transit to the packinghouse and while awaiting packing. Fruit must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or a plastic tarpaulin for transport to the United States. During the time the packinghouse is in use for exporting avocado fruit to the United States, the packinghouse may only accept fruit from registered, approved production sites.

- A sample of avocado fruit from each site of production must be inspected by the NPPO of Ecuador following any post-harvest processing.
- Fruit presented for inspection at the port of entry to the United States must be identified in the shipping documents accompanying each lot of fruit to specify the production site or sites, in which the fruit was produced, and the packing shed or sheds, in which the fruit was processed.
- Each consignment of avocados must be accompanied by a phytosanitary certificate issued by NPPO of Ecuador and providing an additional declaration stating that the fruit in the consignment has been produced in compliance with the requirements of the systems approach.

Additional phytosanitary measures for varieties of Ecuador avocados other than Hass:

- No other host of *Anastrepha* fraterculus, *A, serpentina*, *A, striata*, or *Ceratitis capitata* can be grown within 100 meters of the edge of the avocado site of production.
- The registered production sites must conduct trapping for *Anastrepha spp.* and *Ceratitis capitata* fruit flies in accordance with the operational workplan.
- The NPPO must keep records of fruit fly detections for each trap, update the records each time the traps are checked, and make the records available to APHIS upon request. The records must be maintained for at least 1 year.
- If Anastrepha spp. or Ceratitis capitata fruit flies trapped at a registered production site go above the threshold specified in the operational workplan, the avocados may still be exported, but only with an APHIS-approved quarantine treatment. Irradiation treatment at 150 Gy (T105–a–1) is approved for all fruit flies.

These conditions are described in further detail in the final RMD. In addition to these specific measures, fresh avocado fruit from continental Ecuador will be subject to the general requirements listed in § 319.56–3 that are applicable to the importation of all fruits and vegetables.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the recordkeeping and burden requirements associated with this action are covered under the Office of Management and Budget control number 0579–0049, which is updated every 3 years during the required renewal period.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this notice, please contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this action as not a major rule, as defined by 5 U.S.C. 804(2).

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 23rd day of May 2022.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2022–11367 Filed 5–25–22; 8:45 am]

BILLING CODE 3410-34-P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Chapter X

Authority of States To Enforce the Consumer Financial Protection Act of 2010

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Interpretive rule.

SUMMARY: Section 1042 of the Consumer Financial Protection Act of 2010 (CFPA) generally authorizes States to enforce the CFPA's provisions. The Consumer Financial Protection Bureau (Bureau) is issuing this interpretive rule to provide further clarity regarding the scope of State enforcement under section 1042 and related provisions of the CFPA. Specifically, the Bureau is issuing the following interpretations: Section 1042 allows States to enforce any provision of

the CFPA, including section 1036(a)(1)(A), a provision that makes it unlawful for covered persons or service providers to violate the Federal consumer financial laws; the limitations on the Bureau's authority in sections 1027 and 1029 generally do not constrain States' enforcement authority under section 1042; and section 1042 does not restrict States from bringing concurrent enforcement actions with the Bureau.

DATES: This interpretive rule is effective on May 26, 2022.

FOR FURTHER INFORMATION CONTACT:

Shiva Nagaraj, Senior Counsel, Legal Division, (202) 435–7700. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Financial Protection Act of 2010 (CFPA) establishes the Consumer Financial Protection Bureau as the Federal government's primary regulator of consumer financial products and services. The Bureau is charged with administering, interpreting, and enforcing the "Federal consumer financial laws," a category that includes the CFPA itself, 18 enumerated consumer laws (such as the Fair Credit Reporting Act and the Truth in Lending Act), and the laws for which authorities were transferred to the Bureau under subtitles F and H of the CFPA, as well as rules and orders issued by the Bureau under any of these laws.²

However, the Bureau is not the only enforcer of these laws. The CFPA recognizes the important role that States play in overseeing the consumer financial marketplace.³ As noted in a 2010 Senate report on the financial crisis that precipitated the CFPA, "[w]here [F]ederal regulators refused to act, the [S]tates stepped into the breach." ⁴ These efforts were stymied, however, because "rather than supporting [States'] anti-predatory lending laws, [F]ederal regulators

¹ Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111–203, 124 Stat. 1376, 1955–2113 (2010).

² 12 U.S.C. 5481(14), (12).

³ As defined in 12 U.S.C. 5481(27), "[t]he term 'State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands or any federally recognized Indian tribe, as defined by the Secretary of the Interior under section 5131(a) of title 25."

⁴S. Rep. No. 111–176, at 16 (2010), https://www.congress.gov/congressional-report/111th-congress/senate-report/176/1.

preempted them." ⁵ Thus, Congress provided States with their own Bureau enforcement authority.

Generally, State attorneys general may "bring a civil action in the name of such State in any district court of the United States in that State or in State court that is located in that State and that has jurisdiction over the defendant, to enforce provisions of this title [i.e., the CFPA] or regulations issued under this title, and to secure remedies under provisions of this titleor remedies otherwise provided under other law."6 Likewise, a "state regulator may bring a civil action or other appropriate proceeding to enforce the provisions of this title or regulations issued under this title with respect to any entity that is State-chartered, incorporated, licensed, or otherwise authorized to do business under State law . . . and to secure remedies under provisions of this title or remedies otherwise provided under other provisions of law with respect to such an entity." 7 State attorneys general and regulators are required to consult the Bureau before initiating an action or proceeding under section 1042, in accordance with section 1042(b) and 12 CFR part 1082.

Section 1042, as one court has explained, allows States to vindicate their "fundamental right to protect their citizens and prevent harmful conduct from occurring in their jurisdictions" and gives them tools "to pick up slack when the [F]ederal Government fails to enforce and regulate." ⁸

Since the CFPA was enacted, many States have relied on section 1042 to bring civil enforcement actions, on their own or in joint or coordinated filings with the Bureau, to enforce a provision of the CFPA that prohibits unfair, deceptive, and abusive acts and practices in connection with the offering or provision of consumer financial products or services.9 Some States have also joined the Bureau in alleging violations of the CFPA's prohibition on covered persons and service providers violating other enumerated Federal consumer financial laws, but few have pursued such claims in their own CFPA actions. The Bureau is issuing this

interpretive rule regarding several important aspects of section 1042.¹⁰

III. Analysis

A. States' Authority Under Section 1042 To Address Violations of Federal Consumer Financial Laws

CFPA section 1042 authorizes State attorneys general and State regulators to bring an enforcement action to pursue violations of section 1036(a)(1)(A), which makes it unlawful for a covered person or service provider to violate any Federal consumer financial law.¹¹

As noted above, section 1042(a) generally authorizes States to bring civil actions "to enforce provisions of [the CFPA]." One such provision of the CFPA, section 1036(a)(1)(B), states that it is unlawful for any "covered person" or "service provider" to "engage in any unfair, deceptive, or abusive act or practice." ¹² States can thus rely on section 1042(a) to pursue an enforcement action against a covered person or service provider that commits an unfair, deceptive, or abusive act or practice, and many States have filed such enforcement actions.

Additionally, another provision of the CFPA, section 1036(a)(1)(A), declares it unlawful for any "covered person" or "service provider" to "offer or provide" to a consumer any financial product or service not in conformity with Federal consumer financial law, or otherwise commit any act or omission in violation of a Federal consumer financial law." 13 Because section 1036(a)(1)(A) is a "provision of [the CFPA]," States may use their section 1042 authority to enforce section 1036(a)(1)(A) against covered persons or service providers. Thus, when a covered person or service provider violates any of the Federal consumer financial laws, section 1042 gives States authority to address that violation by bringing a claim under section 1036(a)(1)(A) of the CFPA.

As explained above, the "Federal consumer financial laws" are the CFPA, the enumerated consumer laws, the laws for which authorities are transferred under subtitles F and H of the CFPA, and any rule or order prescribed by the Bureau under the CFPA, an enumerated consumer law, or

pursuant to the authorities transferred under subtitles F and H. The enumerated consumer laws are the 18 laws referred to in section 1002(12) of the CFPA. Rules prescribed by the Bureau include, for example, the rules implementing the Real Estate Settlement Procedures Act (Regulation X), 14 the Truth in Lending Act (Regulation Practices Act (Regulation F). 16 Orders prescribed by the Bureau include, for example, consent orders and other final orders issued by the Bureau under sections 1053 and 1055 of the CFPA. 17

States' authority to pursue violations of the CFPA is, of course, supplemental to the authority States may already have to enforce the Federal consumer financial laws. Several enumerated consumer laws authorize States to bring actions to enforce the substantive provisions of those laws. Section 1042(a)(3) of the CFPA clarifies that it does not "modify[], limit[], or supersed[e] the operation of any [such] provision of an enumerated consumer law." 18 As a result, States can enforce those laws to the full extent authorized under those laws—including against entities that are not covered persons or service providers (and thus not subject to liability under section 1036(a)(1)(A)) and including against national banks and Federal savings associations. For example, the Fair Credit Reporting Act allows States to bring enforcement actions against any person violating that statute, including users of consumer reports that are not themselves covered persons or service providers. 19 The Real Estate Settlement Procedures Act authorizes States to enforce the antikickback rule against those who profit from kickbacks but are not actually providing settlement services, and thus may not be covered persons.20 And the Truth in Lending Act authorizes States to enforce provisions of that statute against national banks and Federal savings associations.21 Thus, States may bring such claims even if they could not bring similar claims against such a defendant under section 1036(a)(1)(A).

⁵ *Id* .

⁶12 U.S.C. 5552(a)(1). With respect to national banks or Federal savings associations, State attorneys general may only "bring a civil action in the name of such State" in order "to enforce a regulation prescribed by the Bureau under a provision of this titleand to secure remedies under provisions of this titleor remedies otherwise provided under other law." 12 U.S.C. 5552(a)(2).

⁷ Id

⁸ Pennsylvania v. Navient Corp., 967 F.3d 273, 286 (3d Cir. 2020).

⁹ 12 U.S.C. 5536(a)(1)(B); see also id. 5531.

 $^{^{10}}$ This interpretive rule is not intended as an exhaustive interpretation of section 1042.

¹¹ As noted above, however, section 1042 does not allow State attorneys general to bring an enforcement action against national banks or Federal savings associations, except for violations of "a regulation prescribed by the Bureau under a provision of this title." 12 U.S.C. 5552(a)(2).

^{12 12} U.S.C. 5536(a)(1)(B).

¹³ 12 U.S.C. 5536(a)(1)(A); see also id. 5481(6) (defining "covered person"), 5481(26) (defining "service provider").

^{14 12} CFR part 1024.

¹⁵ 12 CFR part 1026.

¹⁶ 12 CFR part 1006.

¹⁷These orders can generally be found at https://www.consumerfinance.gov/administrative-adjudication-proceedings/administrative-adjudication-docket/.

^{18 12} U.S.C. 5552(a)(3).

^{19 15} U.S.C. 1681s(c)(1).

²⁰ 12 U.S.C. 2607(d)(4).

²¹ 15 U.S.C. 1640(e).

B. Limitations on States' Enforcement Authority Under Section 1042

The enforcement authority of States under section 1042 is generally not subject to certain limits applicable to the Bureau's enforcement authority.

