

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 115

RIN 3245-AH08

Regulatory Reform Initiative: Streamlining Surety Bond Guarantee Program

AGENCY: U.S. Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Small Business Administration (SBA) is proposing to revise various regulations related to SBA's Surety Bond Guarantee (SBG) program because they are obsolete, unnecessary, ineffective, or burdensome. Additionally, SBA is proposing revisions to clarify and modernize certain regulations and conform them to industry standards. These proposed changes are in response to comments received from SBA's Advance Notice of Proposed Rulemaking that was published on June 3, 2019.

DATES: Comments must be received on or before November 22, 2021.

ADDRESSES: You may submit comments, identified by RIN 3245-AH08, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for the rule by RIN 3245-AH08 and follow the instructions for submitting comments.
- *Mail:* Jermaine Perry, Management Analyst, Office of Surety Guarantees, U.S. Small Business Administration, 409 3rd Street SW, 8th Floor, Washington, DC 20416.

SBA will post all comments on <http://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice at <http://www.regulations.gov>, please submit the information to Jermaine Perry, Management Analyst, Office of Surety Guarantees, U.S. Small Business Administration, 409 3rd Street SW, 8th Floor, Washington, DC 20416. Highlight the information that you consider to be CBI and explain why you

believe this information should be held confidential. SBA will review the information and make the final determination as to whether to publish the information.

FOR FURTHER INFORMATION CONTACT: Jermaine Perry, Management Analyst, Office of Surety Guarantees at (202) 401-8275 or Jermaine.perry@sba.gov.

SUPPLEMENTARY INFORMATION:

A. General Information

The U.S. Small Business Administration (SBA) guarantees bid, payment, and performance bonds for small and emerging contractors who cannot obtain surety bonds through regular commercial channels. SBA's guarantee, authorized pursuant to part B of title IV of the Small Business Investment Act of 1958, 15 U.S.C. 694a *et seq.*, gives Sureties an incentive to provide bonding for small businesses and thereby assists small businesses in obtaining greater access to contracting opportunities. SBA's guarantee is an agreement between a Surety and SBA that SBA will assume a certain percentage of the Surety's loss should a contractor default on the underlying contract. SBA is authorized to guarantee a Surety for a contract up to \$6.5 million and, with the certification of a contracting officer of a Federal agency, up to \$10 million. For more information about SBA's Surety Bond Guarantee Program, see <https://www.sba.gov/funding-programs/surety-bonds>.

This rulemaking addresses the regulations governing the Surety Bond Guarantee (SBG) Program codified in 13 CFR part 115. Subpart A contains provisions that apply to all surety bond guarantees, subpart B contains provisions that apply to the bond guarantees subject to prior approval by SBA, and subpart C contains provisions that apply to the bond guarantees that Preferred Surety Bond Sureties may issue under delegated authority.

Federal agencies have an ongoing responsibility to ensure that the regulations they issue do not have an adverse economic impact on those affected by those rules. For example, under Executive Order 13563, Improving Regulation and Regulatory Review (January 18, 2011), agencies are obligated to conduct a retrospective review of their regulations to seek more affordable, less intrusive means to achieve policy goals, and to give careful

consideration to the benefits and costs of their regulations. This executive order also requires agencies to review existing rules to remove outdated regulations that stifle job creation and make the U.S. economy less competitive.

B. Comments Received in Response to Advance Notice of Proposed Rulemaking

On June 3, 2019, SBA published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (84 FR 25496) seeking input from the public in identifying regulations under the SBG Program that affected parties believed should be repealed, replaced, or modified because they are obsolete, unnecessary, ineffective, or burdensome. SBA also solicited comments from the public on how SBA can improve the surety bond products, procedures, forms, and reporting requirements of the SBG Program. The comment period ended on August 2, 2019. SBA has reviewed the 54 comments submitted by the public in response. After considering these comments and reviewing the regulations in 13 CFR part 115, SBA is proposing that the regulations identified below in the section-by-section analysis be revised.

C. Section-by-Section Analysis

Section 115.10. Under the current definition of "Contract" in this section, a Contract may include a maintenance agreement that is ancillary to a Contract for which SBA is guaranteeing the bond ("ancillary maintenance agreement"). SBA is proposing to clarify the definition for these ancillary maintenance agreements and to also expand the definition of Contract to include stand-alone maintenance agreements.

Under the current definition, SBA will guarantee the bond for a maintenance agreement if the agreement is for 2 years or less and covers defective workmanship or materials only. It has been SBA's long-standing interpretation that the maintenance agreement must be ancillary to the Contract for which SBA is guaranteeing the bond and may not cover defective workmanship or materials that is covered by a manufacturer's warranty. The current definition also provides that, with SBA's written approval, the term of a maintenance agreement can be

longer than 2 years for defective workmanship or materials or cover something other than defective workmanship or materials if the agreement is ancillary to the Contract for which SBA is guaranteeing a bond, is performed by the same Principal, and is customarily required in the relevant trade or industry.

For clarity, SBA is proposing to modify the existing definition by expressly applying the following requirements to all ancillary maintenance agreements: (1) The agreement must be ancillary to a Contract for which SBA is guaranteeing a bond; (2) the agreement must be performed by the same Principal; and (3) the agreement may only cover defective workmanship or materials that are not covered by a manufacturer's warranty. With SBA's prior written approval, the agreement covering defective workmanship or materials may be for a term longer than 2 years, or the agreement may cover something other than defective workmanship or materials, if such agreement is customarily required in the relevant trade or industry.

SBA received a comment in response to the ANPRM that requested that SBA consider expanding the definition of Contract to include stand-alone maintenance contracts. The commenter stated that bonds for stand-alone maintenance contracts are commonly written and that excluding these types of bonds from SBA's surety bond guarantee program seems unjustified. SBA agrees that it can offer a bond guarantee for these types of agreements and is proposing to create a new category under the definition of Contract to include them, provided that the stand-alone maintenance agreement: (1) Is entered into in connection with a Contract for which a bond was not required; (2) only covers defective workmanship or materials that are not covered by a manufacturer's warranty; (3) is entered into with the same Principal; and (4) covers a period of 3 years or less that begins immediately after the Contract is complete and was executed prior to the completion of the Contract. With SBA's prior written approval, the agreement may cover a period longer than 3 years if such agreement is customarily required in the relevant trade or industry.

SBA also received a comment suggesting that SBA reorganize the definition of "Contract" so that it is shorter and broken into several parts. SBA agrees that it would help to clarify the definition by reorganizing it into several parts and is proposing to do so.

Section 115.12. Under section 411(a)(1)(B) of the Small Business Investment Act of 1958, SBA may guarantee a surety bond for a total work order or contract amount that is greater than \$6,500,000 (as adjusted for inflation under 41 U.S.C. 1908), but not exceeding \$10,000,000, if a Contracting Officer (CO) of a Federal agency certifies that such a guarantee is necessary. Paragraph (e)(3) of section 115.12 currently requires the CO's certification to include a statement that the small business is experiencing difficulty obtaining a bond and that an SBA bond guarantee would be in the best interests of the Government. SBA received a comment in response to the ANPRM stating that requiring the CO to make this statement creates the appearance of partiality, and as a result, COs are refusing to provide the certification on behalf of qualified small businesses. The statute does not require the CO to make this statement and SBA does not want to impose requirements that are not mandated by the statute that make it more difficult for small businesses to obtain these contracts. SBA is, therefore, proposing to streamline paragraph (e)(3) to remove the requirement of this statement and require only that the CO certify that the guarantee is necessary, which as noted above is the standard set forth in the statute. SBA is also proposing to update the manner in which this certification may be submitted to SBA by providing that it may be either express mailed to SBA, Office of Surety Guarantees, 409 Third Street SW, Washington, DC 20416, or submitted by email to suretybonds@sba.gov, along with additional information that identifies the small business and the contract.

Section 115.14. Paragraph (a) of this section provides that, if one of the six events listed in paragraph (a) occurs under an SBA-guaranteed bond, the Principal and its Affiliates lose eligibility for further SBA bond guarantees. One such event, described in paragraph (a)(3), is when the Surety has established a claim reserve for an SBA-guaranteed bond of at least \$1,000, an amount which was set by the SBG Program in 1996. In response to the ANPRM, SBA received 2 comments, including one from the trade association that represents surety companies, stating that the \$1,000 threshold is too low. SBA has considered the purpose of this provision, which is to exclude Principals that have demonstrated an unacceptable financial risk under a current SBA-guaranteed bond from receiving future SBA bond guarantees. SBA agrees that the \$1,000 claim reserve

threshold no longer reflects a degree of financial risk that should trigger the Principal's ineligibility for future SBA bond guarantees. After evaluating several factors, including inflation since 1996, the increase in the maximum contract amount for which SBA can issue a bond guarantee (from \$1,250,000 in 1996 to \$6,500,000 today), and historical claim reserve data, SBA proposes to increase the amount of the claim reserve that would result in the Principal and its Affiliates losing eligibility for further SBA bond guarantees from at least \$1,000 to at least \$10,000.

Sections 115.19 and 115.64. Under § 115.19(f)(1)(ii), SBA is relieved of liability under the bond guarantee if the bond was executed "after the work under the Contract had begun" unless the Surety submitted, and SBA executed, SBA Form 991, "Surety Bond Guarantee Agreement Addendum" with the evidence and certifications required by § 115.19(f)(1)(ii). Paragraph (f)(2)(i) currently provides that work under a contract is considered to have begun when a Principal "takes any action at the job site which would have exposed the Surety to liability under applicable law had a bond been Executed (or approved, if the Surety is legally bound by such approval) at the time." In addition, under 13 CFR 115.64, a Surety participating in the Preferred Surety Bond Program (PSB Surety) is prohibited from executing or approving a bond "after commencement of work under a contract" unless the Surety obtains written approval from the Director of Office of Surety Guarantees (OSG). To apply for such approval, the Surety must submit a completed SBA Form 991 with the evidence and certifications required under section 115.19(f)(1)(ii).

In response to the ANPRM, SBA received a comment requesting that SBA clarify what constitutes "commencement of work" under section 115.64. SBA agrees and is proposing to amend both sections 115.19(f)(2)(i) and 115.64 to clarify that work under a contract is considered to have begun or commenced when the contractor takes any action related to the contract or bond that would have exposed its Surety to liability under applicable law had a bond been executed (or approved, if the Surety is legally bound by such approval) at the time. The work would not have to occur "at the job site" to find that work has begun or commenced under the contract. For example, work would be deemed to have begun or commenced when the contractor takes any financial action that would be typically covered

under the bond, such as purchasing supplies that will be used to complete the contract.

Section 115.30. SBA proposes to revise the introductory language of paragraph (d)(2) to increase the maximum amount of the contracts for which a Prior Approval Surety would be permitted to use the Quick Bond Guarantee Application and Agreement (SBA Form 990A) (Quick Bond Application) from \$400,000 to \$500,000. SBA received eight comments to the ANPRM suggesting this change. In response to these comments, SBA conducted a risk assessment, considered factors such as the increasing average contract value, and considered the potential decrease in overall application burden on small businesses. In particular, SBA notes that, during Fiscal Years 2015 through 2019, the average default rate for contracts for which a Quick Bond Application was used was 2.53%, while the average default rate for contracts for which the SBA Form 990 was used was 5.66%. SBA has determined, therefore, that increasing the maximum contract value for using the Quick Bond Application would minimally increase program risk while reducing costs to Sureties and small businesses by \$36,343 per year.¹ In addition to reducing costs, SBA hopes that this change would result in the additional benefit of increasing overall access to the SBG Program.

SBA is also proposing to allow this streamlined form to be used in additional circumstances. Paragraph (d)(2)(ii) lists the circumstances under which the Quick Bond Application may not be used. Under paragraph (d)(2)(ii)(D), the Quick Bond Application may not be used if the contract includes a provision for liquidated damages that exceeds \$1,000 per day. SBA received eight comments to the ANPRM stating that the \$1,000 limitation on liquidated damages was restrictive and inconsistent with current industry standards. Five commenters requested that the maximum amount of liquidated damages be set at \$2,500. SBA agrees and proposes to revise paragraph (d)(2)(ii)(D) to increase the

amount of liquidated damages from a maximum of \$1,000 per day to \$2,500 per day in accordance with current industry standards.

In addition, paragraph (d)(2)(ii)(E) provides that the Quick Bond Application may not be used for demolition contracts. SBA received five comments to the ANPRM requesting that SBA remove this exclusion, with one commenter arguing that the exclusion of all demolition contracts is too broad and another contending that removing this exclusion would bring the SBG Program more in line with similar fast track programs offered in the surety industry. After considering the comments, SBA proposes to remove demolition contracts from the list of categories that are excluded from using the Quick Bond Application. SBA expects that Sureties would, in their underwriting, ensure that the Principal has obtained any permit that is required for demolition pursuant to Federal, State or local law. If adopted, SBA will provide further guidance on the underwriting of demolition contracts in its Standard Operating Procedures.

