

(d) When a laboratory test service is provided for AMS by a commercial or State government laboratory, the applicant will be assessed a fee which covers the costs to the Science and Technology program for the service provided.

(e) When Science and Technology staff provides applied and developmental research and training activities for microbiological, physical, chemical, and biomolecular analyses on agricultural commodities the applicant will be charged a fee on a reimbursable cost to AMS basis.

**§ 91.38 Additional fees for appeal of analysis.**

(a) The applicant for appeal sample testing will be charged a fee at the hourly rate for laboratory service that appears in this paragraph. The new fiscal year for Science and Technology Programs commences on October 1 of each calendar year. The appeal rate for laboratory service is \$93.00 per hour in fiscal year 2010, \$96.00 per hour in fiscal year 2011, and \$99.00 per hour in fiscal year 2012.

(b) The appeal fee will not be waived for any reason if analytical testing was completed in addition to the original analysis.

**§ 91.39 Premium hourly fee rates for overtime and legal holiday service.**

(a) When analytical testing in a Science and Technology facility requires the services of laboratory personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. When analytical testing in a Science and Technology facility requires the services of laboratory personnel on a Federal holiday or a day designated in lieu of such a holiday, such services are considered holiday work. Laboratory analyses initiated at the request of the applicant to be rendered on Federal holidays, and on an overtime basis will be charged fees at hourly rates for laboratory service that appear in this paragraph. The new fiscal year for Science and Technology Programs commences on October 1 of each calendar year. The laboratory analysis rate for overtime service is \$93.00 per hour in fiscal year 2010, \$96.00 per hour in fiscal year 2011, and \$99.00 per hour in fiscal year 2012. The laboratory analysis rate for Federal holiday or designated holiday service is \$108.00 per hour in fiscal year 2010, \$111.00 per hour in fiscal year 2011, and \$115.00 per hour in fiscal year 2012.

(b) Information on legal holidays or what constitutes overtime service at a particular Science and Technology Laboratory is available from the Laboratory Director or facility manager.

Dated: April 1, 2010.

**Rayne Pegg,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2010-7739 Filed 4-5-10; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS-2008-0052]

RIN 0579-AD07

#### Citrus Seed Imports; Citrus Greening and Citrus Variegated Chlorosis

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the regulations governing the importation of nursery stock to prohibit the importation of propagative seed of several Rutaceae (citrus family) genera from certain countries where citrus greening or citrus variegated chlorosis (CVC) is present. We are also requiring propagative seed of these genera imported from all other countries to be accompanied by a phytosanitary certificate with an additional declaration that neither citrus greening nor CVC are known to occur in the country where the seed was produced. Scientific evidence indicates that seed of certain genera of the family Rutaceae may be a pathway for the introduction of those diseases. This action is necessary in order to prevent the introduction or dissemination of citrus greening and CVC into or within the United States.

**DATES:** This interim rule is effective April 6, 2010. We will consider all comments that we receive on or before June 7, 2010.

**ADDRESSES:** You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to (<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0052>) to submit or view comments and to view supporting and related materials available electronically.

- Postal Mail/Commercial Delivery: Please send a copy of your comment to

Docket No. APHIS-2008-0052, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2008-0052.

**Reading Room:** You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

**Other Information:** Additional information about APHIS and its programs is available on the Internet at (<http://www.aphis.usda.gov>).

**FOR FURTHER INFORMATION CONTACT:** Dr. Arnold Tschanz, Senior Plant Pathologist, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 734-0627.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 7 CFR part 319, "Foreign Quarantine Notices," prohibit or restrict the importation of certain plants and plant products to prevent the introduction or dissemination of plant pests and noxious weeds into the United States. The regulations in "Subpart-Citrus Canker and Other Citrus Diseases" (§ 319.19) prohibit the importation into the United States of plants and plant parts, except fruit and seeds, of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioidae of the botanical family Rutaceae (citrus) in order to prevent the introduction of citrus canker (*Xanthomonas citri* subsp. *citri*) into areas of the United States.