Sections 1027 and 1029 of the CFPA set limits on the Bureau's enforcement authority. Under section 1027, the Bureau is subject to limits on its authority with respect to merchants, retailers, and other sellers of nonfinancial goods; real estate brokerage activities; retailers of manufactured or modular homes; accountants and tax preparers; attorneys engaged in the practice of law; persons regulated by a State insurance regulator; products or services that relate to specified employee benefit and compensation plans; persons regulated by a State securities commission; persons regulated by the Securities and Exchange Commission; persons regulated by the Commodity Futures Trading Commission; persons regulated by the Farm Credit Administration; and activities related to charitable contributions.²² Similarly, under section 1029, the Bureau is limited in exercising authority with respect to a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.23

With one exception discussed below, each of these limitations expressly applies to only the "Bureau" or the Bureau's "Director." For example, under section 1027(e), "the Bureau may not exercise any supervisory or enforcement authority with respect to an activity engaged in by an attorney as part of the practice of law under the laws of a State in which the attorney is licensed to practice law," except as specified.24 Likewise, under section 1029(a), "the Bureau may not exercise any rulemaking, supervisory, enforcement or any other authority, including any authority to order assessments, over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both," except as specified.25

Because Congress applied these limitations in sections 1027 and 1029 only to the Bureau, they do not extend

to States exercising their enforcement authority under section 1042. Indeed, Congress used different language in the one exclusion that it intended to apply to States, the limitation on sellers of nonfinancial goods: "To the extent that the Bureau may not exercise authority under this subsection with respect to a merchant, retailer, or seller of nonfinancial goods or services, no action by a State attorney general or State regulator with respect to a claim made under this titlemay be brought under [section 1042], with respect to an activity described in any of clauses (i) through (iii) of subparagraph (A) by such merchant, retailer, or seller of nonfinancial goods or services." 26 Because Congress did not similarly extend the exclusions to States in other provisions of 1027 and 1029, and instead applied them only to the Bureau, those exclusions do not extend to States.27

C. States May Pursue Actions Under Section 1042 Even While the Bureau Is Pursuing a Concurrent Action

State attorneys general and regulators may bring (or continue to pursue) actions under section 1042 even if the Bureau is pursuing a concurrent action against the same entity. As explained by the Third Circuit, "the clear statutory language of the Consumer [Financial] Protection Act permits concurrent [S]tate claims, for nothing in the statutory framework suggests otherwise." 28

When Congress intended to preclude concurrent CFPA actions, it expressly did so. There are multiple places within the CFPA where Congress made clear that concurrent actions should not occur or that one agency should take primary enforcement role over other agencies. For example, with respect to nondepository covered persons, if the Bureau or the Federal Trade Commission (FTC) has filed an action asserting certain violations of the CFPA, the other agency is prohibited during the pendency of the action from instituting "a civil action under such provision of law against any defendant named in the complaint in such pending action for any violation alleged in the complaint." 29 Likewise, Congress limited States' ability to enforce rules

relating to mortgage loan modification and foreclosure rescue services during the pendency of enforcement activity by either the Bureau or the FTC.30 Finally, Congress can—and did—designate the Bureau as holding primary CFPA enforcement authority among Federal regulators, limiting other agencies to the position of backup enforcement or precluding their authority to enforce entirely. Congress made that decision regarding supervised nondepository covered persons and very large banks, savings associations, and credit unions in sections 1024(c) and 1025(c), limiting the possibility of concurrent enforcement activity by the Bureau and certain Federal agencies. In short, when Congress seeks to limit concurrent statutory enforcement activity, it knows how to do so.31 It did not exercise that option with respect to section 1042.

V. Regulatory Matters

This is an interpretive rule issued under the Bureau's authority to interpret the CFPA, including under section 1022(b)(1) of the CFPA, which authorizes guidance as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of Federal consumer financial laws, such as the CFPA.³²

As an interpretive rule, this rule is exempt from the notice-and-comment rulemaking requirements of the Administrative Procedure Act. 33 Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.34 The Bureau has also determined that this interpretive rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act. 35

Pursuant to the Congressional Review Act,³⁶ the Bureau will submit a report containing this interpretive rule and other required information to the United States Senate, the United States House

²² 12 U.S.C. 5517. Each of these exclusions is subject to various exceptions as detailed in section 1027(a) through (l) and (n).

