

determined by USDA to be rust-resistant.

#### Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, on November 8, 2010, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before October 8, 2010.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment.

As discussed above, if we receive no written adverse comments or written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a document in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

#### Executive Order 12866 and Regulatory Flexibility Act

This rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This analysis provides the basis, as required by the Regulatory Flexibility Act, for certification by the APHIS Administrator that the rule will not have a significant economic impact on a substantial number of small entities.

This direct final rule will amend 7 CFR 301.38-2 by adding four varieties to the list of rust-resistant *Berberis* species or cultivars. The nursery and floriculture industries that may be affected by this rule are largely composed of small entities. We expect these entities to benefit from the rule, by being able to market interstate barberry species and cultivars that have been determined to be rust-resistant.

The introduction and spread of plant pests can result in damage to crops and losses to the U.S. agricultural sector. For the purpose of this analysis and following the Small Business Administration (SBA) guidelines, we note that a major segment of entities

potentially affected by this rule are classified within the following industries: Nursery and Tree Production (NAICS 111421), and Floriculture Production (NAICS 111422). According to the Census of Agriculture, these two categories included 52,845 farms in 2007, and represented 3 percent of all farms in the United States. These entities are considered small by SBA standards if their annual sales are \$750,000 or less. Over 93 percent of the farms in these industries had annual sales of less than \$500,000. Barberry plants are not one of the crops tracked by the Census and therefore data on production and number of producers are not available. Nurseries producing barberry plant species and cultivars will not be negatively affected. In fact, they will benefit from being able to market the four varieties interstate. In addition, the rule does not require any additional reporting, recordkeeping, or other compliance measures beyond what is already in place.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, 7 CFR part 301 is amended as follows:

#### PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

**Authority:** 7 U.S.C. 7701-7772 and 7781-7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75-15 issued under Sec. 204, Title II, Public Law 106-113, 113 Stat. 1501A-293; sections 301.75-15 and 301.75-16 issued under Sec. 203, Title II, Public Law 106-224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.38-2, paragraph (a)(1) is amended by adding, in alphabetical order, four rust-resistant *Berberis* species to read as follows.

#### § 301.38-2 Regulated articles.

(a)	*	*	*		
(1)	*	*	*		
	<i>B. thunbergii</i> '24kagozam' (24 Karat Gold™)				
	*	*	*	*	*
	<i>B. thunbergii</i> 'Grhozam' (Green Hornet™)				
	*	*	*	*	*
	<i>B. thunbergii</i> 'Pyruzam' (Pygmy Ruby™)				
	*	*	*	*	*
	<i>B. thunbergii</i> 'Velglozam' (Velvet Glow™)				
	*	*	*	*	*

Done in Washington, DC, this 1<sup>st</sup> day of September 2010.

#### Gregory Parham

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010-22363 Filed 9-7-10; 8:45 am]

BILLING CODE 3410-34-S

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2010-0499; Directorate Identifier 2010-NE-06-AD; Amendment 39-16428; AD 2010-18-14]

RIN 2120-AA64

#### Airworthiness Directives; Bombardier-Rotax GmbH 912 F Series and 912 S Series Reciprocating Engines

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct

an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Due to high fuel pressure, caused by exceeding pressure in front of the mechanical fuel pump (e.g. due to an electrical fuel pump), in limited cases a deviation in the fuel supply could occur. This can result in exceeding of the fuel pressure and might cause engine malfunction and/or massive fuel leakage.

We are issuing this AD to prevent the pump from exceeding the fuel pressure, which could result in engine malfunction or a massive fuel leak. These conditions could cause loss of control of the airplane or a fire.

**DATES:** This AD becomes effective October 13, 2010.

**ADDRESSES:** The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

**FOR FURTHER INFORMATION CONTACT:** Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [alan.strom@faa.gov](mailto:alan.strom@faa.gov); telephone (781) 238-7143; fax (781) 238-7199.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on May 17, 2010 (75 FR 27487). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Due to high fuel pressure, caused by exceeding pressure in front of the mechanical fuel pump (e.g. due to an electrical fuel pump), in limited cases a deviation in the fuel supply could occur. This can result in exceeding of the fuel pressure and might cause engine malfunction and/or massive fuel leakage.

**Comments**

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

**Conclusion**

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

**Costs of Compliance**

Based on the service information, we estimate that this AD will affect about 50 products of U.S. registry. We also estimate that it will take about 0.5 work-hour per product to comply with this AD. The average labor rate is \$85 per work-hour. Required parts will cost about \$650 per product. Based on these figures, we estimate the cost of the AD on U.S. operators to be \$34,625.

**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 determined that this AD will not have federalism implications under Executive Order 13132. This AD will 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 AD:

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 AD and placed it in the AD docket.

**Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday,

except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone (800) 647-5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

Air transportation, Aircraft, Aviation safety, Safety.

**Adoption of the Amendment**

- Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

**2010-18-14 Bombardier-Rotax GmbH (Formerly Motorenfabrik):** Amendment 39-16428. Docket No. FAA-2010-0499; Directorate Identifier 2010-NE-06-AD.

**Effective Date**

- (a) This airworthiness directive (AD) becomes effective October 13, 2010.

**Affected ADs**

- (b) None.

**Applicability**

- (c) This AD applies to Bombardier-Rotax 912 F series and 912 S series reciprocating engines with fuel pumps, part numbers (P/Ns) 892230, 892232, 892540 (standard version) or P/Ns 892235, 892236, 892545 (version including flexible fuel line), installed. These engines are installed on, but not limited to, Diamond (formerly HOAC) HK-36R Super Dimona, Aeromot AMT-200S Super Ximango; Diamond DA20-A1 Katana; Scheibe SF 25C; Iniziative Industriali Italiane S.p.A. Sky Arrow 650 TC, and 650 TCN airplanes.