The regulations contained in "Subpart-Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products," §§ 319.37 through 319.37-14 (referred to below as the regulations), restrict, among other things, the importation of seeds for propagation. In this interim rule, we are amending the regulations to prohibit the importation of propagative seed of several Rutaceae genera from certain countries where citrus greening or citrus variegated chlorosis (CVC) is present. We are also requiring propagative seed of these genera imported from all other countries to be accompanied by a phytosanitary certificate with an additional

declaration that neither citrus greening nor CVC are known to occur in the country where the seed was produced. Finally, we are requiring propagative seed of genera that are hosts of citrus greening, but not of CVC, imported from a country in which CVC, but not citrus greening, is known to occur to be accompanied by a phytosanitary certificate with an additional declaration that citrus greening is not known to occur in the country where the seed was produced.

Citrus greening, also known as Huanglongbing disease of citrus, is considered to be one of the most serious citrus diseases in the world. Citrus greening is a bacterial disease caused by strains of the bacterial pathogens "*Candidatus Liberibacter asiaticus*", "*Candidatus Liberibacter africanus*", and "*Candidatus Liberibacter americanus*" that attack the vascular system of host plants. The pathogens are phloem-limited, inhabiting the food-conducting tissue of the host plant, and causes yellow shoots, blotchy mottling and chlorosis, reduced foliage, and tip dieback of citrus plants. Citrus greening greatly reduces production, destroys the economic value of the fruit, and can kill trees. Once a tree is infected, there is no cure for citrus greening. In areas of the world where the disease is endemic, citrus trees decline and die within a few years and may never produce usable fruit. Citrus greening was first detected in the United States in Miami-Dade County, FL, in 2005, and is only known to be present in the United States in the States of Florida and Georgia, Puerto Rico, two parishes in Louisiana, and two counties in South Carolina. We discuss the actions that APHIS has taken to date in response to the presence of citrus greening in the United States later in this document.

CVC is also a highly injurious disease of citrus. Caused by a strain of the bacterium *Xylella fastidiosa*, CVC causes severe chlorosis between veins on the leaves of affected plants. Leaves on affected plants frequently have discoloration of the upper leaf coupled with brown lesions underneath. CVC may reduce plant growth and lead to abnormal flowering and fruit production. CVC is currently not known to occur in the United States.

The introduction of CVC into the United States could result in substantial economic losses. In 2000, the estimated damage caused by CVC in the State of São Paulo, Brazil, the site of the initial outbreak of CVC within the country and the State in which the disease is most prevalent, was approximately \$129 million (considering the loss of plants in terminal stages, decrease in production,

and disease control costs).<sup>1</sup> Since that time, CVC has continued to cause major losses to citrus production throughout Brazil; these losses have exceeded several million dollars per year.<sup>2</sup>

Emerging evidence suggests that propagative seed of genera that are hosts of citrus greening or CVC can transmit these diseases. First, when seedlings are generated from seed that is taken from plants infected with citrus greening, a small percentage of those seedlings have been found to be infected with citrus greening.<sup>3</sup> Similarly, evidence has suggested that CVC may infect propagative seeds, and cause extensive damage to seed embryos. Moreover, seedlings grown from CVC-infected seed have been shown to transmit CVC experimentally.<sup>4</sup> This is important because the use of seedlings as rootstocks is the standard industry practice for the production of citrus trees, and both disease organisms can be present in infected plants without any visible signs or symptoms for several months or years. Therefore, infected seedlings could go undetected and serve as potential pathways for the diseases for an extended time.

The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) has undertaken measures to control the artificial spread of citrus greening within the United States since its introduction in 2005. The most recent of these are a January 2008 Federal Domestic Quarantine Order that quarantined the entire State of Florida for citrus greening, a June 2008 Federal Domestic Quarantine Order that designated Orleans Parish, LA, as a quarantined area, an October 2008 Federal Domestic Quarantine Order that designated Washington Parish, LA, as a quarantined area, a July 2009 Federal Domestic Quarantine Order that designated the State of Georgia and Beaufort and Charleston Counties, SC,

as quarantined areas, and a December 2009 Federal Domestic Quarantine Order designating Puerto Rico as a quarantined area.<sup>5</sup> Host articles, including propagative seed, produced within areas quarantined for citrus greening may only be moved interstate if destined for immediate export.

APHIS has also taken actions to prevent the introduction or dissemination of citrus greening and CVC into or within the United States via the importation of propagative seed. On January 29, 2008, APHIS issued a Federal Import Quarantine Order that prohibited the importation of propagative seeds from certain genera in the family Rutaceae known to be hosts of citrus greening and/or CVC from countries in which one or both of these diseases are known to occur. The Federal Import Quarantine Order also required propagative seeds of known hosts of citrus greening and/or CVC from countries considered free of these diseases to be accompanied at the time of arrival at the first port of entry in the United States by an import permit and a phytosanitary certificate with an additional declaration that the country where the propagative seed was produced is free of citrus greening and CVC.

On October 6, 2009, we updated the Federal Import Quarantine Order to prohibit the importation of seed of hosts of citrus greening from Belize, Cuba, the Dominican Republic, and Mexico, following the detection of citrus greening in those countries. This interim rule amends the regulations to reflect the action taken by APHIS via its Federal Import Quarantine Orders. In addition, based on the detection of citrus greening in Argentina and Jamaica after the October 6, 2009, Federal Import Quarantine Order was issued, we are prohibiting the importation of seed of host genera of citrus greening from those countries, as well.<sup>6</sup>

Nursery stock, plants, and other propagative plant material that can be inspected, treated, or handled to prevent them from spreading plant pests are designated in the regulations as restricted articles. Section 319.37-5 lists restricted articles that may be imported into the United States only if the

<sup>1</sup> Source: Ayres, A. J. 2001. Citrus disease control in Brazil. China/Food and Agricultural Organization (FAO) Citrus Symposium, Beijing, People's Republic of China. FAO Corporate Document repository, (<http://www.fao.org/docrep/003/X6732E/x6732e10.htm>).

<sup>2</sup> Source: Chung, K. R., and L. W. Timmer. 2005. Citrus diseases exotic to Florida: Sweet orange scab (SOS) (EDIS document PP-224). Institute of Food and Agricultural Sciences, University of Florida, Gainesville, FL, USA.

<sup>3</sup> See, e.g., Halbert, Susan and Keremane L. Manjunath. Asian Citrus Psyllids (*Sternorrhyncha: Psyllidae*) and Greening Disease of Citrus: A Literature Review and Assessment of Risk in Florida. Found at (<http://www.bioone.org/doi/pdf/10.1653/0015-4040%282004%29087%5B0330%3AACPSPA%5D2.0.CO%3B2>).

<sup>4</sup> Source: Li, W.B., W.D. Pria, Jr., P.M. Lacava, et al. Presence of *Xylella fastidiosa* in Sweet Orange Fruit and Seeds and Its Transmission to Seedlings. *Phytopathology* (Vol. 93, No. 8) 2003, 953-958.

<sup>5</sup> To view these Federal Orders, go to ([http://www.aphis.usda.gov/plant\\_health/plant\\_pest\\_info/citrus\\_greening/regs.shtml](http://www.aphis.usda.gov/plant_health/plant_pest_info/citrus_greening/regs.shtml)). APHIS is currently undertaking rulemaking to codify these Federal Orders.

<sup>6</sup> We are also modifying the October 2009 Federal Order to consider seed of the genera *Toddalia* to be distinct from that of the genera *Vepris*. Emerging evidence suggests that the two genera sometimes have differing genetic histories.

phytosanitary certificate required by § 319.37-4 of the regulations contains an additional declaration that the restricted articles are free of specified plant pests or have been produced in accordance with certain requirements.

We are amending § 319.37-5 by adding a new paragraph (w) that specifies that seed of the genera *Aeglopsis*, *Atalantia*, *Balsamocitrus*, *Berbera*, *Calodendrum*, *Citrofortunella*, *xCitroncirus*, *Citrus*, *Clausena*, *Fortunella*, *Limonia*, *Microcitrus*, *Murraya*, *Poncirus*, *Severinia*, *Swinglea*, *Toddalia*, *Triphasia*, and *Vepris* from Argentina, Bangladesh, Belize, Bhutan, Brazil, Burundi, Cambodia, Cameroon, Central African Republic, China, Comoros, Cuba, the Dominican Republic, Ethiopia, Eritrea, India, Indonesia, Jamaica, Japan, Kenya, Laos, Madagascar, Malawi, Malaysia, Mauritius, Mexico, Myanmar, Nepal, Pakistan, Papua New Guinea, Philippines, Réunion, Rwanda, Saint Helena, Saudi Arabia, Somalia, South Africa, Sri Lanka, Swaziland, Taiwan, Tanzania, Thailand, Timor-Leste, Vietnam, Yemen, and Zimbabwe is prohibited importation into the United States. The paragraph also states that, except for the countries listed in paragraph (x) of the section (discussed immediately below), seed of these genera from all other countries may be imported into the United States only if the phytosanitary certificate required by § 319.37-4 contains an additional declaration that neither citrus greening nor CVC is known to occur in the country where the seed was produced.

All the genera listed in the previous paragraph are known to be hosts of citrus greening, citrus greening is known to exist in all the listed countries, and both citrus greening and CVC are known to exist in Argentina and Brazil. Some citrus species have been shown to be hosts of CVC, and no citrus species has been determined to be immune to CVC. Accordingly, the available scientific evidence has led us to conclude that all *Citrus* species should also be considered hosts of CVC, which is why we have included the requirement for an additional declaration regarding CVC.

Citrus greening is not known to exist in Costa Rica and Paraguay, but CVC is. Therefore, we are prohibiting the importation of seeds of hosts of CVC from those two countries into the United States; seeds that are hosts of citrus greening, but not of CVC, are not prohibited. However, as a risk mitigation measure and in order to establish consistency between our importation requirements for seed from these two countries and our

requirements for other countries in which citrus greening is not known to occur, we are adding a new paragraph (x) to § 319.37-5 that states that seed of the genus *Citrus* from Costa Rica and Paraguay is prohibited importation into the United States, but that seed of the genera *Aeglopsis*, *Atalantia*, *Balsamocitrus*, *Berbera*, *Calodendrum*, *Citrofortunella*, *xCitroncirus*, *Clausena*, *Fortunella*, *Limonia*, *Microcitrus*, *Murraya*, *Poncirus*, *Severinia*, *Swinglea*, *Toddalia*, *Triphasia*, and *Vepris* from these two countries may be imported into the United States only if the phytosanitary certificate required by § 319.37-4 contains an additional declaration that citrus greening is not known to occur in the country where the seed was produced.

All seed of the family Rutaceae that is shipped to the United States from countries other than the countries listed earlier is a potential pathway for the introduction of citrus greening or CVC. Accordingly, we are also amending the table in § 319.37-2(a), which lists prohibited articles, or nursery stock, plants, and other propagative material that cannot feasibly be inspected, treated, or handled in a manner that assures us that the articles will not introduce plant pests new to or not known to be widely distributed in the United States. As amended, § 319.37-2(a) prohibits seed of *Aeglopsis*, *Atalantia*, *Balsamocitrus*, *Berbera*, *Calodendrum*, *Citrofortunella*, *Citrus*, *xCitroncirus*, *Clausena*, *Fortunella*, *Limonia*, *Microcitrus*, *Murraya*, *Poncirus*, *Severinia*, *Swinglea*, *Toddalia*, *Triphasia*, and *Vepris* spp. from all countries from being imported into the United States, unless it meets the conditions for importation in § 319.37-5(w) or (x).

Section 319.37-6 lists treatment and other requirements under which seeds of certain genera and species may be imported into the United States from countries and localities in which a plant pest is known to be present. This section currently requires seeds of all *Rutaceae* genera that are imported into the United States from countries in which citrus canker is known to occur to be treated for this disease.

However, *Rutaceae* species are known to be hosts not only of citrus canker, but also of citrus greening and CVC. Moreover, the countries listed in this section as being affected with citrus canker are also, in certain instances, countries in which citrus greening or CVC is known to occur. Therefore, we are amending this section to clarify that it applies only to countries where citrus canker, but not citrus greening or CVC, is known to exist. Specifically, we are

removing any country from the list of countries from which *Rutaceae* seed may be imported with treatment if it is also listed in the table in § 319.37-2(a) as a country in which either citrus greening or CVC is known to exist.

(Please note: As amended, § 319.37-6 will still allow seed of *Rutaceae* genera to be imported into the United States from certain countries in which citrus canker is known to exist following treatment, but the importation of all other plant parts of *Rutaceae* genera from those countries, other than fruit, is prohibited under § 319.19.)

Finally, we are updating the botanical name of citrus canker in § 319.37-6. The name that has been used in the regulations, *Xanthomonas axonopodis*, pv. *citri*, is no longer used by the international taxonomic community. Accordingly, we are amending the regulations in § 319.37-6 to reflect the current nomenclature, *Xanthomonas citri* subsp. *citri*.

#### Federal Preemption

On May 20, 2009, the President issued a memorandum to the heads of executive departments and agencies on the subject of preemption. The memorandum states that it is the general policy of the Administration that preemption of State law by executive departments and agencies should be undertaken only with full consideration of the legitimate prerogatives of the States and with a sufficient legal basis for preemption. The memorandum further states:

To ensure that executive departments and agencies include statements of preemption in regulations only when such statements have a sufficient legal basis:

- Heads of departments and agencies should not include in regulatory preambles statements that the department or agency intends to preempt State law through the regulation except where preemption provisions are also included in the codified regulation.

- Heads of departments and agencies should not include preemption provisions in codified regulations except where such provisions would be justified under legal principles governing preemption, including the principles outlined in Executive Order 13132.

Since 1996, Executive Order 12988, "Civil Justice Reform," has required agencies to include in each regulation a statement regarding its preemptive effects in regulatory preambles under the heading, "Executive Order 12988."

In compliance with the May 2009 memorandum from the White House,

we are adding preemption provisions to part 319 that would apply to this rule, as well as to the existing regulations in part 319. Part 319 contains regulations that prohibit or restrict the importation of certain plants and plant products to prevent the introduction or dissemination of plant pests and noxious weeds into the United States.

Under section 436 of the Plant Protection Act (7 U.S.C. 7756), a State or political subdivision of a State may not regulate in foreign commerce any plant or plant product in order to control, eradicate, or prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed within the United States.

Therefore, in accordance with section 436 of the Plant Protection Act, the regulations in part 319 preempt all State and local laws and regulations that are inconsistent with or exceed the regulations in part 319.

Accordingly, in this interim rule, we are adding a new subpart, "Preemption," (§ 319.1), to codify the preemptive effect of the regulations in part 319.

#### Immediate Action

Immediate action is necessary to amend the regulations to reflect the provisions of the October 6, 2009, Federal Import Quarantine Order issued to prevent the introduction or dissemination of citrus greening and CVC into or within the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

#### Executive Order 12866 and Regulatory Flexibility Act

This interim rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We have prepared an initial regulatory flexibility analysis for this action. The analysis identifies nursery operations producing citrus nursery stock for field planting as the small entities most likely to be affected by this

action and considers the losses that may occur due to prohibitions on the importation of propagative seed from countries where citrus greening or CVC is known to occur. Based on the information presented in the analysis, we expect that these operations are unlikely to be dependent on seed of those genera, but lack information regarding their size distribution. We invite comment on our initial regulatory flexibility analysis, which is posted with this interim rule on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov) and may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### 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

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579-0049.

#### E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

#### List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

■ Accordingly, we are amending 7 CFR part 319 as follows:

#### PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

**Authority:** 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Part 319 is amended by adding a new "Subpart—Preemption," § 319.1, to read as follows:

#### Subpart—Preemption

Sec.

319.1 Preemption of State and local laws.

#### Subpart—Preemption

##### § 319.1 Preemption of State and local laws.

(a) Under section 436 of the Plant Protection Act (7 U.S.C. 7756), a State or political subdivision of a State may not regulate in foreign commerce any plant or plant product in order to control, eradicate, or prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed within the United States.

(b) Therefore, in accordance with section 436 of the Plant Protection Act, the regulations in this part preempt all State and local laws that are inconsistent with or exceed the regulations in this part.

■ 3. In § 319.37-2, in the table in paragraph (a), new entries for "*Aeglopsis* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Atalantia* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Balsamocitrus* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Bergera* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Calodendrum* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Citrofortunella* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*xCitroncirus* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Citrus* spp. seed not meeting the conditions for importation in § 319.37-5(w)", "*Clausena* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Fortunella* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Limonia* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Microcitrus* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Murraya* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Poncirus* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Severinia* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Swinglea* spp. seed not meeting the conditions for

importation in § 319.37-5(w) or (x)", "*Toddalia* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)", "*Triphasia* spp. seed not

meeting the conditions for importation in § 319.37-5(w) or (x)", and "*Vepris* spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x)" are

added, in alphabetical order, to read as follows:

**§ 319.37-2 Prohibited articles.**  
(a) \* \* \*

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
* * * <i>Aeglopsis</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * * <i>Atalantia</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
<i>Balsamocitrus</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	<i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * * <i>Bergera</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * * <i>Calodendrum</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * * <i>Citrofortunella</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
<i>xCitroncirus</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	<i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
<i>Citrus</i> spp. seed not meeting the conditions for importation in § 319.37-5(w).	All .....	<i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening); citrus variegated chlorosis.
<i>Clausena</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	<i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * * <i>Fortunella</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * * <i>Limonia</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * * <i>Microcitrus</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * * <i>Murraya</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * * <i>Poncirus</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * * <i>Severinia</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
* * * <i>Swinglea</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * * <i>Toddalia</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * * <i>Triphasia</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * * <i>Vepris</i> spp. seed not meeting the conditions for importation in § 319.37-5(w) or (x).	All .....	* * * <i>Candidatus Liberibacter</i> spp. (Huanglongbing disease of citrus, Citrus greening).
* * *	* * *	* * *

\* \* \* \* \*

■ 4. In § 319.37-5, new paragraphs (w) and (x) are added to read as follows:

**§ 319.37-5 Special foreign inspection and certification requirements.**

\* \* \* \* \*

(w) Seed of the genera *Aeglopsis*, *Atalantia*, *Balsamocitrus*, *Bergera*, *Calodendrum*, *Citrofortunella*, *xCitroncirus*, *Citrus*, *Clausena*, *Fortunella*, *Limonia*, *Microcitrus*, *Murraya*, *Poncirus*, *Severinia*, *Swinglea*, *Toddalia*, *Triphasia*, and *Vepris* from Argentina, Bangladesh, Belize, Bhutan, Brazil, Burundi, Cambodia, Cameroon, Central African Republic, China, Comoros, Cuba, the Dominican Republic, Ethiopia, Eritrea, India, Indonesia, Jamaica, Japan, Kenya, Laos, Madagascar, Malawi, Malaysia, Mauritius, Mexico, Myanmar, Nepal,

Pakistan, Papua New Guinea, Philippines, Réunion, Rwanda, Saint Helena, Saudi Arabia, Somalia, South Africa, Sri Lanka, Swaziland, Taiwan, Tanzania, Thailand, Timor-Leste, Vietnam, Yemen, and Zimbabwe is prohibited importation into the United States. Except for those countries listed in paragraph (x) of this section, seed of these genera from all other countries may be imported into the United States only if the phytosanitary certificate required by § 319.37-4 contains an additional declaration that neither citrus greening nor citrus variegated chlorosis is known to occur in the country where the seed was produced.

