

unique in that they are brought about through group action of essentially small entities acting on their own behalf. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 200 importers of tomatoes subject to the regulation. Small agricultural service firms, which include tomato importers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$7,000,000 (13 CFR 121.201). Based on information from the Foreign Agricultural Service, USDA, the dollar value of imported fresh tomatoes ranged from around \$1.07 billion in 2005 to \$1.22 billion in 2007. Using these numbers, the majority of tomatoes importers may be classified as small entities.

Mexico, Canada, and the Netherlands are the major tomato producing countries exporting tomatoes to the United States. In 2007, shipments of tomatoes imported into the United States totaled 1.7 million metric tons. Mexico accounted for 949,695 metric tons, 111,697 metric tons were imported from Canada, and 5,147 metric tons arrived from the Netherlands.

This proposed rule would provide a partial exemption to the minimum grade requirements for Vintage Ripes(tm) imported into the United States. Absent an exemption, the import requirements for tomatoes specify that tomatoes must meet at least a U.S. No. 2 grade before they can be shipped and sold into the fresh market. An interim final rule amending the rules and regulations under the order to exempt Vintage Ripes™ from the shape requirements associated with the U.S. No. 2 grade was issued separately by USDA (73 FR 76191, December 16, 2008). Under section 8e of the Act, imports of tomatoes have to meet the same grade, size, quality, and maturity requirements as under the order. This rule would provide the same partial exemption under the import regulation so it conforms to the changes under the order.

This action would represent a small increase in costs for producers and handlers of Vintage Ripes™ primarily from costs associated with developing and maintaining an IP program. However, this rule would make additional volumes of Vintage Ripes™ available for shipment. This would result in increased sales of Vintage Ripes™. Consequently, the benefits of this action would more than offset the associated costs.

This rule would not impose any additional reporting or recordkeeping requirements beyond the IP program on

either small or large tomatoes importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying 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.

Additionally, except for applicable domestic regulations, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/AMSV1.o/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule.

This proposed rule invites comments on a partial exemption to the minimum grade requirements for imported tomatoes. A 60-day comment period is provided to allow interested persons to respond to this rule. All written comments timely received will be considered before a final determination is made on this matter.

#### List of Subjects in 7 CFR Part 980

Food grades and standards, Imports, Marketing agreements, Onions, Potatoes, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 980 is proposed to be amended as follows:

#### PART 980—VEGETABLES; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 980 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. In § 980.212, paragraph (b)(1) all references to “UglyRipe™” are revised to read “UglyRipe™ and Vintage Ripes™”.

Dated: March 3, 2009.

**Robert C. Keeney,**

*Acting Associate Administrator.*

[FR Doc. E9–4849 Filed 3–6–09; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2009–0168; Directorate Identifier 2007–SW–33–AD]

RIN 2120–AA64

#### Airworthiness Directives; Agusta S.p.A. Model AB139 and AW139 Helicopters

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for Agusta S.p.A. (Agusta) Model AB139 and AW139 helicopters. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The aviation authority of Italy, with which we have a bilateral agreement, states in the MCAI that during the installation of a fire extinguisher bottle on a new helicopter, it was found that the electrical receptacle/connectors on the bottle which commands the firing of the extinguishing agent were swapped between engines No. 1 and No. 2. This condition could affect helicopters already in service and fire extinguisher bottles of the same part number in stock as spare parts. If not corrected, an improperly wired fire extinguishing bottle might cause the extinguishing agent to be discharged toward the unselected engine when the system is activated, rather than toward the engine with the fire. The proposed AD would require determining if each engine has the proper outlet end on the electrical receptacle/connector that attaches the firing cartridge to the fire extinguisher bottle, and if not, replacing the fire extinguisher bottle. The proposed AD is intended to prevent the fire extinguishing agent from not discharging toward the engine with the fire, which could result in loss of the helicopter due to an engine fire.

**DATES:** We must receive comments on this proposed AD by April 8, 2009.

**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.

You may get the service information identified in this proposed AD from Agusta, Via Giovanni Agusta, 520 21017 Cascina Costa di Samarate (VA), Italy, telephone 39 0331-229111, fax 39 0331-229605/222595, or at [http://customersupport.agusta.com/technical\\_advice.php](http://customersupport.agusta.com/technical_advice.php).

*Examining the 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 proposed AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations 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:** John Strasburger, Aviation Safety Engineer FAA, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222-5167; fax (817) 222-5961.

**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-2009-0168; Directorate Identifier 2007-SW-33-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 based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each

substantive verbal contact we receive about this proposed AD.

**Discussion**

The Ente Nazionale Per L'Aviazione Civile, which is the aviation authority for Italy, has issued an MCAI in the form of Airworthiness Directive No. 2007-227, dated June 18, 2007, (referred to after this as "the MCAI"), to correct an unsafe condition for these Italian-certificated products. The MCAI states that during the installation of a fire extinguisher bottle, part number (P/N) 3G2620V00131, on a helicopter during manufacture, it was found that the electrical receptacle/connectors on the bottle which commands the firing of the extinguishing were swapped between engines No. 1 and No. 2. This condition could affect helicopters already in service and fire extinguisher bottles of the same part number in stock as spare parts. If not corrected, an improperly wired fire extinguishing bottle might cause the extinguishing agent to be discharged toward the unselected engine when the system is activated, rather than toward the engine with the fire. The proposed AD would require determining if each engine has the proper outlet end on the electrical receptacle/connector that attaches the firing cartridge to the fire extinguisher bottle, and if not, replacing the fire extinguisher bottle. The proposed AD is intended to prevent the fire extinguishing agent from not discharging toward the engine with the fire, which could result in loss of the helicopter due to an engine fire.

You may obtain further information by examining the MCAI and service information in the AD docket.

**Relevant Service Information**

Agusta has issued Bollettino Tecnico No. 139-085, dated May 18, 2007. The actions described in the MCAI are intended to correct the same unsafe condition as that identified in the service information.

**FAA's Determination and Proposed Requirements**

This product has been approved by the aviation authority of Italy, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, we have been notified of the unsafe condition described in the MCAI and the service information. We are proposing this AD because we 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.

**Differences Between This AD and the MCAI**

We have reviewed the MCAI and related service information and, in general, agree with their substance. However, our AD differs from the MCAI to clarify the unsafe condition and compliance instructions. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information. These differences are highlighted in the "Differences Between the FAA AD and the MCAI" section in the proposed AD.

**Costs of Compliance**

We estimate that this proposed AD would affect about 20 helicopters of U.S. registry and that it would take about 1 work-hour per helicopter to verify the correct installation of electrical receptacles/connectors on the two fire extinguisher bottles. We also estimate that it would take about 3 work-hours per helicopter to replace a fire extinguisher bottle with the inverted electrical receptacles/connectors and that about 5% (2 bottles) of the fire extinguisher bottles in the fleet would have to be replaced. The cost of a replacement fire extinguisher bottle is \$10,300. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$22,680.

**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 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. 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 an economic 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, 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 adding the following new AD:

**Agusta S.p.A.:** Docket No. FAA-2009-0168; Directorate Identifier 2007-SW-33-AD.

#### Comments Due Date

(a) We must receive comments by April 8, 2009.

#### Other Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Model AB139 helicopters, serial number (S/N) 31005 through 31054, except S/N 31007, and AW139 helicopters, S/N 31055 through 31067, S/N 31070, and S/N 31071, certificated in any category.

#### Reason

(d) The mandatory continuing airworthiness information (MCAI) states that during the installation of a fire extinguisher bottle, part number 3G2620V00131, on a helicopter during manufacture, it was found that the electrical receptacle/connectors on the bottle which commands the firing of the extinguishing agent were swapped between engines No. 1 and No. 2. This condition could affect helicopters already in service and fire extinguisher bottles of the same part number in stock as spare parts. If not

corrected, an improperly wired fire extinguishing bottle might cause the extinguishing agent to be discharged toward the unselected engine when the system is activated, rather than toward the engine with the fire. The proposed AD would require determining if each engine has the proper outlet end on the electrical receptacle/connector that attaches the firing cartridge to the fire extinguisher bottle, and if not, replacing the fire extinguisher bottle. The proposed AD is intended to prevent the fire extinguishing agent from not discharging toward the engine with the fire, which could result in loss of the helicopter due to an engine fire.

#### Actions and Compliance

(e) Within 100 hours time-in-service (TIS) or 3 months, whichever occurs first, unless already done, do the following actions.

(1) Determine whether the fire extinguishing bottle (bottle) for engines No. 1 and No. 2 have the proper outlet end on the electrical receptacle/connector, which attaches the firing cartridge to the bottle, by following steps 4. and 5. of the Compliance Instructions in Agusta Bollettino Tecnico No. 139-085, dated May 18, 2007 (BT).

(2) If a bottle has an electrical receptacle/connector for the firing cartridge with an improper outlet end, before further flight, replace the bottle with a bottle that has an electrical receptacle/connector with a proper outlet end in accordance with step 6. of the Compliance Instructions in the BT.

#### Differences Between the FAA AD and the MCAI

(f) This AD uses the term "hours time-in-service" rather than "flight hours."

#### Other FAA Information

(g) Alternative Methods of Compliance (AMOCs): The Manager, Safety Management Group, Rotorcraft Directorate, FAA, ATTN: John Strasburger, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76193-0111; telephone (817) 222-5167; fax (817) 222-5961, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

#### Related Information

(h) MCAI Ente Nazionale Per L'Aviazione Civile Airworthiness Directive No. 2007-227, dated June 18, 2007, contains related information.

#### Air Transport Association of America (ATA) Tracking Code

(i) ATA Code 2621: Fire Bottle, Fixed.

Issued in Fort Worth, Texas, on February 19, 2009.

#### Scott A. Horn,

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. E9-4943 Filed 3-6-09; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2009-0127; Airspace Docket No. 09-AGL-4]

#### Proposed Amendment of Class E Airspace; Cleveland, OH

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

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

**SUMMARY:** This action proposes to amend Class E airspace at Cleveland, OH. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Lorain County Regional Airport, Lorain, OH. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) aircraft operations at Lorain County Regional Airport.

**DATES:** 0901 UTC. Comments must be received on or before April 23, 2009.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001. You must identify the docket number FAA-2009-0127/Airspace Docket No. 09-AGL-4, 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 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527), is on the ground floor of the building at the above address.

**FOR FURTHER INFORMATION CONTACT:** Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76193-0530; telephone: (817) 321-7716.

#### 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