety in and secure the transportation system.” In particular, the determination directs TSA to support “the CDC in the enforcement of any orders or other requirements necessary to protect the transportation system, including passengers and employees, from COVID–19 and to mitigate the spread of COVID–19 through the transportation system.”

On January 29, 2021, the Director of the CDC's Division of Global Migration and Quarantine issued a Notice and Order titled *Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs*.<sup>4</sup> The CDC Order, effective February 1, 2021,

provides that it “shall be enforced by the Transportation Security Administration under appropriate statutory and regulatory authorities” and “further enforced by other federal authorities” as well as “cooperating state and local authorities.”<sup>5</sup>

*B. TSA Security Directive 1582/84–21–01*

On January 31, 2021, the Senior Official Performing the Duties of the TSA Administrator issued Security Directive 1582/84–21–01 to surface transportation owners and operators requiring mask wearing on public transportation, passenger rail, and bus conveyances, and at transportation hubs to protect the safety and security of the traveling public and the transportation system.<sup>6</sup> The SD, which is available in the docket for this notice at <https://www.regulations.gov/>, became effective on February 1, 2021, and is scheduled to expire on May 11, 2021. Neither the Acting Secretary's national emergency determination nor the CDC Order includes an expiration date and they remain in effect based on specific public health conditions and in consideration of the public health emergency.

The SD implements the Executive Order, the Acting Secretary of Homeland Security's national emergency determination, and the CDC Order by requiring mask wearing on surface transportation conveyances and at transportation hubs. The directive mandates measures to secure and promote safety in the transportation system, including passengers and employees, by mitigating against the further spread of COVID–19. Under the SD, covered owners and operators must: (1) Provide prominent and adequate notice of the mask requirement to facilitate awareness and compliance; (2) require individuals to wear a mask; and (3) report incidents of non-compliance to TSA. Consistent with the CDC Order, the directive permits limited exemptions from the requirement to wear a mask in the transportation system and does not preempt state or local requirements that are the same or

<sup>1</sup> 86 FR 7205 (published Jan. 26, 2021).

<sup>2</sup> *Id.*

<sup>3</sup> Acting Secretary David P. Pekoske, *Determination of a National Emergency Requiring Actions to Protect the Safety of Americans Using and Employed by the Transportation System* (Jan. 27, 2021), available at <https://www.dhs.gov/publication/determination-national-emergency-requiring-actions-protect-safety-americans-using-and> (accessed Feb. 22, 2021).

<sup>4</sup> 86 FR 8025 (Feb. 3, 2021).

<sup>5</sup> *Id.* at 8030.

<sup>6</sup> See 49 U.S.C. 114(l)(2)(A) (authorizing TSA to issue emergency regulations or security directives without providing notice or public comment where “the Administrator determines that the regulation must be issued immediately in order to protect transportation security. . . .”).

more protective of public health than TSA's mandatory measures.

## II. TSOB Ratification

The Aviation and Transportation Security Act (the Act) establishes the TSOB and provides that the TSOB shall "review and ratify or disapprove" security directives issued by TSA under 49 U.S.C. 114(l)(2).<sup>7</sup> The Act further states that such directives "shall remain effective for a period not to exceed 90 days unless ratified or disapproved by the Board or rescinded by the Administrator."<sup>8</sup>

Pursuant to these authorities, the Senior Official Performing the Duties of the Deputy Secretary of Homeland Security, in his capacity as chairman of the TSOB, requested TSOB review of the SD.<sup>9</sup> On February 28, 2021, the TSOB ratified TSA Security Directive 1582/84-21-01. As part of this ratification, the TSOB also ratified any extension of the SD for a period no longer than the period of time that the Secretary's national emergency determination and the CDC Order remain in effect should the TSA Administrator determine that such an extension is warranted to support implementation of the Executive Order, the national emergency determination, and the CDC order.

The SD is available in the docket for this notice at <https://www.regulations.gov/>.

**David P. Pekoske,**

*Senior Official Performing the Duties of Deputy Secretary of Homeland Security & Chairman of the Transportation Security Oversight Board, U.S. Department of Homeland Security.*

[FR Doc. 2021-05241 Filed 3-10-21; 4:15 pm]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2020-1123; Project Identifier MCAI-2020-01294-R; Amendment 39-21448; AD 2021-05-05]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Helicopters

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2016-23-05, which applied to certain Airbus Helicopters Model SA-365N1, AS-365N2, AS 365 N3, SA-366G1, EC 155B, and EC155B1 helicopters. AD 2016-23-05 required repetitive checks of the oil level of the tail rotor gearbox and, if necessary, filling the oil to the maximum level; and replacement of a certain control rod double bearing (bearing) with a new bearing. This AD retains the requirements of AD 2016-23-05 and also requires modifying the helicopter by replacing the tail gearbox (TGB) control shaft guide bushes; repetitive inspections of the TGB magnetic plug and corrective actions if necessary; repetitive replacements of the bearing; and modifying the helicopter by replacing the TGB; as specified in a European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, which is incorporated by reference. This AD also adds helicopters to the applicability. This AD was prompted by reports of occurrences of loss of yaw control due to failure of the TGB bearing. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective April 16, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 16, 2021.

**ADDRESSES:** For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this material on the EASA website at <https://ad.easa.europa.eu>. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817-222-5110. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-1123.

#### Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-1123; 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, any comments received, and other information. The address for Docket

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

#### FOR FURTHER INFORMATION CONTACT:

Kathleen Arrigotti, Aviation Safety Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3218; email [kathleen.arrigotti@faa.gov](mailto:kathleen.arrigotti@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017-0125, dated July 21, 2017 (EASA AD 2017-0125) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus Helicopters Model SA 365 N1, AS 365 N2, AS 365 N3, SA 366 G1, EC 155 B, and EC 155 B1 helicopters. EASA AD 2017-0125 supersedes EASA AD 2017-0007, dated January 13, 2017, which superseded EASA AD 2016-0097R1, dated May 25, 2016 (which corresponds to FAA AD 2016-23-05). EASA AD 2017-0125 adds helicopters to the applicability, adds repetitive inspections of the magnetic plug after bearing replacement, requires the use of the revised Airbus Helicopters Alert Service Bulletin (ASB) instructions, and requires replacement of the TGB with a modified unit, which terminates the repetitive inspections.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2016-23-05, Amendment 39-18712 (81 FR 85126, November 25, 2016) (AD 2016-23-05). AD 2016-23-05 applied to certain Airbus Helicopters Model SA-365N1, AS-365N2, AS 365 N3, SA-366G1, EC 155B, and EC155B1 helicopters. The NPRM published in the **Federal Register** on December 14, 2020 (85 FR 80689). The NPRM was prompted by a determination that additional inspections, replacements, and modifications are necessary to address the unsafe condition. The NPRM proposed to retain the requirements of AD 2016-23-05 and also require modifying the helicopter by replacing the TGB control shaft guide bushes; repetitive inspections of the TGB magnetic plug and corrective actions if necessary; repetitive replacements of the bearing; and modifying the helicopter by replacing the TGB; as specified in an EASA AD. The NPRM also proposed to add helicopters to the applicability.

<sup>7</sup> 49 U.S.C. 115(a) and (c)(1).

<sup>8</sup> *Id.* 114(l)(2)(B).

<sup>9</sup> DHS Delegation No. 7071.1, *Delegation to the Deputy Secretary to Chair the Transportation Security Oversight Board* (Apr. 2, 2007).