§ 966.160 Reestablishment of districts.

(a) District No. 1: The counties of Charlotte, Glades, Palm Beach, Lee, Hendry, Collier, Broward, Monroe, and Dade in the State of Florida.

(b) District No. 2: The counties of Pinellas, Hillsborough, Polk, Osceola, Brevard, Manatee, Hardee, Highlands, Okeechobee, Indian River, St. Lucie, Sarasota, De Soto, and Martin in the State of Florida.

* * * * *

■ 3. Revise § 966.161 to read as follows:

§ 966.161 Reapportionment of Committee Membership.

Pursuant to § 966.25, industry membership on the Florida Tomato Committee shall be reapportioned as follows:

(a) District 1—six members and their alternates.

(b) District 2—six members and their alternates.

Dated: April 18, 2019.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2019–08173 Filed 4–23–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 3, 6, 34, 46, 160, 161, 163, and 167

[Docket ID OCC–2019–0004]

RIN 1557–AE50

Other Real Estate Owned and Technical Amendments

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice of proposed rulemaking with request for public comment.

SUMMARY: The OCC is inviting comment on a proposed rule that would clarify and streamline its regulation on other real estate owned (OREO) for national banks and update the regulatory framework for OREO activities at Federal savings associations. The OCC is also proposing to remove outdated capital rules for national banks and Federal savings associations, which include provisions related to OREO, and make conforming edits to other rules that reference those capital rules.

DATES: Comments must be received by June 24, 2019.

ADDRESSES: You may submit comments to the OCC by any of the methods set forth below. Commenters are encouraged to submit comments through the Federal eRulemaking Portal or email, if possible. Please use the title ''Other Real Estate Owned and Technical Amendments'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—''Regulations.gov'':* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2019–0004'' in the Search Box and click ''Search.'' Click on ''Comment Now'' to submit public comments.
- Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.
- *Email: regs.comments@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2019–0004'' in your comment.

In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- *Viewing Comments Electronically:* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2019–0004'' in the Search box and click ''Search.'' Click on ''Open Docket Folder'' on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on ''View all documents and comments in this docket'' and then using the filtering tools on the left side of the screen.
- Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov.* The docket may be viewed after the close of the comment period in the same manner as during the comment period.
- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

FOR FURTHER INFORMATION CONTACT:

For revisions to Part 34, Subpart E (OREO): Charlotte Bahin, Senior Advisor for Thrift Supervision, (202) 649–6281; or, J. William Binkley, Attorney, Chief Counsel's Office, (202) 649–5500.

For all revisions: Kevin Korzeniewski, Counsel, Chief Counsel's Office, (202) 649–5490; or for persons who are deaf or hearing impaired, TTY, (202) 649–5597.

SUPPLEMENTARY INFORMATION:

I. Background

The OCC is proposing to update its regulatory framework for other real estate owned (OREO) by revising its rules to clarify and streamline the regulation for national banks and to apply the regulatory framework to OREO activities Federal savings associations for the reasons discussed below. The OCC's last significant revision to the national bank OREO rules occurred over twenty years ago.[1] Since that time, the OCC has gained additional supervisory experience related to OREO, which it can apply to improve the OREO rules. In addition, the OCC now supervises Federal savings associations pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[2] Federal savings associations, unlike national banks, are not subject to statutory provisions governing OREO. However, capital regulations and handbooks issued by the Office of Thrift Supervision (OTS) generally established requirements and supervisory expectations for OREO activities. Following OCC and OTS integration, the OCC rescinded or superseded many of those documents, creating ambiguity with respect to OREO standards for Federal savings associations. The OCC is proposing a framework for Federal savings associations that generally is consistent with the OTS framework

[1] *See* 61 FR 11294 (March 20, 1996).

[2] *See* 12 U.S.C. 5412.

described above. This framework is still followed by many savings associations and would offer flexibility consistent with provisions in the Home Owners' Loan Act (HOLA).

The OCC also is proposing to remove Appendices A and B to 12 CFR part 3 (risk-based capital guidelines for national banks) and 12 CFR part 167 (capital requirements for FSAs) and make conforming technical edits to other parts that reference those provisions. When the OCC revised Part 3 it superseded Appendices A and B to part 3 and part 167. However, because there was a transition period for part 3, the OCC retained those appendices at that time.[3] Part 167 includes provisions relating to treatment of OREO held by Federal savings associations that is no longer in effect. The OCC is proposing to remove part 167 and related references to avoid any confusion with the OREO treatment proposed in this notice. Since Appendices A and B to part 3 include the corresponding capital provisions for national banks and are similarly outdated, the OCC proposes to rescind those appendices in this proposal as well.

II. Statutory Authority for OREO

Twelve U.S.C. 29 establishes a framework for when a national bank may hold real property. A national bank may hold real property for use in its business as premises, as mortgaged to it as security for a debt, in satisfaction of debts previously contracted (DPC),[4] or as purchased at foreclosure to secure a related debt. The statute limits a national bank to a five-year holding period for real property, other than real property used as premises. However, the statute allows a national bank to seek approval from the Comptroller of the Currency to hold real property for up to five additional years. The OCC may approve this additional time if the bank has made a good faith attempt to dispose of the property within the initial five-year period or if disposal within the five-year period would be detrimental to the bank.