**Reason**

- (d) This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Due to high fuel pressure, caused by exceeding pressure in front of the mechanical fuel pump (e.g. due to an electrical fuel pump), in limited cases a deviation in the fuel supply could occur. This can result in exceeding of the fuel pressure and might cause engine malfunction and/or massive fuel leakage.

We are issuing this AD to prevent the pump from exceeding the fuel pressure, which could result in engine malfunction or a massive fuel leak. These conditions could cause loss of control of the airplane or a fire.

#### Actions and Compliance

(e) Unless already done, do the following actions.

(1) At the next maintenance, or within the next 25 hours of engine operation, whichever occurs first, after the effective date of this AD, remove affected fuel pumps, P/Ns 892230, 892232, 892235, 892236, 892540, or 892545.

(2) After the effective date of this AD, do not install fuel pump, P/Ns 892230, 892232, 892235, 892236, 892540, or 892545, on any engine.

#### FAA AD Differences

(f) This AD differs from the MCAI and/or service information as follows: The MCAI requires replacing an affected fuel pump with fuel pump, P/N 892542 or 892546. This AD requires replacement of an affected fuel pump with a fuel pump eligible for installation on the airplane.

#### Other FAA AD Provisions

(g) *Alternative Methods of Compliance (AMOCs)*: The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

#### Related Information

(h) Refer to MCAI AD 2007-0060R1-E, dated April 20, 2007, and Rotax Aircraft Engines Service Bulletin SB-912-053, dated April 13, 2007, for related information. Contact BRP-Rotax GmbH & Co. KG, Welser Strasse 32, A-4623 Gunskirchen, Austria, or go to: <http://www.rotax-aircraft-engines.com/>, for a copy of this service information.

(i) Contact Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [alan.strom@faa.gov](mailto:alan.strom@faa.gov); telephone (781) 238-7143; fax (781) 238-7199, for more information about this AD.

#### Material Incorporated by Reference

(j) None.

Issued in Burlington, Massachusetts, on August 27, 2010.

**Thomas A. Boudreau,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 2010-22147 Filed 9-7-10; 8:45 am]

**BILLING CODE 4910-13-P**

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 200

[Release No. 34-62821]

#### Delegation of Authority to the Director of Its Division of Enforcement

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is amending its rules to delegate authority to the Director of the Division of Enforcement, in connection with the collection of delinquent debts arising from actions to enforce the federal securities laws, to terminate collection activity or discharge debts, to accept or reject offers to compromise debts, to accept or reject offers to enter into payment plans. This action is intended to facilitate the Commission's debt resolution process.

**DATES:** *Effective Date:* September 8, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Kenneth H. Hall, 202-551-4936, Office of Chief Counsel, Division of Enforcement, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-6553.

**SUPPLEMENTARY INFORMATION:** The Division of Enforcement seeks actively to collect amounts imposed in the civil actions that it files in federal district court and in administrative proceedings; these amounts represent disgorgement of ill-gotten gains from violations of the Federal securities laws and civil penalties. The Division pursues debts through further litigation, including contempt proceedings, against the debtor, and is authorized to refer delinquent debts to the U.S. Department of the Treasury for administrative collection activity, including offset of debts against amounts otherwise owed by the government to the debtor and administrative garnishment of a debtor's wages.

Based upon a debtor's financial condition, as substantiated by creditable evidence, the Commission may determine to accept a debtor's offer to pay the debt in installments, or to compromise, *i.e.*, satisfy the debt by payment of a lesser amount than the outstanding balance. In addition, when all reasonable steps have been taken to collect a debt, the Commission may authorize its staff to terminate collection activity or discharge the debt. Termination of collection activity preserves the debt as an obligation of the debtor, and does not bar future activity to collect the debt should that

become practicable. Discharge of the debt is essentially a forgiveness of the debtor's obligation to pay, which may have tax consequences for the debtor. The Commission is delegating to the Director of the Division of Enforcement the authority to resolve certain debts arising from actions to enforce the federal securities laws; in particular, the Director is authorized to terminate collection activity or discharge debts, to accept offers to compromise debts (when the principal amount of the debt is \$5 million or less) or to reject any offers to compromise debts, and to accept or reject offers to enter into payment plans. This delegation will improve the efficiency of the Division's debt collection program.

In any case the Division Director deems appropriate, the recommendation that a debt be resolved through termination of collection activity, discharge or by payment plan or compromise, may be submitted to the Commission for review.

#### *Administrative Law Matters:*

The Commission finds, in accordance with section 553(b)(3)(A) of the Administrative Procedure Act ("APA") (5 U.S.C. 553(b)(3)(A)) that this amendment relates solely to agency organization, procedure, or practice, and does not relate to a substantive rule. Accordingly, notice, opportunity for public comment, and publication of the amendment prior to its effective date are unnecessary. For the same reason, and because this amendment does not substantively affect the rights or obligations of non-agency parties, the provisions of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 804(3)(C), are not applicable. Additionally, the provisions of the Regulatory Flexibility Act, which apply only when notice and comment are required by the APA or other law, 5 U.S.C. 603, are not applicable. Section 23(a)(2) of the Securities Exchange Act of 1934, 15 U.S.C. 78w(a)(2), requires the Commission, in adopting rules under that Act, to consider the anticompetitive effects of any rules it adopts. The Commission does not believe that the amendment the Commission is adopting today will have any impact on competition. Finally, this amendment does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1980, as amended.

#### List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies).