

**(d) Subject**

Air Transport Association (ATA) of America Code 32, Landing Gear.

**(e) Unsafe Condition**

This AD was prompted by reports of in-service findings of corrosion on the flange of the main landing gear (MLG) lower spindle pin. The FAA is issuing this AD to address corrosion and subsequent cracking of the MLG lower spindle pin, which could result in failure of the pin, and consequent collapse of the MLG.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada Civil Aviation (TCCA) AD CF-2021-22, issued July 5, 2021 (TCCA AD CF-2021-22).

**(h) Exceptions to TCCA AD 2021-22**

(1) Where TCCA AD CF-2021-22 refers to May 20, 2021, the effective date of TCCA AD CF-2021-18, this AD requires using the effective date of this AD.

(2) Where the service information identified in TCCA AD CF-2021-22 specifies to report inspection results, for this AD, report only positive findings of the first four inspections at the applicable time specified in paragraph (h)(2)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

**(i) Additional AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516-228-7300; fax: 516-794-5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Airbus Canada Limited Partnership's TCCA Design Approval Organization (DAO). If approved by the DAO,

the approval must include the DAO-authorized signature.

**(j) Related Information**

(1) For TCCA AD CF-2021-22, contact TCCA, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888-663-3639; email [AD-CN@tc.gc.ca](mailto:AD-CN@tc.gc.ca); internet <https://tc.canada.ca/en/aviation>. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. This material may be found in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-1076.

(2) For more information about this AD, contact Chirayu Gupta, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; fax 516-794-5531; email [9-avs-nyacos@faa.gov](mailto:9-avs-nyacos@faa.gov).

Issued on December 16, 2021.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021-27833 Filed 12-23-21; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

**[Docket No. FAA-2021-1075; Project Identifier MCAI-2021-00856-T]**

**RIN 2120-AA64**

**Airworthiness Directives; Airbus SAS Airplanes**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede Airworthiness Directive (AD) 2020-26-01, which applies to all Airbus SAS Model A318-111, -112, -121, and -122 airplanes; Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes; and Model A320-211, -212, -214, -216, -231, -232, and -233 airplanes. AD 2020-26-01 requires repetitive general visual inspections of the affected main landing gear (MLG) sliding tubes for cracks and replacement if necessary. Since the FAA issued AD 2020-26-01, additional parts and additional airplane models have been identified that may also have been subject to an improper overhaul and are therefore unsafe. This proposed AD would require repetitive general visual inspections of the affected MLG sliding

tubes (both retained affected parts and additional affected parts) for cracks and replacement if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. This proposed AD would also add airplanes to the applicability. 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 February 10, 2022.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal*: Go to <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*: 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 material that will be incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this 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 material at the FAA, call 206-231-3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-1075.

**Examining the AD Docket**

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-1075; 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, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:**

Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3223.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2021-1075; Project Identifier MCAI-2021-00856-T" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to <https://www.regulations.gov>, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposed AD.

**Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3223. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Discussion**

The FAA issued AD 2020-26-01, Amendment 39-21356 (85 FR 82299, December 18, 2020) (AD 2020-26-01), which applies to all Airbus SAS Model A318-111, -112, -121, and -122 airplanes; Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes; and Model A320-211, -212, -214, -216, -231, -232, and -233 airplanes. AD 2020-26-01 requires repetitive general visual inspections of the MLG sliding tubes for cracks, and replacement if necessary. The FAA issued AD 2020-26-01 to address cracks on the MLG sliding tubes, which could cause MLG sliding tube fracture, and could result in the MLG collapsing, damage to the airplane, and injury to occupants.

**Actions Since AD 2020-26-01 Was Issued**

Since the FAA issued AD 2020-26-01, additional parts and additional airplane models have been identified that may also have been subject to an improper overhaul and are therefore unsafe.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021-0175, dated July 22, 2021; corrected July 23, 2021 (EASA AD 2021-0175) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus SAS A318-111, A318-112, A318-121, A318-122, A319-111, A319-112, A319-113, A319-114, A319-115, A319-131, A319-132, A319-133, A320-211, A320-212, A320-214, A320-215, A320-216, A320-231, A320-232, A320-233, A321-111, A321-112, A321-131, A321-211, A321-212, A321-213, A321-231, and A321-232 airplanes. EASA AD 2021-0175 supersedes EASA AD 2020-0258 (which corresponds to FAA AD 2020-26-01). Model A320-215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by reports of cracks found on additional MLG sliding tubes that may have been subject to the same improperly performed magnetic particle inspection as the MLG sliding tubes identified in AD 2020-26-01. The FAA is proposing this AD to address cracks on the MLG sliding tubes, which could cause MLG sliding tube fracture, and could result in the MLG collapsing, damage to the airplane, and injury to occupants. See the MCAI for additional background information.

**Explanation of Retained Requirements**

Although this proposed AD does not explicitly restate the requirements of AD 2020-26-01, this proposed AD would retain all of the requirements of AD 2020-26-01. Those requirements are referenced in EASA AD 2021-0175, which, in turn, is referenced in paragraph (g) of this proposed AD.