Twelve U.S.C. 1464 establishes requirements for the chartering and operation of Federal savings associations, including the power to make loans and investments. The authority for a Federal savings association to obtain real property in connection with satisfaction of a loan previously made, including at foreclosure, is an inherent power associated with making a loan secured by a mortgage on real property, which is permitted by 12 U.S.C. 1464(c)(1)(B) and (2)(B). In addition, 12 U.S.C. 1464(c)(4)(B) authorizes Federal savings associations to invest in service corporations,[5] which, by regulation, are permitted to engage in additional activities in connection with real property.[6] Federal savings associations are not subject to a five-year statutory limit on the holding period for real property.

III. Proposed Regulation for OREO

A. Definitions (§ 34.81)

This section would contain definitions used in the OREO regulation. This section would continue to use the existing definitions for *other real estate owned (OREO); market value;* and *recorded investment amount* in the revised regulation. The term *OREO* would continue to mean DPC real estate and former banking premises. The term *market value* would continue to mean the value of the property, as determined under the appraisal rule in 12 CFR part 34, subpart C. *Recorded investment amount* would continue to mean the recorded loan balance (for loans) or the net book value (for former banking premises).

In addition, the proposal would continue to use the current definition of *DPC real estate,* but with minor revisions related to lease accounting described below. The definition of *DPC real estate* would continue to mean real estate acquired through any means in satisfaction of a debt previously contracted, consistent with the authorities described earlier in this preamble for national banks and Federal savings associations to obtain property in this manner. The existing definition of the term includes capitalized and operating leases, which are the two types of leases recognized under current accounting standards from the lessee's perspective. However, revised accounting standards requiring operating leases to be capitalized, among other provisions, are scheduled to be implemented in the near future.[7] Therefore, the OCC proposes to revise the terminology in the current definition of DPC real estate to refer to leased real estate, rather than to refer specifically to capitalized and operating leases. The proposed definition would continue to cover all leases, but the revision will ensure the regulation will not become outdated after implementation of the new accounting standards.

In addition, the proposal would revise the definition of *former banking premises* to include a reference to 12 CFR 7.1000(a)(2), which establishes categories of real estate that national banks and Federal savings associations are permitted to own for use in their banking activities. The revised definition would define former banking premises as real estate permitted under section 7.1000(a)(2) that is no longer used or contemplated to be used for the purposes permitted by that rule. The proposed revision should improve regulatory consistency by clarifying that both rules cover the same types of real estate for banking activities and eliminate confusion about whether the rules refer to different types of properties.

B. Holding Period (§ 34.82)

This section would specify how long a national bank or a Federal saving association may hold OREO, provide the starting date for that holding period, and address additional related provisions affecting the holding period.

The holding period for national banks under the current rule is the period required by 12 U.S.C. 29. The statute and the current rule provide for an initial five-year holding period, with up to an additional five years if approved by the OCC. The proposal would not change this holding period.

The proposal also would establish an initial holding period for Federal savings associations of five years after commencement of the holding period to ensure the safe and sound management of OREO holdings. If the Federal savings association has not disposed of the OREO within the initial five-year holding period, the savings association may request OCC approval to continue to hold the real property as OREO for up to five additional years. These provisions are consistent with the rules that apply to national banks. The OCC's supervisory experience is that both types of institutions generally have or

[3] *See* 78 FR 62018 (October 11, 2013).

[4] Generally, DPC property is property not mortgaged in connection with obtaining a loan, but instead used to satisfy a pre-existing loan.

[5] Under 12 U.S.C. 1464(c)(4)(B), a Federal savings association may invest in a service corporation if (i) the service corporation is organized in the state where the Federal savings association's home office is located; (ii) the corporation's stock is available for purchase only by other Federal and state savings associations having home offices in such state; and (iii) the Federal savings association's aggregate investments in service corporations do not exceed three percent (3%) of its assets, with amounts in excess of two percent (2%) of assets serving primarily community, inner city, and community development purposes. *See also* 12 CFR 5.59. If the service corporation is controlled by a Federal savings association, then the service corporation is a subsidiary of the association. *See* 12 CFR 5.59(d)(5).

[6] These activities include acquiring real estate for development, leasing, or resale, and maintaining and managing real estate. *See* 12 CFR 5.59(f)(5).

[7] *See* FASB ASU 2016–02, ''Leases (Topic 842)'' (February 2016).

obtain similar types of OREO. As with national banks, in deciding whether to grant the approval to hold OREO beyond the initial five-year holding period, the OCC would expect to consider, among other factors, the Federal savings association's current and prior efforts to dispose of the property and safety and soundness concerns related to an immediate disposition of the property. During the initial five-year holding period and any subsequent approved period, the Federal savings association would need to make reasonable efforts to dispose of the OREO. This provision is consistent with prior OTS expectations. This proposed framework also is consistent with the requirement previously applicable to Federal savings associations under 12 CFR part 167, which required savings associations to deduct from regulatory capital the value of OREO held for more than five years, or a longer period with OCC approval, as an equity investment. This provision created incentives for Federal savings associations to dispose of OREO within five years, or a longer period approved by the OCC, as the regulatory capital treatment for failure to dispose of the property generally would be more onerous than disposing of the property. The OCC believes that an initial five-year holding period is a sufficient amount of time to dispose of most OREO and the option to extend the holding period for an additional five years should be sufficient to address atypical properties or unusual real estate market conditions.

Question 1: Should the OCC require national banks and Federal savings associations to make specific efforts to dispose of OREO within the specified timeframes? If so, what efforts should the OCC require?

The proposal also would adopt for Federal savings associations the existing national bank provision describing the date the holding period for OREO begins. Generally, the holding period for DPC real estate would begin on the date the property is transferred to the national bank or Federal savings association (for example, after a judicial foreclosure or deed-in-lieu of foreclosure), which may be different than the date the institution must recognize the property as OREO for accounting and financial reporting purposes. The title transfer law of the state or other jurisdiction where the property is located would govern when the property is considered transferred to the national bank or Federal savings association. The holding period for former bank premises would begin when the national bank or Federal savings association ceases using a property as bank premises (whether outright or after relocating) or abandons a plan to use property held for future bank premises.

The OCC is proposing a modification for OREO obtained by a Federal savings association prior to the effective date of this proposed rule. For this OREO, the holding period would begin on the rule's effective date to provide for a full initial five-year holding period. The OCC still would consider the entire time the OREO has been held by the Federal savings association in evaluating any request for an additional holding period beyond that initial five years. The OCC believes this accommodation would provide Federal savings associations with a reasonable timeframe to dispose of OREO held prior to the effective date of the rule, rather than calculating the holding period back to the initial transfer date.

Question 2: Does the proposed adjustment to the calculation of the holding period for OREO obtained by a Federal savings association prior to the effective date of the rule provide an appropriate amount of time to dispose of the OREO consistent with the proposed rule?

The OCC also proposes to clarify that when a national bank or Federal savings association obtains OREO from a merged or acquired institution, the relevant holding period would commence on the effective date of the merger or acquisition and would not include any time the OREO had been held by the acquired institution prior to the merger or acquisition. Similarly, when an institution converts to a national bank or Federal savings association, the relevant holding period would begin on the date of conversion. However, if the institution was already a national bank or Federal savings association immediately prior to the conversion, the holding period would not reset on the conversion date.[8] The OCC believes this is appropriate because different OREO standards might apply to an institution before it becomes a national bank or Federal savings association, unless the institution is already covered by the OCC's OREO rule. The proposed revision also would apply to Federal savings associations the existing national bank regulation that the holding period for DPC real estate that is subject to a redemption period imposed under state law begins after the expiration of the redemption period.

The proposed revised section also would address an interpretive issue that arises when a national bank or Federal savings association enters into a transaction to dispose of OREO, but the real estate is conveyed back to the institution for a reason other than a subsequent purchase by the institution (for example, if there is a failure to complete the disposition or the disposition is validly rescinded or unwound). In those cases, the holding period would be tolled during the period of time the OREO property was not under the bank's or savings association's control. For example, if a third party purchases OREO from a national bank or Federal savings association but later legally rescinds the sale, the bank or savings association cannot start a new five-year holding period for the property. Instead, any previous holding period (including approved extensions) would be tolled between the time the bank or savings association sold and reacquired the real property. Similarly, in certain U.S. government mortgage loan programs a national bank or Federal savings association may be required to transfer a foreclosed property to a U.S. government entity, and that entity may later validly reject receipt of the property and return title to the bank or savings association. In that case, the national bank or Federal savings association could not start a new five-year holding period for the property but could toll any previous holding period (including approved extensions) during the time the government entity had possession of the property. However, if the national bank or Federal savings association re-acquires property that was previously OREO and had been disposed of consistent with this part, then the five-year holding period would reset on that property. For example, if a bank originates a mortgage loan in connection with the sale of an OREO property that met the requirements for a valid disposition under part 34, but later foreclose on that property due to missed mortgage payments, then the bank will obtain a new five-year holding period.

Question 3: Are there ways the calculations for the start of the holding period and any subsequent tolling could be improved? Should the OCC establish a bright line for when a property is acquired, rather than rely on state transfer laws and redemption periods? For real property, should the OCC refer to accounting standards to determine when a property is transferred to OREO?

[8] For example, if a Federal savings association that had OREO with a holding period that began in January 2016, converted to a national bank in June 2019, the OCC would still consider the holding period for the OREO to have begun in January 2016, not June 2019.

Question 4: Should the OCC allow a national bank or Federal savings association to restart the holding period on OREO, even if the institution converts to a different charter also subject to part 34?

C. Disposition of OREO (§ 34.83)

This section would specify methods for national banks and Federal savings associations to dispose of OREO. Generally, the proposal would retain the existing disposal methods for national banks and allow Federal savings associations to dispose of OREO using those same methods. These methods include: (i) Selling the property outright or over a period of time; (ii) using DPC real estate as bank premises or affiliate premises; or (iii) entering into subleases of OREO leases. Writing OREO (whether owned or leased) down to zero for accounting purposes is not a valid disposition under the existing rules and would not be a valid disposition under the proposed revisions.

To provide for additional flexibility to dispose of OREO, the OCC also proposes to add a new paragraph (a)(5) that would allow the disposition of OREO in other ways approved by the OCC consistent with safe and sound banking practices. For example, the OCC previously has approved national banks and Federal savings associations to dispose of OREO in certain circumstances by donating or escheating OREO or by negotiating early terminations of OREO leases.

The proposal would recognize that, unlike a national bank, a Federal savings association also may transfer OREO to a service corporation. Under HOLA and 12 CFR 5.59, a Federal savings association may invest in a service corporation, which may engage in the same activities as its parent Federal savings association under the same terms and conditions. A service corporation also may engage in additional activities not permitted at a Federal savings association, including certain real estate related services such as holding property as an investment in real estate.[9] In addition, 12 CFR 5.59(i) permits a Federal savings association to make a contribution to a service corporation in the exercise of the association's salvage powers.[10] Consistent with HOLA and 12 CFR 5.59, the proposal would allow a Federal savings association, through a service corporation, to hold OREO property as an investment or for longer than 10 years. However, under current statutory and regulatory capital requirements, a Federal savings association must deconsolidate, and deduct any investments in, a subsidiary engaged in activities not permissible for a national bank, including holding property as an investment in real estate.[11]

Finally, the proposed revised section would retain the requirement that a national bank must make a diligent and ongoing effort to dispose of OREO and maintain documentation of those efforts. The proposal also would apply these provisions to Federal savings associations. Compliance with the requirement to document the national bank's or Federal savings association's diligence when attempting to dispose of OREO is an important consideration if the national bank or Federal savings association requests an extension to hold OREO beyond the initial five-year holding period. The proposed requirement that a Federal savings association make diligent efforts to dispose of OREO and maintain relevant documentation is consistent with both prior OTS expectations that savings associations develop salvage plans that included provisions for disposition of OREO and the existing requirement that Federal savings associations maintain documentation of appraisals of OREO.[12]

Question 5: Should the proposed rule include additional disposition methods for OREO held by national banks and Federal savings associations? Are there ways the proposed methods could be improved or clarified? For owned, rather than leased, real estate, should the OCC defer to accounting standards to determine when a property is sold (that is, based on whether the transfer qualifies for sales treatment under accounting standards)?

D. Appraisal Requirements (§ 34.85)

This section would specify the appraisal requirements applicable to OREO. The proposal would carry over the existing requirements for appraisals of OREO for national banks and apply those same requirements to Federal savings associations. Generally, this section requires an appraisal consistent with 12 CFR part 34, subpart C when property is obtained as OREO followed by periodic monitoring thereafter. In addition, the proposed section would continue to include existing exceptions from the appraisal requirements. For example, an appraisal would not be required if there is still a valid appraisal that was created in a transaction involving the property, as described in § 34.85(b). Because the requirements for appraisals of OREO held by Federal savings associations would be set out in the proposed rule, the OCC also is proposing to repeal 12 CFR 160.172, which currently includes comparable appraisal standards for OREO held by Federal savings associations.

E. OREO Expenditures and Notification (§ 34.86)

This section would contain provisions related to permissible expenditures on OREO. The proposal would codify various interpretations regarding other permissible expenses related to OREO for national banks and Federal savings associations in new paragraphs (a) and (b). Paragraph (a) would allow national banks and Federal savings associations to pay any normal operating expenses relating to the OREO property, such as taxes, insurance, utilities, and maintenance, and condominium association fees, to the extent those fees are reasonable and consistent with safe and sound banking practices. This proposed addition is consistent with a provision in existing paragraph (b)(1), prior interpretations issued by the OCC for national banks, and prior OTS expectations concerning payment of taxes, insurance, and similar expenses on OREO by Federal savings associations.[13]

Paragraph (b) would allow national banks and Federal savings associations to pay expenses for the operation of a business associated with the OREO property, if: (i) Payment of the expenses reduces the shortfall between the current value of the property and the national bank or Federal savings association's investment in the property; and (ii) the expenses are consistent with safe and sound banking practices. For example, if a national bank or Federal savings association obtains an OREO property that includes a functioning hotel and resort, the national bank or Federal savings association may be able to minimize its loss on the defaulted loan by continuing to pay business

[9] *See* 12 U.S.C. 1464(c)(4)(B) and 12 CFR 5.59.

[10] 12 CFR 5.59(i) provides that a Federal savings association may exercise its salvage power to make a contribution or a loan . . . to a service corporation (''salvage investment'') that exceeds the maximum amount otherwise permitted under law or regulation.'' The Federal savings association must demonstrate that: (i) The salvage investment protects the association's interest in the service corporation; (ii) the salvage investment is consistent with safety and soundness; and (iii) the association considered alternatives to the salvage investment but determined the alternatives would not satisfy (i) and (ii).

[11] 12 U.S.C. 1464(t)(5) and 12 CFR 3.22(a)(8). Holding property as an investment in real estate is not authorized for a national bank under 12 U.S.C. 29.

[12] 12 CFR 160.172.

[13] *See* Comptroller's Handbook on ''Other Real Estate Owned'' (August 2018). For Federal savings associations, this provision was included in the OTS Examination Handbook, Section 251, ''Real Estate Owned and Repossessed Assets'' (December 2010), which has since been rescinded by the OCC.

expenses to operate the hotel and resort, such as staff wages, inventory, management fees, and licensing fees, while the OREO is being prepared for sale. The OCC has previously addressed these types of expenses for national banks consistent with safe and sound banking practices, and this provision would extend the permission to Federal savings associations.[14]

Under the current rule, a national bank is permitted to make advances to complete an OREO development or improvement project (referred to as ''additional expenditures''). Paragraph (c) would continue the existing requirements for additional expenditures on OREO for a national bank and apply the same requirements to a Federal savings association. A national bank or Federal savings association could make additional expenditures only if: (i) The expenditures are reasonably calculated to reduce the shortfall between the current value of the property and the bank's investment in the property; (ii) the expenditures are not made for purposes of speculation in real estate; and (iii) the expenditures are consistent with safe and sound banking practices. These proposed requirements are consistent with prior OTS expectations, which addressed a Federal savings association's reasonable capital expenditures to reduce the loss on OREO obtained by the savings association.[15]

In addition, paragraph (d) would update the requirements for prior notification for significant additional expenditures on OREO for national banks and extend the provision to Federal savings associations. Currently, under 12 CFR 34.86(b), a national bank must notify the OCC at least 30 days before making additional expenditures if the amount of the expenditures and recorded investment in the OREO exceeds ten percent of the national bank's capital and surplus, which generally is based on regulatory capital calculated under 12 CFR part 3. Federal savings associations, in turn, were subject to supervisory review of any expenditures on OREO in excess of their lending limits, which are calculated based on a formula that incorporates a percentage of capital and surplus.[16] While based on different calculations, the supervisory review for Federal savings associations had a similar purpose as the required OCC notification for national banks, namely, to ensure that institutions did not expend an excessive amount of funds to complete or renovate OREO. The OCC proposes to update and streamline the notification provision by requiring prior notification only when the proposed additional expenditures and recorded investment in an individual OREO property exceeds 10 percent of the institution's total equity capital based on the institution's most recent Consolidated Reports of Condition and Income (Call Report). The OCC believes using a measure based on total equity capital for this purpose, rather than a measure tied to 12 CFR part 3 regulatory capital or lending limits, allows for a less burdensome and more transparent calculation, while not impairing the OCC's supervisory review of institutions that propose making significant additional expenditures on OREO.

A comparison of capital and surplus and total equity capital for national banks supports this approach.[17] Based on information from the June 30, 2018 Call Report, the measures of regulatory capital and total equity capital are numerically comparable, and identical in some cases, for many national banks that hold OREO. Under the proposed measure, national banks with significant loan loss reserves or excessive losses recorded in accumulated other comprehensive income would generally have a lower limit for notification compared with the existing measure. The OCC believes this result is appropriate, as those losses may indicate national banks with a higher risk profile for which notification of significant OREO expenditures is most relevant. National banks holding assets that are deducted under the regulatory capital rule, such as mortgage servicing assets or investments in other financial institutions, would generally have a higher limit for notification under the proposed measure.

Question 6: Is the proposed allowance for payment of operating and business expenses related to OREO, subject to the proposed safety and soundness standards, reasonable? Are there other common OREO expenses the OCC should consider specifically including in the regulation?

Question 7: Should the proposed threshold for notification be based on a measure other than total equity capital? Should the proposed threshold be higher or lower?

F. Additional Provisions

The OCC proposes to rescind existing 12 CFR 34.87, which requires national banks to account for OREO consistent with the instructions for the Call Report, because it is now redundant to statutory requirements. Historically, there have been differences between regulatory accounting principles and generally accepted accounting principles (GAAP). However, currently, national banks and Federal savings associations must follow GAAP when accounting for transactions involving OREO.[18] Therefore, codifying this requirement in the OREO rule is unnecessary. Guidance on the application of GAAP for OREO transactions can be found in the instructions for the Call Report and the OCC's Bank Accounting Advisory Series.[19] However, the OCC notes that, although the accounting standard generally establishes a bright line for when a bank must report a property as OREO for financial reporting purposes (*i.e.,* when a judge completes a judicial foreclosure), section 34.82(b) does not establish a bright line for when property is originally transferred to a bank. As a result, the date on which reporting requirements begin for OREO under the accounting standard may be different than the date that the holding period commences under 34.82(b), as described above in Section III.B. We also note that writing off a property or lease classified as OREO for accounting purposes does not eliminate the need to comply with the requirements of this subpart, including the requirement for appraisals and disposition of the property or lease under one of the allowed methods.

IV. Proposed Technical Amendments

As described above, the OCC also is proposing to remove Appendices A and B to 12 CFR part 3 (risk-based capital guidelines for national banks) and 12 CFR part 167 (capital requirements for FSAs) and make conforming technical edits to other parts, as part 167 is outdated and includes OREO provisions that conflict with the provisions described in this proposal. The OCC did not immediately rescind those rules due to an extended transition period to the new capital rule for certain provisions. The proposed rule also makes

[14] *See* Comptroller's Handbook on ''Other Real Estate Owned'' (August 2018).

[15] *Id.* For Federal savings associations, this provision was included in the OTS Examination Handbook, Section 251, ''Real Estate Owned and Repossessed Assets'' (December 2010), which has since been rescinded by the OCC.

[16] This provision was reflected in the OTS lending limits at 12 CFR 560.93 and included in the OTS Examination Handbook, Section 211, ''Loans to One Borrower'' (December 2007)., The OCC has superseded the rule and rescinded the guidance.

[17] The OCC did not review these measures for Federal savings associations because Federal savings associations currently are not subject to either the existing limit or proposed notification provision for improvements to OREO.

[18] *See* 12 U.S.C. 1831n(a)(2).

[19] Bank Accounting Advisory Series (August 2018), *available at: https://www.occ.gov/publications/publications-by-type/other-publications-reports/baas.pdf.*

conforming technical changes to portions of the OCC's rules that refer to Appendices A and B to 12 CFR part 3 or to 12 CFR part 167. Specifically, the OCC would make conforming edits to 12 CFR 3.1, 6.1, 6.2, Appendix A to Subpart D of part 34, 46.6, 160.100, Appendix A to 160.101, 161.55, 163.74, and 163.80. This proposed rule does not impact the legal status of any reference to the superseded capital rules in outstanding compliance and enforcement orders, agreements, and memoranda of understanding entered into by the OCC and a national bank or Federal savings association, as those references became references to 12 CFR part 3 when the revised capital rule became effective.

V. Regulatory Analyses

A. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995,[20] the OCC may not conduct or sponsor, and a person is not required to respond to, an information collection unless the information collection displays a valid OMB control number. The OCC has submitted the information collection requirements imposed by this proposal to OMB for review. However, the proposal will not result in a change in burden. While the respondent count will increase with the addition of Federal savings associations, we estimate fewer notices from national banks due to a decrease in charters since the last review, resulting in no change in burden.

Section 34.86(d) updates the requirements for prior notification for significant additional expenditures on OREO for national banks and extends the provision to Federal savings associations. Currently, a national bank must notify the OCC at least 30 days before making additional expenditures if the amount of the expenditures and recorded investment in the OREO exceeds ten percent of its capital and surplus, based on regulatory capital calculated under 12 CFR part 3. Federal savings associations are subject to supervisory review of any expenditures on OREO in excess of their lending limits, which are calculated based on a formula that incorporates a percentage of capital and surplus.

The proposal updates and streamlines the notification provision by requiring prior notification only when the proposed additional expenditures and recorded investment in an individual OREO property exceeds 10 percent of the institution's total equity capital based on its most recent Call Report. National banks with significant loan loss reserves or excessive losses recorded in accumulated other comprehensive income will generally have a reduced limit for notification. National banks holding assets that are deducted under the regulatory capital rule, will generally have an increase limit for notification under the proposal.

Title: Real Estate Lending and Appraisals.

OMB Control No.: 1557–0190.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 6.

Estimated Burden per Respondent: 5 hours.

Estimated Total Annual Burden: 30 hours.

Comments are invited on:

(a) Whether the collections of information are necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the collections of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

B. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act[21] requires an agency, in connection with a proposed rule, to prepare an Initial Regulatory Flexibility Analysis describing the impact of the rule on small entities (defined by the SBA for purposes of the RFA to include commercial banks and savings institutions with total assets of $550 million or less and trust companies with total revenue of $38.5 million or less) or to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. As of December 31, 2017, the OCC supervised 886 small entities. The proposed rule would apply to all entities supervised by the OCC, and therefore would affect a substantial number of small entities. The economic impact on each small Federal savings association is estimated to be approximately $1,872, which is not significant based on 5% of total annual salaries or 2.5% of other noninterest income. The economic impact on each small national bank is estimated to be *de minimis.* Therefore, the OCC certifies the proposed rule would not have a significant economic impact on a substantial number of small entities.

C. OCC Unfunded Mandates Reform Act of 1995

The OCC analyzed the proposed rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted for inflation). The OCC estimates that the total cost of the proposed rule is $583,000. Therefore, the OCC has determined that this proposed rule would not result in expenditures by State, local, and Tribal governments, or the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a written statement to accompany this proposal.

D. Riegle Community Development and Regulatory Improvement Act of 1994

This rulemaking would not impose additional reporting, disclosure, or other requirements on an insured depository institution. Therefore, section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 does not apply to this rulemaking.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

12 CFR Part 6

National banks.

12 CFR Part 34

Appraisal, Appraiser, Banks, Banking, Consumer protection, Credit, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

12 CFR Part 46

Banks, Banking, Capital, Disclosures, National banks, Reporting and recordkeeping requirements, Risk, Stress test.

12 CFR Part 160

Consumer protection, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping

[20] 44 U.S.C. 3501 *et seq.*

[21] 5 U.S.C. 601 *et seq.*

requirements, Savings associations, Securities.

12 CFR Part 161

Administrative practice and procedure, Savings associations.

12 CFR Part 163

Accounting, Administrative practice and procedure, Advertising, Conflicts of interest, Crime, Currency, Investments, Mortgages, Reporting and recordkeeping requirements, Savings associations, Surety bonds.

12 CFR Part 167

Capital, Reporting and recordkeeping requirements, Risk, Savings associations.

For the reasons set out in the preamble, the OCC proposes to revise the following parts as follows:

PART 3—CAPITAL ADEQUACY STANDARDS

■ 1. The authority citation for part 3 continues to read as follows:

Authority: 12 U.S.C. 93a, 161, 1462, 1462a, 1463, 1464, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, 3909, and 5412(b)(2)(B).

§ 3.1 [Amended]

■ 2. Section 3.1 is amended by removing and reserving paragraph (f)(1)(ii) and removing paragraphs (f)(1)(ii)(A), (f)(1)(ii)(B), (f)(1)(ii)(C), and footnotes 1 and 2.

Appendix A to Part 3 [Removed]

■ 3. Remove Appendix A to part 3.

Appendix B to Part 3 [Removed]

■ 4. Remove Appendix B to part 3.

PART 6—PROMPT CORRECTIVE ACTION

■ 5. The authority citation for part 6 continues to read as follows:

Authority: 12 U.S.C. 93a, 1831o, 5412(b)(2)(B).

§ 6.1 [Amended]

■ 6. Section 6.1 is amended by removing and reserving paragraph (f)(1), and removing paragraphs (f)(1)(i) and (f)(1)(ii).

§ 6.2 [Amended]

■ 7. Section 6.2 is amended by removing footnotes 30, 31, 32, 33, 34, and 35.

PART 34—REAL ESTATE LENDING AND APPRAISALS

■ 8. The authority citation for part 34 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.,* 25b, 29, 93a, 371, 1462a, 1463, 1464, 1465, 1701j–3, 1828(o), 3331 *et seq.,* 5101 *et seq.,* and 5412(b)(2)(B) and 15 U.S.C. 1639h.

Subpart D—Real Estate Lending Standards

Appendix A to Subpart D of Part 34 [Amended]

■ 9. Footnote 2 of Appendix A to Subpart D of part 34 is amended to read as follows:

* * * * *

[2] For the state member banks, the term ''total capital'' means ''total risk-based capital'' as defined in Appendix A to 12 CFR part 208. For insured state non-member banks, ''total capital'' refers to that term described in table I of Appendix A to 12 CFR part 325. For national banks and Federal savings associations, the term ''total capital'' is defined at 12 CFR 3.2.

* * * * *

Subpart E—Other Real Estate Owned

■ 10. Section 34.81 is amended by:
■ a. Removing the paragraph designations for paragraphs (a) through (f);
■ b. Removing the definition of *capital and surplus;* and
■ c. Revising the definitions of *debts previously contracted (DPC) real estate* and *former banking premises.*

The revisions read as set forth below.

§ 34.81 Definitions.

* * * * *

Debts previously contracted (DPC) real estate means real estate (including leases) acquired by a national bank or Federal savings association through any means in full or partial satisfaction of a debt previously contracted.

* * * * *

Former banking premises means real estate permissible under § 7.1000(a)(2) of this chapter that is no longer used or contemplated to be used for the purposes permitted in that section.

* * * * *

■ 11. Section 34.82 is amended by:
■ a. Revising paragraphs (a) and (b); and
■ b. Adding paragraphs (d) and (e).

The revisions and additions read as set forth below.

§ 34.82 Holding Period.

(a) *Holding period for OREO.* (1) *National bank.* A national bank shall dispose of OREO at the earliest time that prudent judgment dictates, but not later than the end of the holding period (or an extension thereof) permitted by 12 U.S.C. 29.

(2) *Federal savings association.* A Federal savings association may hold OREO for not more than five years after commencement of the holding period. On the request of a Federal savings association, the OCC may extend the holding period for not more than an additional five years.

(b) *Commencement of holding period.* The holding period begins on the date that:

(1) Ownership of the property is originally transferred to a national bank or Federal savings association, including as a result of a merger with or acquisition of another organization holding OREO;

(2) A national bank or Federal savings association completes relocation from former banking premises to new banking premises or ceases to use the former banking premises without relocating; or

(3) A national bank or Federal savings association decides not to use real estate acquired for future banking expansion; or

(4) An institution converts to a national bank or Federal savings association, unless the institution was a national bank or Federal savings association immediately prior to the conversion.

(5) Is the effective date of the final rule, for OREO obtained by a Federal savings association prior to that date.

* * * * *

(d) *Effect of failed disposition.* If a national bank or Federal savings association disposes of OREO, but the real estate subsequently is conveyed back to the institution within five years as a result of a valid rescission or invalidation of the original disposition, then the holding period will be tolled for the period during which the real estate was not in possession of the national bank or Federal savings association.

(e) *Re-acquisition of former OREO.* If a national bank or Federal savings association reacquires a property that had been OREO and was disposed of consistent with § 34.83, the holding period will reset.

■ 12. Section 34.83 is amended by:
■ a. Revising the section heading;
■ b. Revising paragraphs (a) introductory text, (a)(3) introductory text, (a)(3)(i)(B), (a)(3)(ii);
■ c. Revising paragraph (a)(4) by removing ''.'' at the end of the paragraph and adding ''; or'' in its place;
■ d. Adding paragraph (a)(5);
■ e. Redesignating paragraph (b) as paragraph (c);
■ f. Adding new paragraph (b); and
■ g. Adding in paragraph (c) the words ''or Federal savings association'' after ''national bank'' in the first sentence.

The revisions and additions read as set forth below.

§ 34.83 Disposition of OREO.

(a) *Disposition.* A national bank or Federal savings association may dispose of OREO in the following ways:

* * * * *

(3) With respect to a lease:

(i) By obtaining an assignment or a coterminous sublease. If a national bank or Federal savings association enters into a sublease that is not coterminous, the period during which the master lease must be divested will be suspended for the duration of the sublease, and will begin running again upon termination of the sublease. A national bank or Federal savings association holding a lease as OREO may enter into an extension of the lease that would exceed the holding period referred to in § 34.82 if the extension meets the following criteria:

(A) * * *

(B) The national bank or Federal savings association, prior to entering into the extension, has a firm commitment from a prospective subtenant to sublease the property; and

* * * * *

(ii) Should the OCC determine that a national bank or Federal savings association has entered into a lease, extension of a lease, or a sublease for the purpose of real estate speculation, the OCC will take appropriate measures to address the violation, which may include requiring the bank or savings association to take immediate steps to divest the lease or sublease; and

* * * * *

(5) By any other method approved by the OCC.

(b) *Additional method for Federal savings associations.* A Federal savings association also may transfer OREO to a service corporation. A service corporation may hold real property transferred to it:

(1) As OREO, subject to the requirements otherwise applicable to the Federal savings association under this Subpart E; or

(2) As an investment in real estate under § 5.59.

* * * * *

§ 34.85 [Amended]

■ 13. Section 34.85 is amended by:

■ a. Adding the words ''or Federal savings association'' after ''national bank'', wherever it appears; and

■ b. Adding the words ''or savings association'' after ''the bank'', wherever it appears.

■ 14. Revise § 34.86 including the section heading to read as follows:

§ 34.86 OREO expenditures and notification.

(a) *Operating expenditures.* A national bank or Federal savings association may pay operating expenses on OREO, including taxes, insurance, utilities, and maintenance, that are reasonable and consistent with safe and sound banking practices.

(b) *Business expenditures.* A national bank or Federal savings association may pay expenses for OREO that includes the operation of a business, provided the expenses are:

(1) Reasonably calculated to reduce any shortfall between the property's market value and the recorded investment amount; and

(2) Consistent with safe and sound banking practices.

(c) *Additional expenditures.* For OREO that is a development or improvement project, a national bank or Federal savings association may make advances to complete the project if the advances are:

(1) Reasonably calculated to reduce any shortfall between the property's market value and the recorded investment amount;

(2) Not made for the purpose of speculation in real estate; and

(3) Consistent with safe and sound banking practices.

(d) *Notification procedures for additional expenditures.*

(1) A national bank or Federal savings association shall notify the appropriate supervisory office at least 30 days before implementing a development or improvement plan for OREO when the sum of the plan's estimated cost and the bank's or savings association's current recorded investment amount (including any unpaid prior liens on the property) exceeds 10 percent of the bank's or savings association's total equity capital on its most recent report of condition. A national bank or Federal savings association need notify the OCC under this paragraph (d)(1) only once.

(2) The required notification must demonstrate that the additional expenditure is consistent with the conditions and limitations in paragraph (c) of this section.

(3) Unless informed otherwise, the national bank or Federal savings association may implement the proposed plan on the thirty-first day (or sooner, if notified by the OCC) following receipt by the OCC of the notification, subject to any conditions imposed by the OCC.

§ 34.87 [Removed]

■ 15. Remove § 34.87.

PART 46—ANNUAL STRESS TEST

■ 16. The authority citation for part 46 continues to read as follows:

Authority: 12 U.S.C. 93a; 1463(a)(2); 5365(i)(2); and 5412(b)(2)(B).

§ 46.6 [Amended]

■ 17. Section 46.6 paragraph (a)(2) is amended by removing the words ''or part 167, as applicable,'' after ''12 CFR part 3'' in the first sentence.

PART 160—LENDING AND INVESTMENT

■ 18. The authority for part 160 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 1701j–3, 1828, 3803, 3806, 5412(b)(2)(B); 42 U.S.C. 4106.

§ 160.100 [Amended]

■ 19. Section 160.100 is amended by removing ''or 167.1, as applicable,''.

Appendix A to § 160.101 [Amended]

■ 20. Footnote 2 of the Appendix to Section 160.101 is amended to read as follows:

* * * * *

[2] For the state member banks, the term ''total capital'' means ''total risk-based capital'' as defined in Appendix A to 12 CFR part 208. For insured state non-member banks, ''total capital'' refers to that term described in table I of Appendix A to 12 CFR part 325. For national banks and Federal savings associations, the term ''total capital'' is defined at 12 CFR 3.2.

* * * * *

§ 160.172 [Removed]

■ 21. Remove § 160.172.

PART 161—DEFINITIONS FOR REGULATIONS AFFECTING ALL SAVINGS ASSOCIATIONS

■ 22. The authority for part 161 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 5412(b)(2)(B).

§ 161.55 [Amended]

■ 23. Section 161.55 paragraph (c) is amended by removing the words ''or part 167, as applicable'' after ''12 CFR part 3''.

PART 163—SAVINGS ASSOCIATIONS—OPERATIONS

■ 24. The authority for part 163 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 1817, 1820, 1828, 1831o, 3806, 5101 *et seq.,* 5412(b)(2)(B); 31 U.S.C. 5318; 42 U.S.C. 4106.

§ 163.74 [Amended]

■ 25. Section 163.74 is amended:

■ a. Removing in paragraph (i)(2)(iv), the wording ''or part 167, as applicable,'' after ''12 CFR part 3''; and;
■ b. Removing in the first sentence of paragraph (i)(2)(v) the wording ''or part 167, as applicable,'' after ''12 CFR part 3''.

§ 163.80 [Amended]

■ 26. In § 163.80 amend the first sentence of paragraph (e)(1) by removing the wording ''or part 167, as applicable''.

PART 167 [Removed]

■ 27. Remove part 167.

Dated: April 17, 2019.

Joseph M. Otting,

Comptroller of the Currency.

[FR Doc. 2019–08128 Filed 4–23–19; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0250; Product Identifier 2018–NM–157–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2015–17–14, which applies to all Airbus SAS Model A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes, and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2015–17–14 requires repetitive rototest inspections of the open tack holes and rivet holes at the cargo floor support fittings of the fuselage, including doing all applicable related investigative actions, and repair if necessary. Since we issued AD 2015–17–14, further analysis and widespread fatigue damage (WFD) evaluations identified the need to reduce the initial compliance times and repetitive intervals for the inspections for certain airplanes, and to add work for certain airplanes. This proposed AD would continue to require the actions of AD 2015–17–14, would add actions for certain airplanes, and would reduce the compliance times for certain airplanes, as specified in an European Aviation Safety Agency (EASA) AD, which will be incorporated by reference. This proposed AD would also reduce the applicability. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by June 10, 2019.

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 *http://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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For the incorporation by reference (IBR) material described in the ''Related IBR material under 1 CFR part 51'' section in **SUPPLEMENTARY INFORMATION**, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; 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, Transport Standards 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 on the internet at *http://www.regulations.gov.*

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0250; 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 regulatory evaluation, any comments received, and other information. The street address for Docket Operations (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0250; Product Identifier 2018–NM–157–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this NPRM.

Discussion

Fatigue damage can occur locally, in small areas or structural design details, or globally, in widespread areas. Multiple-site damage is widespread damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Widespread damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site damage and multiple-element damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane. This condition is known as WFD. It is associated with general degradation of large areas of structure with similar structural details and stress levels. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that design approval holders (DAHs) establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.