

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

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); 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.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 adding the following new AD:

Dassault Aviation: Docket No. FAA-2008-0301; Directorate Identifier 2007-NM-284-AD.

Comments Due Date

(a) We must receive comments by April 17, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Dassault Model Falcon 2000EX and 900EX airplanes, certificated in any category, as identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Falcon 900EX airplanes, serial number (S/N) 120 through 146 inclusive, on which Dassault Service Bulletin F900EX-257 has not been implemented.

(2) Falcon 2000EX airplanes, S/N 28 through 55 inclusive, on which Dassault Service Bulletin F2000EX-61 has not been implemented.

Subject

(d) Air Transport Association (ATA) of America Code 35: Oxygen.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

On early FALCON airplanes featuring the EASy cockpit, a new oxygen controller has been installed. An internal review has determined that the passenger oxygen mask

boxes do not fit this new controller. In OVERRIDE mode, that is to say, when the internal pressure reducer is by-passed, oxygen (O₂) flow is nominal, while in NORMAL mode O₂ flow is reduced by half compared to what it should be.

Consequently, in NORMAL mode the minimum mass flow of supplemental O₂ for each passenger, as required by Certification Specifications, is no longer met. This could lead to passenger incompatibility due to insufficient body oxygenation.

The purpose of this Airworthiness Directive (AD) is to mandate the replacement of the passenger oxygen mask boxes by new-designed ones [boxes] adapted to the controller.

The unsafe condition is incorrectly fitted passenger oxygen mask boxes for the new controllers, which could result in incompatibility of passengers due to insufficient oxygen in the event of rapid depressurization of the airplane when the controller is in NORMAL mode.

Actions and Compliance

(f) Unless already done do the following actions:

(1) Within 15 months after the effective date of this AD, replace the passenger oxygen mask boxes in accordance with Dassault Service Bulletins F900EX-257 or F2000EX-61, both Revision 1, both dated March 22, 2007, as applicable.

(2) Actions done before the effective date of this AD in accordance with Dassault Service Bulletins F900EX-257 dated March 15, 2006, and F2000EX-61, dated March 22, 2006; are acceptable for compliance with the corresponding actions of this AD.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM-116, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1137; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the

provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2007-0073, dated March 22, 2007, and Dassault Service Bulletins F900EX-257 and F2000EX-61, both Revision 1, both dated March 22, 2007, for related information.

Issued in Renton, Washington, on March 9, 2008.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8-5371 Filed 3-17-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-0302; Directorate Identifier 2007-NM-323-AD]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 767-200, -300, and -400ER Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Boeing Model 767-200, -300, and -400ER series airplanes. The existing AD currently requires an inspection to determine if the door-mounted escape slide/rafts have certain part numbers. For those door-mounted escape slide/rafts having certain part numbers, the existing AD also currently requires an inspection for excessive tension of the firing cable, and procedures for providing slack in the firing cable or rerouting the firing cable if necessary. For certain airplanes, this proposed AD would require a review of the airplane maintenance records to determine if a certain service bulletin has been incorporated, or an inspection to determine if certain door-mounted escape slide/rafts are installed. This proposed AD would also require modification of certain escape slide/rafts. This proposed AD results from reports of uncommanded inflation inside the airplane of a door-mounted escape slide/raft located in the passenger compartment. We are

proposing this AD to prevent injury to maintenance personnel, passengers, and crew during otherwise normal operating conditions and to prevent interference with evacuation of the airplane during an emergency, due to uncommanded inflation of a door-mounted escape slide/raft.

DATES: We must receive comments on this proposed AD by May 2, 2008.

ADDRESSES: You may send comments 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 service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Keith Ladderdud, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM-150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6435; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2008-0302; Directorate Identifier 2007-NM-323-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory,

economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of 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 proposed AD.

Discussion

On June 7, 2005, we issued AD 2005-12-14, amendment 39-14130 (70 FR 34638, June 15, 2005), for certain Boeing Model 767-200, -300, and -400ER series airplanes. That AD requires an inspection to determine if the door-mounted escape slide/rafts have certain part numbers. For those door-mounted escape slide/rafts having certain part numbers, that AD also requires an inspection for excessive tension of the firing cable, and procedures for providing slack in the firing cable or rerouting the firing cable if necessary. That AD resulted from reports of uncommanded inflation inside the airplane of a door-mounted escape slide/raft located in the passenger compartment. We issued that AD to prevent injury to maintenance personnel, passengers, and crew during otherwise normal operating conditions and to prevent interference with evacuation of the airplane during an emergency, due to uncommanded inflation of a door-mounted escape slide/raft.