(x) Seed of the genus *Citrus* from Costa Rica and Paraguay is prohibited importation into the United States. Seed of the genera *Aeglopsis*, *Balsamocitrus*,

*Bergera*, *Calodendrum*, *Citrofortunella*, *xCitroncirus*, *Clausena*, *Fortunella*, *Limonia*, *Microcitrus*, *Murraya*, *Poncirus*, *Severinia*, *Swinglea*, *Toddalia*, *Triphasia*, and *Vepris* from Costa Rica and Paraguay may be imported into the United States only if the phytosanitary certificate required by § 319.37-4 contains an additional declaration that citrus greening is not known to occur in the country where the seed was produced.

\* \* \* \* \*

■ 5. In § 319.37-6, in paragraph (a), in the table, the entry for “Rutaceae, seeds of all species in the family” is revised to read as follows:

**§ 319.37-6 Specific treatment and other requirements.**

(a) \* \* \*

Seed/bulb	Country/locality	Pest(s) for which treatment is required
* * * Rutaceae, seeds of all species in the family.	* * * Afghanistan, Andaman Islands, Caroline Islands, Fiji Islands, Home Island in Cocos (Keeling) Islands, Hong Kong, Ivory Coast, Kampuchea, Korea, Mozambique, Oman, Rodriguez Island, Seychelles, Thursday Island, United Arab Emirates, and Zaire.	* * * <i>Xanthomonas citri</i> subsp. <i>citri</i> (citrus canker).
* * *	* * *	* * *

\* \* \* \* \*

Done in Washington, DC, this 31<sup>st</sup> day of March 2010.

**Gregory Parham,**

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

[FR Doc. 2010-7736 Filed 4-5-10; 8:45 am]

**BILLING CODE 3410-34-S**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2010-0357; Directorate Identifier 2010-CE-017-AD; Amendment 39-16256; AD 2010-08-01]

**RIN 2120-AA64**

#### **Airworthiness Directives; Aircraft Industries a.s. Model L 23 Super Blanik Gliders**

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

**ACTION:** Final rule; request for comments.

**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 the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Cracks on the stabilizer elevator inner hinges of seven L 23 SUPERBLANIK sailplanes have been detected during an inspection.

This condition, if not corrected, could result in no longer retaining the elevator in place and in jamming of the Pilot's elevator control system, and subsequent loss of elevator control.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** This AD becomes effective April 26, 2010.

On April 26, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive comments on this AD by May 21, 2010.

**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.

#### **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 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:** Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4130; fax: (816) 329-4090.

#### **SUPPLEMENTARY INFORMATION:**

##### **Discussion**

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Emergency AD No.: 2010-0037-E, dated March 8, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Cracks on the stabilizer elevator inner hinges of seven L 23 SUPERBLANIK sailplanes have been detected during an inspection.

This condition, if not corrected, could result in no longer retaining the elevator in place and in jamming of the Pilot's elevator control system, and subsequent loss of elevator control.

For the reasons stated above, this Emergency AD requires the inspection of the elevator inner hinges, and the accomplishment of the relevant corrective actions as necessary.

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

#### **Relevant Service Information**

Aircraft Industries a.s. has issued Mandatory Bulletin MB No.: L23/052a, dated March 2, 2010. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

#### **FAA's Determination and Requirements of the AD**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

This AD is considered an interim action because we are not including the action that you repetitively inspect the elevator inner hinges on the stabilizer at intervals not to exceed every 1,000 hours time-in-service (TIS). The Administrative Procedure Act does not permit the FAA to "bootstrap" a long-term requirement into an urgent safety of flight action where the rule becomes effective at the same time the public has the opportunity to comment. The short-term action and the long-term action are analyzed separately for justification to bypass prior public notice.

After issuing this AD, we may initiate further AD action (notice of proposed rulemaking followed by a final rule) to require that you repetitively inspect the elevator inner hinges on the stabilizer at intervals not to exceed every 1,000 hours TIS. Credit will be given in any subsequent action for the initial inspection done under this AD.

#### **Differences Between This AD and the MCAI or Service Information**

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might have also required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over those copied from the MCAI.

#### **FAA's Determination of the Effective Date**

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to