Sections 115.32 and 115.67. Paragraph (d) of section 115.32 governs when a Prior Approval Surety must notify SBA of any increase or decrease in the contract or bond amount. It also governs when any increase or decrease in the Principal and Surety fees that results from a change in the contract amount must be remitted to SBA by the Principal or Surety or will be refunded by SBA. In addition, for the PSB Program, sections 115.67(a) and (b) govern when any increase or decrease in the Principal and Surety fees resulting from a change in the contract amount must be remitted or will be refunded or adjusted. Currently, the payment for any increase in either the Principal's or the Surety's fee is due to SBA when the total amount of the change in that fee equals or exceeds \$40, and any decrease in the fee is refunded to the Principal or rebated/adjusted to the Surety by SBA when the total amount of the change in the fee equals or exceeds \$40.

In response to the ANPRM, SBA received four comments stating that the \$40 threshold for remittance of the fees is not aligned with industry standards and causes additional burden and increased processing costs on small businesses and their Sureties and agents. One commenter stated that the industry standard for remitting and refunding bond premium charges is \$250 and a second commenter stated that the industry standard is between \$200 and \$300. SBA evaluated the process and determined that it would improve efficiencies and reduce

administrative costs to increase the threshold amount from \$40 to \$250 for both remitting and refunding, or rebating (or adjusting), changes in the fee amounts. Thus, SBA proposes to revise sections 115.32(d) and 115.67 to increase the threshold amount for when an increase in the Principal or Surety fee would be due, or for when SBA would refund or rebate/adjust any decrease in these fees, from \$40 to \$250.

Section 115.33. Under this section, SBA may approve a surety bonding line for a Prior Approval Surety under which the Surety may execute multiple bonds for a specified small business. SBA is proposing to revise paragraph (d)(1), which addresses the form that must be submitted for a Bid Bond executed under a bonding line, to remove the reference to SBA Form 994B, "Surety Bond Guarantee Underwriting Review", and replace it with SBA Form 990, "Surety Bond Guarantee Agreement". SBA Form 990 is the agreement between SBA and the Surety for SBA's guarantee of the bond and is, therefore, the appropriate form for Sureties to submit for SBA approval of a bond under a bonding line. There is no need to separately refer to SBA Form 994B in this regulation because that form, as the Surety indicates in its certification in SBA Form 990, is submitted with SBA Form 990 as a supporting document. In addition, for Final Bonds executed under a bonding line, paragraph (d)(2) of this section currently states that the Surety is to submit both SBA Forms 990 and 994B to SBA for approval. For consistency and for the same reasons described above, SBA is proposing to remove the reference to SBA Form 994B in paragraph (d)(2).

Compliance With Executive Orders 12866, 12988, 13132, and 13563, the Congressional Review Act (5 U.S.C. 801–808), the Paperwork Reduction Act (44 U.S.C., Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget has determined that this rule does not constitute a "significant regulatory action" under Executive Order 12866.

Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. This action does not have preemptive effect or retroactive effect.

¹ SBA data indicates that about 742 bonds per year are issued for contracts which are in an amount between \$400,000 and \$500,000, and these contracts would be eligible for the Quick Bond Application if the proposed rule is adopted. Assuming a reduction in time for the Surety of 1 hour (with each hour valued at \$48.98 per hour, which is based on the median hourly wage for an insurance sales agent of \$24.49 plus 100 percent for benefits and overhead (from <https://www.bls.gov/ooh/sales/insurance-sales-agents.htm>, retrieved August 6, 2020)) in preparing the application by using SBA Form 990A, the estimated annual savings to Sureties and small businesses would be \$36,343.

Executive Order 13132

This rule does not have federalism implications as defined in Executive Order 13132. It will not have substantial direct effects 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, as specified in the Executive Order. As such it does not warrant the preparation of a Federalism Assessment.

Executive Order 13563

Executive Order 13563, Improving Regulation and Regulatory Review (January 18, 2011), requires agencies to adopt regulations through a process that involves public participation, and to the extent feasible, base regulations on the open exchange of information and perspectives from affected stakeholders and the public as a whole. As discussed above, this proposed rule is based in part on the significant number of comments SBA received in response to a request for input from the public on the ANPRM published in the **Federal Register** in June 2019.

Congressional Review Act, 5 U.S.C. 801–808

The Office of Management and Budget has determined that this is not a major rule under 5 U.S.C. 804(2).