²³ 12 U.S.C. 5519. As with the section 1027 limitations, this limitation is also subject to various exceptions as detailed in section 1029.

^{24 12} U.S.C. 5517(e).

²⁵ 12 U.S.C. 5519(a).

²⁶ 12 U.S.C. 5517(a)(2)(E).

²⁷ See, e.g., Russello v. United States, 464 U.S. 16, 23 (1983) ("[W]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.").

²⁸ Navient Corp., 967 F.3d at 287.

²⁹ 12 U.S.C. 5514(c)(3).

³⁰ 12 U.S.C. 5538(b)(6).

³¹ See, e.g., Russello, 464 U.S. at 23 ("[W]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.").

^{32 12} U.S.C. 5512(b)(1).

^{33 5} U.S.C. 553(b).

^{34 5} U.S.C. 603(a), 604(a).

³⁵ 44 U.S.C. 3501–3521.

^{36 5} U.S.C. 801 et seq.

of Representatives, and the Comptroller General of the United States prior to the rule's published effective date. The Office of Information and Regulatory Affairs has designated this interpretive rule as not a "major rule" as defined by 5 U.S.C. 804(2).

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2022–11356 Filed 5–25–22; $8:45~\mathrm{am}$]

BILLING CODE 4810-AM-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2021-0888; Project Identifier MCAI-2021-00676-T; Amendment 39-22036; AD 2022-09-16]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A318 series; A319-111, -112, -113, -114, -115, -131, -132, –133, –151N, and –153N; A320 series; and A321 series airplanes. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 30, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 30, 2022.

ADDRESSES: For material 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 material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For

information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at https://www.regulations.gov by searching for and locating Docket No. FAA–2021–0888.

Examining the AD Docket

You may examine the AD docket at https://www.regulations.gov by searching for and locating Docket No. FAA-2021-0888; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email vladimir.ulyanov@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021-0140. dated June 14, 2021 (EASA AD 2021-0140) (also referred to as the MCAI), to correct an unsafe condition for all Airbus A318-111, A318-112, A318-121, A318-122, A319-111, A319-112, A319-113, A319-114, A319-115, A319-131, A319-132, A319-133, A319-151N, A319-153N, A320-211, A320-212, A320-214, A320-215, A320-216, A320-231, A320-232, A320-233, A320-251N, A320-252N, A320-253N, A320-271N A320-272N, A320-273N, A321-111, A321-112, A321-131, A321-211, A321-212, A321-213, A321-231, A321-232, A321-251N, A321-251NX, A321-252N, A321-252NX, A321-253N, A321-253NX, A321-271N, A321-271NX, A321-272N, and A321-272NX airplanes. Model A320-215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A318 series; A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, and –153N; A320 series; and A321

series airplanes. The NPRM published in the **Federal Register** on October 28, 2021 (86 FR 59662). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2021–0140.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from the Air Line Pilots Association, International (ALPA) and American Airlines. The ALPA supported the NPRM without change. The following presents the comment received on the NPRM and the FAA's response.

Request To Revise Paragraph To Correct Task Reference Error

American Airlines (AAL) requested a change in paragraph (j) of the proposed AD to correct an incorrect task reference. AAL stated that incorporating Task 531135–03–1 actually terminates Task 531135–01–2, as determined by Airworthiness Limitations Section (ALS) Part 2, Variation 8.5, not Task 531135–03–2, as indicated in the proposed AD.

The FAA agrees with the request and has revised paragraph (j) of this AD to indicate the correct task number.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0140 describes new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

The FAA estimates that this AD affects 1,728 airplanes of U.S. registry.