Actions Since Existing AD Was Issued

The preamble to AD 2005-12-14 specified that we considered the requirements "interim action" and that the manufacturer was developing a modification to address the unsafe condition. That AD explained that we might consider further rulemaking if a modification is developed, approved, and available. The manufacturer now has developed such a modification, and we have determined that further rulemaking is indeed necessary; this proposed AD follows from that determination. Boeing has issued Alert Service Bulletin 767-25A0395, Revision 1, dated January 25, 2007, to provide instructions for accomplishing the modification.

Relevant Service Information

We have reviewed Revision 1 of Boeing Alert Service Bulletin 767-25A0395. For Group 1 and 2 airplanes, the service bulletin describes procedures for doing either a records

verification to determine if Boeing Service Bulletin 767-25-0266 has been incorporated, or a general visual inspection to determine if any door-mounted escape slide/raft having part number (P/N) 5A3294-1, 5A3294-2, 5A3295-1, or 5A3295-3 is installed. For Group 1 and 2 airplanes, the service bulletin also describes procedures for doing the corrective action, which is to modify the escape slide/rafts, if Boeing Service Bulletin 767-25-0266 has been incorporated or if P/N 5A3294-1, 5A3294-2, 5A3295-1, or 5A3295-3 is installed. For Group 3, 4, 5 and 6 airplanes, the service bulletin describes procedures for modifying the door-mounted escape slide/rafts. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

The service bulletin refers to Goodrich Service Bulletin 5A3294/5A3295-25-362, dated July 25, 2006, as an additional source of service information for modifying a door-mounted escape slide/raft by replacing the firing cable with a longer cable and testing the regulator valve of the inflation trigger system for the door-mounted escape slide/raft.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other products of the same type design. For this reason, we are proposing this AD, which would supersede AD 2005-12-14 and would retain the requirements of the existing AD. This proposed AD would also require accomplishing the actions specified in the service information described previously.

Costs of Compliance

There are about 1,225 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 355 airplanes of U.S. registry.

The actions that are required by AD 2005-12-14 and retained in this proposed AD take up to about 6 work hours per airplane, at an average labor rate of \$80 per work hour. Based on these figures, the estimated cost of the currently required actions for U.S. operators is \$170,400, or is \$480 per airplane.

The new proposed actions would take up to about 6 work hours per airplane, at an average labor rate of \$80 per work hour. The parts manufacturer states that it will supply the required parts to operators at no cost. Based on these figures, the estimated cost of the new

actions specified in this proposed AD for U.S. operators is \$170,400, or \$480 per airplane.

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.

We are 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

We have 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 that the proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); 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.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39-14130 (70 FR 34638, June 15, 2005) and adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA-2008-0302; Directorate Identifier 2007-NM-323-AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by May 2, 2008.

Affected ADs

(b) This AD supersedes AD 2005-12-14.

Applicability

(c) This AD applies to Boeing Model 767-200, -300, and -400ER series airplanes, certificated in any category, equipped with door-mounted escape slide/rafts.

Unsafe Condition

(d) This AD results from reports of uncommanded inflation inside the airplane of a door-mounted escape slide/raft located in the passenger compartment. We are issuing this AD to prevent injury to maintenance personnel, passengers, and crew during otherwise normal operating conditions and to prevent interference with evacuation of the airplane during an emergency, due to uncommanded inflation of a door-mounted escape slide/raft.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Restatement of Requirements of AD 2005-12-14

Inspection for Part Numbers (P/Ns)

(f) Within 30 days after June 30, 2005 (the effective date of AD 2005-12-14), accomplish the actions in either paragraph (f)(1) or (f)(2) of this AD.

(1) Perform a one-time inspection to determine if any Goodrich door-mounted escape slide/raft having P/N 5A3294-1, 5A3294-2, 5A3295-1, or 5A3295-3 is installed. If no slide/raft having any of those part numbers is installed, no further action is required by this paragraph, except for the requirements of paragraph (j) of this AD.

(2) Perform a one-time check of the airplane maintenance records to determine if any Goodrich door-mounted escape slide/raft having P/N 5A3294-1, 5A3294-2, 5A3295-1, or 5A3295-3 is installed. If it can be conclusively determined from the airplane maintenance records that no slide/raft having any of those part numbers is installed, no further action is required by this AD, except for the requirements of paragraph (j) of this AD.

Inspection for Excessive Tension on the Firing Cable

(g) If any door-mounted escape slide/raft with any part number specified in paragraph (f) of this AD is installed: Within 30 days after June 30, 2005, perform a tension check on the firing cable of the slide/raft, in accordance with Boeing Alert Service Bulletin 767-25A0390, dated May 13, 2005. If no excessive tension is detected, no further action is required by this AD, except for the requirements of paragraph (j) of this AD.

Note 1: Boeing Alert Service Bulletin 767-25A0390, dated May 13, 2005, references Goodrich Alert Service Bulletin 5A3294/5A3295-25A356, dated May 11, 2005, as an additional source of service information.

Corrective Action for Excessive Tension on the Firing Cable

(h) If any excessive tension of the firing cable is detected, before further flight, do the applicable corrective actions in accordance with the Boeing Alert Service Bulletin 767-25A0390, dated May 13, 2005.

Previous Accomplishment

(i) Inspections of the firing cables for excessive tension in accordance with Boeing Alert Service Bulletin 767-25A0390, dated May 13, 2005, that were accomplished before June 30, 2005, are acceptable for compliance with the requirements of paragraph (g) of this AD, provided that any applicable corrective action was completed.

Parts Installation

(j) As of June 30, 2005, no person may install on any airplane any Goodrich door-mounted escape slide/raft having P/N 5A3294-1, 5A3294-2, 5A3295-1, or 5A3295-3, unless the tension of the firing cable has been checked and the applicable corrective action completed in accordance with Boeing Alert Service Bulletin 767-25A0390, dated May 13, 2005, or the escape slide/raft has been repacked in accordance with Goodrich Packing Instructions, Evacuation Slide/Raft, Document 501636, Revision G, dated May 16, 2005; Goodrich Packing Instructions, Evacuation Slide/Raft, LH, Document 501637, Revision E, dated May 16, 2005; or Goodrich Packing Instructions, Evacuation Slide/Raft, RH, Document 501638, Revision D, dated May 16, 2005; as applicable.

New Requirements of This AD

Modification

(k) For airplanes identified in Boeing Alert Service Bulletin 767-25A0395, Revision 1, dated January 25, 2007: Within 36 months after the effective date of this AD, do the applicable actions specified in paragraph (k)(1) or (k)(2) of this AD, by accomplishing all of the applicable actions specified in the service bulletin.

(1) For Group 1 and 2 airplanes as identified in the service bulletin: Review the airplane maintenance records to determine if Boeing Service Bulletin 767-25-0266 has been incorporated, or do a general visual inspection to determine if any door-mounted escape slide/raft having P/N 5A3294-1, 5A3294-2, 5A3295-1, or 5A3295-3 is installed, and before further flight do all the

applicable corrective actions. Doing the inspection before the effective date of this AD in accordance with paragraph (f)(1) of this AD is acceptable for compliance with the inspection specified in this paragraph.

(2) For Group 3, 4, 5, and 6 airplanes as identified in the service bulletin: Modify the escape slide/rafts.

Note 2: Boeing Alert Service Bulletin 767-25A0395, Revision 1, refers to Goodrich Service Bulletin 5A3294/5A3295-25-362, dated July 25, 2006, as an additional source of service information for modifying a door-mounted escape slide/raft.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(3) AMOCs approved previously in accordance with AD 2005-12-14, amendment 39-14130, are approved as AMOCs for the corresponding provisions of paragraphs (f), (g), (h), (i), and (j) of this AD.

Issued in Renton, Washington, on March 9, 2008.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8-5373 Filed 3-17-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2008-0131; Airspace Docket 08-AEA-12]

Proposed Establishment of Class E Airspace; Philippi, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Philippi, WV. Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAP) Runways (RWY) 08-26 has been developed for Philippi/Barbour County Regional Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and for Instrument Flight Rule (IFR) operations

at Philippi/Barbour County Regional Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP. This action enhances the safety and airspace management of Philippi/Barbour County Regional Airport.

DATES: Comments must be received on or before May 2, 2008.

ADDRESSES: Send comments on this proposal to: U. S. Department of Transportation, Docket Operations, West Building, Ground Floor, Room W12-140, 1200 New Jersey Ave., SE, Washington, DC 20590-0001; Telephone: 1-800-647-5527; Fax: 202-493-2251. You must identify the docket number FAA-2008-0131; Airspace Docket 08-AEA-12, at the beginning of your comments. You may also submit comments on the Internet at <http://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 (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation

Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT:

Daryl Daniels, Airspace Specialist, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5581.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal.

Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Those wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on

which the following statement is made: "Comments to Docket No. FAA-2008-0131; Airspace Docket No. 08-AEA-12." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov> or the Federal Register's Web page at <http://www.gpoaccess.gov/fr/index.html>. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267-9677, to request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Code of Federal Regulations (14 CFR part 71) to establish Class E airspace at Philippi, WV. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the Earth are published in Paragraph 6005 of FAA Order 7400.9R, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation, as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a