Paperwork Reduction Act, 44 U.S.C., Ch. 35

SBA has determined that this proposed rule would not impose new reporting or recordkeeping requirements under the Paperwork Reduction Act. However, the rule would require a minor revision to SBA Form 990A, Quick Bond Application, to conform to the change in 13 CFR 115.30 increasing the maximum amount of the contracts for which a Prior Approval Surety may use this streamlined application. Revising the form to change the amount from \$400,000 to \$500,000 will not have any impact on the burden for this information collection, which is currently approved under OMB Control Number 3245–0378. SBA will submit a request to OMB to make the non-substantive change if the proposed increase is finalized.

Regulatory Flexibility Act, 5 U.S.C. 601–612

When an agency issues a proposed rule, the Regulatory Flexibility Act (RFA) requires the agency to “prepare and make available for public comment an initial regulatory flexibility analysis” which will “describe the impact of the proposed rule on small entities.” (5

U.S.C. 603(a)). However, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

In the ANPRM (84 FR 25496), SBA solicited comments from the public to identify which of SBA’s regulations relating to the SBG program should be repealed, replaced, or modified because they are obsolete, unnecessary, ineffective, or burdensome. SBA also solicited comments from the public on how SBA can improve the surety bond products, procedures, forms, and reporting requirements of the SBG Program. SBA’s proposed revisions in response to comments received are consistent with these goals and with increasing the consistency of these regulations with industry standards.

Under 13 CFR 115.11, Sureties participating in SBA’s SBG Program must be a corporation listed by the U.S. Treasury as eligible to issue bonds in connection with Federal procurement contracts. There are 256 Treasury-listed Sureties, of which 41 are program partners in the SBG Program. SBA estimates that 12 of these 41 Surety companies are small under SBA’s size standards. In addition, most small businesses that receive an SBA-guaranteed bond operate within the 236220 NAICS industry code (Commercial and Institutional Building Construction). According to the U.S. Census Bureau, there are a total of 38,079 small business companies that operate within the 236220 NAICS code, and SBA provided guarantees in 2017 for 1,602 of these small businesses. Even if the number of entities that may be affected by this proposed rule is considered significant, SBA has determined that the economic impact on these entities would not be substantial. The proposed rules would repeal, replace, or modify obsolete or outdated SBG Program requirements that will have the effect of reducing the burden on Sureties and small businesses that receive bonds under the SBG Program. In addition, SBA anticipates that the proposed rules would streamline outdated procedures and increase small business access to bond guarantees. Further, the proposed rule would reduce costs² to Sureties and small businesses receiving an SBA-guaranteed bond while any costs of adjustment to revisions are de minimis. Thus, SBA does not expect that this rule would have a significant economic impact on

² An example is the reduction in cost mentioned in the analysis of § 115.30.

its program participants. Accordingly, the Administrator of the SBA hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 13 CFR Part 115

Claims, Reporting and recordkeeping requirements, Small businesses, Surety bonds.

For the reasons stated in the preamble, SBA proposes to amend 13 CFR part 115 as follows:

PART 115—SURETY BOND GUARANTEE

■ 1. The authority citation for part 115 continues to read as follows:

Authority: 5 U.S.C. app 3; 15 U.S.C. 687b, 687c, 694a, 694b note; and Pub. L. 110–246, Sec. 12079, 122 Stat. 1651.

■ 2. Amend § 115.10 by revising the definition of “Contract” to read as follows:

§ 115.10 Definitions.

* * * * *

Contract means a written obligation of the Principal, including an Order, requiring the furnishing of services, supplies, labor, materials, machinery, equipment or construction.

A Contract:

(1) Must not prohibit a Surety from performing the Contract upon default of the Principal;

(2) Does not include a permit, subdivision contract, lease, land contract, evidence of debt, financial guarantee (e.g., a contract requiring any payment by the Principal to the Oblige, except for contracts in connection with bid and performance bonds for the sale of timber and/or other forest products, such as biomass, that require the Principal to pay the Oblige), warranty of performance or efficiency, warranty of fidelity, or release of lien (other than for claims under a guaranteed bond); and

(3) May include a maintenance agreement under the following circumstances:

(i) The maintenance agreement is ancillary to a Contract for which SBA is guaranteeing a bond, is performed by the same Principal, is for a period of 2 years or less, and only covers defective workmanship or materials that are not covered by a manufacturer’s warranty. With SBA’s prior written approval, the agreement may cover a period longer than 2 years, or cover something other than defective workmanship or materials, if a longer period or something other than defective workmanship or materials is

customarily required in the relevant trade or industry; or

(ii) The maintenance agreement is stand-alone and is entered into in connection with a Contract for which a bond was not required and only covers defective workmanship or materials that are not covered by a manufacturer's warranty. The agreement must cover a period of 3 years or less that begins immediately after the Contract is complete and must be executed prior to the completion of the Contract. It must also be entered into with the same Principal that completed the Contract. With SBA's prior written approval, the agreement may cover a period longer than 3 years if a longer period is customarily required in the relevant trade or industry.

* * * * *

■ 3. Amend § 115.12 by revising paragraph (e)(3) to read as follows:

§ 115.12 General program policies and provisions.

* * * * *

(e) * * *

(3) *Federal Contracts or Orders in excess of \$6,500,000 (as adjusted for inflation in accordance with section 1908 of title 41, United States Code).* SBA is authorized to guarantee bonds on Federal Contracts or Orders greater than \$6,500,000 (as adjusted for inflation in accordance with 41 U.S.C. 1908), but not exceeding \$10,000,000, upon a signed certification of a Federal contracting officer that the SBA guarantee is necessary. The certification must be either express mailed to SBA, Office of Surety Guarantees, 409 Third Street SW, Washington, DC 20416 or sent by email to suretybonds@sba.gov, and include the following additional information:

- (i) Name, address and telephone number of the small business;
- (ii) Offer or Contract number and brief description of the contract; and
- (iii) Estimated Contract value and date of anticipated award determination.

* * * * *

§ 115.14 [Amended]

- 4. In paragraph (a)(3), remove "\$1000" and add in its place "\$10,000".
- 5. In § 115.19, revise paragraph (f)(2)(i) to read as follows:

§ 115.19 Denial of liability.

* * * * *

(f) * * *

(2)(i) For purposes of paragraph (f)(1)(ii) of this section, work under a Contract is considered to have begun when a Principal takes any action related to the contract or bond that would have exposed its Surety to

liability under applicable law had a bond been Executed (or approved, if the Surety is legally bound by such approval) at the time.

* * * * *

§ 115.30 [Amended]

- 6. Amend § 115.30 as follows:
 - a. In paragraph (d)(2), remove "\$400,000" and add in its place "\$500,000";
 - b. In paragraph (d)(2)(ii)(D), remove "\$1,000" and add in its place "\$2,500"; and
 - c. In paragraph (d)(2)(ii)(E), remove the term "demolition."

§ 115.32 [Amended]

- 7. In § 115.32(d), remove "\$40" wherever it appears and add in its place "\$250."

§ 115.33 [Amended]

- 8. Amend § 115.33 by:
 - a. In paragraph (d)(1), removing the phrase "a "Surety Bond Guarantee Underwriting Review" (SBA Form 994B)" and adding in its place the phrase "a "Surety Bond Guarantee Agreement" (Form 990)"; and
 - b. In paragraph (d)(2), removing the phrase "a Surety Bond Guarantee Underwriting Review (SBA Form 994B) and" in the first sentence, and removing the phrase "these forms" in the second sentence and adding in its place the phrase "this form."
- 9. Amend § 115.64 by adding a sentence at the end of the section to read as follows:

§ 115.64 Timeliness requirement.

* * * For purposes of this section, work has commenced under a Contract when a Principal takes any action related to the contract or bond that would have exposed its Surety to liability under applicable law had a bond been Executed (or approved, if the Surety is legally bound by such approval) at the time.

§ 115.67 [Amended]

- 10. In § 115.67, remove "\$40" wherever it appears and add in its place "\$250."

Isabella Casillas Guzman,

Administrator.

[FR Doc. 2021-20401 Filed 9-22-21; 8:45 am]

BILLING CODE 8026-03-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2021-0827; Project Identifier MCAI-2021-00617-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 adopt a new airworthiness directive (AD) for all Airbus SAS Model A350-941 and -1041 airplanes. This proposed AD was prompted by reports of slat transmission jams caused by frozen slat geared rotary actuators (SGRA) at slat 5 track 12. This proposed AD would require repetitive water drainage and plug cleaning of the left- and right-hand SGRA having a certain part number installed on slat 5 track 12 with certain functional item numbers, 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 November 8, 2021.

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 <https://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; internet www.easa.europa.eu. You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this