**Related Service Information Under 1 CFR Part 51**

EASA AD 2021-0175 describes procedures for repetitive general visual inspections of the MLG sliding tubes for cracks, and replacement if necessary. EASA AD 2021-0175 also describes terminating actions for the repetitive inspections of affected MLG sliding tubes by either overhauling an affected MLG sliding tube or replacing an affected MLG sliding tube with an MLG sliding tube that is not affected.

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

**FAA's Determination and Requirements of This Proposed AD**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

**Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in EASA AD 2021-0175 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

**Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2021-0175 by reference in the FAA final rule. This

proposed AD would, therefore, require compliance with EASA AD 2021-0175 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021-0175 does not mean that operators need comply only with

that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2021-0175. Service information required by EASA AD 2021-0175 for compliance will be available at <https://www.regulations.gov>

by searching for and locating Docket No. FAA-2021-1075 after the FAA final rule is published.

**Costs of Compliance**

The FAA estimates that this proposed AD affects 1,524 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

**ESTIMATED COSTS FOR REQUIRED ACTIONS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2020-26-01 .....	2 work-hours × \$85 per hour = \$170 .....	\$0	\$170	\$259,080
New proposed actions .....	2 work-hours × \$85 per hour = \$170 .....	0	170	259,080

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on

the results of any required actions. The FAA has no way of determining the

number of aircraft that might need these on-condition actions:

**ESTIMATED COSTS OF ON-CONDITION ACTIONS**

Labor cost	Parts cost	Cost per product
19 work-hours × \$85 per hour = \$1,615 .....	\$185	\$1,800

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency’s authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

**The Proposed Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

- 2. The FAA amends § 39.13 by:
  - a. Removing Airworthiness Directive (AD) 2020-26-01, Amendment 39-21356 (85 FR 82299, December 18, 2020); and
  - b. Adding the following new AD:

**Airbus SAS:** Docket No. FAA-2021-1075; Project Identifier MCAI-2021-00856-T.

**(a) Comments Due Date**

The FAA must receive comments by February 10, 2022.

**(b) Affected Airworthiness Directives (ADs)**

This AD replaces AD 2020-26-01, Amendment 39-21356 (85 FR 82299, December 18, 2020) (AD 2020-26-01).

**(c) Applicability**

This AD applies to all Airbus SAS airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category.

- (1) Model A318-111, -112, -121, and -122 airplanes.
- (2) Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes.
- (3) Model A320-211, -212, -214, -216, -231, -232, and -233 airplanes.
- (4) Model A321-111, -112, -131, -211, -212, -213, -231, and -232 airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 32, Landing gear.

**(e) Reason**

This AD was prompted by reports of cracks found on main landing gear (MLG) sliding tubes that may have been subject to improperly performed magnetic particle inspection. The FAA is issuing this AD to address cracks on the MLG sliding tubes, which could cause MLG sliding tube fracture, and could result in the MLG collapsing, damage to the airplane, and injury to occupants.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021-0175, dated July 22, 2021; corrected July 23, 2021 (EASA AD 2021-0175).

**(h) Exceptions to EASA AD 2021-0175**

(1) Where EASA AD 2021-0175 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2021-0175 refers to July 10, 2018 (the effective date of EASA AD 2018-0136, dated June 26, 2018), this AD requires using April 9, 2019 (the effective date of AD 2019-03-18, Amendment 39-19570 (84 FR 7804, March 5, 2019)).

(3) Where EASA AD 2021-0175 refers to December 2, 2020 (the effective date of EASA AD 2020-0258, dated November 18, 2020; corrected November 19, 2020), this AD requires using January 4, 2021 (the effective date of AD 2020-26-01).

(4) Where paragraph (1) of EASA AD 2021-0175 specifies compliance times to do the initial inspection, for this AD, the initial inspection must be done within the applicable compliance time specified in paragraph (1) of EASA AD 2021-0175, or within 30 days after the effective date of this AD, whichever occurs later.

(5) The "Remarks" section of EASA AD 2021-0175 does not apply to this AD.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2021-0175 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov). Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or

EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2021-0175 that contains RC procedures and tests: Except as required by paragraph (j)(2) of this AD and as specified in paragraph (i) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

**(k) Related Information**

(1) For information about EASA AD 2021-0175, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); Internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this EASA AD 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. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-1075.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3223.

Issued on December 16, 2021.

**Lance T. Gant,**

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021-27834 Filed 12-23-21; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2021-1147; Airspace Docket No. 21-AGL-37]

**RIN 2120-AA66**

**Proposed Establishment of Class E Airspace; Pembina, ND**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to amend the Class E airspace at Pembina, ND. The FAA is proposing this action due to an airspace review conducted as part of the decommissioning of the Humbolt very high frequency (VHF) omnidirectional range (VOR) as part of the VOR Minimal Operational Network (MON) Program. The geographic coordinates of the airport would also be updated to coincide with the FAA's aeronautical database.

**DATES:** Comments must be received on or before February 10, 2022.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-9826, or (800) 647-5527. You must identify FAA Docket No. FAA-2021-1147/Airspace Docket No. 21-AGL-37 at the beginning of your comments. You may also submit comments through the internet at <https://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [https://www.faa.gov/air\\_traffic/publications/](https://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov) or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

**FOR FURTHER INFORMATION CONTACT:**

Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

**SUPPLEMENTARY INFORMATION:****Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority